

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF PONCA, NEBRASKA, RELEASING THE CITY'S REVERSIONARY INTEREST, IF ANY, IN PART OF LOT 1, EAST ADDITION, CITY OF PONCA, AS MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER A CORPORATION QUITCLAIM DEED THAT RELEASES SAID INTEREST AND CONVEYS SAID REAL ESTATE TO THE CURRENT RECORD OWNER; REPEALING CONFLICTING ORDINANCES AND SECTIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS on March 22, 1975, the City conveyed to Robert A. Elliott the following described real estate, subject to the following described reversionary interest that was included in the corporation warranty deed filed in the records of the Dixon County Clerk on March 25, 1975, to wit:

Part of Lot 1, East Addition, Ponca (Section 23, Township 30 North, Range 6 East of the 6<sup>th</sup> P.M., Dixon County, Nebraska), more particularly described as follows:

Commencing at the southwest corner of NW1/4 NW1/4 of Section 23, Township 30 North, Range 6, East; thence South 89° 31' East 200.0 feet to the southwest corner of Lot 1, East Addition; thence North along the west side of said Lot 1, 516.0 feet; thence south 89° 31' East, 85.46 feet to the point of beginning of this description; thence North 188.46 feet to a point on the North line of said Lot 1; thence along the North line of Lot 1, North 73° 27' East 193.01 feet and North 63° 36' East 273.5 feet to the Northeast corner of said Lot 1; thence South along the East side of Lot 1, 368.4 feet; thence North 89° 31' West 430.0 feet to the point of beginning, containing 2.64 acres, more or less.

This deed is given with the express reservation that the property herein granted shall at all times be used for the purpose of constructing and operating facilities for a nursing home, retirement home, senior citizens home or other use connected with the care of the elderly, and for no other purposes. In the event said property shall not continue to be used for such purposes, title shall revert to grantors;

WHEREAS, even though the above-described real estate had apparently already been fully conveyed by the City to Robert A. Elliott, and the corporation warranty deed had already been delivered, the City Council on April 3, 1975, passed Ordinance No. 140. Said Ordinance provided that the above-described real estate shall be conveyed to Robert A. Elliott "for a total consideration of One Dollar." The Ordinance included no language of any restrictions governing the use of the real estate and included no language about title reverting to the City in the event the real estate were used for any purpose other than a nursing home, retirement home, senior citizens home, or other use connected with the care of the elderly;

**WHEREAS** pursuant to Ordinance No. 140, the City on May 27, 1975, conveyed said real estate to Robert A. Elliott and Natalie L. Elliott, husband and wife, as joint tenants, and the corporation warranty deed evidencing said conveyance was filed in the records of the Dixon County Clerk on May 27, 1975. Said corporation warranty deed includes no language of any restrictions governing the use of the real estate and includes no language about title reverting to the City in the event the real estate were used for any purpose other than a nursing home, retirement home, senior citizens home, or other use connected with the care of the elderly;

**WHEREAS** on May 26, 1982, Robert A. Elliott and Natalie L. Elliott conveyed said real estate to Elms Health Care Center, Inc., and the warranty deed evidencing said conveyance was filed in the records of the Dixon County Clerk on May 26, 1982. Said warranty deed includes language restricting the use of the real estate for the purpose of constructing and operating facilities for a nursing home, retirement home, senior citizens home or other use connected with the care of the elderly, and for no other purposes, and further provides title shall revert to the City in the event the real estate is used for any other purpose;

**WHEREAS** Elms Health Care Center, Inc. desires to sell the real estate, and review of the March 22, 1975, corporation warranty deed; Ordinance No. 140; May 27, 1975, corporation warranty deed; and May 26, 1982, warranty deed makes it unclear whether the uses of the real estate are restricted to nursing home, retirement home, senior citizens home, or other use connected with the care of the elderly;

**WHEREAS** if the City has any interest in the real estate at all, it is no more than a reversionary interest;

**WHEREAS** Nebraska law provides reversionary interests including possibilities of reverter or rights of entry or reentry for breaches of conditions subsequent are valid for no more thirty years from the date of their creation, *see* Neb. Rev. Stat. § 76-2,102; and

**WHEREAS** because more than thirty years have passed since the reversionary interest, if any existed in the first place, was first created on March 22, 1975, the City no longer has any enforceable reversionary interest, and the City Council finds it should be released in order to clear any title clouds created thereby.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PONCA, NEBRASKA:**

**SECTION 1.** By the passage of this Ordinance, the City of Ponca, Nebraska, removes and relinquishes the restriction as provided in the March 22, 1975, corporation warranty deed that the following described real estate be used only for the purpose of constructing and operating facilities for a nursing home, retirement home, senior citizens home or other use connected with the care of the elderly, and releases its reversionary interest, if any, to the current record owner of the real estate, to wit:

Part of Lot 1, East Addition, Ponca (Section 23, Township 30 North, Range 6 East of the 6<sup>th</sup> P.M., Dixon County, Nebraska), more particularly described as follows:

Commencing at the southwest corner of NW1/4 NW1/4 of Section 23, Township 30 North, Range 6, East; thence South 89° 31' East 200.0 feet to the southwest corner of Lot 1, East Addition; thence North along the west side of said Lot 1, 516.0 feet; thence south 89° 31' East, 85.46 feet to the point of beginning of this description; thence North 188.46 feet to a point on the North line of said Lot 1; thence along the North line of Lot 1, North 73° 27' East 193.01 feet and North 63° 36' East 273.5 feet to the Northeast corner of said Lot 1; thence South along the East side of Lot 1, 368.4 feet; thence North 89° 31' West 430.0 feet to the point of beginning, containing 2.64 acres, more or less.

**SECTION 2.** The Mayor is authorized to execute and convey a corporation quitclaim deed to the current record owner, Elms Health Care Center, Inc., releasing the City's reversionary interest and conveying to it the City's interest in the real estate and otherwise effectuating the intent and terms of this Ordinance.

**SECTION 3.** All ordinances, Code sections, resolutions, and parts thereof in conflict herewith are hereby repealed.

**SECTION 4.** This Ordinance shall be in full force and take effect from and after its passage, approval, and publication or posting according to law.

Passed and approved this 19 day of December, 2023.

CITY OF PONCA, NEBRASKA:

  
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DJ Smith, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Jaime Schweers", is written over a horizontal line.

Jaime Schweers,  
City Clerk / Finance Director