

ORDINANCE NO. 28847

An ordinance providing for the abandonment of a portion of an alley located adjacent to City Block 7/5351 in the City of Dallas and County of Dallas, Texas, subject to a reverter; providing for the quitclaim thereof to 1510 Stevens, Inc., f/k/a Dallas Unique Indoor Comfort, Inc.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date for this ordinance.

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WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of 1510 Stevens, Inc., f/k/a Dallas Unique Indoor Comfort, Inc., a Texas corporation, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter interest, the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms, conditions and reverter herein provided, said portion of an alley is not currently needed for public use, and same should be abandoned and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the public will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms, conditions and reverter hereinafter more fully set forth; **Now, Therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the tract of land described in Exhibit A, which is attached hereto and made a part hereof for all purposes, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the reverter and conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 (\$5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Section 8, the City of Dallas does by these presents

QUITCLAIM unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the reverter interest herein stated, all of its right, title and interest in and to the certain tract of land hereinabove described in Exhibit A. Provided however, that if the existing encroachment situated on and adjacent to the area to be abandoned is ever: (i) partially demolished, removed or damaged and is not promptly thereafter repaired or rebuilt; (ii) substantially or totally demolished, removed or damaged; or (iii) abandoned in whole or in part by **GRANTEE**, its successors and assigns, then this ordinance and quitclaim shall be rendered null and void and the right, title and easement of the public shall absolutely revert without any necessity for suit or re-entry by the City; and no act or omission on the part of the City, its successors and assigns, shall be a waiver of the operation or enforcement of this ordinance. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE**.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions and conditions of this ordinance.

SECTION 4. That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction – Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise and are further subject to the conditions contained in Exhibit B, which is attached hereto and made a part hereof for all purposes.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

SECTION 8. That as a condition of this abandonment and as part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold the City of Dallas whole and harmless against any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the property described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area described in Exhibit A, which **GRANTEE**, its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended.

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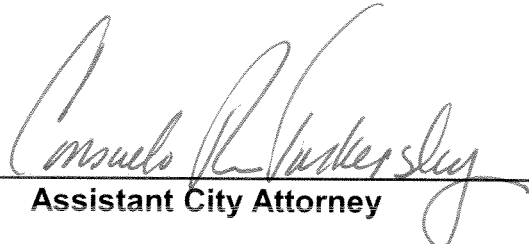
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References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

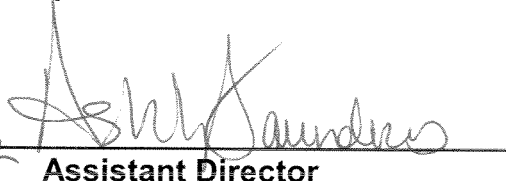
SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction or designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance; and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, subject to a reverter interest, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 10. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

BY 
Assistant City Attorney

THERESA O'DONNELL
Director of Department of Sustainable
Development and Construction

BY 
Assistant Director

Passed DEC 12 2012.

ALLEY ABANDONMENT 123000

PORTION OF A 20 FOOT ALLEY
BLOCK 7/5351
TOWN OF REINHARDT
CITY OF DALLAS, DALLAS COUNTY, TEXAS

28847

BEING a 52 square foot tract of land Situated in the W.S.B. Anderson Survey, Abstract No. 8, Block 7/5351 in the Town of Reinhardt, an addition in the City of Dallas, Dallas County, Texas according to the map thereof recorded in Volume 1, Page 239 of the Map Records of Dallas County, Texas, Annexed May 16, 1945, Ordinance No. 3626, Tract 15, and being a portion of an alley of said addition, being adjacent to Lots 16 through 18 of said addition and conveyed by warranty deed with vendor's lien to Dallas Unique Indoor Comfort Inc. as recorded in Volume 97035, Page 1991, Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at an 'X' found for corner at the intersection of the Southeast Right of Way line of an alley (20 foot Right of Way) with the Northeast Right of Way line of Stevens Street (80 foot Right of Way) and being the West corner of said Lot 18, as shown on Plat of said Town of Reinhardt;

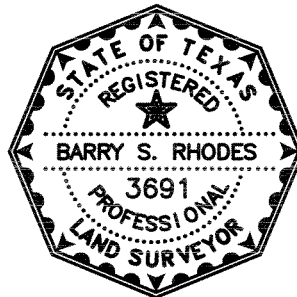
THENCE North 24 degrees 46 minutes 00 seconds East, along the Northwest line of Lot 18 and Southeast line of said Alley, a distance of 17.91 feet to point on a Brick wall, said point being the POINT OF BEGINNING;

THENCE North 65 degrees 09 minutes 13 seconds West, departing Southeast right of way line of said Alley and Northwest line of said Lot 18, a distance of 1.27 feet to a corner of a brick building;

THENCE North 24 degrees 50 minutes 47 seconds East, a distance of 41.49 feet to the corner of a brick building;

THENCE South 65 degrees 22 minutes 52 seconds East, a distance of 1.21 feet to a point on a Brick wall said point being on the Southeast right of way line of said Alley and the Northwest line of Lot 16;

THENCE South 24 degrees 46 minutes 00 seconds West along the Northwest line of said Lots 16, 17, and 18, and Southeast line of said Alley, a distance of 41.50 feet to the POINT OF BEGINNING and containing 52 square feet of land.



