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RESOLUTION NO. 2008-11-025R

**A RESOLUTION APPROVING SETTLEMENT OF LITIGATION
REGARDING 809 W. MAIN STREET**

WHEREAS, the owner of the property commonly known as 809 West Main Street, Urbana, Illinois, Mr. Howard Wakeland, wishes to demolish the house located at that address, and said property is located in a Historic District; and

WHEREAS, Mr. Wakeland has sought, and been denied, a Certificate of Appropriateness and a Certificate of Economic Hardship by the City of Urbana's Historic Preservation Commission, and said denial was subsequently affirmed on administrative appeal to the City Council; and

WHEREAS, such denials preclude Mr. Wakeland from demolishing the structure at 809 W. Main St., and consequently, he has filed, on July 29, 2008, a Complaint for Administrative Review at the Circuit Court of Champaign County; and

WHEREAS, there is a legitimate dispute of facts between the City of Urbana and Mr. Wakeland as to whether such Certificates should have issued to him, and neither party admits error or concedes causes or defenses; and

WHEREAS, the City of Urbana has an interest in ensuring the aesthetics of certain parts of the neighborhood in the Historic District be kept consistent and maintained; and

WHEREAS, the City and Mr. Wakeland wish to avoid the time, expense, and uncertainties of further litigation, and therefore wish to enter into a settlement agreement to facilitate an end to said litigation; and

WHEREAS, in exchange for permission from the City of Urbana to demolish the structure at 809 W. Main St., Mr. Wakeland agrees to dismiss his pending Complaint for Administrative Review, Case No. 08 MR 580, and he has agreed to

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abide by certain design and construction guidelines with regard to the structure he intends to build on that site.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, AS FOLLOWS:

The City of Urbana City Council hereby authorizes the Mayor to sign, execute, and deliver the negotiated settlement agreement, after review by the Legal Division, between the City of Urbana and Howard Wakeland. Upon acceptance, execution, and delivery, by all necessary parties, of the agreement, its terms shall become operative.

PASSED by the City Council this 17th day of November, 2008.



APPROVED by the Mayor this 24th day of November, 2008.

Phyllis B. Clark
Phyllis B. Clark, City Clerk
[Signature]
Deputy Clerk
Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor

FILED

APR 11 2012

SETTLEMENT AGREEMENT

Phyllis D. Clark
City Clerk

THIS SETTLEMENT AGREEMENT is entered into on this 8th day of December, 2008, between the CITY OF URBANA, a municipal corporation, the URBANA CITY COUNCIL, and the URBANA HISTORIC PRESERVATION COMMISSION (hereinafter all referred to as "the City") and HOWARD WAKELAND (hereinafter "Plaintiff").

RECITALS

On July 3, 2008, in an appeal from the April 2, 2008, and May 7, 2008, decisions of the City's Historic Preservation Commission, said decisions denying Plaintiff's applications for certificates of appropriateness and/or economic hardship, the City's Council upheld the denial of such certificates. Plaintiff was, therefore, precluded from demolishing the structure located at 809 West Main Street in Urbana, Illinois. Plaintiff subsequently, on July 29, 2008, filed a Complaint for Administrative Review in the Circuit Court of Champaign County (Case No. 08 MR 580). Plaintiff alleged in his Complaint, *inter alia*, that the decisions of both the City Council and the Historic Preservation Commission were against the manifest weight of the evidence presented before both bodies and that both bodies lacked jurisdiction to decide the merits of the applications for the certificates. The City denied, and continues to deny, those allegations.

The Parties desire to provide for a final settlement of the disputed issues, without further litigation, and to release and discharge the City from any and all claims, legal or equitable that Plaintiff may have, which arise out of the actions taken by the City or its Commission.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. **GOOD FAITH.** The parties agree that by entering into this Agreement, each is acting in good faith in an effort to reach a compromise of matters involving disputed issues between them, and this Agreement has been entered into with knowledge on the part of the parties concerning the nature and circumstances of the actions taken by the City and the related claims made by Plaintiff. The compromise is given in good faith by Plaintiff, and is taken in good faith by the City. The parties acknowledge and agree that by entering into this Agreement, the City is making no admission of wrongdoing but is merely seeking to negotiate peace by this compromise, and no wrongdoing is implied by this compromise.

2. **RELEASE.** In consideration of the agreement by the City to allow Plaintiff to demolish the structure at 809 West Main Street, Plaintiff and his family, heirs, assigns, agents, partners, shareholders, and employees do hereby release the City, its officers, employees, commissioners, and council members from all claims, demands, causes of action, suits at law or in equity, for or because of any matter or thing done, omitted, or suffered to be done by the City or its officers, employees, commissioners, and council

members or damages, whether known or unknown, that arise out of or are connected with the disputed issues recited above. This Release shall be fully binding and be a complete settlement among the parties to this Agreement save only, and excepting, the provisions enumerated below.

3. COMPROMISE. Promptly upon the execution of this agreement by both parties, and without further review by the Historic Preservation Commission or the City Council, the City agrees to grant a permit to demolish the structure at 809 West Main Street, said demolition to be in compliance with the City's ordinances. The City further agrees to allow the construction of a new residential structure (a four-bedroom house), including a four-car garage, that substantially comports with the design attached hereto, and fully incorporated herein, as "Exhibit A". The City staff and Council, having had an opportunity to review and approve the design submitted by Plaintiff, agree that Plaintiff will not be required to take such design before the Historic Preservation Commission for review, or the City Council for further review, and that the City will issue a building permit based on the design submitted, which includes the minimum specifications set forth below.

