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City of Brevard
95 West Main Street
Brevard, NC 28712

**RE: INTENT TO FILE A LAWSUIT; CONTENTS OF THIS LETTER ARE SUBJECT TO RULE 408 OF THE
NORTH CAROLINA RULES OF EVIDENCE AND THE FEDERAL RULES OF EVIDENCE**

Dear Mayor Copelof, Members of City Council, and City Manager Hooper:

The purpose of this letter is to inform you of Dugger Law Firm's representation of Mr. Roy Ray Robinson and others in their contemplation of filing a lawsuit against the City of Brevard and members of the City Council in both their individual and official capacities (collectively the "City").

The basis of the contemplated lawsuit stems from the City's acts in its unlawful condemnation, closing, regulatory taking, obfuscation and blocking of Mackey Ridge Road. In connection with its taking, the City failed to properly and accurately notify the property owners of its intent and proposed public purpose to condemn the property. In addition, as a result of the City's taking, the City blocked off all reasonable access to the subject properties, thereby rendering the remaining portions of the property taken (either directly through eminent domain or by regulation), thus entitling the property owners to just compensation for the same.

Although we acknowledge that the City obtained default judgments in the associated condemnation matters, Mr. Robinson's and all other potential Plaintiffs' property rights were adversely affected by the City's use of its eminent domain authority in a manner that was greater than – and even different from – the notice as provided to the property owners. Indeed, even if the City's initial condemnation was lawful, which Mr. Robinson and the other property owners dispute, its effect of obstructing, restricting, and/or blocking off all reasonable access to the subject parcels constitutes a further taking that was not provided or contemplated in the initial actions.

To be sure, subsequent to taking the subject properties, the City used the condemned easement to close Mackey Ridge Road without proper notice. When the City built a bike path within the easement, it also physically blocked any and all reasonable vehicular access to the properties that were subject to the condemnation. The blocking of Mackey Ridge Road thus turned a partial taking of properties into a taking of the subject properties in their entirety.

One plaintiff placed the City on notice of this issue, through its City Attorney, as early as November 2023. Unfortunately, rather than work collaboratively to reach a mutually agreeable resolution, it was suggested that Mr. Veal propose his own solution that would include expenditures of his personal financial resources. Having not received any substantive effort or action from the City to engage in meaningful pursuit of a negotiated solution, Mr. Veal et al. perceive no choice but to file legal action.

The contemplated actions against the City Council and its members are as follows:

1. Injunctive Relief;
2. Inverse Condemnation;
3. Violation of Substantive Due Process;

4. Constructive Fraud;
5. Unlawful Closing of a Neighborhood Road; and
6. Unlawful blocking of any reasonable vehicular access to property.

In addition, we believe that discovery will reveal that the City's property condemnation was motivated, at least in part, by racial considerations, in violation of the equal protection clause of the Constitutions of the United States and North Carolina.¹

The property owners recognize that litigation can be time-consuming and costly, for all interested parties. Toward that end, prior to initiating legal action, the property owners are desirous of engaging in meaningful negotiations for the purpose of solving their grievances. The reasonable remedies that the property owners propose include:

- A. Reopening access to Plaintiffs' and other affected properties;
- B. Establish a new right of way aligned with the Mackey Ridge Road roadbed;
- C. Constructing the minimum road contemplated and promised in the Complaint;
- C. Just compensation for the affected properties; and
- D. any compensatory, economic, and special damages allowed by law.

The plaintiff parties to this notice are hopeful and willing for the City to view this notice as an opportunity to discuss this matter fully. Toward that end, please contact Dugger Law Firm within 10 business (ten) days of the date of this letter, prior to the parties' initiation of any legal action, if the City is interested in resolving this matter amicably.

We look forward to the City's response. Please feel free to contact Elliott Dugger, Esq., Ed.D. at the mailing address, email address and telephone number listed above.

Best regards,

Elliott Dugger

Elliott Dugger, Esq.

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¹ The actions listed above should not be considered exhaustive.