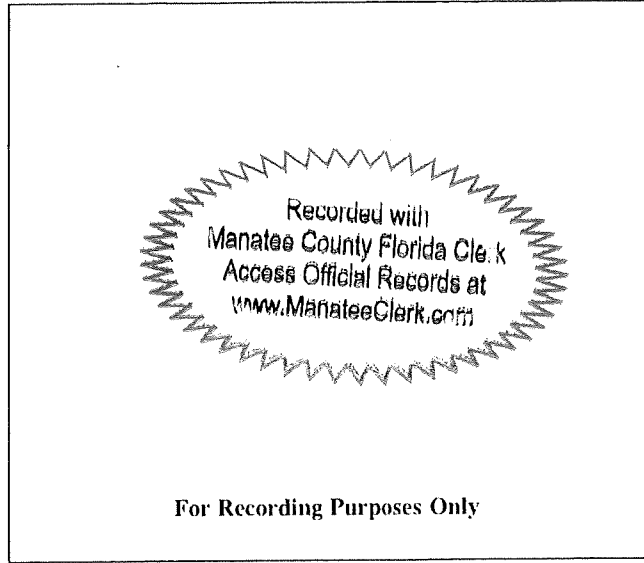


**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, FL 32789



SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into this ____ day of _____ 2018, (“Effective Date”) by and between, KPI 48th Street Development, LLC (“Owner”) and the City of Anna Maria (“City”), collectively referred to as the “Parties.”

RECITALS

WHEREAS, on November 19, 2015, the City enacted Ordinance 15-807, the Vacation Rental Ordinance (“Ordinance”), which limited occupancy in Vacation Rentals, as that term is defined in the Ordinance; and

WHEREAS, Owner owns the real property and improvements located at 101 Willow Avenue, Anna Maria, Florida, as more particularly described in the attached Exhibit “A” (the “Property”); and

WHEREAS, on July 25, 2016, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statutes, the Bert J. Harris, Jr., Private Property Rights Protection Act (the “Harris Act”), alleging that the Property had been inordinately burdened by the adoption of the Ordinance, (the “Claim”); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the City has determined that the modifications to the effect of the Ordinance effected by this Agreement protect the public interest served by the Ordinance and are the appropriate relief necessary to prevent the regulatory effect of the Ordinance from inordinately burdening the Property; and

WHEREAS, the Parties now desire to settle and finally resolve all disputes between and among them concerning the Claim.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Recitals**. The above recitals are true and correct and are incorporated herein by reference.

2. **Occupancy Allowable Under Ordinance**. Owner is hereby granted a variance of 14 overnight guests if the residence is built with 6 bedrooms, pursuant to the previous Bert Harris Settlement Agreement and General Release, attached hereto and incorporated herein by reference, and in accordance with the applicable ordinances of the City of Anna Maria, and state and federal law in effect at the time of construction, as modified by the previous Bert Harris Settlement Agreement. In the event the residence is not built with 6 bedrooms, then the property owner shall have the right to apply under the Ordinance for a maximum occupancy of 2 persons per bedroom plus an additional 2 persons not to exceed a total of 14 overnight guests, and the City shall grant such occupancy under either option. The variance would be perpetual, regardless of any future change in ownership of the property. However, this right shall expire permanently only if, after the construction of the aforementioned home, the home were to be voluntarily remodeled or voluntarily rebuilt in such a manner as to decrease the number of bedrooms.

3. **Development in Accordance with Code**. Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to remodel, develop, or use the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at the time of application therefor, and this variance shall not be construed as making the Property in any way non-conforming.

4. **Entire Agreement**. The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified or amended without a written instrument signed by the party against whom enforcement is sought.

5. **Duration of Agreement**. This Agreement shall be perpetual and deemed to run with the land, and shall be binding upon and the benefits shall inure to the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

6. **Authority**. The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.

7. **Governing Law.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the courts of Manatee County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

OWNER: KPI 48th Street Development LLC

Tamala Swafford
Signature of Witness # 1

Tamala Swafford

Print or type name

[Signature]
Signature of Witness #2

Aaron Thomas
Print or type name

By: Jennifer Kalita
Signature

Jennifer Kalita
Print or type name

As: Manager
Print or type

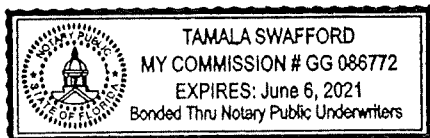
STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 7th day of March, 2018, by Jennifer KALETA, of KPI 48th Street Development LLC, who is personally known to me or who has/have produced _____ as identification and who did not (did) take an oath.

