

SL Clerk

Wayne County, Indiana

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| STATE OF INDIANA |) | IN THE WAYNE COUNTY SUPERIOR COURT 1 |
| |) | |
| COUNTY OF WAYNE |) | CAUSE NO. 89D01-2304-CT-31 |

| | | |
|---------------------------------|---|--------------------------------|
| TUSHAWN CRAIG, MARQUETTA STOKES |) | |
| and LIMITLESS PALLETS, LLC, |) | |
| Plaintiffs, |) | SPECIAL JUDGE, GREGORY A. HORN |
| |) | WAYNE COUNTY SUPERIOR COURT 2 |

vs

| | |
|--------------------------------|---|
| CORNERSTONE TRADING GROUP, LLC |) |
| and SETH SMITH, |) |
| Defendants. |) |

Vs.

| | |
|----------------------------|---|
| CITY OF RICHMOND, INDIANA, |) |
| Third-Party Defendant. |) |

RESPONSIVE PLEADING AND THIRD-PARTY COMPLAINT

I. ANSWER

Comes now the Defendant Cornerstone Trading Group, LLC (hereinafter “Defendant”), by counsel, and files its Answer to the Plaintiffs’ Class Action Complaint as follows:

1. Defendant admits the material allegations contained in Rhetorical Paragraphs 2 and 13 of Plaintiffs’ Class Action Complaint.

2. Defendant denies the material allegations contained in Rhetorical Paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 18, 19, 18-2, 19-2¹, 20, 21, 22, 23, 25, 26, 27, 28, 29, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 58, 59, 60, 61, 63, 64, 65, 66, 68, 69, 70, 72, 73, 74, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 93, 94, 95 and 97 of Plaintiffs’ Class Action Complaint.

3. Defendant is without sufficient information to admit or deny the material allegations contained in Rhetorical Paragraphs 15, 16, 17, 24, 30, 31 and 32 of Plaintiffs’ Class

¹ Paragraphs 17, 18 and 19 are repeated twice. Therefore, for the purpose of this Answer Defendant has referenced the second version of each paragraph as Paragraph 17-2, 18-2 and 19-2.

Action Complaint.

4. No Answer is required as to Rhetorical Paragraphs 17-2, 37, 45, 51, 57, 62, 67, 71, 75, 81, 88, and 96 of Plaintiffs' Class Action Complaint.

WHEREFORE, Defendant, Cornerstone Trading Group, LLC respectfully requests that Plaintiffs take nothing by way of their Class Action Complaint and for all other legal and equitable relief just and proper in the premises.

II. AFFIRMATIVE DEFENSES

1. The real estate upon which the ignition that resulted in the fire commenced was owned by the City of Richmond, Indiana, not Cornerstone Trading Group, LLC.

2. Cornerstone Trading Group, LLC did not cause or contribute to the release of any hazardous substances and therefore cannot be liable to Plaintiffs under State or Federal Environmental Laws or Common Law.

3. The initial ignition which resulted in the subsequent fire was caused by an unknown arsonist.

4. The Plaintiffs' claimed injuries and damages, if any, were proximately caused by a "non-party" whose name(s) are not yet known.

5. All or part of Plaintiffs' damages may have been paid by a collateral source and are therefore not subject to recovery from the Defendant.

6. Defendant reserves the right to name additional defenses as they become known.

III. MOTIONS TO DISMISS

1. Defendant moves to dismiss the Plaintiffs' Complaint pursuant to Rule 12 (B) (7) for failure to join a party needed for just adjudication namely: The City of Richmond, Indiana. The City of Richmond, Indiana was the owner of the real estate upon which the initial combustion took place.

IV. THIRD-PARTY COMPLAINT

Comes now the Defendant, Cornerstone Trading Group, LLC, by counsel, and for its Third-Party Complaint against the City of Richmond, Indiana alleges and states as follows:

1. This is a Third-Party Complaint pursuant to Rule 14 of the Indiana Rules of Trial Procedure.

2. The factual and legal basis of this Complaint is that the City of Richmond is liable to Cornerstone Trading Group, LLC for all of the Plaintiffs' claim made against it.

3. The fire referenced in the Plaintiffs' Complaint began in or adjacent to a structure with the property address of 358 Northwest F Street, Richmond, Indiana (hereinafter "358 Property").

4. The 358 Property was previously owned by Hoffco Industries, Inc. pursuant to a warranty deed recorded on April 15, 2002 in the office of the Wayne County Recorder as Instrument No. 2002004971.

5. On November 17, 2004, a corporate warranty deed was issued by Hoffco/Comet Industries, Inc. to AFG Investment Fund I, LLC (42.5% undivided interest) and BAB 8, LLC (57.5% undivided interest) as Instrument No. 200401526 in the Office of the Recorder of Wayne County, Indiana.

6. On April 11, 2013, the Auditor of Wayne County issued a tax deed to the Board of Commissioners of Wayne County as Instrument No. 2013003110.

7. On July 24, 2013, Wayne County, Indiana issued a quitclaim deed to AFG Investment Fund I, LLC and BAB 8, LLC, the former title owners of the 358 Property.

8. On March 2, 2021, the Auditor of Wayne County, Indiana issued to the Board of Commissioners of Wayne County, Indiana a second tax deed recorded as Instrument No. 2021001951 in the Office of the Recorder of Wayne County, Indiana.

