

MEMO

TO: City Council
FROM: Richard Haesler
RE: 41 Cherry Street – Ground Lease Amendment # 3; et al
DATE: November 14, 2013

The Board of Finance on November 12, 2013, approved a technical amendment to the 41 Cherry Street ground lease (with the corresponding amendment to the Notice of Lease which gets filed in land records). A letter to me, dated November 7, 2013, from Catherine Kronk, attorney for 41 Cherry Street, LLC., was provided to the Board of Finance to assist in giving context to the request. That letter, again for that purpose, is attached hereto.

MSK

MURPHY
SULLIVAN
KRONK

Via U.S. Mail

November 7, 2013

Richard W. Haesler, Jr., Esq.
City Attorney's Office
City Hall
149 Church Street
Burlington, VT 05401

**Re: 41 Cherry Street, LLC
Hotel Vermont**

Dear Richard:

As you know, I represent 41 Cherry Street, LLC, the developer of Lot A in the Westlake Area Condominium – now known as Hotel Vermont.

Upon completion of the Hotel, the developers discovered that the projection onto the Cherry Street right of way, over the front door of Hotel Vermont, exceeds the easement for the overhang that is set forth in the Ground Lease between the City and 41 Cherry Street, LLC, by a few inches.

This was discovered by the surveyor who completed an ALTA survey of the improvements, as-built. NBT Bank, the lead lender on the project, insists that the ALTA survey show no encroachments.

It is the hope of 41 Cherry Street, LLC that the City of Burlington will consider a request to amend the easement for the projection so that it is compliant with the Ground Lease.

The easement for the projection is 36 feet by 13 feet. The as-built dimensions of the projection are just under 49 feet by 14 feet. The as-built dimensions were approved by all permitting authorities. We request that the new easement read 49 feet by 14 feet.

I have submitted a draft of the Third Amendment to Ground Lease for your consideration, and accompanying documents.

I look forward to hearing from you.

{00112151.1}

Thank you.

Very truly yours,



Catherine Kronk

Murphy Sullivan Kronk

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