CIRCUIT COURT OF FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

Appellate Division

VICKY GRANT, an individual, and RAD EL DUB COMMUNITY LAND TRUST, INC., a not-for-profit Florida Corporation.

Petitioner, CASE NO.:

vs.

CITY OF LAKE WORTH BEACH, FLORIDA

Respondent.

_____/

PETITION FOR WRIT OF CERTIORARI[1]

Pursuant to Florida Rule of Appellate Procedure 9.100(f), Petitioners, VICKY GRANT, an individual, and EL DUB COMMUNITY LAND TRUST, INC., a not-for-profit Florida Corporation (the "Petitioners") by and through undersigned counsel, hereby petitions this Honorable Court for issuance of a Writ of Certiorari to quash a development order rendered by the Respondent, City of Lake Worth Beach, Florida ("Respondent" or the "City") on August 17, 2021, and states as follows:

[1] An appendix has been filed simultaneously herewith in accordance with Fla. R. App. P. 9.220

I. INTRODUCTION AND BASIS FOR INVOKING JURISDICTION

This Petition for Writ of Certiorari is brought pursuant to Article V, Section 5(b) of the Florida Constitution and Florida Rules of Appellate Procedure 9.030(c)(3) and 9.100.

On July 20, 2021, the Respondent passed Ordinance 2021-04 on first reading, which approved a mixed use urban planned development for a 2.29 acre property located at 1715 N. Dixie Hwy, Lake Worth Beach, Florida (the "Property"). (Appx. Tab 4)

On August 17, 2021, the Respondent gave final approval to Ordinance 2021-04 (the "Development Order") on second reading by a 3-2 vote and rendered the order on that same date. (Id.)

Under Florida law, certiorari is the proper procedural vehicle to challenge a final action of an administrative tribunal not subject to the Administrative Procedure Act, such as a local zoning board decision that resulted from a quasi-judicial action. *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 525 (Fla. 1995); *Bloomfield v. Mayo*, 119 So.2d 417 (Fla. 1960); *DeGroot v. Sheffield*, 95 So.2d 912 (Fla. 1958); *County of Volusia v. City of Daytona Beach*, 420 So.2d 606 (Fla. 5th DCA 1982).

The proper procedure for an appeal from a local government's zoning decision is by writ of certiorari to Circuit Court. See, eg., *City of St.*

Petersburg v. Cardinal Industries Development Corp., 493 So.2d 535 (Fla. 2d DCA 1986); *Grady v. Lee County*, 458 So. 2d 1211 (Fla. 2d DCA 1984); *Irvine v. Duval County Planning Commission*, 466 So.2d 357 (Fla. 1st DCA 1985); *Cherokee Crushed Stone, Inc. v. City of Miramar*, 421 So.2d 684 (Fla. 4th DCA 1982). Certiorari has specifically been employed to obtain review of local government decisions granting permits for docks. *City of Indian Rocks v. Tomalo*, 834 So.2d 341 (Fla. 2d DCA 2003).

Petitioners are entitled to challenge a development order as violative of zoning through first-tier petition for writ of certiorari. *Cook v. City of Lynn Haven*, 729 So. 2d 545 (Fla. 1st DCA 1999). First-tier certiorari is akin to plenary appellate review. *Broward County v. G.B.V. Int'l*, 787 So. 2d 838 (Fla. 2001).

Pursuant to Fla. R. App. P. 9.100(c), Petitioners are required to file a petition for writ of certiorari within 30 days of rendition of the Development Order. The 30-day deadline from August 17, 2021, given the intervening Yom Kippur Holiday on September 16, 2021, is September 17, 2021 pursuant to Fla. R. Jud Admin. 2.514.

II. FACTS

1. OAG Investment 5 LLC (the "Applicant") sought and was granted the Development Order and is working with the Respondent's Community

Redevelopment Agency to redevelop the Property. (Appx. 1, p. 7) (Appx. Tab 4).

2. The Development Order approved of a zoning map amendment of the Property to Mixed Use Planned Urban Development ("MPUD"), which included approval of a development of significant impact and major site plan. (Appx. Tab 4, pgs. 305-089) This rezoning is an "overlay" in the existing underlying "base" zoning, which is Mixed Use Dixie Highway ("MU-DH"). (Appx. Tab 1, Pgs. 9-10; Tab 4, pg. 305).

