

ORDINANCE NO. 3776

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A DEED FOR THE PURPOSE OF CONVEYING CERTAIN SURPLUS PROPERTY LOCATED AT 446 BOND STREET IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND TO ROBERT T. FRAVEL AND BRENDA M. FRAVEL."

WHEREAS, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property located at 446 Bond Street in the City of Cumberland, Allegany County, Maryland;

WHEREAS, the said property was declared to be surplus property under the terms of Order No. 25,806, passed by the Mayor and City Council on April 21, 2015;

WHEREAS, Robert T. Fravel and Brenda M. Fravel desire to purchase the said property for the sum of \$1,500.00; and

WHEREAS, the Mayor and City Council of Cumberland deem the acceptance of that offer to be in the City's best interests.

NOW, THEREFORE

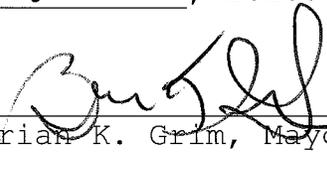
SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that the Mayor and City Council accept Robert T. Fravel and Brenda M. Fravel's offer to purchase the real property located at 446 Bond Street, Cumberland, MD 21502 for the purchase price of \$1,500.00, provided that all costs of effecting the transfer and all recordation and transfer taxes shall be borne by the Fravels and they shall be responsible for the payment of a prorated portion of the current year real estate taxes;

SECTION 2: AND BE IT FURTHER ORDAINED, that if the Fravels are not able to pay the entire purchase price at the time of the delivery of the deed, its delivery shall be conditioned upon their execution of a promissory note for the unpaid purchase money, said promissory note to require payments in the amount of \$100.00 per month at zero percent interest if the payments are made in a timely manner, said promissory note to be prepared by the City Solicitor.

SECTION 3: AND BE IT FURTHER ORDAINED, that the Mayor and City Clerk be and they are hereby authorized to execute a deed in the form attached hereto as Exhibit A or in a similar form, conveying the aforesaid real property to the Fravels in exchange for the payment of the aforesaid purchase price;

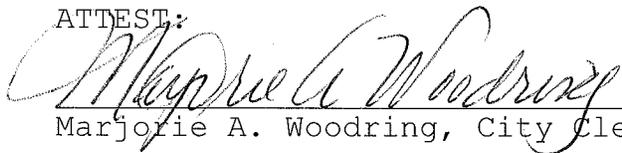
SECTION 4: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this 19th day of May, 2015.



Brian K. Grim, Mayor

ATTEST:



Marjorie A. Woodring, City Clerk

1st reading: May 5, 2015

2nd reading: May 19, 2015

3rd reading: May 19, 2015

Passed 4-0

EXHIBIT A

NO TITLE SEARCH PERFORMED

THIS QUITCLAIM DEED, made this _____ day of _____, 2015, by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND**, a Maryland municipal corporation, party of the first part, and **ROBERT T. FRAVEL and BRENDA M. FRAVEL**, husband and wife, of Allegany County, Maryland, parties of the second part.

WITNESSETH:

That for and in consideration of the sum of One Thousand Five Hundred Dollars (\$1,500.00) cash in hand paid and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the party of the first part does hereby quitclaim unto the parties of the second part, their personal representatives, heirs and assigns, all of the party of the first part's right, title, interest and estate in and to the following described property lying and being in the City of Cumberland, Allegany County, Maryland, to wit:

ALL that lot or parcel of ground situated on the Southwesterly side of Bond Street in the City of Cumberland, Election District No. 5, Allegany County, Maryland, known and designated as part of Lot No. 4 in Gephart's Second Addition to Cumberland, which is more particularly described as follows, to-wit:

BEGINNING for the same on the Southwesterly side of Bond Street at the end of the division line between Lots Nos. 3 and 4 in said addition, and running then with the Southwesterly side of Bond Street South 61-3/4 degrees East 25 feet, then South 28 1/4 degrees West 70 feet, then parallel with Bond Street North 61-3/4 degrees West 25 feet to the aforesaid division line, and then with part of said division line North 28-1/4 degrees East 70 feet to the place of beginning.

IT BEING the same property which was conveyed from Craig A. Robertson, Sheriff of Allegany County, Maryland to the Mayor and City Council of Cumberland by deed dated August 1, 2012 and recorded among the Land Records of Allegany County, Maryland in Book 1944, Page 55.

TOGETHER with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the above-described property unto the parties of the second part, their personal representatives, heirs and assigns, in fee simple forever as tenants by the entireties.

WITNESS the hand and seal of the party of the first part the day and year first above written.

WITNESS/ATTEST:

**MAYOR AND CITY COUNCIL
OF CUMBERLAND**

Marjorie A. Woodring, City Clerk

By: _____ (SEAL)
Brian K. Grim, Mayor

**STATE OF MARYLAND,
ALLEGANY COUNTY, TO WIT:**

I HEREBY CERTIFY, that on this ____ day of _____, 2015, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Brian K. Grim**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, the Mayor of Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland, and acknowledged the foregoing to be the act and deed of the said Mayor and City Council of Cumberland; and at the same time made oath he is duly authorized by it to make this acknowledgment; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$1,500.00 and that the total payment made to the grantor was \$1,500.00 and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires: _____

I HEREBY CERTIFY that the within and foregoing document was prepared by, or under the supervision of, the undersigned, a Maryland attorney, and that no title search was performed in connection with its preparation.

