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unlawful "successor trustee" 8p

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—
A. HUGO BLANKINGSHIP, JR.
OF COUNSEL
STANLEY P. KLEIN
SENIOR COUNSEL

July 3, 2013

Ms. Sheila O'Connell Shevenell
663 Granite Street
Freeport, Maine 04032

Mr. Anthony M. O'Connell
439 S. Vista Del Rio
Green Valley, Arizona 85614

An agreement does not transfer ownership.
A deed transfers ownership.

Property in the Lee District, Fairfax County
TM 90-4 ((1)) 17

Dear Ms. Shevenell and Mr. O'Connell:

January 25, 2013, is the date of the Order
signed by Chief Judge Dennis J Smith

This firm is representing your sister Jean O'Connell Nader in her capacity as Successor Trustee under the Land Trust Agreement dated October 16, 1992. Jean has asked us to bring you up to date on the actions she has taken with regard to the approximately 15 acre trust property ("Property") identified above since she was appointed Successor Trustee on January 25, 2013.

It was apparent to Jean when she became Successor Trustee that the Property had to be sold. The delinquent real estate taxes, which had been accruing interest and penalties, were approaching a total of \$30,000, and Fairfax County had turned the matter over to a collection agency. Jean was advised that if the taxes were not brought current, there would eventually be a tax sale which, given the Property's R-1 zoning and the fact a large portion of the Property is in the Resource Protection Area ("RPA"), would in all probability yield only a fraction of the Property's true value.

Jean's first step was to have the Property appraised. She retained a highly regarded local appraiser to prepare a Restricted Appraisal. Because it is difficult at this point to predict accurately the density at which the Property may be approved for development, at our instruction the appraiser provided a value range per townhouse lot. In determining this range, he assumed that the Property could be developed with approximately 30 to 39 townhouse units.

Ms. Shevenell
Mr. O'Connell
July 3, 2013
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While Tony was Trustee he had been in negotiation with Bill Lynch and Andy Somerville for the sale of the Property. A contract was never signed, but Bill and Andy apparently did quite a bit of work in exploring how the Property could be developed. Knowing that Bill and Andy remained interested in the Property, we on Jean's behalf asked them to submit a non-binding letter of intent which set out the basic terms and conditions under which they would be willing to purchase the Property. They did so, but Jean concluded that the price offered was not acceptable. She responded with a counteroffer which was eventually accepted. A letter of intent was executed on May 24, 2013, and we immediately set out negotiating a binding Real Estate Sales Contract ("Contract") based upon the letter of intent. By June 20, 2013, there was a fully executed Contract between Jean as Successor Trustee and Long Branch Partners, L.L.C. ("Purchaser"), a limited liability company owned and controlled by Bill and Andy.

The pertinent provisions of the Contract are as follows:

- There is a 90 day Feasibility Period during which Purchaser will determine whether to proceed under the Contract or to terminate it.
- In the event Purchaser does not terminate the Contract, within ten (10) days of the close of the Feasibility Period, Purchaser shall pay off the delinquent real estate taxes, and it shall continue to pay the real estate taxes on the Property as they become due until Settlement or until termination of the Contract.
- The repayment of the real estate taxes to Purchaser will be reflected in a non-recourse promissory note which Jean will execute as Successor Trustee and which will be secured by a Deed of Trust against the Property. At Settlement there will be credited against the purchase price all the real estate taxes which Purchaser has paid.
- Purchaser will be responsible, at its own expense, for rezoning the Property and getting its subdivision approved. (The rezoning will be heard by the Board of Supervisors in a decidedly political context; the subdivision process is administrative.) Purchaser's obligation to purchase the Property is contingent upon its getting approval of at least 30 townhouse lots.
- The purchase price will be determined by the number of approved townhouse lots, the per lot price of \$57,500 being the top of the value range established by the appraiser.

Ms. Shevenell
Mr. O'Connell
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It is anticipated, and the Contract provides, that Settlement will take place in late 2015 or even early 2016, assuming the contingency is met. While it is unfortunate that Settlement cannot take place sooner, getting the highest value for the Property necessarily requires having it rezoned and having its subdivision approved. As noted above, Purchaser will undertake this effort at its own expense, and that expense will be considerable. Also, while the entitlement process is moving forward, Purchaser will be paying the real estate taxes on the Property.

Jean is delighted that Purchaser is committed to paying a good price for the Property, as determined by the appraisal. In addition, because no broker was involved in the transaction, the Trust will be spared paying a hefty commission out of the settlement proceeds.

Bill and Andy appear to be quite excited to have the Property under Contract. They are experienced developers in Fairfax County and give every indication that they will aggressively pursue the rezoning of the Property and subdivision approval. At this point there is reason for cautious optimism that Settlement will eventually take place under the terms and conditions of the Contract. Please be aware, however, that Settlement is far from certain and that you should not assume that the contingency will be fulfilled and the Property sold to Purchaser.

We will keep you up to date on Purchaser's progress.

Best regards to you both.