Tamala Swafford
Signature of Notary

(NOTARY SEAL)

Tamala Swafford
Print or type name



CITY OF ANNA MARIA

By:

Dan Murphy
Dan Murphy, Mayor

Date:

03-13-2018

ATTEST:

LeAnne Addy
LeAnne Addy, City Clerk

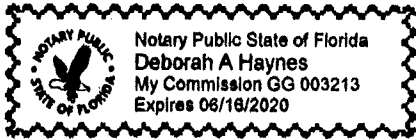
Date:

3/13/18

STATE OF FLORIDA

COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 13 day of March, ²⁰¹⁸ 2016, by Dan Murphy, and LeAnne Addy, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Anna Maria.



(NOTARY SEAL)

Deborah A. Haynes
Signature of Notary

Deborah A. Haynes
Print or type name

Approved as to form and legality for use and reliance
by the City of Anna Maria, Florida

Gretchen R. H. Vose
Gretchen R. H. "Becky" Vose

Exhibit "A"

Legal Description of Property

Lot 18, Block 29, Anna Maria Beach, a subdivision according to the plat thereof as recorded in Plat Book 1, Page 216, of the Public Records of Manatee County, Florida

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into by and between KPI 48th STREET DEVELOPMENT, L.L.C, a Florida limited liability company (hereinafter, "Claimant") and the CITY OF ANNA MARIA, a Florida municipal corporation (hereinafter, "City"), (collectively, Claimant and City are referred to as the "Parties.")

RECITALS

WHEREAS, Claimant is the owner and/or equitable owners of certain real property and improvements located at 101 Willow Avenue, Unit A¹, Anna Maria, Florida, and as more particularly described as Lot 18 in Block 29 of Anna Maria Beach, according to the plat thereof as recorded in Plat Book 1, Page 216, of the Public Records of Manatee County, Florida, all within the R-1 zoning district (hereinafter the "Property"); and

WHEREAS, on May 23, 2013, the City enacted Ordinance 13-754, which limited the allowable living area for single-family residential development in the R-1 and R-2 zoning districts; and

WHEREAS, the purpose of Ordinance 13-754 was to protect and improve the aesthetics of single-family homes in the City and to limit the potential impacts upon neighboring property owners by preventing "big box" construction; and

WHEREAS, on June 11, 2014, Claimant has asserted a claim (hereinafter identified as the "Claim") that the abovementioned actions by the City has inordinately burdened the Claimant's property rights in violation of the Bert J. Harris, Jr. Private Property Rights Protection Act (the "Harris Act") as codified in Chapter 70 of the Florida Statutes; and

¹ 101 Willow Avenue, Unit B is held by Shawn T. Kaleta and Jennifer Rose Kaleta and contains a structure with 3,994 sq. ft. under roof on 8,500 sq. ft. real property with the following legal description: LOT 16 OF BLK 29 OF ANNA MARIA BEACH AS PER PLAT OF RECORD IN PB 1, P 216, PRMCF, LESS AND EXCEPT THE SE1/2 OF SD LOT 16, WHICH SE1/2 IS SPECIFICALLY DESC AS FOLLOWS: TO-WIT: BEG AT NW COR OF SD LOT 15 AT PT WHERE LN DIVIDING LOTS 15 AND 16 OF SD BLK 29 INTERSECT NE LN OF SD LOTS, TH ALG NE LN OF SD LOT 16 A DIST OF 28.75 FT TO CENTER THEREOF, TH SWLY ALG C/L OF SD LOT EQUI-DISTANT FROM SIDE LNS THEREOF TO SWLY LN OF SD LOT; TH SELY ALG SD LN TO DIVIDING LN BETWEEN LOTS 15 AND 16, TH NELY ALG DIVIDING LN TO POB AS DESC IN DB 271 P291; ALSO LOT 17 OF BLK 29 OF ANNA MARIA BEACH SUBD. This property was never raised, nor included under the Claim, and is excluded from the terms of this Agreement.