3. The Development Order authorizes the Applicant to develop three (3) residential/commercial mixed-use buildings. (Appx. Tab 4, pg. 309). Buildings 1 and 3 will be three (3) stories high and 42 feet tall, and Building 2 will be six (6) stories high and 78'2" tall. (Id.) The Development Order allows the construction of 127 residential dwelling units in total, which the City derived from 55 dwelling units per acre ("du/ac"). (Appx. Tab 4, pgs 304, 309). The property is 2.29 acres in size. (Id. at pg. 304)

4. Four (4) of the six (6) stories approved were allocated pursuant to the City's Sustainable Bonus Incentive Program (the "Program"). (Appx. Tab 1, pgs. 68, 77-78)

5. Without the application of the Sustainable Bonus Incentives through the Program, the site qualified only for a maximum of 2 stories in

height. (Appx. Tab 1, pg. 68). The MU-DH district allows for residential/commercial mixed-use buildings up to a maximum of two (2) stories and of thirty (30) feet in height. (Id.)

6. Of the 78'2" feet in total height allotted, only 30 feet were allowed on the Property "as of right". (Id.) The Development Order granted the Property an additional 37.5' of height allowance through the Program, and remaining height through the Transfer of Development Rights ("TDR") program. (Id.) (Appx. Tab 4)

7. City awarded height up to 6 stories/67.5 feet through the Program. (Appx. Tab 1, pgs. 68, 77-78). The value of these incentives is approximately $774,300 based on dollars per square foot assigned by the City Commission. (Id. at pg. 77-78)

8. In exchange for the sustainability bonus density and height, the Development Order required as a condition of approval that the Applicant provide, prior to issuance of a building permit, "Notification of intent to acquire Florida Green Building certification or payment in lieu of improvements required for the Sustainable Bonus Program." (Appx. Tab 4, pg. 311). The other 'sustainability features offered by the Applicant are:

-Enhanced landscaping - $50,000

-Dog Park and Playground - $100,000

-Public Art – Murals & Plaza Sculpture - $144,000

-Utility undergrounding - $100,000

(Appx. Tab 1, Pg. 78). There is no information or evidence in the record substantiating the value of the above features. (Appx. Tabs 1 and 2)

III. NATURE OF RELIEF SOUGHT

Petitioners seek an order from this Honorable Court quashing ordinance 2021-04 ("Development Order").

IV. ARGUMENT

A. Summary of Argument

Respondent departed from the essential requirements of law by approving the Development Order with height and density bonuses in excess of that which is authorized by the City of Lake Worth Beach Land Development Code (the "Code"). The height and stories allocated through the Program clearly violated Sec. 23.2-33 and Sec. 23.3-25 of the Code. The Development Order also allocated more density that is allowed by the Code. Assuming 55 du/ac was available, the Respondent evidently miscalculated. The Development Order awards 127 du/ac, when the maximum allowed by the Code for the Property is 125 du/ac (55 du/ac x 2.29).

The Respondent's action in approving the Development Order is also not supported by competent substantial evidence because the record does

not demonstrate the factual showing necessary to authorize the allocations of height, stories, and density.

B. Standard of Review

Where a party is entitled as a matter of right to seek review in the circuit court from administrative action, the circuit court must determine [1] whether procedural due process is accorded, [2] whether the essential requirements of the law have been observed, and [3] whether the administrative findings and judgment are supported by competent substantial evidence. City of Deerfield Beach v. Vaillant, 419 So. 2d 624 (Fla. 1982). The Florida Supreme Court added in *Broward County v. G.B.V. Int'l* that first-tier certiorari to circuit court from a local government quasi-judicial ruling is a "matter of right and is akin in many respects to a plenary appeal". 787 So. 2d 838 (Fla. 2001).

A Circuit Court on first tier certiorari review of a development order is well within its jurisdiction to consider whether a municipality has correctly interpreted and applied its ordinances. *Town of Longboat Key v. Islandside Prop. Owners Coalition, LLC*, 95 So. 3d 1037 (Fla. 2d DCA 2012). "Ordinances are subject to the same rules of interpretation as are state statutes; a court interpreting local ordinances must first look to the plain and ordinary meaning of the words in the ordinance." *Id.* at 1041 (citing to *Rinker Materials Corp. v. City of North Miami*, 286 So. 2d 552 (Fla. 1973).

