#02 - 15

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE PRIVATE SALE OF CERTAIN MUNICIPAL PROPERTY OWNED BY THE BOROUGH OF MOUNT ARLINGTON NOT REQUIRED FOR PUBLIC PURPOSES PURSUANT TO N.J.S.A. 40A:12-13(B)(5)

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13, et seq., authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by sale in the manner provided by law; and

WHEREAS, the Borough of Mount Arlington is the owner of certain real property not needed for public use, and the Mayor and Council have determined that it is in the best interest of the Township to sell the same; and

WHEREAS, the Local Lands and Buildings Law authorizes municipalities to sell property not needed for public use by private sale to a contiguous property owner where the property to be sold is less than the minimum size needed for development and it without any capital improvements; and

WHEREAS, the parcel to be sold is vacant land that is heavily wooded, with a moderate to severe slope down from Windermere Ave to the Lake. The property is shown on the Borough Tax Map as "ROAD AREA" and is not identified as a parcel by a conventional Block and Lot. See Appraisal of Vacant Land, prepared by the Borough Tax Expert, Scott J. Holzhauer, CTA, SCGREA, dated August 5, 2014, revised March 31, 2015, attached as "**EXHIBIT A**", and incorporated herein as if set forth at length; and

WHEREAS, the Borough has determined that it is in the best interests of the Borough to sell this parcel to the sole adjacent property owner.

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey that the property identified herein shall be sold by private sale to the adjacent property owner for not less than fair market value of the interest to be sold, said sale being made expressly subject to the following terms and conditions:

Section 1. The Property hereinafter identified shall be sold, pursuant to N.J.S.A. 40A:12-13(b)(5), to the highest bidder by private sale to the adjacent property owner, for not less than fair market value. It is the responsibility of the bidder to determine whether the property is subject to any encumbrances, liens, zoning regulations, easements, other restrictions, and the Borough makes no representations as to the parcel identified herein.

Section 2. The private sale shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney. The Borough Administrator and Mayor shall be authorized and empowered to sign all documents required to effectuate the sale of this parcel for not less than fair market value.

Section 3. The Buyer shall further abide by the following terms and conditions:

A. The Buyer shall conduct all necessary title searches prior to the date of the sale. The cost for any title insurance shall be the responsibility of the Buyer.

B. The description of the property above is intended as a general guide only and may not be accurate. This lot shall be conveyed subject to existing encumbrances, liens, zoning regulations, easements, other restrictions, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property.

C. The Buyer, at its sole expense, shall have a right to conduct environmental and other inspections of the Property with results satisfactory to Buyer and its lender but must complete such inspections within thirty (30) days of adoption of this ordinance.

D. The Borough Engineer shall perform a survey of the entire tract including the portion being sold in form and substance satisfactory to the Borough and the Buyer, which said survey will be at Buyer's sole expense; and said survey, shall be certified to the Borough.

E. The sale is made subject to all applicable laws, statutes, regulations and ordinances of the Unites States, State of New Jersey and the Borough of Mount Arlington, including, without limitation those concerning disposition of municipal real estate.

F. No employee, agent or officer of the Borough of Mount Arlington has any authority to waive, modify or amend any of the conditions of the sale.

G. The property shall be conveyed by deed and such conveyance shall be subject to all covenants, restrictions, reservations and easements established of record or by prescription and without representation as to character of title of the property to be conveyed.

H. The Buyer shall deposit cash, check or money order in the amount of not less than 10% of the purchase price upon execution of a contract of sale. If the prospective Buyer defaults on the contract of sale, the deposit shall be forfeited and shall become the property of the Borough.

I. The Buyer shall pay at the time of closing:

(1) The balance of the purchase price;

(2) Legal fees incurred by the Borough for transfer of title, including the cost of production of legal documents;

(3) Engineering fees incurred by the Borough in determining the exact dimensions of the property and any easement(s), if any, to be retained by the Borough;

(4) The cost of advertisement of the sale;

(5) The cost of recording the deed, with an agreement that said deed shall be recorded on behalf of the Buyer by the Borough Attorney; and

(6) Prorated real estate taxes for the balance of the current year as of the date of closing.

J. The Buyer shall covenant and agree to abide by appropriate zoning, subdivision, health and building regulations and codes and shall stipulate that this sale will not be used as grounds to support any variance from the regulations.

K. The purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any court of this State as grounds to support a challenge of the existing assessments with regard to other properties.

