



CITY COUNCIL STAFF REPORT

DATE: NOVEMBER 19, 2014 CONSENT

SUBJECT: RECONVEY AND RELEASE DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS ON PROPERTY LOCATED AT
1036 ANDREAS PALMS DRIVE

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

In resolving a code enforcement matter for the illegal construction of a residence at 1036 Andreas Palms Drive, a covenant was recorded on the property. This covenant essentially provided that the owner of the property was required to disclose that the residence was built without permits from the City, without inspections by the City, and in violation of City ordinances. In exchange for the covenant, which also included a hold harmless provision, the City allowed the property to be occupied by the owner. The current owner of the property has submitted the property to inspection by the City's Building Department and has made necessary structural modifications and construction changes to comply with the City's Codes fully consistent with directions of the Building Official and has requested the City release the covenant. The Building Official and the City Attorney concur with the request.

RECOMMENDATION:

Authorize the City Manager to execute and the City Clerk cause the recordation of a Reconveyance and Release of Declaration of Covenants, Conditions, and Restrictions that affect property at 1036 Andreas Palms Drive.

STAFF ANALYSIS:

In 1993, the owner of the property at 1036 Andreas Palms Drive, commenced construction of a single family residence on the property. Disputes arose between the City and the owner regarding compliance with City Codes and what level of inspections would be required to ensure that work was fully compliant with the Codes. The City and the owner ultimately agreed that the City would grant occupancy to the owner and the owner executed a covenant running with the land that disclosed that the City had

significant issues with structural aspects of the construction and that work may not have been done in full compliance with City Codes. The covenant is a significant burden on the property and has frustrated potential purchasers who were unwilling to invest substantial resources in exposing foundations and other structural aspects of the construction for City inspection and undertake necessary repairs as may be directed by the Building Official.

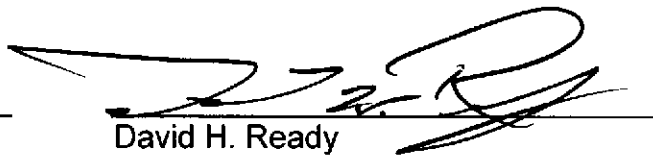
Shaul Mezrahi and Bill Jewell acquired the property, allowed the property to be appropriately inspected by the Building Official, including requests to remove walls and expose structural aspect of the residence for inspections, and has made the requisite corrections and improvements as identified by the Building Official. The Building Official has approved all work on the property and has determined that the residence complies with all applicable City Codes. The current owners have now requested the Covenant be released. The Building Official and the City Attorney concur with the request and recommend the City Council authorize the reconveyance and release of the covenant.

FISCAL IMPACTS:

None.



Douglas Holland
City Attorney



David H. Ready
City Manager

Attachment:

Reconveyance and Release of Declaration

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Office of the City Clerk
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263-2743

Space Above This Line For Recorder's Use Only

**DEED OF FULL RECONVEYANCE AND RELEASE OF DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

The City of Palm Springs, a California Charter City, the "City, entered into a Declaration of Covenants, Conditions, and Restrictions ("Declaration") with High-Tech Aviation, Inc., a California Limited Partnership, the "Declarant." The Declaration was recorded as Instrument No. 1995.263797 in the Office of the County Recorder of the County Of Riverside, California. The conditions that gave rise for the Declaration no longer exist, the building constructed on the subject property is, as of the date of this instrument, in compliance with applicable building and construction standards, and the City Council of the City has found that it is no longer fair or equitable to enforce the Declaration. The City therefore reconveys, without warranty, and releases the person or persons legally entitled of any and all obligations under the Declaration that burdens the subject property commonly known as 1036 Andreas Palms Drive situated in the County of Riverside, State of California, and more particularly described as: Lot 28, MB 129/087, Tract 16759 (Assessor's Parcel No. 512-310-020).

Date: _____

CITY OF PALM SPRINGS, a municipal corporation

By: _____

Title: _____

APPROVED AS TO FORM:

By: _____

Title: _____