WHEREAS, City has denied any liability to Claimant; and

WHEREAS, on June 11, 2014, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statute, the Harris Act, alleging that the Property had been inordinately burdened by the adoption of Ordinance 13-754 (the "Claim"); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the Parties have, however, reached an agreement as to the their dispute and they desire to fully and finally resolve any and all claims against each other and their respective agents, employees, officers, independent contractors, servants, and representatives concerning, relating to, or in any way arising out of their dispute, and enter into this Agreement to completely settle and dispose of all claims or disputes of whatever kind ~~or nature including, but not limited to~~, the Claim, or any other matter regarding the subject matter of this Agreement whether actually asserted by the Claimant, or as may have been asserted, whether known or unknown, against the City; and

relating to
SE

WHEREAS, the City has determined that it is in the best interest of the City of Anna Maria, its residents, and all parties to the Claim that the City agree, in the context of settling the Claim, to allow for modifications to regulations effected by this Agreement, and that the modifications will still protect the public interest served by Ordinance 13-754 and are the appropriate relief necessary to prevent the regulatory effect from inordinately burdening the Property; and

WHEREAS, the City has the right to exercise its discretion and take whatever action it deems prudent in order to settle the Claim between the Claimant and the City of Anna Maria; and

NOW, THEREFORE, in consideration for the mutual promises contained herein, it is agreed between the Parties as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as though fully set forth below.
2. Authority. The Parties and all signatories hereto represent and warrant that they have full authorization and legal authority to establish the legally binding rights, obligations, and duties as expressed herein or contemplated hereby.

3. Statement of Allowable Uses. Pursuant to 70.001(5)(a), Fla. Stat., the following is a Statement of Allowable Uses:

Permitted uses. Not more than one permitted use, and only one such use, shall be permitted on an individual lot. Permitted uses in the R-1/R-2 Residential zone District are as follows:

- (1) Single-family detached dwellings.
- (2) Group home or foster care facility licensed to serve six or fewer clients of the state department of health and rehabilitative services, provided such uses shall not be located closer than 1,000 feet to another group home or foster care facility.
- (3) Mobile homes (permitted in FEMA A zones only).
- (4) Community residential homes as defined in F.S. Ch. 419, but licensed to serve six or fewer clients of the state department of health and rehabilitative services, provided such uses shall not be located closer than 1,000 feet to another community residential home serving six or fewer clients.

4. Modification Setting forth Allowable Building Regulations. Claimant shall have the right to perform single-family development on the Property in accordance and consistent with Section 114-222(3)(b), Code of Ordinances, City of Anna Maria, as it existed immediately prior to the adoption of Ordinance 13-754 on May 23, 2013 (hereinafter, "Pre-LAR Section 114-222(3)(b)"). Specifically, the Property is a 5,702 sq. ft. lot. Based upon the Pre-LAR Section 114-222(b), and provided that Claimant complies with all requirements of the Florida Building Code and all other adopted City of Anna Maria Land Development Code regulations in existence at the time of permitting, Claimant may construct one of the following building coverage options:

- I. A two-story single-family structure more than 27 feet in height, which may consist of 1,711 sq. ft. on the first level and 1,711 sq. ft. on the second level, for a total of 3,422 sq. ft. of total building coverage, or
- II. A single story single-family structure less than 27 feet in height, which may consist of 2,281 sq. ft. of building coverage.

In addition to the total building area, Claimant may develop the Property with 285 sq. ft. of impervious coverage. A true and correct copy of said Section 114-222 is available for view with the City Clerk.


5. Relation to Other Local Regulations. Except for those items specifically addressed in Section 4 herein, Claimant shall be obligated to comply with any and all other then-applicable requirements of the City ordinances or regulations at the time such application is made.
6. State and Federal Regulations. Nothing contained herein purports to give the Claimant the right to violate any state or federal laws or regulations with regard to the development of the Property, including the Florida Building Code.
7. Development in Accordance with Future Code. Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to develop the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at that time.
8. Each Party To Bear Own Costs and Fees. To the extent not described in this Agreement, the Parties shall bear their own costs, expert witness fees, attorneys' fees, and other expenses.
9. No Admission of Liability. The Parties agree that neither this Agreement, nor the fact that the Parties have agreed to a settlement, may be used as an admission on the part of either party of any fault, wrongdoing, conduct, interpretation, or liability whatsoever. Each party expressly denies any wrongdoing under any federal, state, or local statute, public policy, tort law, contract law, or common law and expressly denies the truth or validity of any claim made against them.
10. Attorneys' Fees. In the event of any dispute relating to this Agreement, the prevailing party shall be entitled to recover their reasonable attorneys' fees and costs.
11. Entire Agreement. The Parties acknowledge that this Agreement constitutes the entire Agreement entered into by the Parties. They further acknowledge that they have read it and understand it; that the terms and conditions of this Agreement were arrived at in arm's-length negotiations between the Parties with all Parties provided the opportunity to seek the advice of legal counsel; that each Party's legal counsel did or could have reviewed this Agreement; and that each Party has given due and full consideration to the legal position of the other in regard to the provisions contained herein. This writing constitutes the final expression of the Parties' Agreement and is a complete and exclusive statement of the terms of that Agreement.

