



Tyler Smith & Associates PC
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February 11, 2021

Via email and first class mail
City of Canby, PO Box 930, Canby OR 97013
Counsel Joe Lindsay, email
Mayor Brian Hodson, email

RE: Public Records Request re: Ordinance 1544 and process for the sale of 292 N Holly Street

Dear City of Canby

Our law firm has been retained by a number of local business owners who demand an open, fair and public process when selling any City property, but specifically here 292 N Holly Street (“the Old Library Building”). Therefore, we make the following public records request pursuant to ORS 192.314 and 193.324 and demand that you follow the law, specifically ORS 221.725 and also sell city property through an open, transparent process at a competitive and fair market price. We recently learned that you have privately and selectively negotiated a sale with one of the very few businesses you knew was interested in potentially buying the old library building. We understand this is the same entity that was also negotiating to buy the old Police Station building from a private party for a fair market value, but they closed off those negotiations for this potential deal.

Pursuant to ORS 192.314 and 192.324, I request access to and copies of the following:

1. Any and all documents relating to individuals, entities or other legal persons who have previously expressed interest in buying the Old Library Building between 2017 and the present; and
2. Any and all documents reflecting communications from the City or any City official to the individuals, entities, or legal persons identified in item 1;
3. Any and all documents relating to the city’s determination pursuant to ORS 221.725 that it is necessary or convenient to sell the Old Library Building for \$500,000;
4. Any and all documents reflecting the city’s determination that it would be better to sell the Old Library Building for \$500,000 rather than a competitive or fair market price which was appraised before 2017 at \$952,000 and now is estimated by the Clackamas Tax Assessor at over \$1,400,000.00.



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5. Any and all documents reflecting the notice of the proposed sale of the Old Library Building as required by ORS 221.725.
6. Any and all documents reflecting the publication of the notice required by ORS 221.725 relating to the Old Library Building.
7. Any and all documents reflecting the publication of the notice of the proposed sale of the Old Library Building provided by ORS 193.070.
8. Any and all appraisals or other evidence of the market value of the property that was disclosed to the city council at any public hearings between 2017 and the present.
9. Any and all appraisals or other evidence of the fair market value, appraisals, or other advertisement or competitive marketing process that was used before selecting the proposed buyer of the Old Library Building.
10. Any and all MLS listings or other publicly available advertisements or marketing of the Old Library Building.
11. Any and all notices of the to any prior bidders, or persons who had previously expressed interest in the Old Library Building that the building was back on the market.
12. Any and all compensation, commission or other kickback, bonus or payment agreements relating to the sale of the Old Library Building.

For reference, we are aware that you did not notify all of the persons and businesses who had previously expressed interest in buying the Old Library Building from 2017. Specifically, we know Peter Hostetler, Brant Walker, the Canby Clinic, the Law firm of Tyler Smith and Associates P.C. and others who specifically notified the City that they had interest in buying the Old Library Building. Even after I took at least 2 tours of the building. I know that when I was a city councilor I specifically objected to the process that was engaged in in 2017 relating to this property as it did not cast a wide or public net to attract buyers. In June, of 2020 you publicly announced that the property was OFF the market. For instance, did you even notify anyone since June of 2020 other than this potential buyer that the property was now back on the market? Please provide us with the documentation that you notified any or all of those people and businesses that this property was back on the market.

We know that previous bids offered and/or expressed a willingness to pay more than the proposed \$500,000 purchase price (which is actually \$600,000 if they simply pay the penalty fee). We also know that the initial phase years ago, to obtain the first requests for interest, was not widely publicized, was publicized only to a narrow market of particular businesses and



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special developers that Mrs. Mengelberg knew about, and that many local businesses were excluded from that process because they were not on the list she used to notify those developers.

If you are taking the minimalist approach and simply checking a few boxes, to try to say the City followed the law, but then selling a piece of prime real estate for less than half price (<50% of its fair market value as Clackamas County says it is worth about \$1,481,000) then that is hardly an open, transparent and competitive fair market process. The City's last attempt to select what kind of businesses would be in Canby (the Dahlia Building) has resulted in an unsold Police Department Building, an unsold old City Hall, and years of vacancies in all but one of the street frontage retail spaces in the Dahlia. Here, like there, you are practically giving city property away at a steal of a price, with the bet and hope that a certain kind of business you desire will come into the City and survive.

For these reasons, please respond and obtain these documents for us as soon as possible or we will be forced to take legal action before the sale to compel you comply with the law and exercised good stewardship of the public's property.

Please be aware that ORS 192.338 specifies that if any public record contains material that is both exempt and non-exempt, the public body shall separate the exempt from the non-exempt and make the non-exempt material available for examination. Accordingly, be advised that it is a violation to summarily deny examination of mixed material on the basis that it contains information and names of individuals that could be redacted.

- If for any reason you believe the cost of obtaining these records and your charge would exceed \$25, please notify us pursuant to ORS 291.324. We can come and review and make our own copies of documents.

If you have any questions please feel free to contact our office.

Best wishes, *Tyler Smith*

Tyler Smith

CC: Clients.