Yours truly,



Sarah E. Hall

SEH/sp

cc: Jean Nader
Elizabeth V. C. Morrogh, Esquire

Anthony O'Connell
439 S Vista Del Rio
Green Valley, AZ 85614
January 5, 2014

Correction: Date should be January 5, 2015

Reference: 1992 Deed at bk8307p1446

To the Honorable Judges of the Nineteenth Judicial Circuit Court of Fairfax County,
Virginia:

- The Honorable Dennis J. Smith ←
- The Honorable Jane Marum Roush
- The Honorable Randy I. Bellows
- The Honorable Charles J. Maxfield
- The Honorable Bruce D. White
- The Honorable Robert J. Smith
- The Honorable David S. Schell
- The Honorable Jan L. Brodie
- The Honorable Lorraine Nordlund
- The Honorable Brett A. Kassabian
- The Honorable Michael F. Devine
- The Honorable John M. Tran
- The Honorable Grace Burke Carroll

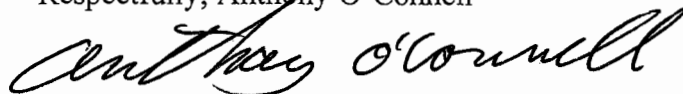
4110 Chain Bridge Road
Fairfax, Virginia 20030 – 4009

Dear Honorable Judges of the Nineteenth Judicial Circuit Court:

Please tell me if you recognize the enclosed 1992 Deed as a deed. Please give a "Yes" or a "No" so that all concerned can rely upon a clear and accountable position. If "No", please explain why.

Necessity makes me ask this.

Respectfully, Anthony O'Connell



Enclosure: 1992 Deed at bk8307p1446 (first two pages)

Prepared by E. A. Prichard of McQuire Woods Battle & Boothe

DEED IN TRUST UNDER LAND TRUST AGREEMENT

THIS DEED IN TRUST UNDER LAND TRUST AGREEMENT, made this 16th day of OCTOBER, 1992 by and between JEAN MARY O'CONNELL/NADER and HOWARD/NADER, husband and wife, SHEILA ANN/O'CONNELL and PIERRE/SHEVENELL, husband and wife, ANTHONY MINER/O'CONNELL, divorced and not remarried, and ANTHONY MINER/O'CONNELL, Trustee Under the Last Will and Testament of Harold A. O'Connell (collectively, "Grantors"); and ANTHONY MINER/O'CONNELL, Trustee, of Fairfax County, Virginia (hereinafter sometimes collectively referred to as "Trustees" or "Grantees"):

WITNESSETH:

That Grantors for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby grant and convey to the Grantees as trustees the hereinafter described parcel of real estate, situate and being in Fairfax County, Virginia, and being more particularly described on the attached and incorporated EXHIBIT A ("Property").

TO HAVE AND TO HOLD the Property in fee simple, with the appurtenances thereunto belonging, upon the trusts and for the uses and purposes set forth herein and in that certain Land Trust Agreement dated as of 16th day of OCTOBER 1992, which is incorporated herein by this reference.

Full power and authority is hereby granted to the Trustee and their successors and assigns to protect and conserve the property; to sell, contract to sell and grant options to purchase the Property and any right, title or interest therein on any terms; to exchange the Property or any part thereof for any other real or personal property upon any terms; to convey the Property by deed or other conveyance to any grantee, with or without consideration; to mortgage, pledge or otherwise encumber the Property or any part thereof; to lease, contract to lease, grant options to lease and renew, extend, amend and otherwise modify leases on the Property or any part thereof from time to time, for any period of time, for and rental and upon any other terms and conditions; and to release, convey or assign any other right, title or interest whatsoever in the Property or any part thereof.

No party dealing with the Trustee in relation to the Property in any manner whatsoever, and (without limiting the foregoing) no party to whom the Property or any part thereof or any interest therein shall be conveyed, contracted to be sold, leased or mortgaged by the Trustee, shall be obliged (a) to see to the application of any purchase money, rent or money borrowed or otherwise advanced on the Property, (b) to see that the terms of this trust have been complied with, (c) to inquire into the authority, necessity of expediency of any act of any Trustee, or (d) be privileged to inquire into any of the terms of the Trust Agreement. Every deed, mortgage, lease or other instrument executed by the Trustee in relation to the Property shall be conclusive evidence in favor of every person claiming and right, title or interest thereunder; (a) that at the time of the delivery thereof this trust was in full force and effect, (b) that such instrument

TAX MAP 90-4-001-17
CODE OF VIRGINIA 55-17.1
ANTHONY O'CONNELL
6541 FRANCONIA ROAD
SPRINGFIELD, VIRGINIA 22150

BK8307 1446

was executed in accordance with the trusts, terms and conditions hereof and of the Trust Agreement and is binding upon all beneficiaries thereunder, (c) that the Trustee was duly authorized and empowered to execute and deliver every such instrument, and (d) if a conveyance has been made to a successor or successors in trust, that such successor or successors have been properly appointed and are fully vested with all the title, estate, rights, powers, duties and obligations of his, its or their predecessor in trust.

