



City of Chicago



O2014-4724

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 5/28/2014

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Release from Redevelopment Agreement and certain deed covenants for purchase of property at 2800 South Ashland Ave to Publishing Properties Ashland, LLC

Committee(s) Assignment: Committee on Housing and Real Estate



CITY COUNCIL - CITY OF CHICAGO
CITY HALL, ROOM 200
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CHICAGO, ILLINOIS 60602
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RAY SUAREZ
ALDERMAN, 31ST WARD
VICE MAYOR - CITY OF CHICAGO

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COMMITTEE MEMBERSHIPS:
HOUSING AND REAL ESTATE
(CHAIRMAN)
COMMITTEES, RULES AND ETHICS
(VICE-CHAIRMAN)
AVIATION
BUDGET AND GOVERNMENT OPERATIONS
FINANCE
TRANSPORTATION AND PUBLIC WAY
WORKFORCE DEVELOPMENT AND AUDIT
ZONING, LANDMARKS AND BUILDING STANDARDS

June 25, 2014
CHICAGO, ILLINOIS

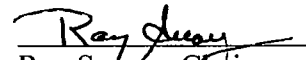
TO THE PRESIDENT AND MEMBERS OF THE CITY COUNCIL:

Your Committee on Housing and Real Estate which was referred an ordinance by the Department of Planning and Development authorizing the release of the Use Covenants, the RDA and Deed Covenants from the property located at **2800 S. Ashland Ave.** **25TH WARD** (O2014-4724)

Having the same under advisement, begs leave to report and recommend that Your Honorable Body **Pass** the proposed ordinance transmitted herewith.

This recommendation was concurred in by a unanimous vote of the members of the committee present with no dissenting votes.

(signed)


Ray Suarez, Chairman

Committee on Housing & Real Estate



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

May 28, 2014

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance executing a deed restriction release and associated provisions for Publishing Properties, LLC.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor



RECEIVED
MAY 10 1964
U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, pursuant to an ordinance adopted by the City Council of the City of Chicago on March 6, 1996, the City, by and through its Department of Planning and Development ("Department") entered into a redevelopment agreement (the "RDA") with the Chicago Sun-Times, Inc. ("Sun-Times"), for the sale and redevelopment of a parcel of City land located at 2800 South Ashland Avenue, as such parcel is legally described on Exhibit A attached hereto and made a part hereof ("2800 S. Ashland"), for the Sun-Times' construction of a newspaper printing plant and state of the art newspaper printing press ("ST Project"); and

WHEREAS, the RDA was recorded with the Office of the Cook County Recorder of Deeds ("Recorder") on December 1, 1997 as Document No. 97895560; and

WHEREAS, the City transferred the 2800 S. Ashland parcel to the Sun-Times pursuant to a quitclaim deed ("Deed") dated December 23, 1997 and recorded with the Recorder's office on March 3, 1998 as Document No. 98164413; and

WHEREAS, the Sun-Times' use and redevelopment of the 2800 S. Ashland parcel was encumbered by that certain Use Covenant ("Use Covenant") dated April 22, 1997 and recorded with the Recorder's office on April 25, 1997 as Document No. 97289394, which such Use Covenant required that: (1) the 2800 S. Ashland parcel be utilized solely and exclusively for industrial and commercial uses; (2) residential use of the 2800 S. Ashland parcel or any part thereof are expressly prohibited; (3) prohibited use of the 2800 S. Ashland Parcel by the City and its employees, agents, invitees, lessees, purchasers, successors and assigns of Secondary Water derived from the parcel; (4) the use of the parcel be restricted and governed by the terms and conditions of a "No Further Remediation" letter (the "NFR Letter") dated March 18, 1997 issued by the Illinois Department of Environmental Protection Agency as such letter was recorded with the Recorder's office on April 25, 1997 as Document No. 97289395; and (5) the provisions of the Use Covenant shall be binding on the City and any purchasers, successors and assigns; and

WHEREAS, the RDA and the Deed both incorporated certain (1) business, industrial and commercial use covenants and (2) a retention of over 400 jobs covenant which currently continue to encumber and run with the 2800 S. Ashland parcel (together, the "RDA and Deed Covenants"); and

WHEREAS, the Sun-times completed the construction of the ST Project as required by the RDA and the City issued a Certificate of Completion to the Sun-Times dated May 7, 2003 and recorded with the Recorders' office on August 14, 2003 as Document No. 0322639107 thereby terminating ST Project RDA obligations but not releasing the Covenants and the RDA and Deed Covenants; and

WHEREAS, in or about March, 2009 the Sun-Times filed for bankruptcy and Publishing Properties Ashland, LLC ("Owner") purchased, among other Sun-Times' assets, the 2800 S. Ashland parcel and is the current Owner of the 2800 S. Ashland parcel; and

