

ORDINANCE NO. 3707

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A CONTRACT OF SALE AND DEED FOR THE PURPOSE OF CONVEYING TO BETSY L. DELOZIER CERTAIN SURPLUS PROPERTY LOCATED AT 413-415 SPRINGDALE STREET IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND."

WHEREAS, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property located at 413-415 Springdale 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. 25,377 passed by the Mayor and City Council on February 28, 2012;

WHEREAS, Betsy L. Delozier desires to purchase the said property for the sum of \$2,500.00; and

WHEREAS, the Mayor and City Council of Cumberland deem it to be in the interest of the City to grant the said conveyance.

NOW, THEREFORE

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that the Mayor be and he is hereby authorized to execute contract of sale in the forms attached hereto as Exhibit A or in a similar form agreeing to convey the real property and the improvements thereon located at 413-415 Springdale Street, Cumberland, Maryland 21502 to Betsy Delozier in consideration of her payment of \$2,500.00 as consideration for the said conveyance;

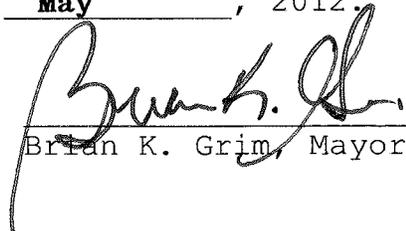
MAY X 8 2012

SECTION 2: 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 B or in a similar form agreeing to convey and conveying the real property and the improvements thereon located at 413-415 Springdale Street, Cumberland, Maryland 21502 to Betsy Delozier in consideration of her payment of \$2,500.00 as consideration for the said conveyance;

SECTION 3: AND BE IT FURTHER ORDAINED, that the City Solicitor be and he is hereby authorized to execute a HUD-1 or similar closing statement and such other documents as may be required or expedient for the purpose of facilitating and completing the closing for the sale of the property referenced herein in accordance with the terms of the contract of sale attached hereto as Exhibit A and he is further authorized to deliver the deed executed by the Mayor and City Clerk to Betsy Delozier at the said closing; and

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

Passed this 8th day of May, 2012.



Brian K. Grim, Mayor

ATTEST:



Marjorie A. Eirich, City Clerk

1st reading: April 24, 2012
2nd reading: May 08, 2012
3rd reading: May 08, 2012
Passed: May 08, 2012

EXHIBIT A

CONTRACT OF SALE

THIS CONTRACT OF SALE is made this _____ day of March 2012, by and between MAYOR AND CITY COUNCIL OF CUMBERLAND, a Maryland municipal corporation, the Seller, and BETSY L. DELOZIER, the Buyer.

Section 1. DEFINITIONS.

- 1.1 "The Date of Closing" means the date listed in Section 6.1 of this Contract of Sale, or, if modified pursuant to the terms of this Contract of Sale, the actual date on which the matters described in Section 6 are performed.
- 1.2 "The Down Payment" means the sum of money described in Section 3 of this Contract of Sale.
- 1.3 "Encumbrance" means any mortgage, judgment, lien, security interest, charge or other encumbrance except (a) any use and occupancy restriction of public record, privately or governmentally imposed, and generally applicable to properties in the immediate neighborhood of the Property; (b) publicly recorded easements for public utilities; and (c) other easements which may be observed by an inspection of the Property.
- 1.4 "The Property" means (a) that parcel of real estate located on the west side of Springdale Street in the City of Cumberland, Allegany County, Maryland and being that particularly described in a deed to the Seller from Jason M. Bennett, Director of Finance of Allegany County, Maryland dated December 30, 2011 and recorded in Record Book 1844, page 217 among the Land Records of Allegany County, Maryland and (b) the improvements on and legally considered a part of that parcel of real estate.

Section 2. AGREEMENT OF SALE.

The Seller agrees to sell the Property to the Buyer, and the Buyer agrees to purchase the Property from the Seller.

Section 3. PURCHASE PRICE.

The Purchase Price shall be Two Thousand Five Hundred Dollars (\$2,500.00) and shall be paid as provided in this Section 3.

- 3.1 The sum of Zero Dollars (\$0.00) as the "Down Payment, which shall be due upon the signing of this Contract of Sale.
- 3.2 The balance of Two Thousand Five Hundred Dollars \$(2,500.00) shall be payable in good funds on the Date of Closing.

Section 4. WARRANTIES AND CONDITION OF TITLE.