MICHAEL SCOTT COHEN

PROMISSORY NOTE

\$1,500.00

_____, 2015
Cumberland, MD

FOR VALUE RECEIVED, **Robert T. Fravel and Brenda M. Fravel** (collectively, "Makers") jointly and severally promise to pay to the **Mayor and City Council of Cumberland** ("Payee"), the principal amount of One Thousand Five Hundred Dollars (\$1,500.00) (the "Principal Amount"), together with interest on the unpaid balance of the Principal Amount from the date of this Promissory Note ("Note"), until paid, at the hereinafter prescribed following interest rate:

1. **Interest Rate.** No interest shall accrue on the unpaid Principal Amount except in the event of a default.

2. **Payment.** Makers promise to make the following payments on account of the indebtedness. On or before the last day of each month following the date of this Note, including the month first stated above, Makers shall pay Payee regular monthly installments (hereinafter collectively referred to as the "Monthly Installments") of principal, each in the amount of One Hundred Dollars (\$100.00). On _____, 2016, Makers shall pay the entire unpaid balance of the Principal Amount together with all other sums due under the terms of this Note.

3. **Application of Payments.** All payments on account of this Note, when paid, shall be applied first to late fees and charges or any other charges due hereunder, then to the payment of all interest then due on the unpaid balance of the Principal Amount, and the balance, if any, shall be applied in reduction of the unpaid balance of the Principal Amount. Makers may prepay the unpaid balance of the Principal Amount in whole at any time or in part from time to time without premium or penalty; provided, however, that Makers shall pay to Payee, all other fees, costs and charges required to be paid by Makers to or for the benefit of Payee.

4. **Place/Manner of Payments.** All payments required under the terms of this Note shall be paid in lawful money of the United States of America to Payee at _____, Cumberland, MD 21502, or at such other place as Payee or any other holder of this Note may at any time or from time to time designate in writing to Makers. Payments made by check or money

order must be made payable to the City of Cumberland or the Mayor and City Council of Cumberland.

5. **Late Payment.** Makers promise to pay a "late charge" equal to Ten Dollars (\$10.00) if such payment is made more than ten (10) days after the due date thereof.

6. **Default and Remedies of Payee.** The following defaults shall constitute events of default hereunder and are hereinafter referred to as an "Event of Default" or "Events of Default": (i) failure to pay any of the payments required under the terms of this Note, or (ii) a breach of any of the terms and conditions of this Note other than a payment default.

Upon the occurrence of an Event of Default, Makers shall pay on demand all costs and expenses of collection, including Payee's reasonable attorneys' fees, court costs and litigation expenses.

Upon any Event of Default, Payee may, at its option, declare the unpaid balance of the Principal Amount then outstanding fully payable. Payee shall have the right to rescind any acceleration in payment of this Note for default, as aforesaid, if Payee so elects, in which event this Note shall be construed, interpreted and enforced in the same manner as if Payee had never elected to declare the unpaid Principal Amount of this Note at once due and payable.

Failure to exercise any of the foregoing options upon the happening of one or more of the foregoing events shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event, and no single or partial exercise of any right or remedy shall preclude other or further exercise of the same or any other right or remedy. Payee shall have no duty to exercise any or all of the rights and remedies herein provided or contemplated. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time, or nullify any prior exercise of any such option without the express written consent of the Payee. In this regard, Payee shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Payee, and then only to the extent specifically set forth in the writing. A waiver on one event shall not be

construed as a continuing waiver or as a bar to or waiver of any right or remedy to a subsequent event.

The remedies of Payee as provided herein and the warrants contained herein shall be cumulative and concurrent, and may be pursued singularly, successively, or together at the sole discretion of Payee, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

7. Makers' Waivers. Makers hereby waive and release all errors, defects and imperfections in any proceedings instituted by Payee under the terms of this Note, as well as all benefit that might accrue to Makers by virtue of any present or future laws exempting any property, real or personal, or any part of the proceeds arising from any sale of any such property from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment; and Makers agree that any real estate that may be levied upon pursuant to a judgment obtained by virtue hereof, on any writ of execution issued thereon may be sold upon any such writ in whole or in part in any order desired by Payee.

Makers and any endorsers hereof severally waive presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest or notice of protest and nonpayment, bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and properties securing payment hereof. From time to time, without affecting the obligation of Makers to pay the outstanding principal balance of this Note and to observe the covenants of Makers contained herein, without affecting the duties and obligations of any endorser hereto, without giving notice to or obtaining the consent of Makers or any endorser hereto, and without liability on the part of the Payee, the Payee may, at the option of the Payee, extend the time for payment of interest herein and/or principal hereof, reduce the payments hereunder, release anyone liable on this Note, accept a renewal of this Note, modify the terms and time of payment of this Note, join in any extension or subordination or exercise any option or election hereunder or exercise any option or election hereunder. No one or more of such actions shall constitute a novation.

MAKERS HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH EITHER OF MAKERS AND THE PAYEE MAY BE

PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS NOTE. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS NOTE.

8. Miscellaneous. If any term or provision of this Note or the application thereof to any person, property or circumstance shall to any extent be invalid or unenforceable as to the remainder of this Note, then the application of such term or provision to persons, properties and circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Note shall be valid and enforceable to the fullest extent permitted by law.

This Note shall be governed and construed according to the laws of the State of Maryland without regard to principles of conflict of laws. This Note is and shall be enforceable with an action commenced in the Circuit Court for Allegany County, Maryland, and Makers agree to be subject to the jurisdiction of such Court and further waive any claim that any action or proceeding arising out of or relating to this Note and commenced in such Court is an inconvenient forum or lacks proper venue. This provision shall not, however, be construed to proscribe any action or remedy being brought or asserted by Payee against Makers in any other forum located in any other jurisdiction.

IN WITNESS WHEREOF, Makers have caused this note to be executed and delivered in Cumberland, Allegany County, Maryland in their names, under their seals and on their behalf the day and year first written above.

WITNESS:

_____ (SEAL)
Robert T. Fravel

_____ (SEAL)
Brenda M. Fravel