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COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

Date: June 14, 2018
To: Mayor and City Council
From: Dave Gobin, Community Development Director
Cc: Gregg Mandsager, City Administrator

Re: RESOLUTION ACCEPTING PARCEL ID 0835434031 AND DECLARING IT SURPLUS PROPERTY

INTRODUCTION AND BACKGROUND: After 3 years of effort, the City of Muscatine has received a court order through Iowa Code 657-A for obtaining the deed to parcel 0835434031, also known as 500 Mulberry Avenue. The Order has recorded a deed for this property with the County subject to acceptance by the City Council.

As part of the Resolution, the County will abate all of the taxes accrued on the property and we would cancel the accumulated special assessment fees from nuisance abatements over the years.

Acceptance of this property, via deed, will provide the City access to environmental funding by the IDNR for services like asbestos assessment and remediation... up to \$25,000.

RECOMMENDATION: Staff hereby request City Council approve the attached resolution accepting the deeded property and to surplus it and to authorize staff to dispose of the property best way possible.

DOCUMENTS:

1. Court Order
2. Resolution

*"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" – Mark Twain*

RESOLUTION NO. _____

**A RESOLUTION ACCEPTING TITLE TO PROPERTY LOCATED AT 500
MULBERRY AVENUE PURSUANT TO ORDER OF JUDGMENT IN
ACCORDANCE WITH IOWA CODE 657A.10A**

WHEREAS, pursuant to a Petition filed with the Muscatine County District Court, the City of Muscatine has been pursuing title to abandoned real property locally known as 500 Mulberry Avenue, Muscatine, Iowa, and legally described below:

The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa.

Parcel No. 0835434031(the "Property")

WHEREAS, There is situated upon the Property a building which is abandoned, vacant and dilapidated within the meaning of Iowa Code §657A.10A(3).

WHEREAS, on June 14, 2018, the Court entered a Judgment Awarding Title to Abandoned Property to the City of Muscatine, Iowa pursuant to Iowa Code Chapter 657A.10A, a copy of which is attached hereto as Exhibit A (the "Order.")

WHEREAS, pursuant to the Order, title to the Property is vested in the City of Muscatine, Iowa, free and clear of any claims, liens or encumbrances, and the City is the owner in fee simple.

WHEREAS, in response to such Order, the City wishes to cancel and void any liens, encumbrances, claims or assessments that it may have on the Property.

**BE IT RESOLVED BY THE CITY COUNCIL OF MUSCATINE, IOWA, AS
FOLLOWS:**

1. The City of Muscatine, Iowa hereby accepts the June 14, 2018 Judgment Awarding Title to Abandoned Property to the City of Muscatine, Iowa pursuant to Iowa Code Chapter 657A.10A, which Order shall serve as muniment of title conveying title to the City of Muscatine, Iowa.

2. The City of Muscatine, Iowa hereby cancels and voids any and all liens, encumbrances, claims or assessments that it may have on the Property.
3. The City Administrator or City Attorney are instructed to record the Order with the Muscatine County Assessor, Muscatine County Recorder, Muscatine County Auditor, Muscatine County Treasurer and any other entity that requires notice in order to abate any and all claims, liens, encumbrances and assessments held on the Property and updating title records to the Property.
4. Any resolution or part thereof in conflict or inconsistent with this resolution is repealed.

PASSED, APPROVED AND ADOPTED this 21st day of June, 2018.

CITY COUNCIL OF THE CITY
OF MUSCATINE, IOWA

Diana L. Broderson, Mayor

ATTEST:

Gregg Mandsager, City Clerk

IN THE IOWA DISTRICT COURT IN AND FOR MUSCATINE COUNTY

CITY OF MUSCATINE, IOWA,
Petitioner,

v.

NINTH WONDER, INC.;
ACC 6, LLC; DUTRAC AND ITP;
ABIGAIL LAND HOLDINGS 18, LLC;
MUSCATINE COUNTY ASSESSOR
Respondents.

Case No. EQCV024173

**JUDGMENT AWARDING TITLE TO
ABANDONED PROPERTY TO THE CITY
OF MUSCATINE, IOWA PURSUANT TO
IOWA CODE CHAPTER 657A.10A**

This matter comes before the Court pursuant to Plaintiff's Application for Judgment Awarding Title to Abandoned Property to the City of Muscatine, Iowa pursuant to Iowa Code Chapter 657A.10A. Having reviewed the file in this matter, the Court finds as follows:

1. Petitioner filed a Petition with this Court in the above-captioned matter on September 11, 2017.
2. The Court has jurisdiction over the parties and the subject matter of the above captioned action.
3. Respondents are each an Owner or Interested Person, as those terms are defined by Iowa Code chapter 657A, of real property locally known as 500 Mulberry Avenue, Muscatine, Iowa, and legally described as:

The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa.

Parcel No. 08-35-434-031 (the "Property").

4. There is situated upon the Property a building which is abandoned, vacant and dilapidated within the meaning of Iowa Code §657A.10A(3).
5. All Respondents have filed a waiver of hearing and consent to the entry of judgment and decree transferring title to the petitioner pursuant to the provisions of Iowa Code Section 657A.10A and disclaimed its interest in the real property described in the Petition.
6. The subject real property is abandoned and constitutes a nuisance pursuant to the Code of Iowa.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the property located at 500 Mulberry Avenue, Muscatine, Iowa, and legally described as: “The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa” has an abandoned building located thereon pursuant to Iowa Code §657A.10A.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that title to the real property located at 500 Mulberry Avenue, Muscatine, Iowa, and legally described as: “The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa” is hereby vested in the Petitioner, the City of Muscatine, Iowa, free and clear of any claims, liens or encumbrances held by the Respondents.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Petitioner is the sole, absolute and unqualified owner in fee simple absolute of the following described real estate: 500 Mulberry Avenue, Muscatine, Iowa, and legally described as: “The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa”, free and clear of all rights, title and interest or claims of any of the Respondents to this proceeding, and that such decree shall serve as muniment of title and shall stand as conveying the title to the Property to the Petitioner.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Respondents to this proceeding are forever barred and estopped from having or claiming any right, title or interest in and to the real property described above, adverse to the title of the Petitioner in the real property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Petitioner’s title in and to the Property described above is quieted and confirmed as against all adverse claims of the Respondents, and the Respondents are forever enjoined and restrained from in any manner interfering with the Petitioner and Petitioner’s quiet and peaceable possession thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all personal property located on the above described Property has been abandoned and that Petitioner has the right to remove and destroy/dispose of all such personal property, free and clear of any claims, liens, or encumbrances held by the Respondents.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that within ten (10) days of the entry of the Order, the Muscatine County Auditor shall reflect transfer of ownership in the property according to the award herein and without a deed being filed. The Petitioner shall

be responsible for the cost for the Muscatine County Auditor having to reflect the transfer of ownership in the property in this manner.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Court costs are assessed against the Petitioner.



State of Iowa Courts

Type: OTHER ORDER

Case Number EQCV024173
Case Title CITY OF MUSCATINE, IOWA V. NINTH WONDER, INC.; ACC

So Ordered

A handwritten signature in black ink, appearing to read "P. McElyea", written over a horizontal line.

Patrick A. McElyea, District Court Judge
Seventh Judicial District of Iowa