

Staff Report

File #: 21-251**Version:** 1**Date:** 6/14/2021**Item #:** 3.3e.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Daniel Atchison, City Attorney

SUBJECT:

Release of City interest of a portion of an unopened alley abutting Pioneer Cemetery.

Ward(s): 7
Councilor(s): Nordyke
Neighborhood(s): SCAN
Result Area(s): Good Governance.

ISSUE:

Shall the City Council approve the execution of a quitclaim deed to Pioneer Alley, LLC (Kathleen Dewoina, principal) releasing any City property interest the City may have in an unopened portion of an alley abutting Pioneer Cemetery?

RECOMMENDATION:

Approve the execution of a quitclaim deed to Pioneer Alley, LLC (Kathleen Dewoina, principal) releasing any City property interest the City may have in an unopened portion of an alley abutting Pioneer Cemetery.

SUMMARY:

Execution of the quitclaim deed will release any City property interest the City may have in an unopened portion of an alley abutting Pioneer Cemetery (Attachment 1 - Map). For many years, the City operated under the belief that the area was dedicated public right-of-way. However, after researching the deed history of the area in question, the City has determined that it has no legal or equitable property interest in the land.

FACTS AND FINDINGS:

The area in question was thought to be unopened City right-of-way, based on a 1914 unrecorded subdivision plat that is referenced in various deeds during that period. The area in question was never dedicated to the public as right-of-way and has remained unopened. Therefore, the City never obtained any legal or equitable property interest in the land. In December 2020 and in response to a staff report regarding a potential pedestrian path through Pioneer Cemetery (File No. 20-470), Pioneer Alley, LLC, submitted comments to City Council opposing a potential trail connection over the area. Their comments included a claim that the City did not own the area based on Pioneer Alley's research of the deed history.

On January 11, 2021, the attorney for Pioneer Alley, LLC, sent a letter to the City Attorney, again asserting that the City did not own the area, requesting that the City execute a quitclaim deed to release any property interest the City had to the area, and threatening litigation if the City declined.

Upon review of Pioneer Alley's comments, the City began its own research of the deed history which indicated that the City did not own the area. The City then engaged both a title company and outside counsel to review the City Surveyor's research and both confirmed the Surveyor's conclusion.

A quitclaim deed (Attachment 2) is a special form of deed. The grantor of a quitclaim does not assert or warrant that it owns or has any legal or equitable property interest in the land in question. Nor does the grantor provide any warranties of title that are typical with a general warranty or bargain and sale deed. Instead, the grantor is simply releasing any and all property interest it may have. A quitclaim deed is commonly used in circumstances like this, when there is a dispute or "cloud" on the title to land.

BACKGROUND:

The land subject to the quitclaim deed has been discussed as part of a potential trail connection between the Fairmount and Candalaria neighborhoods. Tonight's agenda also contains an information report updating the status of that potential trail connection.

Dan Atchison
City Attorney

Attachments:

1. Quitclaim Area
2. Quitclaim Deed