

**RESOLUTION NO. 2021-42**

**A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING TWO BINDING WAIVERS OF ENFORCEMENT, RELATING TO ASSESSOR PARCEL NUMBERS 101-35-002, 101-35-003, 101-35-004, AND 105-10-481A LOCATED AT THE CORNER OF DALE AVENUE AND LEROUX STREET AND LOCATED AT 3100 SOUTH SOLITAIRES CANYON DRIVE, BOTH WITHIN THE CORPORATE LIMITS OF THE CITY OF FLAGSTAFF**

**RECITALS:**

WHEREAS, D&L Property LLC, Tony and Elyse Cullum, and Nacho Biz LLC are the owners of three parcels of land located at the corner of Dale Avenue and Leroux Street with APN 101-35-002, APN 101-35-003, and APN 101-35-004, and the Peter F. Knadler Family Living Trust is the owner of real property located at 3100 South Solitaires Canyon Drive with APN 105-10-481A (collectively “the Properties”); and

WHEREAS, on November 17, 2020, the Flagstaff City Council adopted a land use law, Ordinance 2020-28, which made various amendments to the Flagstaff Zoning Code; and

WHEREAS, the owners identified above owned the respective Properties on November 17, 2020; and

WHEREAS, Arizona Revised Statutes §12-1134 (“Prop 207”) allows a property owner to seek just compensation when a city adopts a land use law that reduces the property owner’s existing rights to use, divide, sell, or possess private real property and such action reduces the fair market value of the property; and

WHEREAS, on June 14, 2021, the owners filed a claim for just compensation under Prop 207, asserting that the amendments to the Flagstaff Zoning Code adopted by Ordinance 2020-28 reduced their rights to use the Properties and thereby reduced the fair market value of the Properties; and

WHEREAS, in response to a claim for just compensation under Prop 207, a city may issue to the property owner a binding waiver of enforcement of the land use law on the owner’s specific parcels.

**ENACTMENTS:**

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. That the Binding Waiver of Enforcement by and between the City of Flagstaff and D&L Property LLC, Tony and Elyse Cullum, and Nacho Biz LLC, which is attached hereto as Exhibit A, is hereby approved and the Mayor is authorized to execute the Binding Waiver of Enforcement.

SECTION 2. That the Binding Waiver of Enforcement by and between the City of Flagstaff and the Peter F. Knadler Family Living Trust, which is attached hereto as Exhibit B, is hereby

approved and the Mayor is authorized to execute the Binding Waiver of Enforcement.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of September, 2021.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY

Exhibits:

Exhibit A - D&L Property LLC, Tony and Elyse Cullum, and Nacho Biz LLC Binding Waiver of Enforcement

Exhibit B - Peter F. Knadler Family Living Trust Binding Waiver of Enforcement