The Parties state that, in executing this Agreement, they did not rely on any statement, representation, or warranty, except as expressly set forth in this Agreement. This Agreement supersedes and renders null and void any previous agreements or contracts, whether written or oral, between Claimant and the City.


12. **Amendment.** No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge, or change is sought.
13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all which together shall constitute one and the same instrument representing the Agreement of the Parties. Without limiting the manner in which execution of this Agreement may otherwise be effected, execution by any party may be effected by facsimile or e-mail transmission of a signature page hereof executed by such party.
14. **Authority.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
15. **Governing Law.** This Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of Florida. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by each of the Parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of the Agreement. The Parties jointly conclude that should this Agreement be challenged by any of the Parties, that venue for bringing such challenge shall be Manatee County, Florida.
16. **Effective Date.** This Agreement shall not become effective until it is signed by authorized representatives of all Parties on the date upon which the last Party hereto sign.
17. **Severability.** The Parties agree that if any provision of this Agreement is held to be invalid, illegal or unenforceable, either legislatively or judicially, that provision will be severed from the Agreement, and the remainder of this Agreement shall not be effected thereby and will continue to be valid and enforceable to the fullest extent permitted by law, unless such determination of invalidity shall deprive any party of the substantial benefit of this bargain.

WHEREFORE, on the effective date as set forth herein, the Parties and signatories hereto acknowledge this Agreement and represent and warrant their authority to enter into this Agreement and do so jointly and severally for all purposes specified.


CITY OF ANNA MARIA, FLORIDA, by
and through the City Commission of the
City of Anna Maria as approved in a
noticed public meeting on January 15, 2014

By: 
Dan Murphy, Mayor, City of Anna Maria

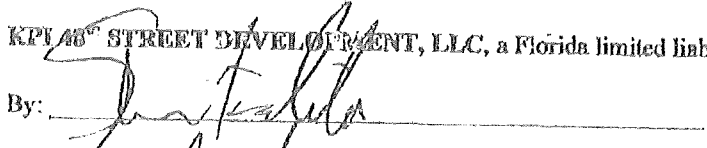
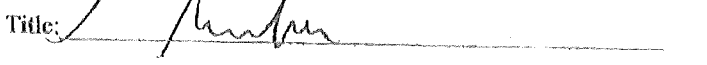
ATTEST:

By: 
Diane Percycoe, City Clerk

Approved as to legal sufficiency on behalf of the City of Anna Maria:

By: 
Ricinda H. Perry, Esq., Interim City Attorney

KPI 48th STREET DEVELOPMENT, LLC, a Florida limited liability company

By: 
Title: 

Angelina "Angel" Colonnese

Clerk of the Circuit Court

Manatee County

P.O. Box 25400
Bradenton, FL 34206

Official Records Receipt Recording

Username: hhoey

Changed By: PSCOTT

Receipt#: 900117590 Payee Name: CITY OF ANNA MARIA
Receipt Date: 03/20/2018

Instrument: 201841027124 - BK2719/PG772 AGREEMENT

001000000341100	RECORDING FEE \$5/\$4	\$45.00
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001000000341400	INDEXING NAMES	\$0.00

Instrument Total: \$95.00

Instrument: 201841027125 - BK2719/PG783 AGREEMENT

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001000000341400	INDEXING NAMES	\$0.00

Instrument Total: \$44.00

Instrument: 201841027126 - BK2719/PG788 AGREEMENT

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001000000208912	PRMTF BCC \$2	\$10.00
001000000341400	INDEXING NAMES	\$0.00

Instrument Total: \$44.00

Receipt Total: \$183.00
Amount Tendered: \$183.00
Overage: \$0.00

Check

\$183.00

45296

Amount Paid: