



TO: Mayor Shaun Sipma
Members of the City Council

FROM: John R. Zakian, DR Grant Program Manager & Chief Resilience Officer

DATE: 3/9/2021

SUBJECT: APPROVE RESOLUTION AUTHORIZING COURT ACTION TO ENFORCE PURCHASE AGREEMENT WITH PALMER MILLER

I. RECOMMENDED ACTION

City Council Approve Resolution authorizing City’s special counsel John A. Warcup to commence legal action to enforce purchase agreement with Palmer Miller

II. DEPARTMENT CONTACT PERSON

John R. Zakian, DR Program Manager & Chief Resilience Officer, 420-4528

III. DESCRIPTION

A. Background

The City of Minot entered into a purchase agreement with Palmer Miller on October 31, 2018 to acquire his property 105 6th Street NE. Since Mr. Miller signed the agreement he has made numerous requests for delaying closing on the property. These requests have varied from the need to change real estate brokers to not being successful in finding comparable home to relocate and during 2020 Covid-19 causing him difficulties in house searching. While HUD encourages Grantees within reason to extend a homeowner appropriate time to find a new home to which to relocate, more than two years far exceeds any reasoned or reasonable amount of time in which to close. Within HUD limitations, past attempts have also been made repeated times by CDM Smith representing the City to assist Mr. Miller to find a comparable home but Mr. Miller has rejected all homes identified. Recent attempts to engage Mr. Miller in setting a closing date have been met with renewed rebuffs by Mr. Miller and recently he, yet again, changed real estate brokers. Far more than sufficient time has been granted Mr. Miller to locate a new home and based on recent communication there is no evidence that he plans to honor the purchase agreement any time soon.

B. Proposed Project

The underlying premise for acquiring property is to meet deadlines for flood control projects and while the flood control project activity related with Mr. Miller’s property has slowed because of unforeseen delays not under the control of the City, it remains necessary for the City to carry out purchase agreements which have been the result of negotiated purchase price to be consistent in its policies and procedures. Authorization of this resolution will result in Mr. Warcup seeking through court action to enforce the purchase agreement by closing on the property.

IV. IMPACT:

A. Strategic Impact:

N/A

B. Service/Delivery Impact:

N/A

C. Fiscal Impact:

Legal fees and acquisition cost will be assigned to either CDBG-NDR or State Water Commission match

V. ALTERNATIVES

N/A

VI. TIME CONSTRAINTS

NA

VII. LIST OF ATTACHMENTS

A. Purchase Agreement

B. Authorizing Resolution