- 4.1 Title to the Property shall be good and merchantable, free of all Encumbrances.
- 4.2 If any title defect is revealed that causes the Property to be unmerchantable and to which the Buyer objects, the provisions of this section 4.2 shall apply.
- 4.2.1 If the title defect consists of an Encumbrance, which can be satisfied by the payment of a certain sum, the Buyer may elect to pay the Encumbrance and proceed to closing or cancel this Contract of Sale.
- 4.2.2 If the Encumbrance is not such that it can be satisfied out of sale proceeds on the Date of Closing, the Seller may elect to satisfy the Encumbrance, in which event the Date of Closing may be postponed for a period not to exceed thirty (30) days to enable the Seller to satisfy the Encumbrance. If the Encumbrance cannot be satisfied on the Date of Closing and if the Seller either does not elect to satisfy the Encumbrance, or, having so elected, fails to do so, the Buyer may either accept the Property with the Encumbrance against it or cancel this Contract of Sale.
- 4.3 The Seller makes no warranties concerning the condition of the Property. The Buyer acknowledges the opportunity to inspect the Property and the Buyer agrees to accept it "as is" as of the Date of Closing.

Section 5. RISK OF LOSS

Until the transfer of possession, risk of loss of the Property resides with the Seller. If the Property is substantially damaged or destroyed during the time the Seller maintains the risk of loss, as the Buyer's sole and exclusive remedy, shall be to cancel this Contract of Sale thereby releasing each of the parties to its terms from further obligation thereunder.

Section 6. CLOSING

- 6.1 Closing shall be not later than 30 days from the date of this agreement.
- 6.2 At the Closing, the Seller shall deliver to the Buyer a quitclaim deed in recordable form conveying fee simple title to the Property to the Buyer. The Seller shall deliver possession of the Property to the Buyer. The deed shall include the provisions set forth in the draft deed attached hereto and incorporated by reference herein as Exhibit 1.
- 6.3 At the Closing, the Buyer shall pay the balance of the Purchase Price to the Seller.

Section 7 ADJUSTMENTS AND ALLOCATIONS.

- 7.1 State, county and municipal taxes, water and sewer service charges and other public charges with respect to the Property, if any, and rents shall be apportioned to the date of closing.
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- 7.2 Recordation and transfer taxes imposed for the recording of the deed conveying title to the Property shall be payable equally by the Seller and the Buyer.

Section 8. DEFAULT.

- 8.1 If the Buyer defaults, the Seller may exercise any available remedy, legal or equitable in nature..
- 8.2 If the Seller defaults, the Buyer may exercise any available remedy, legal or equitable in nature.

Section 9. MISCELLANEOUS.

- 9.1 Time is of the essence under each of the terms of this Contract of Sale.
- 9.2 This Contract of Sale, covering real property located in the State of Maryland, shall be construed according to Maryland law.
- 9.3 This Contract of Sale shall bind upon and run to the benefit of its parties, and their respective heirs, personal representatives, successor and/or assigns.
- 9.4 The Buyer may not assign the Buyer's rights under this Contract of Sale except upon the written consent of the Seller.
- 9.5 This Contract may be modified only by written document signed by each of its parties.

9.6 This written document embodies all of the agreements between the parties. Neither party is relying upon any statement or representation not contained in this written document. This Contract of Sale may, however, contain one or more Riders, which, if they specifically refer to this Contract of Sale by identification of the parties and the date, shall be considered incorporated in and forming a part of this Contract of Sale.

EXECUTED by and on behalf of the parties as of the day and year first written above.

Mayor and City Council of Cumberland

By _____ (SEAL)

Brian K. Grim, Mayor

 _____ (SEAL)
BETSY L. DELOZIER

EXHIBIT 1

NO TITLE SEARCH PERFORMED

THIS QUITCLAIM DEED, made this ____ day of _____, 2012, by and between MAYOR AND CITY COUNCIL OF CUMBERLAND, a Maryland municipal corporation, party of the first part, and BETSY L. DELOZIER, of Allegany County, Maryland, party of the second part.

WITNESSETH:

That for and in consideration of the sum of Two Thousand Five Hundred Dollars (\$2,500.00) 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 party of the second part, her 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, piece or parcel of ground lying and being in (Henry) Shriver's Addition to Cumberland and described as follows: known and distinguished on the plat of said Addition as Lot Number Twenty-Seven (27).

BEGINNING at the end of the first line of Lot Number Twenty-Six (26) on the west side of Springdale Street at #413 and #415, and running thence with said street, south 32-1/8 degrees west 50 feet then north 63-3/4 degrees west 98-6/10 feet to the back line of the lots fronting on Lee Street, now called Cedar Street, and with said line north 27 degrees east 50 feet to the end of the Second line of Lot Number Twenty-Six (26), then reversing said line south 63-3/4 degrees east 102-9/10 feet, to the beginning.

