





November 1, 2018

**TO:** Village President and Board of Trustees

**THROUGH:** Scott Niehaus, Village Manager

**FROM:** Carl Goldsmith, Director of Public Works *cg*

**SUBJECT:** Ordinance Amending Ordinance 7344 in regard to the Vacation of a Portion of Magnolia Circle between Cherry Lane and Madison Meadows Park

**Background**

At the April 6, 2017 Village Board meeting, the Village Board adopted Ordinance 7344, which vacated the Magnolia Circle right-of-way (ROW) located west of Cherry Lane to the two abutting property owners (to the north and south). The area that was vacated is depicted below.



The Village was notified by the property owner at 902 Cherry Lane that effective August 20, 2018, the ownership of Parcel 1 had changed. As part of the conveyance of Parcel 1, all of the rights and obligations contained in Ordinance 7344 were assigned to the new property owners, James E. Waldschmidt and Kecia T. Waldschmidt. The Amended Ordinance before the Village Board for consideration codifies the assignment of the rights under the Village Ordinance to the new owners of Parcel 1.

The Public Works Department respectfully requests that this matter be placed on the Village Board agenda for the November 15, 2018 meeting. Should you have any questions, please feel free to contact me.

**Recommendation**

Staff recommends that the Village Board of Trustees adopt AN ORDINANCE AMENDING ORDINANCE NO. 7344, ADOPTED APRIL 6, 2017, IN REGARD TO VACATING A PORTION OF MAGNOLIA CIRCLE, BETWEEN CHERRY LANE AND MADISON MEADOWS PARK.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 7344, ADOPTED APRIL 6, 2017,  
IN REGARD TO VACATING A PORTION OF MAGNOLIA CIRCLE,  
BETWEEN CHERRY LANE AND MADISON MEADOWS PARK**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That the President and Board of Trustees (hereinafter the “Corporate Authorities”) of the Village of Lombard (hereinafter the “Village”) find as follows:


- A. That, on April 6, 2017, the Corporate Authorities approved Ordinance No. 7344, entitled “AN ORDINANCE VACATING A PORTION OF MAGNOLIA CIRCLE, BETWEEN CHERRY LANE AND MADISON MEADOWS PARK” (hereinafter the “Original Ordinance”).
- B. That, within sixty (60) days of the approval of the Original Ordinance, the Abutting Property Owners (as defined in the Original Ordinance) made the payments to the Village as referenced in Section 4.A. of the Original Ordinance.
- C. That, pursuant to a Deed by Limited Liability Company, dated August 20, 2018, and recorded with the DuPage County Recorder’s Office on September 18, 2018, as document number R2018-087590, the Parcel 1 Owner (as defined in the Original Ordinance) conveyed title to PARCEL 1, as legally described in Section 1.C. of the Original Ordinance, to James E. Waldschmidt and Kecia T. Waldschmidt.
- D. That, as part of the conveyance of title to PARCEL 1, as referenced in subsection C. above, the Parcel 1 Owner (as defined in the Original Ordinance) assigned all of the Parcel 1 Owner’s right, title and interest in the Original Ordinance to James E. Waldschmidt and Kecia T. Waldschmidt, pursuant to an Assignment of Ordinance by Limited Liability Company, dated August 20, 2018, a copy of which is attached hereto as Exhibit 1 and made part hereof (the “Assignment”).
- E. That, as a result of the Assignment, it is necessary to amend the Original Ordinance to indicate that James E. Waldschmidt and Kecia T. Waldschmidt are, collectively, the Parcel 1 Owner.

**SECTION 2:** That, based on the findings, as set forth in Section 1 above, the

Original Ordinance is hereby amended as follows:

- A. The reference to "Steven Tani, LLC," as contained in Section 1.C. of the Original Ordinance, is amended to read, "James E. Waldschmidt and Kecia T. Waldschmidt."
- B. The agreement with, and acceptance of, the terms and conditions of the Original Ordinance, by the Parcel 1 Owner, as contained in Section 10.A. of the Original Ordinance, is amended to read in its entirety as follows, with the execution of the below provision, by James E. Waldschmidt and Kecia T. Waldschmidt, evidencing their agreement with and acceptance of the terms and conditions of the Original Ordinance:

"A. JAMES E. WALDSCHMIDT AND KECIA T. WALDSCHMIDT, being the Parcel 1 Owner, hereby voluntarily accept, and agree to be bound by, the terms and conditions of this Ordinance (Lombard Ordinance No. 7344, adopted April 6, 2017), relative to the vacation of the Vacated Street.