[Handwritten signature of Barry Rhodes]

BARRY RHODES,
Registered Professional Land Surveyor No. 3691

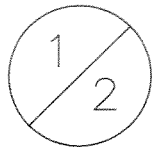
(FOR SPRG USE ONLY)

REVIEWED BY: JL

DATE: 8-22-12

SPRG NO. 2337

NOTE: BASES OF BEARING TAKEN FROM NORTHWEST LINE OF
LOTS 1-18 BLOCK 7/5351 OF THE TOWN OF REINHARDT, RECORDED
IN VOLUME 1, PAGE 239. MAP RECORDS, DALLAS COUNTY, TEXAS
N 24° 46' 00" E



RHODES SURVEYING

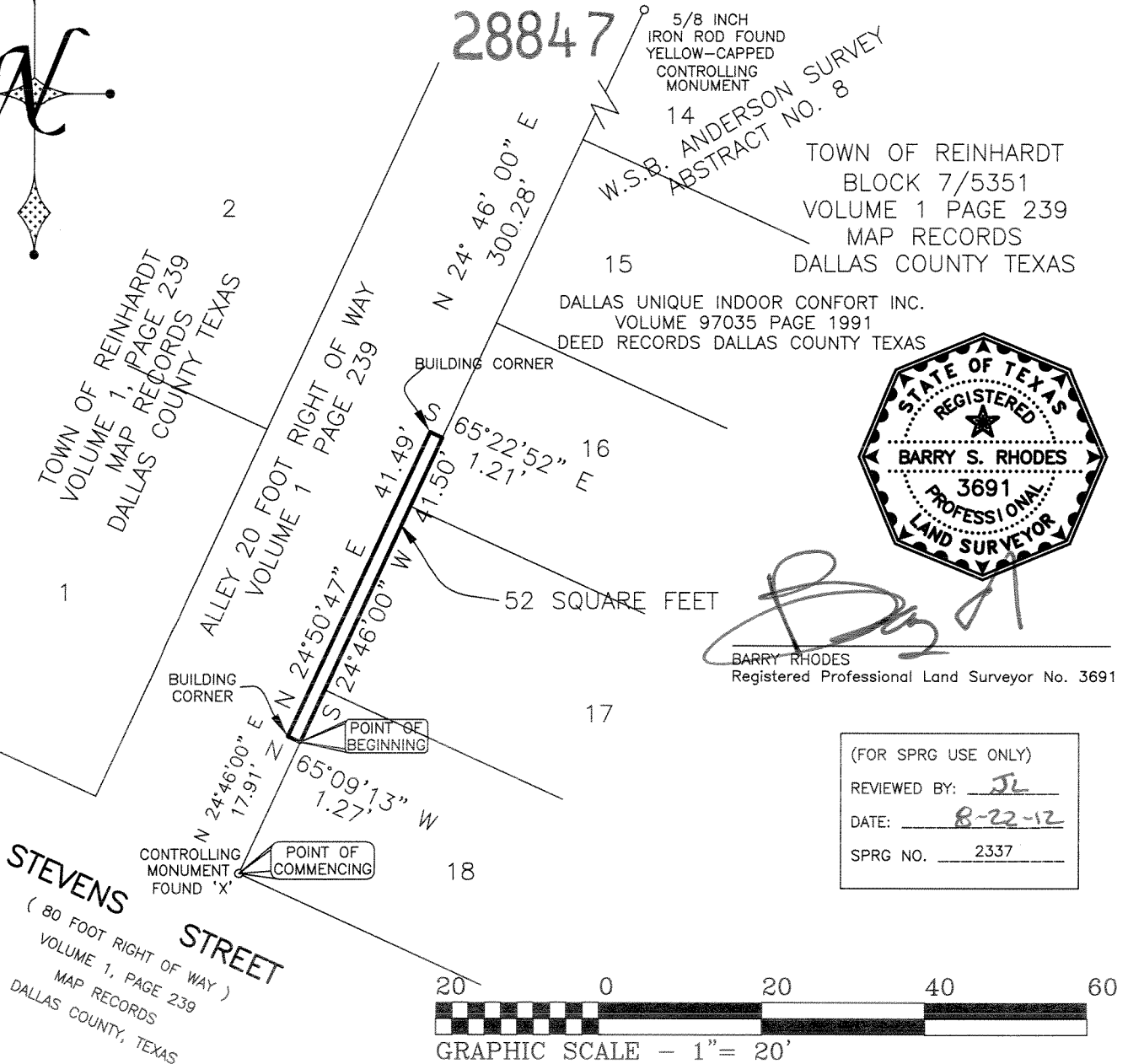
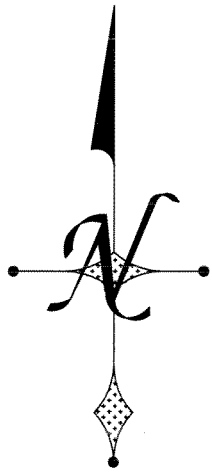
BARRY RHODES
Registered Professional Land Surveyor
RHODESSURVEYING@YAHOO.COM
P.O. BOX 2327 ROWLETT TEXAS 75030
PHONE 972-475-8940 FAX 972-475-9036

Date: 9-30-2010

Job no.: 56852

ALLEY ABANDONMENT 123000

PORTION OF A 20 FOOT ALLEY
BLOCK 7/5351
TOWN OF REINHARDT
CITY OF DALLAS, DALLAS COUNTY, TEXAS



NOTE: BASES OF BEARING TAKEN FROM NORTHWEST LINE OF LOTS 1-18
BLOCK 7/5351 OF THE TOWN OF REINHARDT,
RECORDED IN VOLUME 1, PAGE 239. MAP RECORDS, DALLAS COUNTY, TEXAS
N 24° 46' 00" E

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EXHIBIT B**ADDITIONAL ABANDONMENT PROVISIONS**

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.