Section 4. The Borough does not warrant or certify title to the property and in any event shall the Borough be liable for any damages to the Buyer/successful bidder if title is found unmarketable for any reason and the Buyer/successful bidder waives any and all right in damages or by way of liens against the Borough, the sole remedy being the right to receive a refund, prior to closing, of the deposit paid in the event title is found unmarketable. It shall be the obligation of the successful bidder to examine title to the premises prior to the closing. Notice of any alleged defect in title or claim of unmarketability must be served on the Borough Clerk and the Borough Attorney, by the Buyer, in writing no later than thirty (30) days after the execution of the contract of sale. Failure upon the part of the Buyer to give written notice within said time shall be deemed conclusive proof that the Buyer accepts the title in its present condition, and the Borough shall not be responsible for any subsequent claims of defect in title and shall not be required to refund money or correct any defect in title or be held liable for damages.

Section 5. Pursuant to N.J.S.A. 40A:12-13, the description of the property to be sold and the fair market value shall be posted on the bulletin board or other conspicuous place in Borough Hall and published in the official newspaper of the Borough by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven (7) days prior to such sale. Upon the sale of said property, the Borough shall file with the Director of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of advertisements as required by law.

Section 7. Right of Refusal. The Borough shall maintain at all times the right to refuse any and all bids and the right to rescind any sale of the property until the deed of sale has been executed by the Borough and the Buyer.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

SECTION 4. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on April 7, 2015 and will be further considered after a Public Hearing held on May 5, 2015 at the Municipal Building at 10:00 A.M.

INTRODUCED:
PUBLISHED:
ATTEST:

Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ALRINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY

Arthur Ondish, Mayor

SCOTT J. HOLZHAUER, CTA, SCGREA

REAL ESTATE APPRAISAL & ADVISORY SERVICES

*P.O. BOX 513 * TRANQUILITY, NJ 07879*
*PHONE (973) 786-7943 * FAX (973) 786-7469*
EMAIL: HOLZY@PTD.NET

August 5, 2014
REVISED 3/31/2015

Carolyn Rinaldi
Mount Arlington Administrator
419 Howard Blvd.
Mount Arlington, NJ 07856

RE: **Appraisal of Vacant Land (Arlington Ave Road Vacation)**

Address: **End of Arlington Ave, below Windermere Ave**
Mount Arlington, NJ (Morris Cty)

Block/Lots: **No Parcel ID – Shown on Tax Map as Road Area**

Owner: **Borough of Mount Arlington**

Dear Carolyn:

In accordance with your request, I have conducted an analysis of the above referenced property and performed a study of the available relevant market data in order to appraise the subject parcel in question. The purpose of the appraisal is to estimate the market value of the ***fee simple estate*** for the 100% undivided interest in the subject property.

I had previously performed this analysis on August 5, 2014. I am now providing this "update" to that original analysis for the purpose of addressing any changes in market conditions or fact paterns concerning the subject property.

It is my understanding that this analysis will be used by the Borough of Mount Arlington for internal consideration regarding the issue of **Vacation of Public Right of Way Property** as it pertains specifically to the subject property area in question.

The function of this analysis will be to assist the Borough of Mount Arlington in the evaluation of the subject by providing an estimate of potential market value that may be suitable for determination of a fair compensation price if this property were to be offered for sale. This analysis should not however to be utilized for any mortgage financing purposes. A more detailed appraisal report would be required for that specific use.

The subject property in question is consists of the terminal end of Arlington Ave at abuts Lake Hopatcong south of Windermere Ave. This property is vacant land that is heavily wooded, with a moderate to severe slope down from Windermere Ave to the lake. The property is shown on the Borough's Tax Map as ROAD AREA, and therefore is not specifically identified as a "parcel" by conventional Block & Lot.

A review of the Tax Map shows the subject lot being completely rectangular in configuration with approximate dimensions of 438 feet in length by 33 feet width. This calculates to an approximate area of 14,454-sf or 0.33 Ac. There are 3 properties adjacent to the subject, identified as follows:

Block 14 Lot 1 > Single family residential (0.56 ac +/-)
Owned by HUMPHREYS
Lakefront parcel

Block 16 Lot 1 > Vacant Land (0.31 ac +/-)
Owned by HUMPHREYS
Interior lot

Block 18 Lot 1 > Single family residential (2.87 ac - current subdivision w/ new house)
Owned by THREE JERSEY BOYS LLC
Lakefront parcel

Client Guidelines for Appraisal Consideration

As per client directive, I have been asked to consider potential valuation for the 100% fee interest of the subject property in its current unimproved condition.

