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2019014040
NEW HANOVER COUNTY, NC
TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS

NC FEE \$26.00

Prepared by and return to: Amy C. Schaefer, Assistant City Attorney, - Legal
Wilmington City Attorney's Office, P.O. Box 1810, Wilmington, NC 28402

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NUMBER 17 CVS 3891

CITY OF WILMINGTON,
a North Carolina Municipal Corporation,

Plaintiff,

Vs.

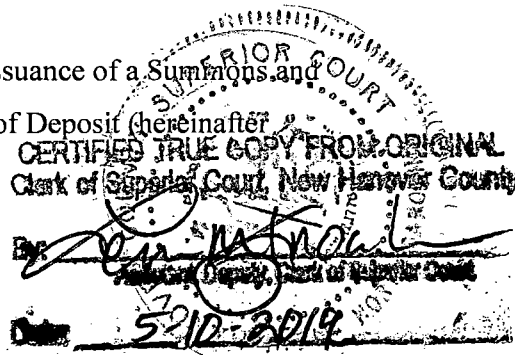
Front Street Optometric Care, P.A., a North Carolina
Professional corporation; and **Georgia Banking**
Company, a Georgia corporation authorized to do
Business in North Carolina,

Defendants.

AMENDED
CONSENT JUDGMENT
AND ORDER

THIS CAUSE, coming to be heard before the undersigned Superior Court Judge, it having been stipulated by the Plaintiff, City of Wilmington (hereinafter "City") and the Defendant, Front Street Optometric Care, P.A. (hereinafter "Defendant"). The Court finds as fact the following:

1. This action was duly instituted on October 13, 2017, by the issuance of a Summons and the filing of a Complaint, Declaration of Taking, and Notice of Deposit (hereinafter



“original Complaint”), along with the deposit into the Court of \$32,589.00, the sum estimated by the City to be just compensation for the taking of Defendants’ property.

2. The Summons, together with a copy of the original Complaint, were duly served upon Defendant Front Street Optometric Care, P.A. on October 16, 2017.
3. The Summons, together with a copy of the original Complaint, was duly served upon Defendant Georgia Banking Company, care of its Registered Agent, Corporation Service Company on October 18, 2017.
4. A Consent Order and Judgment between City of Wilmington and Georgia Banking Company was entered on November 30, 2017.
5. Defendants are the fee simple owner and interest holders of the property affected by the taking, said property being located at 271 North Front Street and 273 North Front Street, Units A and B, Wilmington, New Hanover County, North Carolina and more particularly described in Exhibit A, attached to the Complaint filed in this action (collectively hereinafter “the Property”).
6. An Amended Complaint, Declaration of Taking, and Notice of Deposit was filed in this action on February 14, 2018, along with the deposit into the Court for \$6,016.00, the additional sum estimated by the City to be just compensation for the taking of Defendants’ Property.
7. The Amended Complaint, Declaration of Taking and Notice of Deposit were duly served upon Defendant Front Street Optometric Care, P.A., care of Defendant’s Attorney Andrew Penny, on March 21, 2018.
8. The Amended Complaint, Declaration of Taking, and Notice of Deposit were duly served upon Defendant Georgia Banking Company on February 16, 2018.
9. Defendant Front Street Optometric Care, P.A. filed responsive pleadings in this action on February 9, 2018 and April 25, 2018.
10. An Amended Consent Order and Judgment between City of Wilmington and Georgia Banking Company was entered on July 26, 2018.
11. A trial date of May 20, 2019 has been set for this matter.
12. Each of the persons executing this Amended Consent Judgment on behalf of the Parties does hereby covenant, warrant, and represent that the signatories have full right and authority to enter into this Amended Consent Judgment.

13. The City and Defendant Front Street Optometric Care, P.A. have now settled all matters in controversy between them as follows:
- a. Defendants are entitled to keep the \$37,605.00 deposited with the Clerk of Superior Court by the City; and
 - b. The City is entitled to recover \$1,000.00 deposited with the Clerk of Superior Court; and
 - c. Plaintiff City agrees to pay Defendants an additional \$35,395.00 as just compensation for the taking of Defendants' Property. The additional compensation shall be deposited into a trust account; and
 - d. Plaintiff City agrees to grant an access easement for the benefit of Defendants' Property known as 271 and 273, Units A and B, North Front Street, R04720-007-019-000, R04720-007-022-004, and R04720-007-022-005, once the River Place project has been completed on the City property known as 200 North Water Street, R04720-007-026-000; and
 - e. The City and Defendants agree to pay their own costs related to this action, except as otherwise specifically stated herein; and
 - f. Any and all claims by Defendants to interests and other additional considerations of the Property not herein specifically mentioned.

