

THEODORE E. DAIBER, P.C.

ATTORNEY AT LAW



2300 Crown Colony Drive
Suite 203
Quincy, MA 02169

December 4, 2014

Richard C. Rossi
City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Phone: (617) 328-9898
Fax: (617) 689-8880
e-Mail: tdaiber@daiberlaw.com

Re: *Property of Tango Properties LLC on Whittemore Avenue,
Cambridge, Massachusetts*

Dear Mr. Rossi:

I represent Tango Properties LLC ("Tango"). I understand that you have had discussions with Robert R. Fawcett, Jr., the Manager of Tango, concerning the City's possible purchase of an easement in a parcel of property owned by Tango and located on Whittemore Avenue in Cambridge, Massachusetts, for purposes of creating a community garden on that parcel. The parcel in question is a portion of a larger parcel that was previously devoted to community garden use during the periods of ownership of prior owners.

You have requested that, before the City expends the funds to have the subject parcel appraised, Tango provide you with a letter expressing its interest in pursuing the sale of a permanent easement in the subject parcel to the City; and this letter is intended to respond to that request. This letter is also being sent to confirm Tango's own understanding that the City is interested in pursuing the purchase of the subject parcel.

Tango is willing to sell a permanent easement (or possibly even a fee interest if there would be no adverse consequences) in the subject parcel to the City subject to the following:

1. The subject parcel is shown as the dark green parcel along Whittemore Avenue (without the structures on it) on the Plan entitled "Community Garden Easement – Option 2" attached to this letter.

2. Tango has proposed the sale of a permanent exclusive easement of the subject parcel to the City for use as a community garden. To proceed with the sale, Tango must have confirmation that it can construct two (2) duplex housing structures as of right on the two (2) remaining lots shown on the Plan: one (1) duplex structure on each lot. The two (2) duplexes would be instead of constructing one (1) duplex and two (2) single family homes if Tango were retaining the subject parcel for development and therefore were building on all three (3) parcels instead of two (2).

3. Tango will need the FAR from the subject parcel in order to allow optimal construction of the two (2) duplexes on the remaining two lots and it wants to be able to use that FAR; which is why an easement sale has been proposed.

4. Tango's willingness to proceed is contingent upon the City Council's immediate approval of its curb cut application with respect to the lot at 60-62 Magoun Street (Lot "D") at the December 8th City Council meeting. Failure to receive the curb cut by this date (and a building permit being issued no later than December 31st) will cause Tango to miss its opportunity to get foundations in the ground before the deep freeze sets in. The sale of the subject easement t will also be contingent upon the allowance of curb cuts for the development of the remaining two (2) lots shown on the plan for the construction of the duplex residential structures thereon.

5. Tango would like assurances in connection with the sale of the easement interest that: (a) the community garden thereon will be kept in a clean and neat manner, without trash and other debris allowed to accumulate thereon and without any produce left around that would attract rodents or create similar issues; (b) the City would be responsible for snow removal on the sidewalks adjacent to the subject easement parcel, (c) the City would construct a 4 foot high black aluminum fence around the easement parcel; (d) the City would be exclusively responsible to bear the cost of any and all improvements necessary to establish the community garden (including water, importation of loam, construction of paths or elevated gardening beds for disabled gardeners, etc.); (e) that any storage sheds, staging areas or compost piles shall all be located at the corner closest to the intersection of Madison and Whittemore Avenue, with only gardening beds to be located at the end adjacent to the two (2) duplex lots; and (f) the use shall always remain a community garden or passive recreational park, but not a dog park or tot lot.

5. The proposed sale would also be subject to negotiating a mutually agreeable purchase price for the permanent easement in the subject parcel (or for the entire subject parcel if it were being sold in fee). We understand that the City will be having an appraisal done of the subject parcel and Tango reserves the right to have its own appraisal done as well.

Please advise if the foregoing statements are consistent with your understanding, and if the City is interested in further pursuing this matter. If so, we

Richard C. Rossi, City Manager

Page 3

December 4, 2014

can proceed with steps to have the subject parcel appraised and a purchase price negotiated.

Please understand that time is of the essence. Tango must get its curb cut approved for 60-62 Magoun at the December 8th City Council meeting.

This letter is not intended to create binding obligations on either party; and neither party will be bound until final documents are negotiated and executed. That said, it is Tango's intention to continue down this good faith path to negotiate a mutually beneficial outcome. To that end, Mr. Fawcett is willing to meet with any City Council members or City staff members to discuss this proposal.

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Theodore E. Daiber".

Theodore E. Daiber

TED:cml

Enclosure

cc: Tango Properties, LLC