The Trustee shall have no individual liability or obligation whatsoever arising from his ownership, as trustee, of the legal title to said property, or with respect to any act done or contract entered into or indebtedness incurred by him in dealing with said property, or in otherwise acting as such trustee, except only so far as said Trust Property and any trust funds in the actual possession of the Trustee shall be applicable to the payment and discharge thereof.

The interest of every beneficiary hereunder and under the Trust Agreement and of all persons claiming under any of them shall be only in the earnings, avails and proceeds arising from the rental, sale or other disposition of the Property. Such interest is hereby declared to be personal property, and no beneficiary hereunder shall have any right, title or interest, legal or equitable, in or to the Property, as such, but only in the earnings, avails and proceeds thereof as provided in the Trust Agreement.

This deed is governed by and is to be read and construed with reference to Section 55-17.1, Code of Virginia (1950 as amended) and now in force.

Except as hereinafter noted, the Grantors covenant that they have the right to convey the Property to the Trustee, that Grantors have done no act to encumber the Property, that the Trustees shall have quiet possession of the Property, free from all encumbrances, and that Grantors will execute such further assurances of the Property as may be requisite.

Howard Nader and Pierre Shevenell join in this Deed in Trust Under Land Trust Agreement for the sole purpose of consenting to the conveyance of the Property, and hereby forever convey, release and waive any marital rights or right to claim an elective share in such Property as part of their spouses' augmented estate pursuant to Code of Virginia, Section 64.1-13, et seq., as amended, and give no covenant or warranty of title to the property hereby conveyed.



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Courthouse
4110 Chain Bridge Road
Fairfax, Virginia 22030-4009

703-246-2221 • Fax: 703-246-5496 • TDD: 703-352-4139

DENNIS J. SMITH, CHIEF JUDGE
JANE MARUM ROUSH
RANDY I. BELLOWS
BRUCE D. WHITE
ROBERT J. SMITH
DAVID S. SCHELL
JAN L. BRODIE
LORRAINE NORDLUND
BRETT A. KASSABIAN
MICHAEL F. DEVINE
JOHN M. TRAN
GRACE BURKE CARROLL
DANIEL E. ORTIZ
JUDGES

COUNTY OF FAIRFAX

CITY OF FAIRFAX

BARNARD F. JENNINGS
THOMAS A. FORTKORT
RICHARD J. JAMBORSKY
JACK B. STEVENS
J. HOWE BROWN
F. BRUCE BACH
M. LANGHORNE KEITH
ARTHUR B. VIEREGG
KATHLEEN H. MACKAY
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MICHAEL P. McWEENEY
GAYLORD L. FINCH, JR.
STANLEY P. KLEIN
LESLIE M. ALDEN
MARCUS D. WILLIAMS
JONATHAN C. THACHER
CHARLES J. MAXFIELD
RETIRED JUDGES

February 11, 2015

Anthony O'Connell
439 S Vista Del Rio
Green Valley, AZ 85614

Dear Mr. O'Connell:

The "enclosed document" was the 1992 Deed at bk8307p1446 (first two pages)

My previous letter to the Judges was mailed on January 5, 2015. I received this reply from Chief Judge Smith on February 23, 2015

We received your letter of January 5, 2014. I am sure the year was simply a typographical error as the letter was just received. Your request for an opinion regarding an enclosed document is not made in the context of any pending matter in the Fairfax Circuit Court. Furthermore, even if it was, sending a letter to judges does not constitute the filing of pleadings as pleadings are filed with the Clerk of Court.

A request for an opinion or ruling by a judge not properly made in a pending case requests an advisory opinion. Judges "will consider, sua sponte, whether a decision would be an advisory opinion, because we do not have the power to render a judgment that is only advisory." Charlottesville Operators Ass'n v. Albemarle Cnty., 285 Va. 87, 99-100, 737 S.E.2d 1, 14 (2013); see also Martin v. Zihel, 269 Va. 35, 40, 607 S.E.2d 367, 369 (2005).

Accordingly, on behalf of our entire court, we decline your request for an opinion.

Respectfully yours,

[Handwritten signature of Dennis J. Smith]

Dennis J. Smith,
Chief Judge, 19th Judicial Circuit of Virginia

Certified Mail Receipt 7012 2920 0000 3117 9808

Anthony O'Connell, Trustee
439 S. Vista del Rio
Green Valley, Arizona 85614
February 25, 2015
anthonymineroconnell@gmail.com

Chief Judge Dennis J. Smith
Nineteenth Judicial Circuit of Virginia
Fairfax County Court House
4110 Chain Bridge Road
Fairfax, Virginia 22030-4009

Reference:

Re: Why is the 1992 Trust Deed at bk8307p1446 not recognized?

The Honorable Chief Judge Dennis J. Smith:

Please tell me why the 1992 Trust Deed at bk8307p1446 ,which shows that the Grantee, Anthony Miner O'Connell, Trustee, owns the Trust property in fee simple, is not recognized.

Sincerely,



Anthony Miner O'Connell

No response