



Planning & Community Services Department

"Serving Billings, Broadview and Yellowstone County"

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September 4, 2012

Alma Kramer
4812 Grand Avenue
Billings, MT 59106-2322

Re: Annexation of right-of-way by the City of Billings

Dear Alma Kramer:

The City of Billings recently annexed into the City property across Grand Avenue from your property at 4812 Grand Avenue. The City annexed the northern half of Grand Avenue into the City when it brought in the Zimmerman Acreage Tracts property. However, the City was not able to annex the south half of Grand Avenue right-of-way because it is an easement on your property.

The City is required by State of Montana Code to annex all adjacent road rights-of-way into the City Limits when it annexes property. Montana Code Annotated §7-2-4211 provides that in all cases of annexations of property, the city "shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed." This law, enacted by the 2003 session of the Montana Legislature requires the City to annex the entire right-of-way for Grand Avenue in this area since it is adjacent to the annexed property on the north side of Grand Avenue.

A portion of the right-of-way that the City is required to annex is the 30-foot wide Petitioned County Road easement that covers approximately 0.167 acres of your property (see attached Exhibit A). You are presently the legal owner of this property, but your ownership interest is subject to the public's right to use it as a roadway.

Because the right-of-way annexation is required by state law, there are two options in these circumstances:

- One option would be for you to retain a legal ownership interest in the 30-foot wide strip of land, subject to the public's right to use it as a public street so long as it is maintained as a roadway. Under this scenario you would be the legal owner of the property, but you would be prevented from using it for any purpose inconsistent with the public's primary right to use it as a roadway. Such a technical legal interest is obviously an 'ownership' interest in name only, but

since the property would be inside the City limits after the annexation, you would be responsible for paying City taxes on it which would be higher than the County taxes you are paying at the present time.

- The other option available to you would be to deed the property to the City, in which case the City would own the property outright and you would not retain any legal ownership interest in the property. I am only referring to the 30-foot wide strip of property that is presently being used as a roadway, and which would continue to be used as a roadway. This would not affect any other portion of the property you own on Grand Avenue. Under this scenario, since you would technically no longer be an owner of the property, you would not be required to pay any taxes on it, either to the County or to the City. If you would prefer to follow this course of action, it could be accomplished by delivering a signed quitclaim deed to the City, similar to the one that is attached.

We understand that you may wish to reflect upon the choices you have, and you may want to confer with an attorney of your own choosing before you make any decision regarding this property. We urge you to do this, so you can be comfortable that you have been thoroughly advised of the options available to you, and of the legal and tax consequences of pursuing each of those options.

The proposed annexation of this right-of-way in question is scheduled to be considered by the City Council on October 9, 2012. If you would like to deed your right-of-way to the City, it could be accomplished at the October 9 Council meeting. Please contact us or have your attorney contact us at your earliest convenience to discuss the options and any questions you may have. In order to conclude the matter and bring it before the Council on October 9, 2012, we would appreciate it if you could communicate your preference to us by Thursday, September 19, 2012.

Thank you.

Sincerely,

Wyeth Friday, AICP
Planning Division Manager
Phone: 247-8660
fridayw@ci.billings.mt.us