

RESPLER HOMES, LLC
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October 12, 2022

VIA FEDERAL EXPRESS AND EMAIL

State of Connecticut
Department of Economic and Community
Development
450 Columbus Boulevard, Suite 5
Hartford, CT 06103
Attn: Commissioner David Lehman
Email: david.lehman@ct.gov

Christon Kurker-Stewart
Staff Attorney
Department of Economic and Community
Development
450 Columbus Boulevard, Suite 5
Hartford, CT 06103
Email: christon.kurker-stewart@ct.gov

Re: Mystic Oral School Project

Dear Commissioner Lehman:

I am receipt of your letter, dated October 4, 2022. Frankly, I'm surprised by the decision of the State to terminate the Purchase and Sale Agreement between the State and Respler Homes, LLC, as amended (the "Agreement"). I do not agree with the State's assessment that it has the right to terminate the Agreement. The Agreement was executed after a very transparent and competitive RFP process – similar to the process used in the disposition of the state-owned brownfield properties in New Preston and Newtown. I agree that the State did have a contingency for the approval of the transaction. However, it received its approvals in October and November 2019. It is my understanding that, in addition to your approval, the transaction was reviewed and approved by the Department of Administrative Services ("DAS"), the Office of Policy and Management ("OPM"), the State Property Review Board and, ultimately, the Attorney General. The contingency provided for in Section 7 of the Agreement was fully satisfied, and as such, does not provide the State with a right to terminate the Agreement.

I also respectfully disagree with the State's interpretation that the Agreement did not meet the requirements of Section 3 of Public Act 15-193. The Mystic Oral School property (the "Property") is one of the designated state-owned brownfield sites that was marketed by DECD. DECD did, in fact, solicit proposals from companies interested in purchasing the Mystic Oral School parcels (the "Property"), it selected Respler Homes, and it contracted to sell the Property to Respler Homes. The State appears to be relying on the mistaken belief that the transaction is not the sale of (sic) "prepermitted, clean sites" as justification to terminate the Agreement. I truly believe that the Attorney General got it right the first time when he approved the transaction under Public Act 15-193. The language under Section 3 of P.A. 15-193 is extremely vague, and as such, should not be used as an excuse for the State to terminate its obligation to sell the Property to Respler Homes. A Court would be hard-pressed to rule against a bona fide purchaser based on the State's failure to comply with language that does not impose discernable requirements. The statutory language does not define "prepermitted" nor does it indicate the context in which it is to apply. Does it require that all necessary state agencies and Constitutional officers "permit" the sale? Does it require that any existing State environmental permits covering a property be assigned or re-issued? Likewise, the term "clean" is not a defined term under the State's Remediation Standards Regulations ("RSRs"). It is a generic term that does not create any standard for

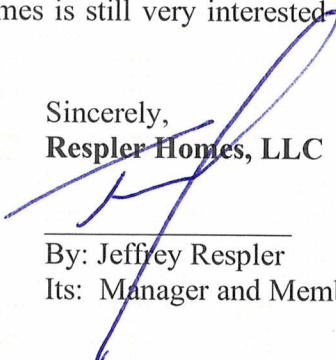
compliance. As you know, contaminated properties are never fully cleaned. They may be remediated. "Remediation" means the containment, removal, mitigation, or abatement of pollution, a potential source of pollution, or a substance which poses a risk to human health or the environment. Those properties in a state remediation program are remediated through, among other things, the use of caps, EURs, and the excavation of soils, so that the contaminants that remain are at concentrations that meet state remediation criteria. As you also know, that unless a property is in a state remediation program, there are generally no requirements for the property owner to remediate to any standard. Any level of cleaning would presumably meet the requirement to transfer a "cleaned site."

Despite the gross ambiguity of the statutory language, Section 3 of Public Act 15-193 can and should be interpreted to affirm the State's compliance with all of its requirements in the Respler Homes transaction. The State has received all necessary approvals to "permit" the transfer of the Property. Moreover, because there are no active environmental permits (i.e., a pretreatment permit to discharge industrial waste into a municipal sewage system) relating to the Property, there is nothing to be "prepermitted," nor are there permits to be assigned or re-issued. The State conducted extensive hazardous building materials ("HBM") abatement in the buildings located on the Property, in the past ten years. Likewise, it has remediated certain leaking UST located in the Property and removed PCB fluids from transformers located on the Property. I understand that the overall cost of the State's investigations and remediation at the Property is estimated to be millions of dollars. Certainly, the Property can be considered a "cleaned site" based on the millions spent by the State to clean it.

Perhaps most noteworthy, is the fact that the State, in Section 11 of the Agreement, has represented that it has full power and authority to carry out the obligations of the Agreement and that upon receipt of the Seller Approvals, which it received, obligations of the State under the Agreement are valid obligations and are legally binding on the State. Respler Homes has relied on these representations, as well as those in the RFP, and has spent millions of dollars on the project to date. It is patently unfair and a violation of the terms of the Agreement for the State to attempt to walk away on its obligation to transfer the Property to Respler Homes, based on a hyper-technical and erroneous interpretation of vague and poorly worded language contained in Public Act 15-193.

I would appreciate it if you would schedule a meeting with me and my lawyer to discuss this matter in greater detail. Respler Homes is still very interested in working with the State to close on the Property.

Sincerely,
Respler Homes, LLC



By: Jeffrey Respler
Its: Manager and Member

cc: Gary B. O'Connor (via email: goconnor@pullcom.com)