C. Petitioners Have Standing

As a threshold matter, the petitioners have established standing on the record below. *City of Ft. Myers v. Splitt*, 988 So. 2d 28, 32 (Fla. 2d DCA 2008) [33 Fla. L. Weekly D1673a] (quoting *Dade County v. Marca, S.A.*, 326 So. 2d 183, 184 (Fla. 1976)); *see Battaglia Fruit Co. v. City of Maitland*, 530 So. 2d 940, 943 (Fla. 5th DCA 1988).

Abutting and neighboring property owners within close proximity to a project site have standing to sue to challenge the propriety, authority for, and validity of a development order. *Elwyn v. City of Miami*, 113 So. 2d 849, 851 (Fla. 3d DCA 1959) (neighboring property owner can challenge award of parking variance); *see also City of St. Petersburg, Bd. of Adjustment v. Marelli*, 728 So. 2d 1197 (Fla. 2d DCA 1999) [24 Fla. L. Weekly D668a]; *Carlos Estates v. Dade County*, 426 So. 2d 1167 (Fla. 3d DCA 1983) (individual who lived within 700 feet of subject property had standing to challenge award of special exception in favor of developer); *Exchange Investments, Inc. v. Alachua County*, 481 So. 2d 1223 (Fla. 1st DCA 1985) (property owners within one mile of subject property sufficiently pled standing to challenge parking variance in favor of developer where lack of parking could affect property owners' legally recognizable interest in off-street parking).

Residing within close proximity to the property at issue can be sufficient by itself to challenge a development order. *Elwyn*, 113 So. 3d at 851; *Marelli*, 728 So. 2d 1197 (neighboring property owner can challenge award of parking variance); *Paragon group, Inc. v. Hoeksema,* 475 So. 2d 244 (Fla. 2d DCA 1985) (petitioner had standing where he owned a single family home directly across from the 77-acre parcel).

During the hearing at which the City approved the Development Order, Petitioner, Vicky Grant, testified that she resides at 1120 18th Ave, Apt. 4, Lake Worth Beach, FL, which is within 400 feet of the project site and within the area in which the City must provide notification to residents.[2] (Appx. Tab 3, pg. 299:3-19). Her comment stated that the traffic and "significant increase" in height and zoning would negatively impact "my family and our neighborhood". (Id.) She also had concern of "rent increases" as a result of the project. (Id.) She further testified that the project would "block me from the street" and that the "project is not compatible to the neighborhood." (Id.) Ms. Grant's concerns as a neighbor in very close proximity gives rise to a "definite interest exceeding the general interest in common with all citizens, a legally recognizable interest sufficient to confer standing on [her]". *Carlos*

[2] Sec. 23.2-15 – Notice requirements for public hearings: "Planned development…10 days [in advance], 400' R[adius]"

Estates, 426 So. 2d at 1169 (quoting *Renard v. Dade County*, 261 So.2d 832, 837 (Fla. 1972)).

Petitioner, Rad El Dub Community Land Trust, also provided comment during the hearing and established standing on the record. (Appx. Tab 3, Pg. 299:21-298:7). The director, Jayne K. Milner, testified that the Land Trust owns two (2) properties "within a few blocks" of the proposed zoning change, which would be negatively affected by the project due to "increased height and density…not compatible with our neighborhood." (Id.) The interest expressed by the Land Trust, which owns properties nearby and in the same neighborhood, exceeds "the general interest in common with all citizens". (CITE). *See Renard*, supra at 837.

D. <u>The City approved bonus height and density for the Property in violation of Code Sec. 23.2-33</u>

Respondent violated Sec. 23.2-33, Sustainability Bonus Incentive Program through the Development Order's approval of additional height without supporting competent, substantial evidence in the record.

A developer that intends to build a structure exceeding 2 stories in height must implement sustainability features and improvements in accordance with Sec. 23.2-33. The purpose of the Program is to offer increased intensity and height in exchange for certain environmental and community improvements. Sec. 23.2-33(a), City Code. The City

Commission has assigned a per-square-foot dollar amount to calculate the value of sustainable bonus incentives allocated to a developer. (Appx. Tab 1, pgs. 77-78). The developer must provide sustainability improvements/features that cumulatively meet or exceed the value of the additional square footage. Sec. 23.2-33(d), City Code. Specifically, "the total value of the qualifying features or improvements must equal at least the amount of the fee-in-lieu established by the city commission". *Id.* The following improvements are identified in the Code as qualifying as "sustainability features or improvements":

a. LEED certification or other nationally recognized and accredited sustainable rating program – qualifies for 100% of incentive award
b. Florida Green Building certification – qualifies for 50% of incentive award
c. Incorporation of historic building or structure designated on National Register of Historic Places – qualifies for 50% of incentive award
d. Higher quality or additional open space beyond the requirements of the code
e. Higher quality or additional landscaping beyond requirements of the code
f. Public amenity such as a law enforcement substation, cultural gallery, public plaza, community meeting space, etc.
g. Public parking garage
h. Other project components open to the public or direct community benefit meeting intent of the comprehensive plan and which are similar to those listed as part of the USGBC's LEED for neighborhood development program.

Id.

As shown on the record below, the maximum "as of right" height in the applicable zoning district (MU-DH) is 2 stories. (Appx. Tab 1, pg. 68). The Development Order granted the Applicant an additional four (4) stories and an additional 37.5 feet of height through the Program, valued by the City at $774,300. (Id.) (Id. at 78)

The City staff report upon which the City's approval of the Development Order relied, stated that the 'sustainability' improvements offered by the Applicant are "***generally consistent*** with the purpose of the Sustainable Bonus Incentive Program." (Id. at 77-78) [emphasis added]. However, *generally* is not enough; Section Sec. 23.2-33(d) of the Code states that the "value of the qualifying features or improvements must equal **at least** the amount of the fee-in-lieu established by the city commission." [emphasis added] The Development Order's allocation of sustainable bonus incentives was made without the requisite demonstration that the development would include enough sustainability and other features to qualify for the extent of the height and story bonuses granted.

As to the Florida Green Building certification, the Development Order only requires a "notification of intent" to obtain Florida Green Building certification, but there is no specific requirement to successfully obtain the

certification or at least post a bond to ensure such certification as required under Sec. 23.2-33. (Appx. Tab 4, pg. 311)

There is also no evidence to support or substantiate the values put forward by staff on the various sustainability features offered, such as "dog park", upon which the City granted the height and story bonuses. (Appx. Tab 1, pgs. 77-78). In fact, in a different part of the record, "utility undergrounding" is estimated at $25,000, which is substantially lower than the $100,000 stated in the staff analysis. (Appx. Tab 1, pgs. 78, 151)

As there was no competent, substantial evidence supporting the values assigned to the sustainability features and award of the sustainable bonus height and density under Sec. 23.2-33, the Development Order should be quashed. The Development Order did not observe the essential requirements of law as set forth in Sec. 23.2-33.

E. <u>The height is limited to 4 stories under Code Sec. 23.3-25</u>

There is no authority to exceed four (4) stories at the Property pursuant to the city's Code. In the Planned Development section of the Code, Sec. 23.3-25, the City is authorized to allow a height that is 50% above the height "as outlined" in Table 1 of the Future Land Use Element of the Comprehensive Plan. Table 1 allows up to 15 feet additional height and 4

stories “max” with the sustainable incentive bonus program allocation. The base height without the Program allocation is 2 stories and 30 feet high.

The City interpreted this table contrary to its plain meaning, by applying the 50% rule to a height of 45 feet/4 stories to reach 6 stories total, which exceeds the max height. (Appx. Tab 4) (Appx. Tab 1, pg. 68). The City’s method of calculating resulted in 4 additional stories as a sustainable bonus incentive, on top of the base cap of 2 stories. (Id.) (Appx. Tab 4, pg. 309). This clearly violates the plain wording in Code Sec. 23.3-25(b)2.C., which states:

> For mixed use urban planned developments located west of Dixie Highway, which include at least three use categories, one being residential, and a minimum project size of two acres, an additional fifty (50) percent bonus in density, intensity and height *as outlined in Table 1* may be obtained. For each project requesting the additional bonus, twice the base line sustainable bonus value shall apply to each square foot above the maximum threshold as shown in Table 1. [emphasis added]

Table 1 states as follows:

Land Use	Zoning District	Density Allowed by Zoning District	Building Height	Height w/ Sustainable Incentive Bonus Program Allocation(1)	Allowable Mix of Uses per District	Floor Area Ratio
		du/acre	stories)			
Mixed Use East (MU-E) 45′ Max.	MU-DH	30 du/acre	30 feet (max 2 stories)	plus 15 feet max 4 stories)	75% residential/ 25% non-residential	1.55
	MU-FH	20 du/acre	30 feet (max 2 stories)	plus 5 feet (max 3 stories)		
	MU-E	30 du/acre	30 feet (max 2 stories)	plus 15 feet (max 4 stories)		
Mixed Use					75%	

Sec. 23.3-25 adopts by reference the above Table 1, which clearly limits the height in MU-DH (Mixed use dixie highway) districts to 4 stories and 45 feet "max" ***with*** the sustainable bonus program allocation. This means two (2) additional stories *with* the Program allocation, based on the code's clear and obvious meaning. See *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984) ("[w]hen a code provision has clear and obvious meaning, then there is no room for interpretation."). Sec. 23.3-25 allows for "50 percent bonus in density…and height *as outlined in Table 1*". Table 1 includes a "max" of 45 feet/4 stories in height; yet the City approved height up to 67.5 feet and six (6) stories under the Program. (Appx. Tab 1, 68, 78). The Respondent violated Code Sec. 23.3-25 by passing the Development Order with bonus height exceeding the maximum height "as outlined in Table 1".

F. The Development Order Allows for More Dwelling Units than Authorized by the Code

The Development Order allows for more dwelling units on the Property than is allowed by the Code. Table 1 provides that in a Mixed-Use Dixie Highway zone, the maximum dwelling units per acre is 30. Assuming, *arguendo*, the Applicant met the criteria to allow for The Sustainable Incentive Bonus, the number of dwelling units may be increased by 50% - leaving Applicant with 45 dwelling units/acre. Assuming further still that

Applicant is entitled to the additional 10 units/acre under the Transfer of Development Rights Program, that amounts to a maximum of 55 dwelling units/acre. (Appx. Tab 1, pg. 68)

The Development Order allows for a total of 127 dwelling units on the Property. (Appx. Tab 4). Simple arithmetic shows that the Property, which is 2.29 acres, cannot sustain that number of dwelling units under the Code. (Appx. Tab 4, pg. 304). The maximum allowable number of dwelling units Applicant may be afforded is 125 dwelling units (55 x 2.29 = 125.95). (Appx. Tab 4, pgs. 304, 309). In fact, Applicant would need at least 2.31 acres in order to develop the 127 units afforded under the Development Order. The Code specifically does not allow rounding up when calculating density[3], which is what the City appears to have done. As such, the Development Order as written cannot stand and must be quashed.

[3] "Density" as defined in Sec. 23.1-12 of the Code as follows:

> *The number of dwelling units per acre on a building site. In computing the maximum allowable density of any building site, acreage shall not include public property or right-of-way. Where the computation of density results in a whole number plus a fraction of dwelling units per acre, the fraction shall be disregarded, i.e., four and nine-tenths (4.9) shall mean four (4) dwelling units per acre.*

G. <u>Applicant Failed to Meet Burden</u>

As the Florida Supreme Court noted in *Educ. Dev. Center v. West Palm Beach Board of Zoning Appeals*, 541 So.2d 106 (Fla. 1989):

> In *City of Deerfield Beach v. Vaillant*, 419 So.2d 624 (Fla. 1982), the Court clearly set forth the standards governing certiorari review. When the Circuit Court reviews the decision of an administrative agency under Fla. rule of Civil Procedure 9.030(c)(3), there are *three* discrete components of its certiorari review.
>
> > Where a party is entitled as a matter of right to seek review in the circuit court from administrative action, the circuit court must determine whether procedural due process is accorded, whether the essential requirements of the law have been observed, and whether the administrative findings and judgment are supported by competent substantial evidence. *Vaillant*, 419 So.2d at 626.