Highest and Best Use

The subject property being analyzed is located in the RA-30 zone, which requires a minimum lot area of 30,000-sf and a minimum lot width of 125-ft. This property has historically been an unimproved road R.O.W. that has not been "severed" from the remaining improved roadway (Arlington Ave) into a separate parcel with a unique block/lot identification. If the area in question were to be severed and created as a stand-alone parcel, it is my opinion that as of August 5, 2014 – the Highest and Best (H&B) Use of this property would be for annexation to one or all of the 3 adjacent existing properties. With an area of only 0.33 acres and a width of 33 feet, it is likely that this property could never be independently improved based on the zoning currently in effect.

Other Considerations

I have been asked to estimate the potential value of a presently undivided parcel of vacant land. To that end, all information pertaining to the subject area in question was taken from the Tax Assessor's records and a review of the current Tax Map. It is my understanding that the subject property has not been listed "for sale", nor has any other valuation analysis been recently conducted on this property. I have no engineering or environmental data to suggest there are any known "constraints" on this property. This property is not located in the Highlands Preservation Area.

Inspection Information

I made an informal "exterior" inspection of the subject property in connection with this appraisal assignment on May 9, 2014. There were no detrimental conditions or potential environmental constraints observed during the inspection or subsequent research on the subject property that would influence my determination of H&B Use beyond what has already been discussed. A further visit was made to the site on March 30, 2015. All physical conditions remain identical to those observed during the initial site visit.

Valuation Considerations

(NOTE: The equalization ratio virtually remained unchaged from 2014 to 2015 – 90.82% to 90.29%).

Since the conclusion of H&B Use for the subject is as "excess land" best suited for assemblage/annexation to any of the adjacent existing parcels, a review of traditional residential vacant land sales does not apply. During my research of sales activity specifically within the Borough of Mount Arlington, it was my observation that the current assessments of the vacant lots – when considering the most recent equalization ratio determined by the State (90.29% for Tax Year 2015) – were generally quite accurate. Accordingly, I feel that in most instances the equalized assessment of the property in question would provide a reasonable estimate of that property's potential Market Value.

To that end, I have created a "ficticious line item" within the Assessor's CAMA database to represent the subject property in question if in fact it were treated as an individual block/lot with dimensions as previuosly discussed. The land valuation as calculated on that Property Record Card is shown as follows:

LAND CALCULATIONS

Frt	Eff D	Back L	Tri	Dpf	FFF	Dep	Reason	Value
33	438			1.16		1.00		38280
1	LOT(S)			1.00		1.00		150000

Neigh:					
VCS:	FS15	Front Ft Value:	1000		
Zone:	RA30	Acre Value:			
Min Front:	125	Lot Value:	150000		
Std Depth:	200			Land Value:	188,300

Based on the determination that the subject property has a H&B Use as "excess land" and should not be considered as a potential building lot based on the current zoning, the site value (1 LOT) shown above of $150,000 would not apply. That value is a "flat constant" ascribed to any lakefront lot in the subject's neighborhood that is deemed to have building potential (either prospective or realized as in the case of already improved property). Therefore, the only portion of the above shown hypothetical assessment scenario that would apply would be the underlying land value, which is assessed as a function of overall size. In this instance, that underlying land value is calculated to be $38,280. Applying the 2015 assessment ratio of 90.29% against that value results in an estimated "market value" of $42,396.

In conclusion, after a study of all the available pertinent data, it is my opinion that the **market value** of the subject property, in ***fee simple estate***, is as follows:

As of March 31, 2015: 0.33 Ac Vacant Land (Excess) = $42,000

This letter evaluation effectively represents a Restricted-Use Appraisal Report, consistent with the reporting requirements set forth under Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP). The opinion of value expressed herein is subject to the assumptions, limiting conditions, definitions and conclusions presented; and to the market research and data analysis that have been retained in the appraiser's work file.

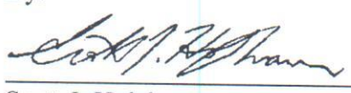
The conclusion of value stated is certified to the client only. The reported analysis itself is restricted for use by the client in any capacity related to the evaluation, negotiation, and disposition of the subject property as it pertains to the purpose for which this evaluation was written. This evaluation report may not serve as a stand-alone document. It is primarily intended to be a guide for internal evaluation & fiscal planning relating to a possible sale of the subject property. The anticipated readers of this document are presumed to have an underlying knowledge of the subject's geographical area and physical configuration, along with general knowledge of the relevant economic market. Additional explanation should not be necessary to convey the analysis involved in estimating the final value. However, certain market factors, transactions, descriptions of the subject, or analysis of the comparables and any resulting conclusions may need to be further enhanced by follow-up oral dialogue based on the specific needs of the reader.

