

47230

To: The Board of Acquisition and Contract

From: Edward Buroughs, AICP
Commissioner of Planning

Mary J. Mahon
Director of Real Estate

Date: June 9, 2015

Re: Resolution authorizing the County of Westchester to release a reverter clause in a 1969 deed to the Village of Mamaroneck with respect to former residual parcel "T" located adjacent to 510 Baldwin Place in the Village.

Transmitted herewith for your consideration is a resolution which, if adopted by your Board, would authorize the release of a reverter clause in a 1969 deed to the Village of Mamaroneck (the "Village") with respect to the former residual parcel "T" located adjacent to 510 Baldwin Place in the Village.

Pursuant to Westchester County Board of Supervisors Act No. 68-1969, the County of Westchester conveyed to the Village by a deed (the "Deed"), dated October 29, 1969, eleven residual parcels located within the Village that were no longer needed for County purposes. The various residual parcels were originally acquired for a parkway that was never built. The Deed contains a condition (the "Reverter Clause") that reads as follows;

"...that the party of the second part (the Village) or its successors shall use the said premises solely and exclusively for park and recreation purposes and same shall not be conveyed, transferred, leased or assigned by the party of the second part without the consent of the party of the first part (the County). In the event that the premises so conveyed are put to another use than herein mentioned, or in the event that said premises are not put to such park and recreation use within five years after August 18, 1969, then, and in either of such events, the land hereby conveyed and any and all improvements thereon or thereto shall revert to the party of the first part herein or its successors, and all right, title and interest of the party of the second part or its successors shall be forfeited and the title to said premises shall revert to the party of the first part or its successors without the necessity of re-entry by the party of the first part, hereby creating as to said premises a determinable fee, to be terminated upon breach of the conditions herein set forth."

The Village recently contacted the County regarding one of the former residual parcels conveyed under the 1969 Deed, specifically residual parcel "T", designated as Village tax lot 8-1-11.1, which is adjacent to a residence at 510 Baldwin Place in the Village (the "Adjacent Property Owner"). The Village has advised the County that a driveway was constructed on a portion of the former residual parcel "T" which has been utilized by the Adjacent Property Owner for many years.

The Adjacent Property Owner is now requesting an easement from the Village approximately thirty (30) feet by forty (40) feet to allow the existing driveway to remain on the former residual parcel. The Village has indicated its willingness to grant the easement; however, since there is no evidence that this particular former residual parcel was ever used for parks and recreation purposes, the Village has asked the County to release the Reverter Clause as set forth in the 1969 Deed with respect to former residual parcel "T".

The Commissioner of Planning has provided a report that states in part, "Although residual parcel T has not been officially designated parkland by the Village, an inspection of the site by Department of Planning staff found the land, with the exception of the driveway encroachment, to be undisturbed open space that serves as a buffer between a residential neighborhood and the New England Thruway. Therefore, the County's intent to limit the parcel to park use is, as a physical matter, being met 46 years after the County's conveyance to the Village." Based upon these facts, the Commissioner of Planning recommends the release of the Reverter Clause.

The objective and public purpose of this resolution is to alleviate potential title issues with respect to former County property that is not needed by the County. It should be noted that Act No. 2015-89 authorizing the release of the Reverter Clause was approved by the County Board of Legislators on June 1, 2015. Accordingly, approval of the attached resolution authorizing the release of the Reverter Clause and the execution of a quitclaim deed conveying the County's reverter interest in former residual parcel "T" to the Village is respectfully requested.

RESOLUTION

Upon a communication from the Commissioner of Planning and the Director of Real Estate, be it hereby

RESOLVED, that the County of Westchester is authorized to release, with respect to former residual parcel "T" only (designated as tax lot 8-1-11.1 on the tax maps of the Village of Mamaroneck), the following condition in the October 29, 1969 deed conveying certain parcels from the County to the Village of Mamaroneck recorded in the Westchester County Clerk's Office in Liber 6902 at page 252

“that the party of the second part (the Village) or its successors shall use the said premises solely and exclusively for park and recreation purposes and same shall not be conveyed, transferred, leased or assigned by the party of the second part without the consent of the party of the first part (the County). In the event that the premises so conveyed are put to another use than herein mentioned, or in the event that said premises are not put to such park and recreation use within five years after August 18, 1969, then, and in either of such events, the land hereby conveyed and any and all improvements thereon or thereto shall revert to the party of the first part herein or its successors, and all right, title and interest of the party of the second part or its successors shall be forfeited and the title to said premises shall revert to the party of the first part or its successors without the necessity of re-entry by the party of the first part, hereby creating as to said premises a determinable fee, to be terminated upon breach of the conditions herein set forth.”

and be it further

RESOLVED, the County Executive or his authorized designee is hereby empowered to execute all instruments, including the execution of a quitclaim deed releasing the County's reverter interest in former residual parcel "T" to the Village of Mamaroneck, and take such action as may be reasonably necessary to effectuate the purposes hereof.

Account to be
Charged/credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
					n/a

Budget Funding Year(s) Start Date n/a End Date _____

Funding Source Tax Dollars _____
 State Aid _____
 \$ n/a Federal Aid _____
 (must match resolution) Other _____