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April 9, 2010

Don Huggins
Lawrence Community Shelter ("LCS")
214 W. 10th St.
Lawrence, KS 66044

Tim Keller
Franklin Business Center, L.L.C. ("FBC")
120 E. 9th Street
Lawrence, KS 66044

Re: *Shelter SUP*

Dear Mr. Huggins and Mr. Keller:

This firm represents P.D.O. Investors, L.L.C. ("PDO"), which owns lots adjacent to FBC's property at 3701 Franklin Park Circle. PDO is aware of the application for a Special Use Permit filed by LCS seeking permission to operate a homeless shelter at FBC's property. Steve Glass of PDO, as well as representatives of other nearby properties, met a few days ago with Mr. Huggins, Loring Henderson and Doug Brown in hopes of convincing them that the LCS Board should seek to locate the Shelter elsewhere, and offering assistance in that endeavor. It was apparent at the meeting, however, that despite the many questions that need to be answered and the issues still to be addressed, LCS intends to press forward quickly toward a vote by the City Commission.

It is with regret, therefore, that PDO is compelled to send this letter, asserting the noncompliance of the SUP proposal with the Covenants that apply to the Franklin Business Park. PDO notes that the Trustees of the Park have not been asked for the approval required by the Covenants to make the proposed changes. The Covenants require Owners to submit for "design approval process." Article 3.04 of the Covenants states: "Owner shall submit to the Trustees a description of the proposed use and three (3) full sets of design documents." This has not been done. In addition, the Covenants require Owners to participate in pre-submission meetings. Article 3.03 of the Covenants states: "Owners shall meet with the Trustees in pre-design and pre-submission conferences." This also did not happen. These requirements are neither optional nor ambiguous.

Furthermore, Section 11.01 mandates that the owner of the property, "use and develop the Site only in accordance with the restrictions herein set forth," and that the owner "refrain from

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using or developing the Site in any way inconsistent with or prohibited by the provisions" of the Covenants. The Covenants also mandate that "All improvements must be compatible with existing improvements."

It is the position of PDO and other property owners in Franklin Park that a homeless shelter would not be compatible with the existing uses. A shelter is not in keeping with "a park of the highest quality for business, industrial and governmental uses," which is also a requirement of the Covenants. Unlike the Douglas County jail, the proposed homeless shelter is not a governmental use.

PDO requests that the LCS Board and FBC cease and desist from any further pursuit of approval of the proposed SUP. Regardless of which entity owns the property, the owner is contractually bound to comply with the Covenants. PDO intends to enforce the Covenants, and other property owners in the Park have indicated that they intend to do so as well.

PDO suggests that LCS take a more positive course of action by focusing on correcting operational deficiencies at the existing shelter, and by vigorously pursuing alternative sites that are not contractually prohibited from being used as a residential non-governmental shelter. Those alternatives include the Farmland office building, the VFW property, and the Poehler building. If LCS and the City deem Franklin Business Park, an industrial park, to be an appropriate location at which to provide residential services for the homeless, then the Farmland office building would also be appropriate for such use. We note that the building is:

- Buffered by K-10 from all of the uses mentioned below.
- Farther from the park.
- Farther from the school.
- Farther from Mary's Lake.
- Farther from residential neighborhoods.

The Farmland building has the added benefit of being closer to social services that meet the needs of shelter residents, such as the SRS office and the Social Security Office. The City has no immediate use for the Farmland building, so it should be possible to lease the building for a dollar per year for at least the next several years. This would greatly improve the financial position of the LCS, and put more of the LCS dollars to work providing services rather than buying land. This would immediately – and with certainty – remove the time pressure of the expiration next year of the existing SUP.

The City would not have loitering concerns at the Farmland building because the City has already determined what steps are necessary to "provide privacy for the users in a controlled area

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and address any loitering concerns." Specifically, City staff has stated that the problem of loitering is solved by a fence and by "not designating" the front entrance as an outdoor waiting or recreation area." Those are the two steps that the City has deemed to be sufficient to eliminate concerns about loitering in Franklin Park, so those same steps will be sufficient for the City at the Farmland building.

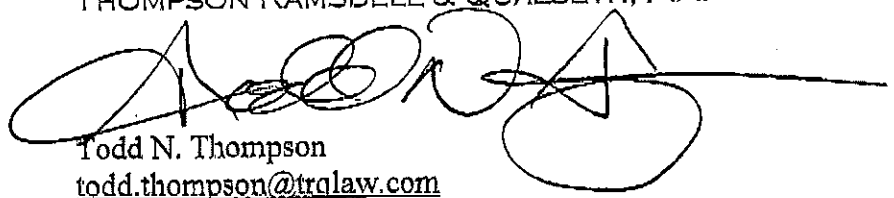
The VFW facility has the benefit of being located near a cluster of social services, including the Bert Nash Center, Health Care Access, Lawrence Memorial Hospital, the Douglas County Health Department, and the Dental Clinic. There are also two existing bus routes that pass fairly close by the VFW location (and do not require left turns onto a major highway for egress from the site). Further, the VFW building is already off the tax rolls. The FBC building, however, generates close to \$32,000 per year in property taxes.

As for the Poehler building, a foreclosure action was filed last month against that property, so this would appear to be an opportune time to buy the property. The building has a great deal of space; it is more conveniently located to social services clusters than is Franklin Park; and it would lend itself to effective segregation of families from other clientele. It would also allow for segregating sleeping areas from other uses, such as offices and the cafeteria.

The issue for PDO is not whether there should be help for the homeless – the issue is a land use issue. PDO believes that no matter how well intended LCS might be, the Franklin Business Park building is the wrong location for a new shelter. The members of PDO renew their offer to assist LCS with finding an alternative site. However, if LCS insists on proceeding with its purchase or lease of the FBC building, PDO will take legal action seeking to enforce the Covenants.

Sincerely,

THOMPSON RAMSDELL & QUALSETH, P.A.



Todd N. Thompson
todd.thompson@trqlaw.com

TNT:lg
cc: P.D.O. Investors, L.L.C.