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October 18, 2010

RICHARD B. STEVENS
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JOHN W. BRAND
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JOHN W. BRAND, JR.
RETIRED

Scott McCullough
City of Lawrence
6 East 6th ST.
P.O. Box 708
Lawrence, KS 66044

RE: 12th & Haskell Recycling Center

Dear Scott:

On behalf of my client, Bo Killough/12th & Haskell Recycling Center, please accept this letter as a response to your letter of September 3, 2010 regarding the floodplain and land use issues that have been raised.

Since receipt of your letter, Mr. Killough has worked hard to address all of the floodplain issues you have raised. First, Mr. Killough is in the process of removing every item from the floodway and is committed not to allow anything from being stored there in the future. Second, Mr. Killough has greatly reduced the number of vehicles and scrap that had existed on the site by running two trucks a day instead of one. Third, Mr. Killough is in the process of bringing in containers to store aluminum cans and cardboard to prevent those items from floating away. The plastic is now being loaded onto a container as it is processed. Fourth, Mr. Killough is storing all of the fluids drained from the recycled items in drums to prevent flotation. We would invite you and your staff to come view these changes.

In addition, Mr. Killough has been working with Matt Bond on other solutions to the floodplain issues. After these consultations, Mr. Killough has decided to raise his property out of the floodplain. He is working with a firm to create a site plan to submit for the City's approval. Upon approval, Mr. Killough will see that the approved work is performed in a timely manner and any floodplain issues will be resolved.

As to the land use issues, Mr. Killough has also worked hard to address many of the neighbors concerns. As mentioned above, he has greatly reduced the recycle pile and

will continue to reduce that pile in the coming months. In addition he has containerized several items that were previously left exposed. He has taken steps to ensure that community recycling companies do not "drop" after hours or on Sundays. Further, as previously noted, he is committed to concreting the driveway to resolve all issues with mud on the city streets. These are on top of the changes he made prior to the neighborhood meeting. Mr. Killough remains committed to working with the neighbors to address their concerns to the best of his ability.

As to the overarching land use issue, we renew the facts and law set forth in our letter of May 18, 2010.

To further support our May 18, 2010 letter, I have attached a copy of a letter from Ron Schneider to Sheila Stogsdill of July 17, 2003. This is an important letter because Linda Finger's August 5, 2003 letter approving the non-conforming use is a response to Mr. Schneider, not to Price Banks as indicated in the City's May 4, 2010 letter (i.e. the May 4 letter relies heavily on the words of Mr. Banks letter, but does not mention the letter of Mr. Schneider).

Mr. Schneider's letter states that the property's owners "have essentially used this property for industrial/commercial purposes, selling new and used automobile parts; used automobiles; new and used electrical parts, salvaged metals, and . . . 'just about everything in the automotive and salvage business. Their operations include the sale of property on a wholesale and retail basis.'" The letter then requests "the City's acknowledgement of a continuing, legal non-conforming use which would allow this party's business and operations [to] continue at this site."

It is to this letter and these statements that Ms. Finger replies on August 5, 2003 and states "I have reviewed the information you provided in your July 17, 2003 letter . . . This information indicates that the property has been utilized continuously for various industrial/commercial purposes including both wholesale and retail sales since 1951. The documentation will suffice to make a determination that the above referenced property is a legal, non-conforming use as defined in the City Zoning ordinance."

From these letters, it is clear that the operations of the 12th & Haskell Recycle Center have been, and continue to be, legal, non-conforming uses. If needed, Mr. Killough, the Rays, and Mr. Schneider would all testify to the use of this property both prior and after 2003, which will clearly demonstrate that the property remains a legal, non-conforming use.

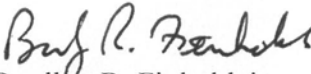
Although we believe strongly in our factual and legal position, Mr. Killough is willing to provide a site plan to the city that sets forth the location and extent of his operations. He would also be willing to include the limitations set forth above, and any other mutually agreeable limitations, so that he, or any future owner, will be bound by them. If there are

Correspondence to Bill McCullough
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any particular items or information you want addressed on that site plan, please let me know and I will see that they are incorporated.

Thank you for your continuing cooperation in this matter and I look forward to hearing from you in the near future.

Sincerely,
STEVENS & BRAND, L.L.P.


Bradley R. Finkeldei
bradfink@stevensbrand.com

cc: John Miller
Bo Killough