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June 8, 2021

Via Email

Jerry J. Dasti, Esq.
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620 Lacey Road
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**RE: Belmar First Aid Squad, Inc. to the Borough of Belmar
Block 83, Lot 10 414 Ninth Avenue, Belmar, New Jersey**

Dear Mr. Dasti:

This will respond to your email of this morning in which you communicated to me on behalf of the Borough of Belmar (the "Borough") the Borough's rejection of the conditions of the Belmar First Aid Squad, Inc. (the "BFAS"), as set forth in my letter to you of June 7, 2021.

Before responding to the comments in your email, I would like to remind you that the BFAS expressly reserved the right to reject all bids. We included this provision to protect the BFAS in the event the bid process did not produce a bid amount in a range that the BFAS deemed fair, or if other circumstances interfered with the bid process or the achievement of the BFAS's objectives in selling the Property. The BFAS continues to reserve all its rights in this matter.

A. Deed Restriction Limiting Further Development of the Property

We reject your contention that "[t]here is no legitimate reason for [the BFAS] to attempt to impose those deed restrictions." The BFAS made clear from the outset of the process that out of gratitude to, and consideration for, the BFAS's neighboring property owners it would not sell the property to any prospective purchaser who intended to expand the existing non-conforming use of the Property. As you know, First Aid or other

emergency services are not permitted uses in the R-75 Zone. Indeed, the BFAS's initial preference was to restrict future use of the property to single family use. Because of the interest the Borough expressed in purchasing the property, the BFAS agreed to broaden its planned deed restriction to enable the Borough to purchase the Property, but on the condition that the Property would be used as it had been in the past.

It was for this reason that the BFAS included in the bid package a requirement that the bidders execute the following Certification:

Certification Regarding Future Development. All bidders must certify by signing this certification that if the Bidder's bid is accepted, the Bidder agrees that the non-conforming use on the property will not be expanded and the property will not be further developed except for charitable activities or lots for single family homes.¹

The Borough submitted this Certification, signed by a Borough official, as part of its bid submission. The BFAS would have rejected the Borough's bid out of hand had it not done so. Moreover, the Mayor & Council have repeatedly represented to the public that they are purchasing the Property for the purpose of providing ambulance services. See June 3, 2021 TAPintoBelmar/Lake Como (quoting Mayor Walsifer, as stating "I had a conversation with Bill Merkler this weekend, and as a Belmar resident, he understands the importance to have the building (as) a public safety building to house Belmar first aid, water rescue and all the training. . . ."). This building, in its current size and configuration, has proven to be more than sufficient to meet the first aid, water rescue and related training needs of the Borough of Belmar.

The deed restriction limiting expansion of the building on the Property is no more than what is reasonably necessary to protect the interests of the BFAS's neighbors by preventing the expansion of the existing use of the property. Obviously, we would not have included this same deed restriction if Down to Earth had proceeded to contract. Such a restriction would have precluded him from building single-family homes, which would have been best for the neighborhood. For that reason, we instead would have required that Down to Earth include a deed restriction requiring that the building be razed and the Property developed solely for single-family homes.

B. Deed Restriction Relating to the Monuments

We expected the most likely outcome of the bid process would be that the high bidder would plan to raze the buildings and construct single-family homes. For that

¹ In the certification for bidders we prepared, the BFAS included a provision to allow further development for "charitable activities" out of deference to the First Baptist Church of Belmar, which has been a next-door neighbor to the BFAS for all 93 years of the BFAS's existence and had expressed an interesting bidding for the Property so that it could broaden its services to our community.

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reason, we addressed the monument issue only by stating that the monuments would remain the property of the BFAS. Indeed, but for the Borough's threats to use eminent domain, that would have been the result. In view of the Borough's decision to purchase the property, however, there is no need to remove the monuments. Because of their historical significance, the monuments should remain in place for so long as the Property continues to be used to provide emergency services, as the BFAS did for the past 93 years.

I am not sure I understand the reason for the Borough's objection to this deed restriction. Surely, the Mayor and Council are not opposed to leaving the Mihlon cornerstone and Traverso plaque in place. And I certainly would hope the Mayor and Council are also not opposed to allowing the existing simple plaque on the rock monument to be replaced with a larger plaque commemorating the BFAS's decades of service to Belmar and listing the names of all its life members. The preparation of this plaque will take time. These deed restrictions will enable the plaque to be installed after the closing, while also providing for the disposition of all three monuments at such time in the future that the Property is no longer used for emergency services.

The BFAS designated the Belmar Historical Society as the beneficiary of this deed restriction because the BFAS will soon be dissolved, and unable to enforce these restrictions should that be necessary. Moreover, the Belmar Historical Society is a highly respected 501(c)3 organization, and the ideal steward to see to the preservation of these items of Belmar history.

C. The Removal of the Range/Stove, Refrigerator(s) and Generator

Section 8 of the proposed Agreement of Sale, titled "Condition of Property," made clear that the BFAS was not providing any warranties or representations regarding the Property or the building. We are including this condition now to put the Borough on notice before entering into an Agreement of Sale, that these items will not be conveyed to the Borough as part of the sale of the Property.

Please advise how the Borough wishes to proceed.

Very truly yours,

PRINGLE QUINN ANZANO, P.C.

By:



Kenneth E. Pringle, Esq.

Cc: Board of Directors of the Belmar First Aid Squad, Inc.