



**Cass County Recorder
Deborah A. Moeller**

Telephone: 701-241-5625
moellerd@casscountynynd.gov

MEMO

TO: Cass County Commission

FROM: Deborah A. Moeller, Cass County Recorder

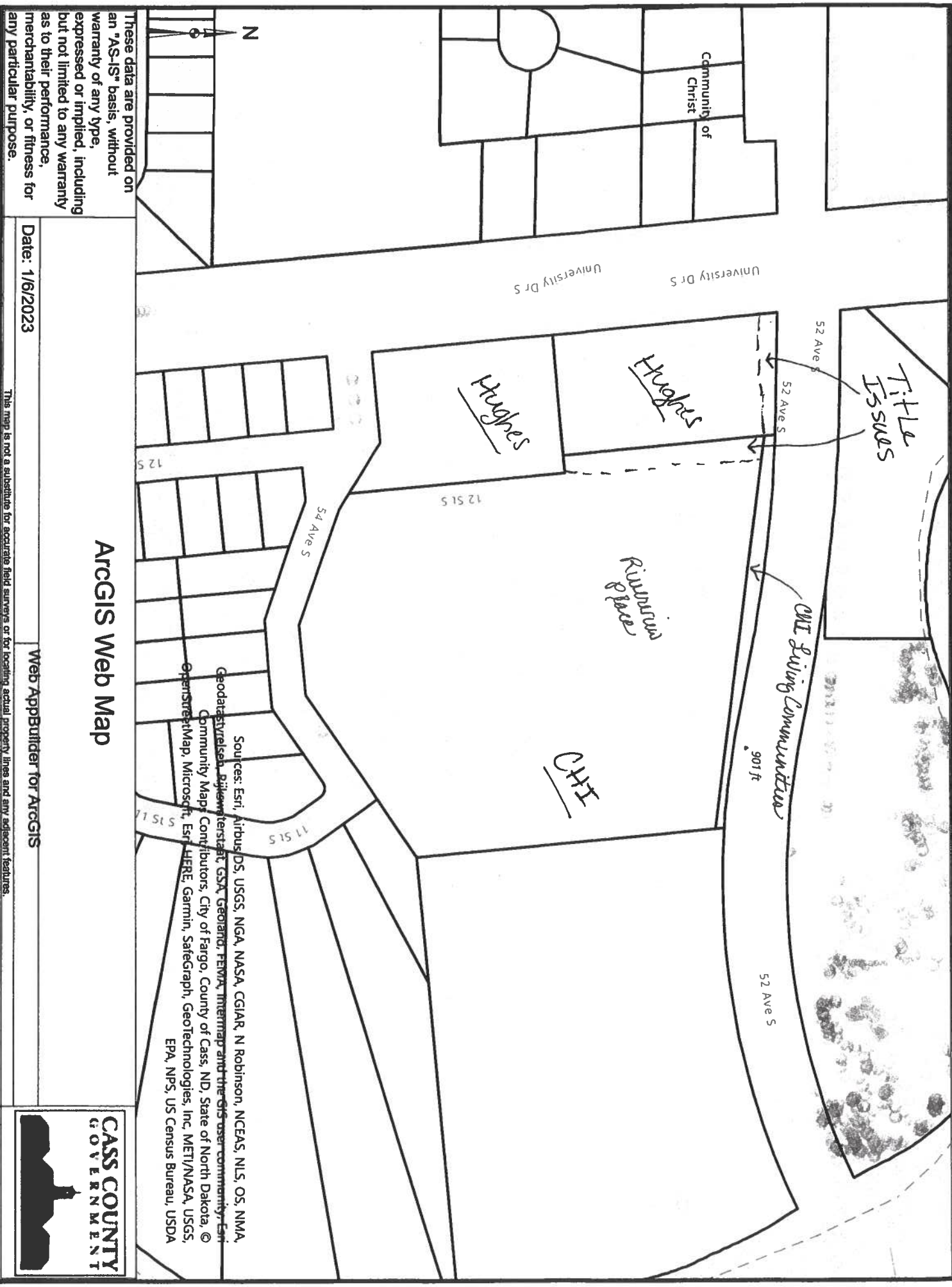
DATE: January 9, 2023

SUBJECT: Correcting Title Issues Related to Riverview Place Subdivision and Riverview Place 2nd Addition

Today, Brandy Madrigga, Alicia Hildebrand, and I met with attorney Andrew L. B. Noah from the Nilles Law Firm to discuss title issues which he discovered while working on real estate matters related to Riverview Place (on 52nd Avenue and just east of University Drive). The parcels in question were, at one time, owned by Cass County and were the subject of a bond issue/lease agreement between Cass County and Villa Nazareth (d/b/a Riverview Place, Inc.). Document No. 1602866, dated October 16, 2017, and recorded in the Cass County Recorder's office on August 25, 2020, indicates the bonds have been cancelled and the lease terminated.

It is my understanding that Cass County no longer has any ownership interest in parcels described in the two deeds accompanying this memo. To clear up title to the subject parcels, Mr. Noah is asking Cass County to sign a Quit Claim Deed to each of the current parcel owners, CHI Living Communities and Hughes, Inc. The purpose of the quit claim deeds is to convey any interest Cass County *may* still have in the parcels due to errors discovered in previously recorded conveyancing documents.

Brandy indicated that the signing of the deeds can be placed on the consent agenda for the January 17th commission meeting. If you should need further details regarding the subject of the deeds, please do not hesitate to contact me. Mr. Noah indicated he could also be available to attend the commission meeting to answer questions if, for some reason, you choose to place this matter on the regular agenda.




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Date: 1/6/2023

ArcGIS Web Map

Web AppBuilder for ArcGIS

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatavislab, Rijkswaterstaat, CSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, City of Fargo, County of Cass, ND, State of North Dakota, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA



This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

CHAPTER 11-18 RECORDER

11-18-01. Recorder's duties - Recording and filing instruments - Abstracts

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.

11-18-01.1. Recorder to be substituted for register of deeds.

Whenever the term "register of deeds" appears in the North Dakota Century Code, the term "recorder" or "county recorder", whichever is appropriate, must be substituted therefor. The recorder must be substituted for, take any actions previously taken by, and perform all duties previously performed by the register of deeds.

11-18-02. Recorder not to record certain instruments unless they bear auditor's certificate of transfer.

Except as otherwise provided in section 11-18-03, the recorder shall refuse to receive or record any deed, contract for deed, plat, replat, patent, auditor's lot, or any other instrument that changes the current property description unless there is entered thereon a certificate of the county auditor showing that a transfer of the lands described therein has been entered and that the delinquent and current taxes and delinquent and current special assessments against the land described in such instrument have been paid, or if the land has been sold for taxes, that the delinquent taxes and special assessments have been paid by sale of the land, or that the instrument is entitled to record without regard to taxes. The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under section 57-02-08.3.

11-18-02.1. Duty of recorder to notify county auditor of certain transactions - Correction of tax rolls by county auditor.

The recorder shall notify the county auditor of the filing of deeds, patents, plats, and vacations of plats, streets, or roads at the time such documents are filed in the recorder's office. The county auditor shall correct the tax rolls and any other records in the auditor's office in order that the auditor's records will be current for the purpose of the preparation of real property assessment books.

11-18-02.2. Statements of full consideration to be filed with recorder - Procedure - Penalty.

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed one of the following:
 - a. A statement of the full consideration paid for the property conveyed.
 - b. A statement designating one of the exemptions in subsection 6 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-27 and who acquired the manufactured home before the affixation of the manufactured home to the real property shall either contain in or present in addition to the affidavit of

- affixation a statement of the full consideration paid by the party for the manufactured home before the affixation.
3. The recorder may not record any deed unless the deed complies with subsection 1 or record any affidavit of affixation unless the affidavit complies with subsection 2.
 4. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out this section, and the forms must contain a space for the explanation of special circumstances that may have contributed to the amount of the consideration.
 5. For purposes of subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein is granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing that transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
 6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale that resulted as a settlement of an estate.
 - e. All forced sales, mortgage foreclosures, and tax sales.
 - f. All sales to or from religious, charitable, or nonprofit organizations.
 - g. All sales when there is an indicated change of use by the new owners.
 - h. All transfer of ownership of property for which is given a quitclaim deed.
 - i. Sales of property not assessable by law.
 - j. Agricultural lands of less than eighty acres [32.37 hectares].
 - k. A transfer that is pursuant to a judgment.
 7. Any person that, in the statements provided for in subsection 1 or subsection 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein is guilty of a class B misdemeanor.

11-18-03. Instruments entitled to record without regard to taxes.

The following instruments may be recorded by the recorder without the auditor's certificate referred to in section 11-18-02:

1. A sheriff's or referee's certificate of sale on execution or on foreclosure of a mortgage.
2. A mineral deed conveying oil, gas, and other minerals in or under the surface of lands.
3. A personal representative's deed or any document terminating joint tenancy or a life estate or any judgment or decree affecting title to real estate, which must be presented to the auditor's office prior to being placed of record in order to allow the auditor to make such changes in the tax rolls of the auditor's office as may be necessary.
4. Any deed conveying to the state, or to any political subdivision or municipal corporation thereof, any right of way for use as a public street, alley, or highway.
5. Any plat, replat, or auditor's lot accompanied by a resolution requesting the recording of the plat, replat, or auditor's lot by the governing body of a political subdivision.
6. A statement of succession in interest to minerals deemed to be abandoned under chapter 38-18.1.
7. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.

11-18-04. Seal of recorder.

The recorder shall maintain a seal and make an impression of the same upon each instrument to which the recorder attaches the recorder's official signature. The seal shall bear the following inscription: Recorder of _____ County.

QUIT CLAIM DEED

THIS INDENTURE, Made this ____ day of January, 2023, between **Cass County, North Dakota**, a body corporate and politic under the laws of the State of North Dakota, Grantor, and **CHI Living Communities**, an Ohio nonprofit corporation, Grantee, whose post office address is 930 South Wynn Road, Oregon, Ohio 43616.

For and in consideration of the sum of One and No/100 Dollars, Grantor does hereby QUITCLAIM to the Grantee all of the following real property lying and being in the County of Cass, and the State of North Dakota, and described as follow, to-wit:

See Exhibit "A" attached hereto.

The legal description was obtained from previously recorded documents.

I certify that the full consideration paid for the property described in this deed is \$ _____.

I certify that the requirement for a report or statement of full consideration does not apply because this deed is for one of the transactions exempted by subdivisions (f) and (h) of NDCC 11-18-02.2(6).

Dated: _____, 2023

Grantee or Agent

IN TESTIMONY WHEREOF, the Grantor has caused these presents to be executed on its behalf.

Cass County, North Dakota, a body corporate and politic under the laws of North Dakota

By: _____
Name: _____
Title: _____

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this _____ day of January, 2023, by _____, the _____ of Cass County, North Dakota for and on behalf of the corporation.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

NILLES LAW FIRM
1800 Radisson Tower
201 North Fifth Street
P.O. Box 2626
Fargo, North Dakota 58108

EXHIBIT "A"

Lot One, Block One, of Riverview Place Subdivision to the City of Fargo, situate in the County of Cass and the State of North Dakota.

QUIT CLAIM DEED

THIS INDENTURE, Made this _____ day of January, 2023, between **Cass County, North Dakota**, a body corporate and politic under the laws of the State of North Dakota, Grantor, and **Hughes, Inc.**, a North Dakota nonprofit corporation, Grantee, whose post office address is 5300 12th Street South, Unit 113, Fargo, North Dakota 58104.

For and in consideration of the sum of One and No/100 Dollars, Grantor does hereby QUITCLAIM to the Grantee all of the following real property lying and being in the County of Cass, and the State of North Dakota, and described as follow, to-wit:

See Exhibit "A" attached hereto.

The legal description was obtained from previously recorded documents.

I certify that the full consideration paid for the property described in this deed is \$ _____.

I certify that the requirement for a report or statement of full consideration does not apply because this deed is for one of the transactions exempted by subdivisions (f) and (h) of NDCC 11-18-02.2(6).

Dated: _____, 2023

Grantee or Agent

EXHIBIT "A"

Parcel 1:

Lot One, Block Two, Riverview Place Subdivision to the City of Fargo, situate in the County of Cass and the State of North Dakota and all of vacated 12th Street South lying north of Riverview Place 2nd Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

Parcel 2:

Lot One, Block One, Riverview Place 2nd Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.