Local government decisions such as the Development Order granting quasi-judicial applications are governed by local regulations, which must be uniformly administered. *Broward County v. G.B.V. Int'l, Ltd.*, 787 So.2d 838 (Fla. 2001); *Miami-Dade County v. Omnipoint Holdings*, 863 So.2d 195 (Fla. 2003). In deciding to approve or deny a quasi-judicial application, a local government must determine whether "competent substantial evidence" shows the application meets the published criteria. <u>Id.</u> Further:

> Neither a quasi-judicial body nor a reviewing circuit court is permitted to add to or detract from these criteria (the local regulations) when making its assigned determination . . . Put

> another way, **quasi-judicial boards do not have the power to ignore, invalidate or declare unenforceable the legislated criteria they utilize in making their quasi-judicial determinations**. *See Baker v. Metropolitan Dade County*, 774 So.2d 14, 19-20 nn. 12-14 (Fla. 3d DCA 2001), *rev. denied*, 791 So.2d 1099 (2001). Thus quasi-judicial boards cannot make decisions based on anything but the local criteria enacted to govern their actions.

Id. (emphasis in bold added).

The burden of demonstrating that a project meets the applicable regulatory criteria is upon the applicant. *Brevard County v. Snyder*, 627 So.2d 469 (Fla. 1993); *Conetta v. City of* Sarasota, 400 So.2d 1051 (Fla. 2d DCA 1981).

In this case, the Applicant clearly failed to demonstrate that the project meets the applicable regulatory criteria. As demonstrated above, under Code, the maximum allowable height “as of right” for this project is 30 feet and 2 stories. (Appx. Tab 1, pg. 68, 78) (Appx. Tab 4, pg. 309). The Development Order, contrary to Sec. 23.3-25 and 23.2-33, allows for a height of 78’2” feet, including 37.5 feet from through the Program. (Id.) The Applicant has failed to demonstrate that the application meets the criteria for the height and stories bonuses under the City Code.

Furthermore, as was made clear above, the Development Order exceeds the number of allowable dwelling units on the 2.29 acres of the

Property. Because the Development Order affords the Applicant 2 additional dwelling units than is allowed under the Code, the Applicant has failed to meet the applicable regulatory criteria. As such, the Development Order is invalid.

In this proceeding, the Development Order must be quashed because the Applicant failed to meet its burden to adduce substantial competent evidence that the application meets the criteria for the requested bonuses that exist in City Code. *Broward County v. G.B.V. Int'l, Ltd.*, 787 So.2d 838 (Fla. 2001); *Miami-Dade County v. Omnipoint Holdings*, 863 So.2d 195 (Fla. 2003).

V. CONCLUSION

The City failed to correctly apply its Code and allowed the Applicant to build to a height exceeding what is allowed under by the City's Code based on the record below. The Petitioners seek an order from this Honorable Court quashing the Development Order.

REQUEST FOR RELIEF

Upon this Court's determination that this Petition states a prima facie basis for relief, this Court should issue an order to show cause directing the Authority to demonstrate why a Writ of Certiorari should not be issued. *Evergreen the Tree Treasurers of Charlotte County, Inc. v. Charlotte County*,

810 So. 2d 526, 530 (Fla. 2d DCA 2002). Petitioners request that this Court issue an order to show cause to the Respondent, and ultimately quash the Respondent's decision to grant the Development Order.

WHEREFORE, Petitioners respectfully request that this Honorable Court:

(a) Assert jurisdiction over the parties to and the subject matter of these proceedings; and

(b) Declare that the Respondent departed from the essential requirements of law; and

(c) Declare that the Development Order is not supported by competent, substantial evidence; and

(d) Determine that this Petition demonstrates a preliminary basis for relief; and

(e) Issue a Summons in Certiorari directed to Respondent requiring that it respond to this Petition; and

(f) After receiving the Respondent's response; issue a Writ of Certiorari reversing and quashing the Development Order; and

(g) Award Petitioners costs of this proceeding.

Respectfully submitted this 17th Day of September, 2021,

/s/__*Ryan A. Abrams*_____
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CERTIFICATE OF COMPLIANCE (FLA. R. APP. P. 9.045(b))

The undersigned attorney hereby certified that he has complied with the font requirements in Fla. R. App. P. 9.045 and word count limits in 9.100(g).

/s/__*Ryan A. Abrams*_____
Ryan A. Abrams

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing document was served this 17th day of September, 2021 by e-mail and U.S. Mail sent to the recipients shown in the attached Service List.

/s/__*Ryan A. Abrams*_____
Ryan A. Abrams

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