



Legislation Text

File #: 20-007-O, **Version:** 2

AN ORDINANCE AUTHORIZING THE RELEASE OF A RESTRICTIVE COVENANT REGARDING A REVERSION CLAUSE OF PROPERTY ALREADY CONVEYED TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

CITY PROPOSAL:

WHEREAS, the city council previously authorized the conveyance of certain real property to the Duluth Economic Development Authority ("DEDA"), under Ordinance No. 10618, which ordinance was registered on September 25, 2019 with the St. Louis County Registrar of Titles as Document No. 1015449;

WHEREAS, the real property authorized to be conveyed under Ordinance No. 10618 is legally described as follows: (the "Property")

All that part of WILLARD AND PIPER'S DIVISION, in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 29 Township 50 North of Range 14 West, which lies West of the Trinity Road and North of a line 500.00 feet distant from and parallel to the North line of said plat (Line B), and NE of a line drawn between a point on the West line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, 75.00 feet North of Line B, and a point on Line B 115.00 feet East of the West line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$ (Line A).

WHEREAS, Section 3(b) of Ordinance No. 10618 required the deed conveying the Property to DEDA to include the following restrictive covenant in favor of the city (the "Restrictive Covenant"):

This deed is subject to the condition that title to the Property shall automatically revert to the Grantor in the event that, within 60 months of the date of this deed, the fee owner has failed to complete construction of at least 100 units of student housing on the Property. This restrictive covenant shall run with the land and be enforceable by Grantor.

WHEREAS, the consideration for the conveyance of the Property to DEDA was the conveyance of DEDA-owned property in Bayfront Park to the city of Duluth;

WHEREAS, because there was fair and adequate consideration for the conveyance of the Property, there should not have been a restrictive covenant containing a reversion clause in the conveyance of the Property to DEDA.

NOW, THEREFORE, the city of Duluth does ordain:

Section 1. That the Restrictive Covenant authorized under Ordinance No. 10618 and contained in the Quit Claim deed registered with the St. Louis County Registrar of Titles on September 25, 2019 as Document No. 1015450 is hereby released and shall be of no further force or effect.

Section 2. That the proper city officials are hereby authorized to execute and record in the St. Louis County real estate records any documents required or reasonably requested to effectuate the release granted by this ordinance.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to release a restrictive covenant contained in a quit claim deed that conveyed certain real property legally described above (the "Property") to the Duluth Economic Development Authority ("DEDA"). The conveyance of the Property was duly authorized under Ordinance No. 10618, which was passed by the Duluth city council on April 22, 2019, with an effective date of May 22, 2019.

The Property is located at the intersection of Trinity Road and Arlington Avenue in the Duluth Heights neighborhood. An aerial view of the real property conveyed is outlined in red on the attached Exhibit A.

The Property was conveyed under a land exchange whereby DEDA is conveying DEDA-owned property in Bayfront Park to the City in exchange for the Property. The deed that conveyed the Property to DEDA should not have included a restrictive covenant containing a reversion clause because there was fair and adequate consideration for the conveyance of the Property.