ON THE FOREGOING STIPULATIONS, THE COURT CONCLUDES AS A MATTER OF LAW THE FOLLOWING:

- 1. The City was entitled to acquire and did acquire on the October 13, 2017, the property of Defendants as described herein and as specified in the original Complaint.
- 2. The City was entitled to acquire and did acquire on February 14, 2018, the property of Defendants as described herein and as specified in the Amended Complaint.
- 3. These proceedings are regular in every respect and no just cause has been shown against granting the prayer contained in the original Complaint.
- 4. Except as expressly set forth herein, Defendants are not entitled to any further relief from the City as a result of the taking.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. By the filing of the Complaint and Amended Complaint, the City has condemned and shall be permanently vested with the property, interest, or estate described as follows:

Description of Property Affected by Taking (The Burdened Land):

BEING all of that certain real property located in New Hanover County, North Carolina and being more particularly described as follows.

Parcel One.

Being known and designated as Tract 1, as shown on a plat or plats entitled "Shrier Building, a Condominium, Part of Lot 1, Block 190, City of Wilmington", recorded in Condominium Plat Book 12 at Pages 233-235, inclusive, in the Office of the Register of Deeds of New Hanover County, reference to which is hereby made for a more particular description.

Parcel Two.

Being known and designated as Unit 273 A and Unit 273 B, as shown on a plat or plats entitled "Shrier Building, a Condominium, Part of Lot 1, Block 190, City of Wilmington", recorded in Condominium Plat Book 12 at Pages 233 through 235, inclusive, in the Office of the Register of Deeds of New Hanover County, reference to which is hereby made for a particular description.

Together with all rights and easements appurtenant to said Units as specifically enumerated in the Declaration of Condominium recorded in the Office of the Register of Deeds of New Hanover County in Book 2993 at Page 7, and all amendments of record to said Declaration.

Together with all rights of the Grantor in and to the said limited common areas and facilities appurtenant to said Units; and

Subject to the said Declaration of Condominium and the By-Laws annexed thereto as recorded in Book 2993 at Page 40 in the Office of the Register of Deeds of New Hanover County which with all attachments and amendments thereto are incorporated herein as if set forth in their entirety.

Parcels One and Two comprise that real property conveyed to Other Things, LLC, by General Warranty Deed recorded November 1, 2000, in Book 2828 at Page 843 in the Office of the Register of Deeds of New Hanover County. Parcel Two as conveyed herein is that property conveyed by Other Things, LLC to Darryl R. Barker and wife, Sara E Barker a/k/a Sarah Schweitzer, and Sammy J. Guidry and wife, Catherine A Guidry, by General Warranty Deed recorded December 7, 2001, in Book 3134 at Page 502 in the Office of the Register of Deeds of New Hanover County, and then conveyed by the Barkers and Guidrys to SGDB Holdings, LLC by General Warranty Deed recorded July 17, 2002, in Book 3363 at Page 228 in the Office of the Register of Deeds of New Hanover County. Other Things, LLC then conveyed Parcel One (which has been returned by Other Things, LLC) to SGDB Holdings by Deed of Correction and Quitclaim recorded October 24, 2003, in Book 4066 at Page 691 in the Office of the Register of Deeds of New Hanover County. As an additional title note, the aforementioned Condominium Plat incorrectly refers to Chestnut Street on the first page. The correct reference is Grace Street.

Also known as New Hanover County Tax Parcel Numbers R04720-007-019-000 (Parcel 1 being an unimproved parking area), R04720-007-022-004 (Parcel 2, Unit 273A), R04720-007-022-005 (Parcel 2, Unit 273B).

The burdened land is commonly known as:

Address: 271 North Front Street
N.H. Co. Tax Parcel Id: R04720-007-019-000

Address: 273 North Front Street, Unit A
N.H. Co. Tax Parcel Id: R04720-007-022-004

Address: 273 North Front Street, Unit B
N.H. Co. Tax Parcel Id: R04720-007-022-005

Interest or Estate Taken:

A temporary easement over, through, under and upon the lands and premises described as a temporary easement in paragraph 3 of Exhibit "A" of the Complaint for the purpose of establishing, extending, enlarging, or improving off street parking facilities and systems as permitted in N.C.G.S. §160A-311.


A fee simple interest as described below for the purpose of establishing, extending, enlarging, or improving off street parking facilities and systems as permitted by N.C.G.S. §160A-311.

Area Taken:

The access, to and through the service road lying to the east of the multi-level parking facility and the 256 sq. ft.± area as shown on Exhibit "A" of the Amended Complaint.

