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City of Delray Beach,
100 N.W. 1st Avenue,
Delray Beach, FL 33444

In Re: Request for alley abandonment

This letter is to support the petition of Spencer Noon and Jodi Cafritz for the abandonment of an unused alley in the rear portion of the property located at 907/909 Witherspoon Lane, Delray Beach, FL 33483.

What we are dealing with is essentially an alley to nowhere.

As you will note, this alley is part of an original Plat to the property. For the most part, the entire western portion of the alley has never been used.

Approximately fifty three (53) years ago, the western portion of the alley was completely abandoned and a residential drilling structure was constructed upon it. As you will note on the attached aerials, by this complete abandonment, the entire utility of the alley as a pass through was completely eliminated. A copy of this Abandonment is included with the Petition.

Over the years, additional portions of the alley were also abandoned as you will note from the aerial submitted with the application. In 1977, the property immediate adjacent and to the west had 7.5 feet of the alley abandoned. A copy of this Abandonment is included with this Petition.

At the time of the construction of the petitioner's dwelling units (it was one lot then), the city required, as a condition to the issuance of the building, a dedication of 2.5 feet of the property in order to comply with the rule that alleys need to be 20 feet in width. A copy of this Deed is included with this Petition.

You will also note from the aerial that, immediately on the other side of the alley, another duplex residential dwelling structure was constructed (two years earlier), but in that case, the 2.5 feet was not required. By not requiring it at that location, the city completely ended the possibility of having a 20 foot wide alley in the rear of the Petitioner's property. The other abandonments removed that possibly from the rest of the alley.

I believe that the dedication of 2.5 feet by the Petitioner should never have been required from my client after the city had not required it from the other structures on the alleyway and especially when so much of the alley was already abandoned.

Because of both the partial and complete abandonments of the alley to the west of the petitioner's property, and not requiring that the property immediate on the other side of the alley to make any dedication, it makes no sense that there are any dedications whatsoever for the alley since it is now impossible for that alley to ever exist.

Accordingly, therefore, this petition covers two requests: (i) the return of the 2.5 feet of alley which was originally part of the Petitioner's property which was required to be dedicated in order to construct the structure (in order to be consistent with the treatment of the other properties on the alley); and (ii) the abandonment of the additional 7.5 feet of the alley behind the petitioner's property to reflect the fact that this alley has now become totally useless as an alley due to the partial and complete takings of the alley to the immediate west of the petitioner's property. The total abandonment sought is ten (10') feet (reflecting the 2.5 feet previously).

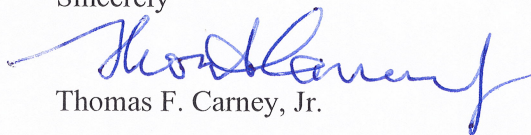
On important note when reviewing this alley is the fact that it has been fenced off for nearly 20 years. Among the photos are several showing this fence. The photos also show that to the west of the Petitioner's property, the alley has been completely fenced in by those property owners on account of the fact that this property was abandoned. This FURTHER demonstrates that this alley has already been "constructively" abandoned by the City's prior abandonments and the actual use.

We note that the property to the east of the petitioner's property may have some use of the eastern portion of the alley. For this reason, this request is limited to the ten (10') feet adjacent to the Petitioner's property.

Based on the foregoing, we feel that the full abandonment of ten (10') feet (as described on the sketch included with the Petition) is justified.

Please let me know what additional information you require.

Sincerely


Thomas F. Carney, Jr.