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254-8415


CITY OF
MILWAUKEE

Office of the City Attorney

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MEMORANDUM

TO: Rocky Marcoux, Commissioner
Department of City Development

FROM: Danielle Bergner, Assistant City Attorney 

DATE: January 6, 2011

RE: County Deed Restrictions – Area 10

This Memorandum is prepared to assist in briefing efforts concerning the above-referenced matter.

I. The Land Transfer Agreement

Pursuant to the terms of a certain Land Transfer Agreement, the State of Wisconsin (“State”) has agreed to transfer its fee interest in an area of land known as “Area 10” to the City of Milwaukee (“City”).¹ In exchange, the City of Milwaukee would agree to transfer its fee interest in a parcel of land known as the “Water Works Parcel” to the State.² Area 10 is roughly 2.7 acres, and the Water Works Parcel is roughly 3.6 acres. Both Area 10 and the Water Works Parcel are described and depicted on the materials attached hereto.

Area 10 is currently owned in fee by the State of Wisconsin, leased to the Southeastern Wisconsin Professional Baseball Park District (“District”) pursuant to a 99-year ground lease, and subleased to the Milwaukee Brewers Baseball Club (“Brewers”) for its operations. Both the District and the Brewers have agreed to release their respective leasehold interests in Area 10 in exchange for the receipt of similar leasehold

¹ The label “Area 10” has no real significance; it is simply how this particular area was labeled on an ALTA survey of the Miller Park site prepared for the Southeastern Wisconsin Professional Baseball Park District.

² It is known as the Water Works Parcel because up until last year the site was used by the Milwaukee Water Works for operation of a water storage and pumping station. Said use has since been abandoned and the site is now ripe for disposition.

interests in the Water Works Parcel once conveyed to the State, and the State has also agreed to this arrangement.

The Land Transfer Agreement contains a number of contingencies that must be satisfied before the contemplated conveyances can occur, one of which is release of certain Milwaukee County deed restrictions and license provisions affecting Area 10.

II. The County Deed Restrictions and License Agreement

A title search has revealed that Area 10 is encumbered by certain deed restrictions contained in Quit Claim Deed dated December 31, 1990, recorded as Document No. 7308803, which conveyed Area 10 (along with other lands) from Milwaukee County to the State of Wisconsin. A copy of the Quit Claim Deed is enclosed. The Deed restricts the use of Area 10 for purposes of construction and operation of a baseball stadium and related facilities and for certain streets and roads, and it also contains a provision pursuant to which title to Area 10 reverts to Milwaukee County upon the occurrence of certain conditions.

The same title search also revealed the presence of a license agreement affecting title to Area 10. In 1951, Milwaukee County granted to the State, the State Highway Commission, and the City a license to construct and maintain upon a portion of Area 10 a highway and related appurtenances. That license was recorded in the Milwaukee County Register of Deeds Office as Document No. 3066121. A copy of said license is attached hereto for reference. It is my opinion that the license terminated as a matter of law when the County conveyed title to the state; however, a written release instrument has been requested to avoid any potential cloud on title.

III. Proposed Release

To release the County deed restrictions, a deed of release or similar instrument will be necessary. To help facilitate that process, I have enclosed a draft deed of release that would satisfy the Land Transfer Agreement contingency. I have also enclosed a draft release instrument in connection with the license.

Please contact me if I can be of additional assistance on this matter. My direct line is (414)286-2637. Thank you.

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