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CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

DANBURY MUNICIPAL AIRPORT
P.O. BOX 2299
DANBURY, CT. 06813-2299

AIRPORT ADMINISTRATOR
PAUL D. ESTEFAN
(203) 797-4624

August 25, 2012

Mayor Mark D Boughton

Honorable Members of the City Council

City of Danbury

Dear Mayor Boughton & Honorable Members of the City Council,

I have attached a letter from Attorney Robin Kahn who represents DXR Holdings seeking to release or, if necessary, the broadening of the restriction that was imposed by the Town of Danbury on December 29, 1948. To date I have been working with the Legislative Office in trying to find the minutes of that Town of Danbury Meeting that imposed those restrictions but we have not located them as of this letter.

I am forwarding these documents for your consideration.

Sincerely,

Paul D Estefan

Airport Administrator

Cc: Estefan96

HERBERT L. COHEN
(1928-1983)

AUSTIN K. WOLF
RICHARD L. ALBRECHT
JONATHAN S. BOWMAN
IRVING J. KERN
STEWART I. EDELSTEIN
NEIL R. MARCUS
G. KENNETH BERNHARD
DAVID L. GROGINS
GRETA E. SOLOMON
ROBIN A. KAHN
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DANIEL S. NAGEL
RICHARD J. DI MARCO
DAVID B. ZABEL
MARK A. KIRSCH
DAVID M. LEVINE
JOSEPH G. WALSH
DAVID A. BALL
JOCELYN B. HURWITZ
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L. JOYELLE DEFELICE
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DAVID M. MOROSAN
MARCIA M. ESCOBEDO
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NATHAN C. ZEZULA
PHILIP C. PIRES
ELIZABETH A. ULLMAN
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BRUCE L. LEVIN
JACK E. MCGREGOR
ALLAN J. ROSEN
MARTIN F. WOLF

4-1
ROBIN A. KAHN, ESQ
rkahn@cohenandwolf.com

Please reply to: Danbury

August 24, 2012

VIA EMAIL ONLY

Mr. Paul Estefan
City of Danbury Airport Administrator
Wibling Road
Danbury, Connecticut 06810

Re: DXR Holdings, LLC
Wallingford Road, Danbury, Connecticut

Dear Paul:

As you know, I represent DXR Holdings, LLC, the owner of property located on Wallingford Road in Danbury. DXR purchased the property from Ruth Sadler in January of 2011, and since that time my client has made significant improvements to same, including the complete renovation of existing hangar buildings.

The property is subject to a restriction contained in a Warranty Deed dated December 29, 1948 from the Town of Danbury to Mrs. Sadler's late husband, Clifford Sadler. The restriction provides that the property "shall be used solely for the following purposes: the sale of airplanes, airplane parts and gasoline, the storage of airplanes, the repair and overhauling of airplanes and airplane engines, and the manufacture of airplane parts".

My client is seeking the release or, if necessary, the broadening of the restriction so that the property may be used for additional purposes which are permitted in the IL-40 zone and which would be beneficial and complementary to the airport, other properties surrounding the airport and the City of Danbury in general. You have told me that you have been unable to locate any records which would explain the rationale behind the inclusion of the restriction in the 1948 deed. My client and I believe that any such rationale has ceased to be relevant, particularly since there is currently an overabundance of aviation businesses in the area.

Since the restriction is contained in a deed from the Town of Danbury, I understand that its release must be approved by the City Council. Accordingly, I would request that you recommend that this request for the release of the restriction be placed on the September agenda of the Council for consideration.

Thank you for your usual courtesies.

Very truly yours,


To all People to Whom these Presents shall Come, Greeting:

Know Ye, That the TOWN OF DANBURY, a municipal corporation organized and existing under and by virtue of the laws of the State of Connecticut, and located and having its place of business at said Danbury, acting herein by CHARLES I. SWEENEY, CHARLES J. TROCCOLO and ARTHUR TARTAGLIA, its Board of Selectmen, duly authorized by a vote of a Town Meeting dated December 28, 1948,

for the consideration of ONE DOLLAR (\$1.00) and other valuable considerations,

received to its full satisfaction of CLIFFORD SADLER, of the said Danbury,

do give, grant, bargain, sell, and confirm unto the said CLIFFORD SADLER,

A certain piece or parcel of land, containing 0.61 acres, more or less, situate in said Danbury, and described as follows:

Commencing at a concrete monument at the present northerly end of Wallingford Road; thence running southerly 52°23' West 62.12 ft.; thence running northerly 31°15'20" west 100.59 ft.; thence running northerly 58°44'40" East 147.53 ft.; thence running northerly 83° 02'00" East 46.89 ft.; thence southerly 31°15'20" east 166.67 ft.; thence running southerly 58°30' west 97.06 ft.; thence along Wallingford Road northerly 32°15' west 92.9 ft.; thence running southerly 52°23' west 30.0 ft. to point of beginning.

Bounded Northerly and Easterly by other land of the grantor; Southerly by other land of the grantor, Wallingford Road and land now or formerly of Helwig, each in part; and Westerly by other land of the grantor and Wallingford Rd, each in part. Reference is hereby made to a map entitled "Map Showing Property to be Conveyed and Leased by the Town of Danbury to Clifford Sadler, at Danbury Airport", said map prepared by S. T. Rapp, C.E. and L.S., dated November 30, 1948.

The grantee herein covenants and agrees by the acceptance hereof, for himself, his heirs, executors, administrators and assigns, that the parcel of land hereinbefore described shall be used solely for the following purposes: the sale of airplanes, airplane parts and gasoline; the storage of airplanes; the repair and overhauling of airplanes and airplane engines; and the manufacture of airplane parts, and this covenant shall be construed as a covenant running with the land.

The grantee herein covenants and agrees by the acceptance hereof, for himself, his heirs, executors, administrators and assigns, that no building or construction of any type will be placed on said parcel which hinders, obstructs, damages or impairs the use and operation of the Danbury Airport, and this covenant shall be construed as a covenant running with the land.

To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto him the said grantee his heirs, successors and assigns forever, to and their own proper use and behoof.

And also, it the said grantor does for itself, its ~~heirs~~ successors and assigns, covenant with the said grantee his successors, heirs and assigns, that at and until the ensembling of these presents,

it is well seized of the premises, as a good indefeasible estate in FEE SIMPLE; and has good right to bargain and sell the same in manner and form as is above written; and that the same is free from all incumbrances whatsoever, except the restrictions hereinbefore stated.

And Furthermore, it the said grantor does by these presents bind itself and its ~~heirs~~ successors and assigns forever to WARRANT AND DEFEND the above granted and bargained premises to him the said grantee his successors, heirs and assigns, against all claims and demands whatsoever, except as hereinbefore stated.

In Witness Whereof, it has ~~been~~ hereunto caused to be set its hand and seal this 29th day of December in the year of our Lord nineteen hundred and forty-eight.

Signed, Sealed and Delivered in presence of

Rena B. Molinaro
Ellen J. ...
Steve L. Meltzer

TOWN OF DANBURY (L.S.)
BY *Charles J. Sweeney*
First Selectman
Charles J. Troccoli
Second Selectman
Arthur Tartaglia
Third Selectman



State of Connecticut,

County of Fairfield

SS.

Danbury, December 29, A. D. 19 48

Personally Appeared CHARLES J. SWEENEY, First Selectman, CHARLES J. TROCCOLO, Second Selectman, and ARTHUR TARTAGLIA, Third Selectman, of the Town of Danbury, being hereunto duly authorized,

Signers and Sealer of the foregoing Instrument, and acknowledged the same to be their free act and deed, and the free act and deed of said municipal corporation, before me.

Irving Lerner

~~Notary Public~~
Commissioner of the Superior Court
for Fairfield County.

Received for record Feb. 15, 1949 at

10:51 A.M.

Attest:

Augustus Deakon

Town Clerk