2. A copy of this Amended Consent Judgment and Order shall be certified under seal of the Court to the Register of Deeds of New Hanover County, and the Register of Deeds is ordered to record this Amended Consent Judgment among the land records of said County.
3. The Clerk of Superior Court shall release \$37,605.00 deposited with the Clerk to Defendant Front Street Optometric Care, P.A., in care of Crossley, McIntosh, Collier, Hanley & Edes, whose address is 5002 Randall Parkway, Wilmington, NC 28403.
4. The Clerk of Superior Court shall release the remaining \$1,000.00 deposited with the Clerk to the City of Wilmington, whose address is PO Box 1810, Wilmington, NC 28402.
5. The City shall pay the costs of recording this Amended Consent Judgment and Order in the Register of Deeds Office. All other costs, including the costs of any attorney fees, shall be paid by the party incurring such costs.
6. Entry of this Amended Consent Judgment and Order settles all claims with Defendants, Front Street Optometric Care, P.A. that could possibly arise out of this nexus of facts.

This the 9 day of May, 2019.



Superior Court Judge Presiding

R. Keit Harrell

(CONSENT OF PARTIES TO FOLLOW)

Consented to:
 Front Street Optometric, P.A.
 Defendant

By: Tiffany Jackson
 Printed: Tiffany Jackson
 Title: president

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Alisa H White, a Notary Public for New Hanover County,
 North Carolina, certify that Tiffany Jackson, personally appeared before
 me this day and acknowledged that he or she is _____ of
 _____, a professional corporation, and that he or she,
 as _____, being authorized to do so, executed the foregoing on behalf of
 the corporation.

Witness my hand and official seal, this the 7th day of May, 2019

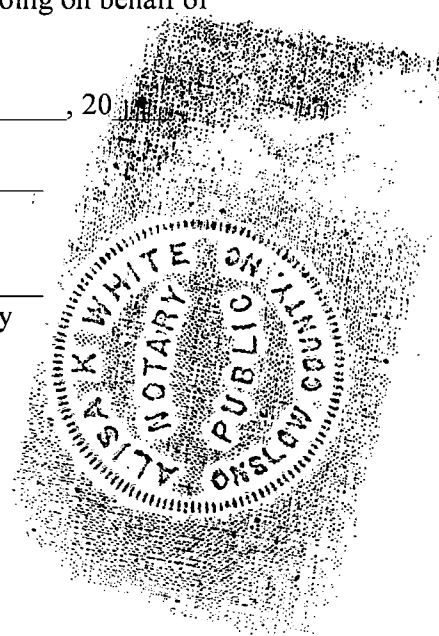
Alisa H White
 Notary Public

Alisa H. White
 Printed or Typed Name of Notary

My Commission Expires:

August 6, 2020

[SEAL]



CITY OF WILMINGTON,
Plaintiff

By: Sterling B. Cheatham
Sterling B. Cheatham, City Manager

Approved as to form:

[Signature]
John D. Joye, City Attorney

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Christine L. Compton, a Notary Public in Brunswick County, North Carolina certify that Sterling B. Cheatham personally appeared before me this day and acknowledged that he is the City Manager of the City of Wilmington, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the City of Wilmington, the foregoing instrument was signed in its named by him as its Manager.

WITNESS my hand and notarial seal, this the 8th day of May, 2019.

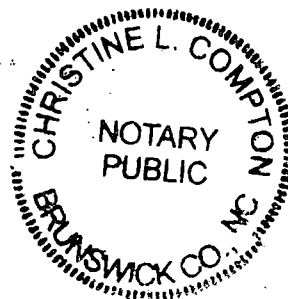
Christine L. Compton
Notary Public

Christine L. Compton
Printed or Typed Name of Notary

My Commission Expires:

June 7, 2024

[SEAL]



CERTIFICATE OF SERVICE

This is to certify that the undersigned in accordance with the provisions of Rule 5 of the North Carolina Rules of Civil Procedure has this date duly served the foregoing CONSENT JUDGMENT AND ORDER upon the Defendants by first-class mail by depositing a copy of same in an official depository of the United States Postal Service in an envelope with proper postage thereon, addressed as follows:

Andrew Penny
Attorney for Defendant, Front Street Optometric Care, P.A.
Crossley, McIntosh, Collier, Hanley & Edes
5002 Randall Parkway
Wilmington, NC 28403

Georgia Banking Company
c/o CT Corporation System, Registered Agent
160 Mine Lake Court, Suite 200
Raleigh, NC 27615

This the _____ day of _____, 2019.

Amy C. Schaefer
Assistant City Attorney
City of Wilmington
P.O. Box 1810
Wilmington, NC 28402
(910) 341-7820
(Fax) (910) 341-5824
amy.schaefer@wilmingtonnc.gov
State Bar #32628

TAMMY THEUSCH
BEASLEY
Register of Deeds

New Hanover County Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 05/14/2019 11:33:15 AM
Book: RB 6214 Page: 2739-2748
10 PGS \$26.00
Real Property \$26.00
Recorder: ANGELA ENGLISH
Document No: 2019014040

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.