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November 8, 2021

Mr. Kurt Ulrich
City Administrator
7550 Sunwood Drive NW
Ramsey, MN 55303
Attn: Senior Planner, Chloe McGuire Brigl

VIA ELECTRONIC MAIL

RE: Status of Trout Brook Rezoning

Dear Mr. Ulrich:

At your direction, I have asked to offer a formal legal opinion to the Planning Department regarding the zoning status of the Trout Brook plat in the City of Ramsey.

Specifically, the correspondence from the Planning Department provided the following:

FACTS

“We have a contentious subdivision on a site zoned for 80 foot wide, ¼ acre lots. The property was rezoned in 2011 and re-guided in our 2030 Comprehensive Plan to allow for these types of lots. Everything we can find indicates that the property is in fact zoned for these types of lots and was done so correctly in 2011 and has not changed since. It is also guided as such in our 2040 comprehensive plan.”

A copy of Ordinance #11-03 was provided, which adopted the zoning in 2011 and instructed the City to “cause this amendment to be shown on the ‘City of Ramsey Zoning Map’ which map was adopted pursuant to Section 117-90 of the City Code.”

Apparently, there is some question as to whether an Affidavit of Publication can or has been found, which would have been for one of two publications of the ordinance at that time.

ANALYSIS

This issue comes squarely under the provisions of Minnesota Statute §599.13., which provides that once the ordinance was published as part of the City’s code, it was prima facie evidence of its validity for the first three years and conclusive proof of their validity

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after three (3) years. What this means is that after three (3) years no challenge to the technical aspects of an ordinance's passing will be relevant or allowed by a court. I'm including a copy of that statute with this opinion for reference.

One case decided using the provisions of that statute will help illustrate the point. In City of Bemidji v. Beighley, 410 NW 2d, 338 (Mn. App. 1987) (C9-87-330), the Court found that Bemidji, a charter municipality under Minnesota law, had failed to follow the procedural requirements of Minnesota Statute §462.357, subdivision 3 and 4 in adopting a zoning code ordinance. That ordinance, had, however, been codified, upon which "it became prima facie valid" and (three years later) from the date it was compiled in the Bemidji City Code, (the ordinance) became conclusively valid." In other words, in the language of the courts in the Beighley case, the statute "saved" the ordinance, notwithstanding the failure of the City to follow the required statutory procedure.

There is no suggestion of any such failure on the part of the City of Ramsey here. Even the possibility that there wasn't a second publication simply is not relevant as a matter of law. Three (3) years have passed with the language of the ordinance codified and in place and it is conclusive valid.

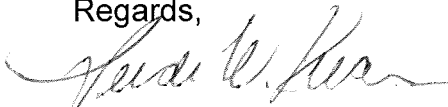
Based upon the foregoing, I would reach the following:

CONCLUSION

The provision of the Ramsey City Code in question has been in place for more than three (3) years and is, therefore, conclusively valid as a matter of law.

Please feel free to contact me at your very earliest convenience if I can clarify or be of any other help on this matter.

Regards,



Frederic W. Knaak
Ramsey City Attorney

599.13 MUNICIPAL AND COUNTY ORDINANCES.

Copies of the ordinances, bylaws, resolutions, and regulations of any city, town, or county, certified by the mayor or president of the council, and the city clerk under its seal in the case of a city, or the chair of the town board and the town clerk in the case of a town, or by the county auditor or chair of the county board in the case of a county, and copies of the same printed in any newspaper, book, pamphlet, or other form, and which purport to be published by authority of the council of such city or county board, shall be prima facie evidence thereof and, after three years from the compilation and publication of any such book or pamphlet, shall be conclusive proof of the regularity of their adoption and publication.

History: (9854) *RL s 4700; 1973 c 123 art 5 s 7; 1974 c 571 s 50; 1986 c 444; 1990 c 361 s 2*