MUNICIPALITY OF ANCHORAGE

Office of the Municipal Attorney
Civil Division, Suite 730

Telephone: 907-343-4545
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Mayor Ethan Berkowitz

Donald C. Mitchell
1335 F Street
Anchorage, AK 99501

July 14, 2016

Re: Legal Status of Sydney's Shortcut

Dear Mr. Mitchell:

Thank you for your letter dated July 11, 2016, regarding the legal status of "Sydney's Shortcut." While we have not undertaken a thorough analysis, a preliminary review suggests that the access easement known as Sydney's Shortcut is a valid, 20-foot right-of-way, created by deed in 1955 and vested in the "owners of property in the Turnagain Heights Subdivision" (and the original grantors, M.R. Marston and Pauline H. Marston) to "give access to and from the beach." Please see the enclosed deed from 1955.

Because the deed specifically grants a right of way to "the owners of property in the Turnagain Heights Subdivision," and not the Municipality or the public at large, the Municipality has not sought to enforce rights created by the 1955 deed.

We understand that you have already attempted to reach out to the Turnagain Community Council, but have not yet received a response.

As this appears to be an issue of common interest to the whole of the Turnagain Heights Subdivision, we are taking the liberty of providing a courtesy copy of this response to the Turnagain Community Council.

Please feel free to contact our office if we may be of further assistance.

Sincerely,

Quincy H. Arms,
Assistant Municipal Attorney

Enclosure: Warranty Deed dated September 1, 1955

cc: Jonathan Tarrant, Turnagain Community Council

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WARRANTY DEED CREATING TENANCY BY THE ENTIRETY

THIS INDENTURE, Made this 14th day of September, 1955, by and between J. C. MORRIS sometimes known as JULIUS C. MORRIS and IEGA B. MORRIS, husband and wife, and M. R. MARSTON and PAULINE H. MARSTON, husband and wife, all of Anchorage, Third Judicial Division, Territory of Alaska, the parties of the first part, and LU C. LISTON and M. EDNA LISTON, husband and wife, all of Anchorage, Alaska, the parties of the second part,

W I T N E S S E T H :

That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS ($10.00), in lawful money of the United States of America, and other good and valuable considerations to them in hand paid by the parties of the second part, the receipt of which is hereby acknowledged, do by these presents grant, bargain, sell, convey and confirm unto the said parties of the second part as tenants by the entirety, with the right of survivor ship, and to the heirs and assigns of the survivor forever, all that certain real property located in the Anchorage Recording Precinct, Third Judicial Division, Territory of Alaska, and more particularly described as follows:

> The West twenty (20) feet of Lot Seven (7) in Tract "A" of the TURNAGAIN HEIGHTS SUBDIVISION situated in section 23, Township 13 North, Range 4 West, Seward Meridian, Alaska, according to the map and plat of such subdivision filed and of record in the office of the United States Commissioner and ex-Officio Recorder for Anchorage Precinct at Anchorage, Alaska. Subject, however, to a right of way retained in the grantors across the above describe d property for installation and maintenance of water lines, sewer lines, electric lines, telephone lines, and a right of way on behalf of the grantors and the owners of property in the TURNAGAIN HEIGHTS SUBDIVISION to give access to and from the beach across such property. In the event the right of way herein contained is used, the grantors or their successors as the case may be, are to construct walkways and retaining walls sufficient to prevent damage to the property owned by the grantees by reason of the use of such walkways.

Together with, all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

Subject to all the restrictions of TURNAGAIN HEIGHTS SUBDIVISION as more particularly set forth in deeds conveying property in such subdivision to which reference is made for further particulars.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances, unto the said parties of the second part as tenants by the entirety, with the right of survivorship, and to the heirs and assigns of the survivor, forever. And the said parties of the first part do covenant to and with the said parties of the second part that the said parties of the first part are the sole owners of the above described premises, and that the same is free and clear of any and all liens or other encumbrances. The parties of the first part do further covenant and agree with the parties of the second part that they have the legal right to sell said premises and that they will for themselves and their heirs, forever warrant and defend the said parties of the second part, their heirs, executors, administrators and assigns, in the quiet and peaceable possession of the above described premises, as against any and all persons whomsoever lawfully claiming or to claim the same.

LAW OFFICES
DAVIS, RENFREW
& HUGHES
ANCHORAGE
ALASKA

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals on the day and year hereinabove first written.

Executed in the presence of :)

_____)

_____)

_____ (SEAL)
J. C. Morris sometimes known as
Julius C. Morris

_____ (SEAL)
Inga B. Morris

_____ (SEAL)
M. R. Marston

_____ (SEAL)
Pauline H. Marston

UNITED STATES OF AMERICA)
) ss.
TERRITORY OF ALASKA)

THIS IS TO CERTIFY that on this 21st day of September, 1955, before me, the undersigned, a Notary Public in and for the Territory of Alaska, duly commissioned and sworn as such, personally appeared J.C. MORRIS sometimes known as JULIUS C. MORRIS, INGA B. MORRIS, M. R. MARSTON and PAULINE H. MARSTON, known to me and to me known to be the individuals named in and who executed the foregoing instrument and they acknowledged to me, each for himself and not one for the other, that they signed and sealed the same as their voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

_____
Notary Public for Alaska
My commission expires: 12-19-58

LAW OFFICES
DAVIS, RENFREW
& HUGHES
ANCHORAGE
ALASKA

7/7 5.75

SEP 23 1955

ANCHORAGE RECORDING DISTRICT, ANCHORAGE ALASKA
TIME FOR RECORD .. 2:00 P.
AMOUNT OF STAMPS AFFIXED $.50

NATIONAL BANK OF ALASKA
ANCHORAGE, ALASKA