IT BEING the same property described in the deed from Jason M. Bennett, Director of Finance of Allegany County, Maryland to Mayor and City Council of Cumberland dated December 30, 2011 and recorded among the Land Records of Allegany County, Maryland in Book 1844, Page 217.

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 party of the second part, her personal representatives, heirs and assigns in fee simple forever.

The foregoing conveyance is made subject to the following covenants, restrictions and agreements:

1. The party of the second part shall secure the improvements located upon the hereinbefore-described property by installing and/or boarding up broken windows and any broken/missing doors providing access to the interior of said improvements to the reasonable satisfaction of the party of the first part no later than thirty (30) days from the date of this deed.

2. The party of the second part shall mske such repairs and improvements to the hereinbefore-described property such as are necessary to bring it into compliance with the terms and provisions of Chapter 5 of the Cumberland City Code no later than one (1) year from the date of this deed, it being understood that the party of the first part retains the right to cite the party of the second part for violations of the said Code during the course of the aforesaid one (1) year period.

3. The party of the first part and its designees shall have the right to inspect the hereinbefore-described property from time to time in order to ensure that the work described in paragraphs 1 and 2 hereinbefore is progressing and is being performed and completed in the manner described herein; provided, however, that the party of the first part shall endeavor to give the party of the second part no less than seventy-two (72) hours advance notice of any such inspections. The party of the second part shall fully cooperate with the party of the first part and its designees in regard to the scheduling and conduct of the inspections.

4. The party of the second part may not convey the hereinbefore-described property or any interest therein (aside from a security interest granted subject to these covenants, restrictions and agreements) to a third party until all of the repairs and improvements described in paragraphs 1 and 2 herein are completed in accordance with the terms and provisions set forth therein. Any such conveyance or attempt at such conveyance shall be null and void. In the event the property is not reconveyed to the party of the first part on or before April 1, 2014 in accordance with the hereinafter set forth provisions, the repairs and/or improvements described above shall be deemed to be completed in accordance with the terms and provisions set forth above, and the party of the first part shall forfeit its hereinafter-described rights of reverter.

5. Should the party of the second part fail to comply with the terms and provisions of paragraphs 1 and 2 hereinbefore, the title to the said property shall immediately and without the necessity of any further action on the part of the party of the first part, revert and revest in the party of the first part, and the party of the second part shall lose and forfeit all of their rights, title and interest in and to the said property and to the improvements, fixtures, rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, and the party of the first part shall have the right of re-entry to the said property.

6. In furtherance of the terms and provisions set forth in the preceding paragraph, the party of the second part hereby appoints Jeffrey D. Rhodes, City Administrator of the City of Cumberland, and his successor City Administrators, her true and lawful attorney-in-fact, with full power of substitution, hereby granting them full power and authority for her and in her stead to execute and deliver a deed or deeds to the

hereinbefore-described property to the party of the first part in the event the party of second part fails to comply with the terms and provisions set forth in paragraphs 1 and 2 hereinbefore and to do any and all acts required in order to effect the conveyance of the hereinbefore-described property to the party of the first part in the event the party of the second part fails to comply with the said terms and conditions. The terms and provisions of this paragraph 6 shall not be subject to revocation except upon the written consent of the party of the first part; however, notwithstanding the foregoing, they shall expire on April 1, 2014 and shall be of no further force and effect after that date. The terms and provisions of this paragraph 6 shall not be affected by the disability or incapacity of the party of the second part, but shall remain in full force and effect from time to time and at all times until the death of the party of the second part.

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. Eirich, City Clerk

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

**WITNESSES TO SIGNATURE
OF BETSY L. DELOZIER:**

_____ (SEAL)
Betsy L. Delozier

printed name

address

printed name

address

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

I HEREBY CERTIFY, that on this _____ day of _____, 2012, 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 \$2,500.00 and that the total payment made to the grantor was \$_____ 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: _____

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

I HEREBY CERTIFY, that on this _____ day of _____, 2012, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Betsy L. Delozier**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing instrument to be her act and deed.

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.

MICHAEL SCOTT COHEN

EXHIBIT B

NO TITLE SEARCH PERFORMED

THIS QUITCLAIM DEED, made this ____ day of _____, 2012, by and between MAYOR AND CITY COUNCIL OF CUMBERLAND, a Maryland municipal corporation, party of the first part, and BETSY L. DELOZIER, of Allegany County, Maryland, party of the second part.

WITNESSETH:

That for and in consideration of the sum of Two Thousand Five Hundred Dollars (\$2,500.00) 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 party of the second part, her 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, piece or parcel of ground lying and being in (Henry) Shriver's Addition to Cumberland and described as follows: known and distinguished on the plat of said Addition as Lot Number Twenty-Seven (27).

