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November 8, 2024

VIA EMAIL AND CERTIFIED MAIL

Lynn Gelin
City Attorney
City Attorney's Office
gelinl@mydelraybeachfl.com
200 NW 1 Ave
Delray Beach, FL 33444
and
Alicia Gonzalez
agonzalez@wsh-law.com

**RE: DEMAND TO EXECUTE AND DELIVER WARRANTY DEED
PURSUANT TO FLORIDA STATUTES, 255.22**

Dear Ms. Gelin and Ms. Gonzalez,

I hope this letter finds you well. This firm represents 802 SE 5th Avenue LLC (for purposes of this letter, the "Owner"). In February of 2024, the Owner purchased the Property located at 802 5th Avenue, Delray Beach, FL (the "Property"). The current shape of Owner's Property can be seen outlined in yellow in the aerial below. The Owner's predecessor in interest conveyed the area demarcated in red below (the "Alley") to the City in 1963. The Alley is part of platted lot 9, which is within the Property.



In November of 1963, Owner's predecessors in interest conveyed the Alley to the City of Delray Beach, FL (the "City") "for public highway purposes...with the express understanding and

condition that should the same ever be discontinued or abandoned as a public highway the title to the same shall thereupon revert to and revest in the party of the first part, their heirs, administrators or assigns.” A copy of the quitclaim deed, which contains the conveyance to the City, is attached hereto as **Exhibit 1**.

Since fee simple title to the Alley was conveyed to the City by Owner’s predecessors, the City has failed to utilize the right of way for public highway purposes, consistent with the terms of the dedication. In fact, there is no way for the City to utilize the right-of-way as intended as a public highway as the right-of-way is landlocked between Owner’s Property and the surrounding commercial buildings. It does not connect with any other existing roadway.

Accordingly, in light of the City’s failure to maintain and manifest inability to use the right-of-way for the purpose intended by the Owner’s predecessor in interest and 802 SE 5th Avenue LLC’s ownership of the adjoining Property on the eastern side of the right-of-way, Owner respectfully makes demand upon the City to execute and deliver a quitclaim deed to the right of way property to Owner in accordance with *Florida Statutes*, 255.22. Pursuant to *Florida Statutes*, 255.22, “In the event any party owning adjoining land conveys real property, without receipt of valuable consideration, to any municipality for a specific purpose or use and if such county or municipality fails to use such property for such purpose for a period of 60 consecutive months . . . the municipality or county may execute and deliver a quitclaim deed to the party making such demand provided such party is the owner of land adjoining such property on at least one side.”

In an effort to streamline the issues, Owner acknowledges that the City has in place an abandonment procedure set forth in the municipal code, which allows residents of the jurisdiction to request abandonment of certain interests in real property, such as easements, from the City Commission. Requiring Owner to undergo this process would not make sense in this circumstance, as Owner would be unable to attain the remedy it seeks. Even if the Commission voted to abandon the Alley, Owner would still be required to file an action in circuit court to obtain a conveyance. The abandonment process does not give the relief herein requested, which is to transfer fee simple title back to adjoining successor in interest. Given the location of the Alley, which shows that there is literally no beneficial use which the City could derive from it, the Owner is hopeful that the parties will be able to achieve a mutually agreeable resolution, which avoids the need for unnecessary litigation to declare its ownership rights under Florida law.

A response to this demand is requested within ten (10) days receipt of this letter, affirming intent to place this request on upcoming commission meeting consent agenda. If you have any questions, my office is available by phone or e-mail at your convenience.

Sincerely,
/s/ Ryan Abrams
Ryan Abrams, Esq.
FOR THE FIRM

EXHIBIT 1

OFFICIAL RECORD 950 PAGE 228

DEC 17 9 47 AM '63

2497

This Quit-Claim Deed, Executed this 22nd day of November, A. D. 1963, by

WILLIAM D. BRADSHAW, JR. and JOANNA L. BRADSHAW, his wife,
first party, to CITY OF DELRAY BEACH, a municipal corporation

whose postoffice address is Delray Beach, Florida

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the said first party, for and in consideration of the sum of \$ 10.00 - - -, in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Palm Beach State of Florida to-wit:

The West 16 feet of the following described property:

That part of Lot 10, Block 1 MODEL LAND COMPANY'S S/D of Sec. 21-46-43 DELRAY BEACH, as in Plat Book 1, Page 128 bounded as follows: Commence at point in West line of SE 5th Avenue in Delray Beach which is 111.13 feet South of intersection of West line of SE 5th Avenue with South line of SE 8th Street; from said P.O.B. run South along West line of SE 5th Avenue, a distance of 100 feet; then run Westerly along a line which is para to South line of SE 8th Street, a distance of 144.5 feet to point; then run North along a line which is para to West line of SE 5th Avenue, a distance of 100 feet to point; then run Easterly along a line which is para to South line of SE 8th Street, a distance of 144.5 feet to P.O.B.

This DEED is made for the purpose of granting to the parties of the second part, their successors, legal representatives and assigns, a right-of-way for public highway purposes, and is made, executed and delivered with the express understanding and condition that should the same ever be discontinued or abandoned as a public highway the title to the same shall thereupon revert to and revert in the party of the first part, their heirs, administrators or assigns.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

In Witness Whereof, The said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

*Deane La Rose**William D. Bradshaw, Jr.**Josephine A. Lucas**Joanna L. Bradshaw*COMMONWEALTH OF MASSACHUSETTS
~~EXTENDED RECORD~~
COUNTY OF SuffolkRecorded in Official Record Book
of Palm Beach County, Florida
J. ALEX ARNETTE
CLERK OF CIRCUIT COURT

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared WILLIAM D. BRADSHAW, JR. and JOANNA L. BRADSHAW, his wife, to me known to be the person described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this

November A. D. 1963.

Notary Public

My Commission Expires: March 23, 1968

PALM BEACH COUNTY

STATE OF FLORIDA
DEPARTMENT OF REVENUE
TAX251
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