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May 13, 2013

Walter R. Miller
Sandy City Attorney's Office
10000 Centennial Parkway, Suite 301
Sandy, Utah 84070

RE: Response to Claim Concerning Real Property Located at 48 West 9400 South, Sandy, Utah

Dear Mr. Miller:

Recently, you sent a letter to Robbie Maupin, the owner of M&R Rods/Garage 94, Inc., which owns certain real property located at 48 West, 9400 South, Sandy, Utah (the "Property"). Mr. Maupin forwarded a copy of the letter to Integrated Title Services, because ITS issued a title policy in favor of M&R Rods in 2007. ITS forwarded a copy of the letter to me, as its attorney. Mr. Maupin inquired with respect to the strength of Sandy City's alleged claim to the eastern .039 acres of the Property. This letter responds to both Mr. Maupin's inquiry as well as to your letter. In short, the City does not have good title to the .039 acres, and the 2012 Quit Claim Deed the City received from Tamie Ogden constitutes a cloud on the Property.

The 2012 Quit Claim Deed alleges that for many years an old chain link fence has defined the westerly line of the East Jordan Canal right-of-way. The 2012 Quit Claim Deed purports to convey all of the property east of that fence to the City. We can find no justification in the real property records for the City's claim to the fence as the boundary for the canal right of way. Indeed, there is no historical metes and bounds description of the canal right of way anywhere in the record as far as we can tell. Consequently, the fence can only constitute the western boundary of the canal right of way if the parties acquiesced to the fence as the boundary for a period of at least 20 years.

Our research shows that the fence was installed as a traffic barrier, not as a boundary for a right of way. Hence, the City's claim to the fence as the boundary fails on its face. But the analysis does not stop there. As you may know, title to the entire Property was quieted in favor of J.D. and Janet Tanner in 1991. The associated judgment was recorded in the Salt Lake County Recorder's Office on April 24, 1995, as Entry 6065713. The judgment makes no mention of a chain link fence in the location alleged in the 2012 Quit Claim Deed. Furthermore, a 1990 survey of the Property shows no fence in the location referred to in the 2012 Quit Claim Deed. And even if a fence existed, the City must show continual acquiescence to the fence as the boundary on the part of every owner of the Property between 1992 and 2012. Mrs. Ogden's bald, unjustified

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assertion in the 2012 deed is not enough because she did not own the Property for 20 years. Mr. Maupin will certainly testify that he never acquiesced to the fence as the canal boundary at any time. Hence, once again, the City's claim fails.

Notwithstanding the foregoing, as justification for its claim, the City points to language in the October 2007 warranty deed from Mike and Tamie Ogden to M&R Rods/Garage 94, Inc., where the Ogdens purport to less and except "any portion lying within the East Jordan Canal and the East Jordan Canal Company Right of Way." The deed does not describe with any certainty any property lying within the canal or the right of way. The language was added out of an abundance of caution. Neither the real estate purchase contract nor the associated settlement agreement between the Ogdens and Mr. Maupin purport to exclude any property from the conveyance. Furthermore, because there is no metes and bounds description of the canal right of way, and because the 2007 deed does not specifically describe any portion of the Property, the language was not intended to create, nor does it create any insurable, nor conveyable interest on the part of the Ogdens with respect to any portion of the Property that might lie within the canal right of way. The language certainly does not give license to the City to acquire the eastern portion of the Property up to the fence, nor does the language authorize Mrs. Ogden to convey the portion of the Property which lies east of the fence to the City. The fence is not identified in the 2007 deed, nor is any other specific portion of the Property described as lying within the canal right of way.

It appears that the City has attempted to acquire property that rightfully belongs to M&R Rods/94 Garage, Inc., without talking to, negotiating with, nor reimbursing, M&R Rods/94 Garage. The City's 2012 deed not only clouds the title to the Property, it constitutes an illegal subdivision and appears to have been done in bad faith. For these reasons, the City does not have good title to the property. Consequently, it does not appear that Mr. Maupin has any obligation to remove the fence nor any equipment as requested in your letter.

Sincerely,

TERRY JESSOP & BITNER



Christopher G. Jessop

cc: Integrated Title Services
Robert Maupin