EXHIBIT A

LEGAL DESCRIPTION OF 2800 S. ASHLAND

A tract of land in the Southeast $\frac{1}{4}$ of Section 30, Township 39 North, Range 14, East of the Third Principal Meridian, bounded and described as follows:

Commencing on the East line of the aforesaid Southeast $\frac{1}{4}$ of Section 30 at a point 2119.91 feet North of the Southeast corner of said section; thence South 88 degrees 27 minutes 46 seconds West along a line drawn perpendicular to the aforesaid East line of the Southeast $\frac{1}{4}$ of Section 30, a distance of 50.00 feet to the point of beginning, being the point of intersection with the West line of the East 50 feet of the aforesaid Southeast $\frac{1}{4}$; Thence South 01 degrees 32 minutes 14 seconds East along said West line, being the West line of South Ashland Avenue as condemned by Circuit Court Case No. B71139, a distance of 259.71 feet; thence South 00 degrees 14 minutes 18 seconds East along said West line of South Ashland Avenue, 553.15 feet to a point which is South 88 degrees 27 minutes 46 seconds West, 62.54 feet from a point on the East line of the aforesaid Southeast $\frac{1}{4}$ of Section 30 which is 1307.19 feet North of the Southeast corner of said Section; thence South 88 degrees 12 minutes 53 seconds West, 956.03 feet to a point of curvature; thence Southwesterly, 349.59 feet along the arc of a circle convex to the Northwest, having a radius of 445.10 feet and whose chord bears South 65 degrees 42 minutes 51 seconds West to a point of tangency; thence South 43 degrees 12 minutes 49 seconds West, 77.88 feet to a point of curvature; thence Southwesterly, 208.38 feet along the arc of a circle convex to the Southeast, having a radius of 534.80 feet and whose chord bears South 54 degrees 22 minutes 34 seconds West, 207.07 feet to a point on the East line of the parcel of land conveyed to the State of Illinois by deed dated October 25, 1928 and recorded November 15, 1928 as document 10206804; thence North 01 degrees 22 minutes 55 seconds West, along the aforesaid East line, 65.62 feet; thence Northeasterly, 123.17 feet along the arc of a circle convex to the Southeast, having a radius of 380.00 feet and whose chord bears North 61 degrees 20 minutes 56 seconds East, 122.63 feet to a point on a line drawn 109.00 feet East of and parallel with the East line of the aforesaid parcel of land conveyed to the State of Illinois by document 10206804; thence North 01 degrees 22 minutes 55 seconds West, 822.71 feet to a point on a line drawn 50.00 feet Southeasterly of and parallel with the Southerly dock line of the West Fork of the South Branch of the Chicago River, as established by the City Council of the City of Chicago on June 21, 1915; thence North 63 degrees 53 minutes 26 seconds East along the aforesaid parallel line, 519.62 feet; thence continuing North 66 degrees 46 minutes 06 seconds East along a line drawn 50.00 feet Southeasterly of and parallel with said Southerly dock line, 443.22 feet; thence North 86 degrees 07 minutes 06 seconds East, 448.48 feet to a point on a line drawn 115.00 feet West of and parallel with the East line of said Southeast $\frac{1}{4}$; thence South 01 degrees 32 minutes 14 seconds East along the aforesaid parallel line, 225.19 feet; thence North 86 degrees 07 minutes 06 seconds East, 65.05 feet to the point of beginning, in Cook County, Illinois.

COMMONLY KNOWN AS:
P.I.N.: 17-30-400-010-0000

2800 South Ashland Avenue, Chicago, Illinois

EXHIBIT B
PERMITTED USES AND RELEASE FROM COVENANTS
(attached)

This Instrument Prepared
By and After Recording
Return to:
Karen Bielarz
Senior Counsel
City of Chicago
Department of Law
Real Estate and Land Use Division
121 N. LaSalle Street, Room 600
Chicago, Illinois 60602

(The Above Space For Recorder's Use Only)

PERMITTED USES AND RELEASE FROM
COVENANTS

CITY OF CHICAGO, an Illinois municipal corporation ("City"), pursuant to an ordinance ("Ordinance") adopted by the City Council of the City of Chicago on March 6, 1996, the City, by and through its Department of Housing and Economic Development f/k/a the Department of Planning and Development ("Department") entered into a redevelopment agreement (the "RDA") with the Chicago Sun-Times, Inc. ("Sun-Times"), for the sale and redevelopment of parcel of City land located at 2800 South Ashland Avenue, as such parcel is legally described on **Exhibit A** attached hereto and made a part hereof ("2800 S. Ashland"), for the Sun-Times' construction of a newspaper printing plant and state of the art newspaper printing press ("ST Project").

