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OFFICE OF PROSECUTING ATTORNEY

38th Judicial Circuit

KAREN E. RICHARDS

PROSECUTING ATTORNEY

July 27, 2007

John Kalb
3720 Mulberry Road
Fort Wayne, IN 46802

Dear Mr. Kalb:

We have reviewed your letter of July 6, 2007, regarding alleged violations of law by the City of Fort Wayne, in their acquisition of property for the Harrison Square project. We assigned one of our deputy prosecuting attorneys who formerly was the city attorney for 12 years, under Mayor Paul Helmke, to look at your letter. We also asked the city attorney to respond to and provide documentation regarding your allegations. We have also reviewed the applicable law that you cited and included in your letter to us.

In essence, you allege that the city acquired the Harrison Square properties without legal authorization from the Redevelopment Commission. I.C. 36-7-14-39(J) authorizes the Redevelopment Commission to pay expenses for improvements outside of an existing TIF area if the improvements would be "serving" the existing TIF area. It is the position of the City that these acquisitions did serve the existing TIF area before the TIF area was expanded to specifically include these properties. The majority of the properties that you have cited, along Jefferson Boulevard, were at that time part of the TIF district. This statute provides legal justification for the acquisition of these properties.

Your second broad claim essentially asked whether the City of Fort Wayne or Redevelopment Commission officials violated any criminal statute by the manner in which certain voucher requests related to the above property acquisitions were executed. Apparently, based on records from this transaction, as well as records going back numerous years, the practice of the Redevelopment Commission was to have its full-time employees execute the vouchers with approval by the officers of the Commission, at their regularly scheduled meetings. This is a fairly standard practice throughout government, when you have a professional staff carry out the daily operations for a volunteer board. This procedure has not been challenged by the State Board of Accounts in their audits of the City and the Redevelopment Commission.

You also questioned Deputy Mayor Mark Becker signing vouchers under the Controller Authorization. Apparently the signature, according to the City, was not Mark Becker's signature, but was in fact another member of the Controller's Office, a Greg Weisser.

Finally, you suggest that the Redevelopment Commission Attorney, John Wernet, should be charged as an "accessory". In light of the foregoing conclusions, that the Redevelopment Commission has acted properly, there is no basis for any accusations against Mr. Wernet.

In looking at the Harrison Square project as a whole, it is clear that there is no mens rea or criminal intent in these actions by the City of Fort Wayne and the Redevelopment Commission.

Thank you for your letter. This office does not see any need for additional law enforcement investigation. We appreciate your concerns regarding the actions of government officials. It is most important that those in government follow the law and operate in a lawful manner.

Sincerely,

Michael McAlexander
Chief Deputy Prosecuting Attorney
38th Judicial Circuit
State of Indiana

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