Plaintiff agrees, as consideration for the above concessions by the City, to erect the new structure at 809 West Main Street as illustrated in Exhibit A. Specifically, the structure in Exhibit A shall include, minimally, the following:

- A. The residential structure, in addition to the design features illustrated in Exhibit A, shall be sided with a natural material. Plaintiff agrees that such material may be wood clapboard, brick, stone, stucco, or a cement fiberboard material substantially similar to the proprietary Hardiplank siding.
- B. The structure shall be elevated above grade, so that ingress or egress from the front entrance must be made after ascending or descending at least three stairs attached to the front porch.
- C. The front of house shall be symmetrical with the front door centered, as are the steps to the front porch.
- D. The front door shall be of a traditional nature, with sidelights/windows on either side. There shall be a small, front-facing gable above the stairs leading to the porch. The structure shall have a hip roof with an 8:12 slope. The porch roof and the front-facing gable shall also have an 8:12 slope.
- E. The front elevation shall have at least have at least two sets of double-wide windows at the porch level and at least two more window at the second floor. The rear elevation shall have at least two windows on the main structure and at least one on the garage. The west elevation shall also have at least four window, as illustrated in Exhibit A. The East elevation shall have at least four windows, as illustrated in Exhibit A.

The Plaintiff agrees that the consideration given by the City, pursuant to this Agreement, is adequate and is a full, complete, final, and binding compromise of the matters involving the disputed issues regarding the demolition of the structure(s) at 809 West Main Street and the construction of a new structure. Plaintiff further agrees that

upon execution of this agreement by the City and upon the issuance of a demolition permit and a building permit, he will dismiss the pending action (Case No. 08 MR 580), as against all defendants, with prejudice.

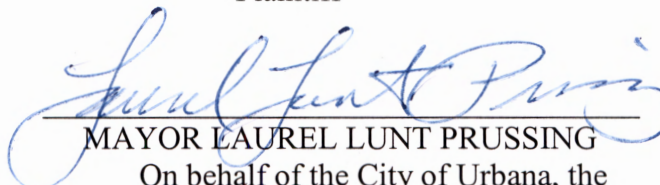
4. FUTURE COOPERATION. All parties agree to cooperate fully and take all additional action that may be necessary and appropriate to give full force and effect to the terms and intent of this Agreement that are not inconsistent with its terms.

5. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties with regard to the matters set forth herein. In entering this Agreement, Plaintiff represents that he has completely read all terms hereof; has had an opportunity to review and discuss the terms with his legal counsel; such terms are fully understood; and he voluntarily accepts them.

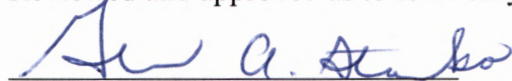
Dated: 12/8/08


HOWARD WAKELAND
Plaintiff

Dated: 12/4/08


MAYOR LAUREL LUNT PRUSSING
On behalf of the City of Urbana, the
Urbana City Council, and the Urbana
Historic Preservation Commission

Reviewed and approved as to form only.


Counsel for Plaintiff

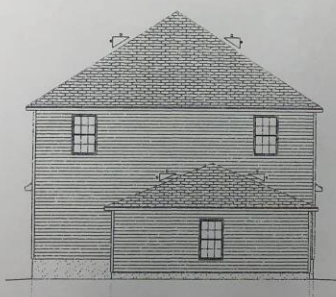

Counsel for City of Urbana



RIGHT ELEVATION
SCALE: 1/4" = 1'-0"



LEFT ELEVATION
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE: 3/16" = 1'-0"



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

EXHIBIT
A

NOTE:
ALL WRITTEN CONTRACTS &
SPECIFICATIONS OVERRIDE
PRINTS.

PRCBuild

UNITED BUILDING CENTERS
ROUTE 45 SOUTH
TOLONO, ILLINOIS 61880

ADVANTAGE PROPERTIES
809 WEST MAIN STREET
URBANA, ILLINOIS

STATISTICS	
ST. FLOOR AREA	124 SQ. FT.
2ND FLOOR AREA	124 SQ. FT.
FINISH BATH AREA	64
TOTAL FLOOR AREA	248 SQ. FT.
LAND AREA	207 SQ. FT.
FRONT PORCH AREA	80 SQ. FT.

NOTE	
HOMEOWNERS AND/OR GENERAL CONTRACTOR ARE TO VERIFY ALL DIMENSIONS, STRUCTURAL DETAILS, BUILDING CODES, SPACE REQUIREMENTS. THESE DRAWINGS REPRESENT ONLY GENERAL REFERENCE AND SUGGESTIONS FOR THIS PROJECT. EVERY ATTEMPT HAS BEEN MADE IN THE PREPARATION OF THESE DRAWINGS TO AVOID ERROR. HOWEVER, BECAUSE OF THE GREAT VARIANCE IN CONSTRUCTION PRACTICES, ENVIRONMENTAL CONDITIONS AND BUILDING CODE REQUIREMENTS, NO RESPONSIBILITY IS IMPLIED OR ASSUMED FOR ANY DAMAGES (INCLUDING STRUCTURAL FAILURE) DUE TO ANY DEFICIENCIES, ERRORS, OR OMISSIONS.	