1. The RDA was recorded with the Office of the Cook County Recorder of Deeds ("Recorder") on December 1, 1997 as Document No. 97895560.
2. The City transferred the 2800 S. Ashland parcel to the Sun-Times pursuant to a quitclaim deed ("Deed") dated December 23, 1997 and recorded with the Recorder's office on March 3, 1998 as Document No. 98164413.
3. The Sun-Times' use and redevelopment of the 2800 S. Ashland parcel was encumbered by that certain Use Covenant ("Use Covenant") dated April 22, 1997 and recorded with the Recorder's office on April 25, 1997 as Document No. 97289394, which such Use Covenant required that: (1) the 2800 S. Ashland parcel be utilized solely and exclusively for industrial and commercial uses; (2) residential use of the 2800 S. Ashland parcel or any part thereof are expressly prohibited; (3) prohibited use of the 2800 S. Ashland Parcel by the City and its employees, agents, invitees, lessees, purchasers, successors and assigns of Secondary Water derived from the parcel; (4) the use of the parcel be restricted and governed by the terms and conditions of a "No Further Remediation" letter

(the "NFR Letter") dated March 18, 1997 issued by the Illinois Department of Environmental Protection Agency as such letter was recorded with the Recorder's office on April 25, 1997 as Document No. 97289395; and (5) the provisions of the Use Covenant shall be binding on the City and any purchasers, successors and assigns.

4. The RDA and the Deed both incorporated certain (1) business, industrial and commercial use covenant and (2) a retention of over 400 jobs covenant which currently continue to encumber and run with the 2800 S. Ashland parcel (together, the "RDA and Deed Covenants").
5. In or about March, 2009 Publishing Properties Ashland, LLC acquired the 2800 S. Ashland parcel from the Sun-Times and Publishing Properties Ashland, LLC has requested that the City release the Use Covenants and the RDA and Deed Covenants in an effort to expedite the sale and disposition of the 2800 S. Ashland parcel to Q Investment Properties Sunshine, LLC, a Delaware limited liability company.
6. The City has agreed to release and hereby releases as an encumbrance against the property ("City Release") the Use Covenants and the RDA and Deed Covenants that run with the 2800 S. Ashland parcel, **with the exception of the NFR Letter which shall continue to encumber the 2800 S. Ashland parcel.**
7. The City Release shall be subject to the condition that certain future and permitted uses ("Permitted Uses") of the 2800 S. Ashland parcel be limited to those Permitted Uses as set forth on **Exhibit B** attached hereto and made a part hereof.

THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the City of Chicago has caused this instrument to be duly executed in its name and behalf, by the Commissioner of the Department of Housing and Economic Development, on or as of the ____ day of _____, 2014.

CITY OF CHICAGO,
an Illinois municipal corporation

By: _____
Andrew J. Mooney
Commissioner
Department of Housing and
Economic Development

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____ Notary Public in and for said County, in the State aforesaid, hereby certify that Andrew J. Mooney personally known to me to be the Commissioner of the Department of Housing and Economic Development of the City of Chicago, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me severally acknowledged that as such Commissioner, he signed and delivered the instrument pursuant to authority given by the City of Chicago, as his free and voluntary act and as the free and voluntary act and deed of the City of Chicago for the use and purposes therein set forth. GIVEN under my notarial seal this ____ day of _____, 2014.

NOTARY

EXHIBIT A

LEGAL DESCRIPTION OF 2800 S. ASHLAND

A tract of land in the Southeast $\frac{1}{4}$ of Section 30, Township 39 North, Range 14, East of the Third Principal Meridian, bounded and described as follows:

Commencing on the East line of the aforesaid Southeast $\frac{1}{4}$ of Section 30 at a point 2119.91 feet North of the Southeast corner of said section; thence South 88 degrees 27 minutes 46 seconds West along a line drawn perpendicular to the aforesaid East line of the Southeast $\frac{1}{4}$ of Section 30, a distance of 50.00 feet to the point of beginning, being the point of intersection with the West line of the East 50 feet of the aforesaid Southeast $\frac{1}{4}$; Thence South 01 degrees 32 minutes 14 seconds East along said West line, being the West line of South Ashland Avenue as condemned by Circuit Court Case No. B71139, a distance of 259.71 feet; thence South 00 degrees 14 minutes 18 seconds East along said West line of South Ashland Avenue, 553.15 feet to a point which is South 88 degrees 27 minutes 46 seconds West, 62.54 feet from a point on the East line of the aforesaid Southeast $\frac{1}{4}$ of Section 30 which is 1307.19 feet North of the Southeast corner of said Section; thence South 88 degrees 12 minutes 53 seconds West, 956.03 feet to a point of curvature; thence Southwesterly, 349.59 feet along the arc of a circle convex to the Northwest, having a radius of 445.10 feet and whose chord bears South 65 degrees 42 minutes 51 seconds West to a point of tangency; thence South 43 degrees 12 minutes 49 seconds West, 77.88 feet to a point of curvature; thence Southwesterly, 208.38 feet along the arc of a circle convex to the Southeast, having a radius of 534.80 feet and whose chord bears South 54 degrees 22 minutes 34 seconds West, 207.07 feet to a point on the East line of the parcel of land conveyed to the State of Illinois by deed dated October 25, 1928 and recorded November 15, 1928 as document 10206804; thence North 01 degrees 22 minutes 55 seconds West, along the aforesaid East line, 65.62 feet; thence Northeasterly, 123.17 feet along the arc of a circle convex to the Southeast, having a radius of 380.00 feet and whose chord bears North 61 degrees 20 minutes 56 seconds East, 122.63 feet to a point on a line drawn 109.00 feet East of and parallel with the East line of the aforesaid parcel of land conveyed to the State of Illinois by document 10206804; thence North 01 degrees 22 minutes 55 seconds West, 822.71 feet to a point on a line drawn 50.00 feet Southeasterly of and parallel with the Southerly dock line of the West Fork of the South Branch of the Chicago River, as established by the City Council of the City of Chicago on June 21, 1915; thence North 63 degrees 53 minutes 26 seconds East along the aforesaid parallel line, 519.62 feet; thence continuing North 66 degrees 46 minutes 06 seconds East along a line drawn 50.00 feet Southeasterly of and parallel with said Southerly dock line, 443.22 feet; thence North 86 degrees 07 minutes 06 seconds East, 448.48 feet to a point on a line drawn 115.00 feet West of and parallel with the East line of said Southeast $\frac{1}{4}$; thence South 01 degrees 32 minutes 14 seconds East along the aforesaid parallel line, 225.19 feet; thence North 86 degrees 07 minutes 06 seconds East, 65.05 feet to the point of beginning, in Cook County, Illinois.

COMMONLY KNOWN AS:
P.I.N.: 17-30-400-010-0000

2800 South Ashland Avenue, Chicago, Illinois

EXHIBIT B

PERMITTED USES

THE PERMITTED USES ALLOWED ON THE 2800 S. ASHLAND PARCEL SHALL BE AS FOLLOWS WITH NO COMMITTED END USER:

CONSTRUCTION SALES AND SERVICE (NO STORAGE YARD); OFFICE (BOTH HIGH TECHNOLOGY OFFICE AND ELECTRONIC DATA STORAGE CENTER); MANUFACTURING, PRODUCTION AND INDUSTRIAL SERVICE (NO INTENSIVE USE) AND WAREHOUSING, WHOLESALING AND FREIGHT MOVEMENT (NO CONTAINER STORAGE OR OUTDOOR STORAGE).

ALL PERMITTED USES SHALL BE SUBJECT TO THE TERMS OF THE GOVERNING PLANNED DEVELOPMENT

WHEREAS, the Owner has entered into a sale and purchase agreement with a new buyer, namely Q Investment Properties Sunshine, LLC, a Delaware limited liability company ("Buyer") for the sale of the 2800 S. Ashland parcel; and

WHEREAS, Buyer is planning the redevelopment of the 2800 S. Ashland parcel into a multi-tenant, data storage facility. The total Buyer build out of the 2800 S. Ashland site will occur over multiple phases with overall development costs in excess of \$300,000,000; and

WHEREAS, the Owner has requested that the City release the Use Covenants and the RDA and Deed Covenants in an effort to expedite the sale and disposition of the 2800 S. Ashland parcel to Buyer; and

WHEREAS, the City has agreed to release ("City Release") the Use Covenants and the RDA and Deed Covenants that run with the 2800 S. Ashland parcel, with the exception of the NFR Letter which shall continue to encumber the 2800 S. Ashland parcel.

WHEREAS, the City Release shall be subject to the condition that certain future and permitted uses of the 2800 S. Ashland parcel be limited to those uses as set forth in the form of the Permitted Uses and Release From Covenants (the "Permitted Uses and Release"), attached hereto as Exhibit B and made a part hereof; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The Commissioner of the Department, or a designee of the Commissioner (the "Commissioner") are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to execute and deliver a Permitted Uses and Release From Covenants document substantially in the form attached hereto as **Exhibit B** and made a part hereof, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Permitted Uses and Release, with any such amendments, changes, deletions and insertions as shall be authorized by the Commissioner, with the approval of the City's Corporation Counsel.

SECTION 3. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 4. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5. This ordinance shall be in full force and effect immediately upon its passage and approval.

Attachments:

Exhibit A - Legal Description

Exhibit B - Permitted Uses and Release From Covenants

APPROVED
Stephen R. Miller
CORPORATION COUNSEL

APPROVED
Richard E. Emanuel
June 26, 1994