  
 \_\_\_\_\_  
 James E. Waldschmidt

  
 \_\_\_\_\_  
 Kecia T. Waldschmidt

**CERTIFICATION**

STATE OF ILLINOIS        )  
   ) SS  
 COUNTY OF DU PAGE     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named James E. Waldschmidt and Kecia T. Waldschmidt, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the signed instrument as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 31<sup>st</sup> day of October, 2018.



  
 \_\_\_\_\_  
 Notary Public"

**SECTION 3:** That, in the event the Original Ordinance is recorded, pursuant to Section 9 thereof, the Director of Community Development is hereby directed to record the original signature copy of this Ordinance, along with the Original Ordinance and a certification by the Village Clerk as to this Ordinance being the original Ordinance, with the DuPage County Recorder of Deeds.

**SECTION 4:** That this Ordinance shall be in full force and effect from and after its passage by a three-fourths (3/4ths) vote of the Trustees holding office, and approval, as required by law.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2018.

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2018.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2018, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

**Exhibit 1**

**Assignment of Ordinance  
by Limited Liability Company**

(attached)

## ASSIGNMENT OF ORDINANCE BY LIMITED LIABILITY COMPANY

THE ASSIGNOR, Steven Tani, LLC, an Illinois limited liability company, by its sole member, Steven Tani, of 11129 Sutherland Avenue, Cupertino, California 95014, and in exercise of the power of sale granted to Steven Tani under the Operating Agreement of Steven Tani, LLC dated April 21, 2010, and in consideration of Ten and 00/100 Dollars (\$10.00), and other good and valuable consideration in hand paid, assigns, conveys and warrants to the grantees, **James E. Waldschmidt and Kecia T. Waldschmidt** ("Assignees") husband and wife, of 902 Cherry Lane, Lombard, Illinois 60148, all right, title and interest Assignor has in and to Village of Lombard Ordinance #7344, as approved by the President and Board of Trustees of the Village of Lombard on April 6, 2017 ("Ordinance"). The subject of said Ordinance is the vacation of the Magnolia Circle right-of-way, south of the property located at 902 Cherry Lane, Lombard, Illinois 60148, described below, with the eventual vesting of title to said vacated right-of-way in the owners of 902 Cherry Lane (the North ½ of the vacated right-of-way) and 906 Cherry Lane (the South ½ of the vacated right-of-way), Lombard, Illinois.


The property at 902 Cherry Lane, Lombard, Illinois is described below:

Lot 292 in Lombard Meadows, a subdivision in part of Sections 16 and 17, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded July 23, 1957 as document 850186, in DuPage County, Illinois.

PIN: 06-17-215-001

The above assignment of Ordinance is made in connection with the transfer of title in fee simple of the above described property at 902 Cherry Lane, Lombard, Illinois, from Assignor to Assignees. The Village of Lombard may rely on this instrument, as well as on the transfer of title described above, in substituting in the Ordinance the names of Assignees in lieu of Assignor.

Dated: August 26, 2018

  
\_\_\_\_\_  
**Steven Tani, as Sole Member of Steven  
Tani, LLC, an Illinois limited liability  
company**

SEE ATTACHED  
CALIFORNIA  
NOTARIZATION

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California

County of Santa Clara

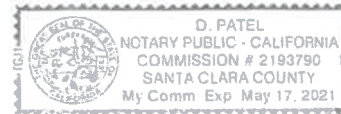
On 08/20/2018 before me, D. Patel, Notary Public, personally appeared  
Steven Tari

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument. I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS MY HAND AND OFFICIAL SEAL.

D. Patel

Signature of Notary Public



(Notary Seal)

## OPTIONAL INFORMATION

The acknowledgment contained within this document is in accordance with California law. Any certificate of acknowledgement performed within the State of California shall use the preceding wording pursuant to Civil Code section 1189. An acknowledgment cannot be affixed to a document sent by mail or otherwise delivered to a notary public, including electronic means, whereby the signer did not personally appear before the notary public, even if the signer is known by the notary public. In addition, the correct notarial wording can only be signed and sealed by a notary public. The seal and signature cannot be affixed to a document without the correct notarial wording.

### DESCRIPTION OF ATTACHED DOCUMENT

Assignment of Ordinance by Ltd Liability Company  
(Title of document)  
Number of Pages 2 (Including acknowledgment)  
Document Date \_\_\_\_\_

### CAPACITY CLAIMED BY SIGNER

\_\_\_\_ Individual  
\_\_\_\_ Corporate Officer  
\_\_\_\_ Partner  
\_\_\_\_ Attorney-In-Fact  
\_\_\_\_ Trustee  
\_\_\_\_ Other \_\_\_\_\_