



Legislation Details (With Text)

**File #:** 21-1488      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 11/8/2021      **In control:** City Council

**On agenda:** 11/16/2021      **Final action:** 11/16/2021

**Title:** Pass the ordinance approving an agreement to release a covenant and to impose a replacement covenant on the subject property located at 1720 Quincy Avenue

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Quincy Ordinance 2021, 2. Quincy Release of Covenant & New Covenant\_SIGNED, 3. Covenant (R2016-108072)

Date	Ver.	Action By	Action	Result
11/16/2021	1	City Council	passed	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance approving an agreement to release a covenant and to impose a replacement covenant on the subject property located at 1720 Quincy Avenue

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Pat Lord, Senior Assistant City Attorney and Erin Venard, DRT Project Manager

**BOARD/COMMISSION REVIEW:**

Not Required

**BACKGROUND:**

The subject property is located on the south side of Quincy Avenue, approximately 0.25 miles west of Ogden Avenue and has a common address of 1720 Quincy Avenue. The approximate five-acre parcel is zoned I (Industrial District) and is currently vacant.

In 2016, the subject property was sold by the City as surplus property to the petitioner, Roy Spencer of Perma-Seal. The petitioner indicated that the subject property would become the new corporate headquarters for Perma-Seal Basement Systems. A 60,000 square foot office/warehouse would be constructed on the property and 180 employees working at the Downers Grove facility would be relocated to the new facility on the subject property. Within the next five years, 60-80 additional employees would be hired.

On October 4, 2016, in conjunction with a requested assignment of the right to purchase the subject property from Roy Spencer to 1720 Quincy Property, LLC, an "Assignment and Covenant Agreement" ("Covenant Agreement") was recorded with the DuPage County Recorder against the subject property (as Document No. R2016-108072).

Recital E of the Covenant Agreement included the following language limiting use of the subject property to the uses originally proposed by the petitioner:

*“1720 Quincy Property, LLC and any successor, transferee or assignee of 1720 Quincy Property, LLC are bound by the Quincy Property Terms and Conditions of Acquisition” (as “Quincy Property Terms and Conditions of Acquisition”.*

On September 30, 2016 the City conveyed the subject property to 1720 Quincy Property, LLC for \$770,000. Shortly thereafter, a different location was found for the Perma Seal Headquarters. The owner of the subject property has been trying to sell it for the past five but has had difficulty in part due to the Covenant Agreement.

Currently, there is an interested buyer for the subject property. Evolution Soccer has offices within the adjacent building at 1740 Quincy Avenue (TOCA Naperville) and has expressed an interest in purchasing the vacant property to provide additional practice space and to host games for their teams. Evolution Soccer currently shares fields with the Naperville Park District teams and has difficulty finding available practice times and opportunities to host Saturday games (most games are rescheduled to Sunday to avoid scheduling conflicts). No formal submittal of the proposal has been made to the City at this time.

#### **DISCUSSION:**

In order to relieve Evolution Soccer, or other potential buyers, of the obligations set forth in the Covenant Agreement, the attached ordinance approving an “Agreement to Release a Covenant and to Impose a Replacement Covenant” releases the original covenant and replaces it with one that simply prevents the subject property from being used for tax exempt purposes in the future:

*“At no time shall the Subject Property, or any part thereof, be leased, rented, or otherwise used for any purpose which constitutes an exempt property use under the Property Tax Code of the State of Illinois, 35 ILCS 200/1-1 et seq.”.*

The replacement Covenant will run with the land and will apply to lessees, successors in interest, heirs, executors and transferees, and assignees.

#### **FISCAL IMPACT:**

N/A