BEGINNING at the end of the first line of Lot Number Twenty-Six (26) on the west side of Springdale Street at #413 and #415, and running thence with said street, south 32-1/8 degrees west 50 feet then north 63-3/4 degrees west 98-6/10 feet to the back line of the lots fronting on Lee Street, now called Cedar Street, and with said line north 27 degrees east 50 feet to the end of the Second line of Lot Number Twenty-Six (26), then reversing said line south 63-3/4 degrees east 102-9/10 feet, to the beginning.

IT BEING the same property described in the deed from Jason M. Bennett, Director of Finance of Allegany County, Maryland to Mayor and City Council of Cumberland dated December 30, 2011 and recorded among the Land Records of Allegany County, Maryland in Book 1844, Page 217.

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 party of the second part, her personal representatives, heirs and assigns in fee simple forever.

The foregoing conveyance is made subject to the following covenants, restrictions and agreements:

1. The party of the second part shall secure the improvements located upon the hereinbefore-described property by installing and/or boarding up broken windows and any broken/missing doors providing access to the interior of said improvements to the reasonable satisfaction of the party of the first part no later than thirty (30) days from the date of this deed.

2. The party of the second part shall mske such repairs and improvements to the hereinbefore-described property such as are necessary to bring it into compliance with the terms and provisions of Chapter 5 of the Cumberland City Code no later than one (1) year from the date of this deed, it being understood that the party of the first part retains the right to cite the party of the second part for violations of the said Code during the course of the aforesaid one (1) year period.

3. The party of the first part and its designees shall have the right to inspect the hereinbefore-described property from time to time in order to ensure that the work described in paragraphs 1 and 2 hereinbefore is progressing and is being performed and completed in the manner described herein; provided, however, that the party of the first part shall endeavor to give the party of the second part no less than seventy-two (72) hours advance notice of any such inspections. The party of the second part shall fully cooperate with the party of the first part and its designees in regard to the scheduling and conduct of the inspections.

4. The party of the second part may not convey the hereinbefore-described property or any interest therein (aside from a security interest granted subject to these covenants, restrictions and agreements) to a third party until all of the repairs and improvements described in paragraphs 1 and 2 herein are completed in accordance with the terms and provisions set forth therein. Any such conveyance or attempt at such conveyance shall be null and void. In the event the property is not reconveyed to the party of the first part on or before April 1, 2014 in accordance with the hereinafter set forth provisions, the repairs and/or improvements described above shall be deemed to be completed in accordance with the terms and provisions set forth above, and the party of the first part shall forfeit its hereinafter-described rights of reverter.

5. Should the party of the second part fail to comply with the terms and provisions of paragraphs 1 and 2 hereinbefore, the title to the said property shall immediately and without the necessity of any further action on the part of the party of the first part, revert and re-vest in the party of the first part, and the party of the second part shall lose and forfeit all of their rights, title and interest in and to the said property and to the improvements, fixtures, rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, and the party of the first part shall have the right of re-entry to the said property.

6. In furtherance of the terms and provisions set forth in the preceding paragraph, the party of the second part hereby appoints Jeffrey D. Rhodes, City Administrator of the City of Cumberland, and his successor City Administrators, her true and lawful attorney-in-fact, with full power of substitution, hereby granting them full power and authority for her and in her stead to execute and deliver a deed or deeds to the

hereinbefore-described property to the party of the first part in the event the party of second part fails to comply with the terms and provisions set forth in paragraphs 1 and 2 hereinbefore and to do any and all acts required in order to effect the conveyance of the hereinbefore-described property to the party of the first part in the event the party of the second part fails to comply with the said terms and conditions. The terms and provisions of this paragraph 6 shall not be subject to revocation except upon the written consent of the party of the first part; however, notwithstanding the foregoing, they shall expire on April 1, 2014 and shall be of no further force and effect after that date. The terms and provisions of this paragraph 6 shall not be affected by the disability or incapacity of the party of the second part, but shall remain in full force and effect from time to time and at all times until the death of the party of the second part.

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. Eirich, City Clerk

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

**WITNESSES TO SIGNATURE
OF BETSY L. DELOZIER:**

_____ (SEAL)
Betsy L. Delozier

printed name

address

printed name

address

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

I HEREBY CERTIFY, that on this _____ day of _____, 2012, 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 \$2,500.00 and that the total payment made to the grantor was \$ _____ 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: _____

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

I HEREBY CERTIFY, that on this _____ day of _____, 2012, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Betsy L. Delozier**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing instrument to be her act and deed.

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.

MICHAEL SCOTT COHEN