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Please Reply to Dawsonville Office

November 19, 2015

Via email: doug@jdplaw.net

J. Douglas Parks
Attorney At Law
81 Crown Mountain Place, Suite C-100
Dahlonega, GA 30533

RE: Roberta Green Garrett-Application for Certificate of Appropriateness

Dear Doug:

I have been retained by Roberta Green Garrett regarding the application for certificate of appropriateness dated August 14, 2015 regarding property located at 40 East Main Street. Ms. Green Garrett appeared before the Dahlonega Historic Preservation Commission. The Historic Preservation Commission denied the application, and Ms. Green Garrett timely appealed that decision to the Mayor and City Council of the City of Dahlonega.

The decision rendered by the Historic Preservation Commission is arbitrary, capricious, unreasonable, and an abuse of discretion. The City's ordinance specifies that the decision approving or denying a certificate of appropriateness for the demolition of buildings or structures shall be guided by the following criteria:

- the historic, scenic, or architectural significance of the building or structure;
- the importance of the building or structure to the ambiance of the district;
- the difficulty or impossibility of reproducing such a building or structure because of its design, texture, material, detail, or unique location;
- whether the building or structure is one of the last remaining examples of its kind in the neighborhood or the city;
- whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;

whether reasonable measures can be taken to save the building or structure from collapse; and

whether the building or structure is capable of earning reasonable economic return on its value.

Significantly, no proper evidence or information has been presented to the City that the sixth and seventh criteria authorize denial of the certificate. The report submitted by Karen Gravel specifically asserts that reasonable measures could be taken to save this structure, but *the cost of these measures is not known at this time*. Ms. Gravel also reports that "*the scope of this effort did not include alternative analysis, structural integrity evaluation by a structural engineer, determination of reasonable economic return or probable costs for rehabilitation to correct identified deficiencies.*"

Other information submitted to the City by City employees, Jack Bailey, and Gary Osley establishes conclusively that reasonable measures cannot be taken to save the building or structure from collapse and that the building or structure is not capable of earning reasonable economic return on its value. The City is barred from ignoring the criteria set forth in the Ordinance, and the certificate should issue.

Private property shall not be taken or damaged for public purposes without just and adequate compensation first being paid to, and no person shall be deprived of property except by due process of law. Art. I, § III, Para. I, Art. 1 § I, Para. I, Ga. Const; Fifth Amendment and Fourteenth Amendment to the United States Constitution. Ms. Green Garrett hereby preserves a claim for just and adequate compensation, as well as all other claims under the Georgia and Federal Constitution, if the City fails and refuses to issue the certificate of appropriateness as requested.

The City's regulation of property will amount to a taking if the regulation denies Ms. Green Garrett all economically beneficial or productive use of her property. The action of denying the certificate of appropriateness leaves the property economically idle and renders the property essentially valueless. No economically feasible plan can be formulated for the preservation of the building, and the denial of the certificate of appropriateness for demolition renders the property economically useless and works a regulatory taking. The City's refusal to issue the certificate of appropriateness is unconstitutional. Keeler v. Mayor and City County of Cumberland, 940 F. Supp. 879 (D. Md. 1996).

Additionally, as noted by City staff and Mr. Bailey, the building/structure currently poses a hazard. However, the City has denied Ms. Green Garrett's request to remove the hazard. Therefore, the City now maintains a duty to protect against any damage that may result from the hazardous condition.

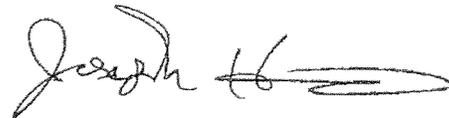
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I expect to submit to the City estimated construction costs to renovate the building and an opinion regarding the value of the structure in its current condition.

I request that you notify me regarding when the matter will appear before the Mayor and City Council and request that this letter and information submitted supporting the appeal be included within information presented to the Mayor and Council.

If I can provide additional information, then please contact me at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "Joseph A. Homans", with a long horizontal flourish extending to the right.

Joseph A. Homans

JAH/II

cc: Roberta Green Garrett