Considering the purpose for which this evaluation report was written, the descriptive data, analysis, and conclusions reported herein have been limited to the relevant salient facts upon which the opinion of value is based. Since this report is being conveyed as a "Restricted-Use Appraisal", its contents will not thoroughly address issues pertinent to lenders, insurance companies, or those parties interested in partial interests of the property. This report is not intended for litigation in its present format.

Due to the extreme lack of vacant land sales activity in the past few years – a byproduct of the current recession – especially as it relates to the H&B Use determination of the subject property as "excess land", warranted an analysis consistent with current assessment practice within the municipality. The Sales Comparison Approach in this instance was used as a corroborative measure.

Thank you for the opportunity to be of professional service in this important matter. If you have any questions, please give me a call.

Respectfully submitted,
SCOTT J. HOLZHAUER, CTA, SCGREA
By:



Scott J. Holzhauer
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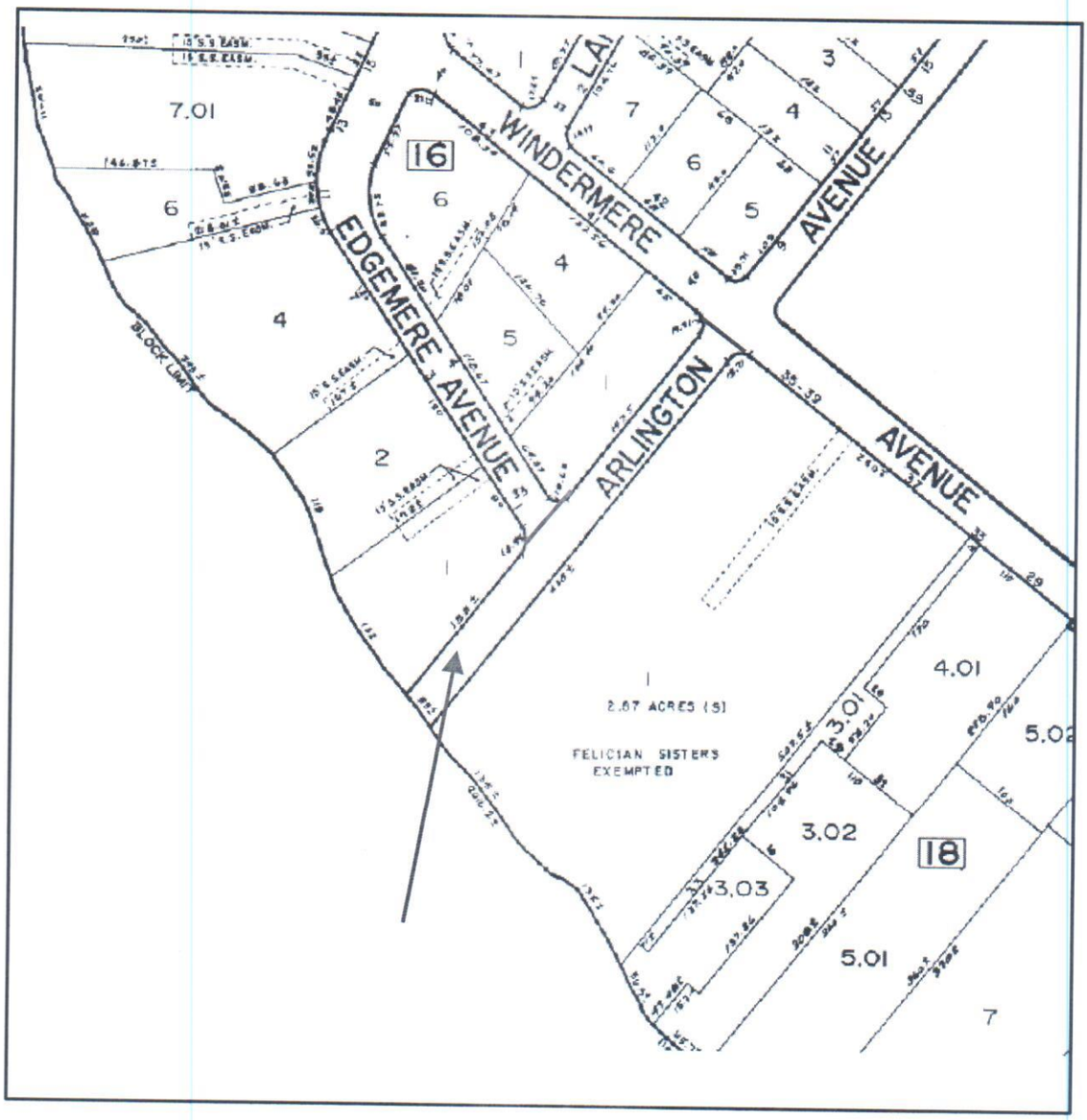
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