

Attachment A: letter from attorney

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May 3, 2016

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NEVILLE MOORE (1899-1982)
CARROLL MORROW (1907-1990)

Hopkins County Board of Education
320 South Seminary Street
Madisonville, KY 42431
Attn: Tommy Burrough

Re: 75 South Railroad Street
Madisonville, Kentucky, 42431
Tax Map M-22-26-2

Dear Mr. Burrough:

At your request we have examined the properly indexed records of the Hopkins County Court Clerk's Office for a period exceeding sixty (60) years affecting the title to the following described property located in Hopkins County, Kentucky, more particularly bounded and described as follows:

Unless stated otherwise, any monument referred to herein as an "iron pin set" is a 1/2" diameter rebar 24 inches in length, with an orange cap stamped "PLS 3277". All bearings stated herein are based on the Kentucky South Zone, North American Datum 1983 in U.S. Survey Feet.

A certain tract of land located in the City of Madisonville, Hopkins County, Kentucky, more particularly described as follows:

Beginning at an iron pin set this survey in the west right of way of Railroad Street and having Kentucky State Plane Coordinates N:2007084.10 and E:1131419.72 and also being the northeast corner of Cumberland Trace Legal as recorded in Deed Book 603, Page 700 in the Hopkins County Clerk's office; thence, running with said Cumberland Trace's north line N 80°10'32" W for a distance of 56.33' to an iron pin set this survey; thence, N 74°03'14" W for a distance of 94.10' to an existing 1/2" iron pin with broken cap, also being a corner in the east line of Planters Bank Inc. as recorded in Deed Book 744, Page 548 in the Hopkins County, Clerk's

office; thence, running with said Planters Bank's east line N 10°52'43" E for a distance of 49.96' to an iron pin set this survey in the south line of a 10' Alley; thence, running with said alley S 80°10'34" E for a distance of 150.00' to an iron pin set this survey, also being a corner in the west right of way of Railroad Street; thence, running with said right of way S 10°48'29" W for a distance of 80.00' to the point of beginning, having an area of 1.433 acres according to a survey conducted by Thomas W. Crabtree with Ronald Johnson and Associates, PSC in March 31, 2016.

Being the same property conveyed to BHM Property Management, LLC by Dannie J. French and his wife, Tammie French, by deed dated August 13, 2007 of record in Deed Book 668, page 118 of the Hopkins County Court Clerk's Office.

Based upon our examination of the properly indexed records of the Hopkins County Court Clerk's Office, it is our opinion that BHM Property Management, LLC is the owner of a good and valid, merchantable title in and to the above described property, subject only to the following exceptions:

1. We have made no examination of the mineral estate and certify no matter with respect thereto, nor do we express an opinion concerning zoning regulations or the rights or claims of the parties which are not shown of record.
2. Unrecorded easements, if any, on, above or below the surface.
3. The 2016 state, county, city, and school ad valorem property taxes, although not currently due and payable, constitute a lien against the subject property. We will prorate the property taxes and have them paid as of the date of closing.
4. We have not made a complete search of the mineral estate as we have examined the title for an excess of sixty (60) years. Furthermore, we are aware of 702 KAR 4:050 dealing with the Department of Education requirements that mineral rights should be acquired or in the alternative that a forbearance agreement be entered into to ensure the surface support. However, we would request a waiver of this requirement in this case given the following factors:
 - a. The subject property is a commercial lot in the downtown area of the City of Madisonville and the City of Madisonville does not currently allow surface or underground mining in the City limits of Madisonville;
 - b. Given the relatively small size of the lot and the fact that a building is already housed on the lot we would request a waiver of this requirement; and

c. We would further add that based upon our previous title work that not only would it be expensive and difficult to locate the mineral owner, but should they be located it is likely that they may no longer be an active corporation.

5. The captioned property and the plat shows that there is an alley on the northern boundaries of the subject property. This would not affect the subject property, but you should be aware that other parties beside yourself would have the right to use this alley adjoining the subject property.

6. There is of record a real estate mortgage from BHM Property Management, LLC to Independence Bank dated August 16, 2013 of record in Mortgage Book 1083, page 764 given to secure an initial indebtedness of \$120,700. There is also an assignment of rents associated therewith of record in Mortgage Book 1083, page 773. At the closing this mortgage and assignment will need to be paid in full and releases obtained prior to final title insurance being issued.

This title opinion was made at the request of and is intended solely for the benefit of Tommy Burrough for the Hopkins County Board of Education and others may not rely upon the opinions herein expressed.

Our examination continued until May 4, 2016 at 7:50 a.m.

Respectfully,

FRYMIRE, EVANS, PEYTON,
TEAGUE & CARTWRIGHT



J. Keith Cartwright

JKC.alt.2016Board.0503HCBOE.RailroadStreet.TO

Madisonville, KY Code of Ordinances

MADISONVILLE, KENTUCKY CODE OF ORDINANCES

**MADISONVILLE, KENTUCKY
CODE OF ORDINANCES**

2016 S-29 Supplement contains:

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State legislation current through KRS 2015

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Madisonville, KY Code of Ordinances

TITLE XI: BUSINESS REGULATIONS

CHAPTER 114: MINING

■ CHAPTER 114: MINING

Section

114.01 Purpose

114.02 Findings of fact

114.03 Regulations

114.99 Penalty

Statutory reference:

Mining, see KRS Chapter 352

■ § 114.01 PURPOSE.

It is the purpose of this chapter to regulate and control the mining of coal in and underlying the city and to regulate and control the injurious effects on the people and resources of this city.

(74 Code, § 16-1) (Ord. passed 12-28-70)

■ § 114.02 FINDINGS OF FACT.

(A) The City Council finds that the underground mining of coal underlying the city has caused subsidence of the land and has resulted in damage to the property of its citizens, and in general, creates hazardous conditions dangerous to life and property so as to constitute an imminent and inordinate peril to the welfare of its citizens. and property and the people and property within the city and Commonwealth of Kentucky.

(B) The City Council further finds that subsidence of the surface of the earth has occurred on numerous occasions in areas where coal has been mined by the underground method of mining within the city, including but not limited to known and recent subsidence in the Parkwood, Brentwood, and Crestview subdivisions to the city and that these incidents of subsidence have caused damage to the property and imperiled the well-being of the citizens of the city.

(C) The Council further finds that in order to prevent future generations of its citizens from exposure to known and existing hazards caused by underground mining that it is in the interest of the general welfare that further mining in and underlying the city be prohibited.

(D) The Council further advises that the strip mining of coal has caused and will cause soil erosion, damage from overburden, landslides, stream pollution, accumulation of stagnant water and seepage of contaminated water, danger from detonation of explosives used in the mining process, destroys the value of land for aesthetic reasons, and in general impairs the property rights of its citizens and

creates hazards dangerous to life and property so as to constitute an imminent and inordinate peril to the persons and property lying and being within the city.

('74 Code, § 16-2) (Ord. passed 12-28-70)

■ § 114.03 REGULATIONS.

(A) It shall be unlawful to mine coal by the surface, auger, or strip method of mining within the city limits of the city.

(B) It shall be unlawful to mine coal by the underground or deep shaft method of mining within the city limits of the city.

('74 Code, § 16-3) (Ord. passed 12-28-70) Penalty, see § 114.99

Cross-reference:

Erection and maintenance of coal mine loading tipples prohibited, see § 130.10

■ § 114.99 PENALTY.

Any person who violates § 114.03 shall be guilty of a misdemeanor and shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each violation hereof.

('74 Code, § 16-4) (Ord. passed 12-28-70)

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