9. On March 22, 2021, Wayne County, Indiana conveyed by quitclaim deed to the City of Richmond, Indiana as Instrument No. 2021002732 in the Office of the Wayne County Recorder the 358 Property. A copy of that deed is attached hereto, made a part hereof and marked as Exhibit A.

10. At the time of acquiring the 358 Property, the City of Richmond knew that it was being occupied by Cornerstone Trading Group, LLC.

11. Prior to the City acquiring the 358 Property, it had initiated and obtained orders against Cornerstone Trading Group, LLC that related to what the City regarded as unsafe conditions at the property.

12. At the time of acquisition of the 358 Property, by reason of numerous inspections and enforcement efforts, the City of Richmond had complete knowledge of whatever dangerous conditions may have existed at the property, including asbestos in various portions of the structure.

13. The City of Richmond, with knowledge of the occupancy of the property by Cornerstone Trading Group, LLC, and with knowledge of the risks associated with the ownership of the 358 Property, accepted title to the property and assumed all legal, environmental and other responsibility associated with the ownership of land.

14. On the same date that the City of Richmond accepted title to the 358 Property, and through the same deed (Exhibit A) the City of Richmond also took title to the real estate commonly known as 310 Northwest F Street, Richmond, Indiana (hereinafter "310 Property"). Said real estate was also occupied by Cornerstone Trading Group, LLC at the time that the City accepted title.

15. The City of Richmond, with knowledge of the occupancy of the property by Cornerstone Trading Group, LLC, and with knowledge of the risks associated with the ownership of the 310 Property, accepted title to the property and assumed all legal, environmental and other responsibility associated with the ownership of a land.

16. The City of Richmond, with complete knowledge of the operation being conducted by Cornerstone Trading Group, LLC on its property, acquiesced in the continuance of those operations

and assumed all risk associated thereto to both Cornerstone Trading Group, LLC, and the public in general.

17. The City of Richmond, had it desired to cause Cornerstone Trading Group, LLC to be evicted from the premises, could have easily done so by filing a legal action to that effect, but failed to do so.

18. Cornerstone Trading Group, LLC did not start the fire referenced in the Plaintiffs' Complaint, nor create any condition that would have caused the fire to occur without third-party intervention. Specifically, none of the inventory maintained on the property by Cornerstone Trading Group, LLC was combustible without a separate ignition source and the electrical power to the 358 building had been disconnected.

19. To the extent that it is determined that Cornerstone Trading Group, LLC is liable to the Plaintiffs, the City of Richmond, Indiana is responsible to Cornerstone Trading Group, LLC for any and all damages which may be awarded to the Plaintiffs.

/s/ Eric N. Allen

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/s/ Dawn E. Wellman

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served upon all counsel of record via this Court's electronic filing system on the date file marked herein.

/s/ Eric N. Allen
Eric N. Allen

2021002732 QUIT CLAIM \$25.00
03/22/2021 04:21:38P 6 PGS
Deborah A Resh
Wayne County Recorder IN
Recorded as Presented



QUITCLAIM DEED

THIS IDENTURE WITNESSETH, that **WAYNE COUNTY, INDIANA**, a political subdivision created under the laws and Constitution of the State of Indiana, by its duly elected Board of County Commissioners, by Kenneth E. Paust, president thereof, releases and quitclaims to:

THE CITY OF RICHMOND, INDIANA, an incorporated second class city, located in Wayne County, Indiana, and organized as a municipality under the laws of the State of Indiana,

for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, the receipt whereof is hereby acknowledged, the following parcels of real estate in Wayne County, in the State of Indiana (the "Subject Real Estate"), to wit:

(See attached "Exhibit A")

Subject to all liens and encumbrances.

This conveyance is made pursuant to authority granted the undersigned officer by the Board of County Commissioners in a certain Resolution No. 2021-001 duly adopted by said board and further pursuant to a counterpart Resolution Number 3-2020 adopted by the City of Richmond's Board of Public Works and Safety and approved by the Honorable David Snow, as mayor of said city, in accordance with the provisions and procedures set forth at Indiana code 36-1-11-8. The authority therein contained remains fully effective without subsequent limitation, rescission or modification as of the date of execution and delivery hereof.

IN WITNESS WHEREOF, the said Kenneth E. Paust, president of the Board of County Commissioners of Wayne County, Indiana, and Kimberly A. Walton, as Auditor of Wayne County, Indiana, have hereunto set their hands and the seal of said auditor this 12th day of March, 2021.

- 1) 46-32-130-222-000-29
- 2) 46-32-130-302-000-29
50-05-446-413-000-29
- 3) 46-33-330-713-000-29
- 4) 46-33-130-809-000-29

DULY ENTERED FOR TAXATION
This 22 day of March, 2021
Kimberly Walton
AUDITOR OF WAYNE COUNTY

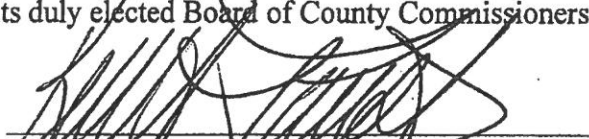
Sales Disclosure Approved
Wayne County Assessor

EXHIBIT A

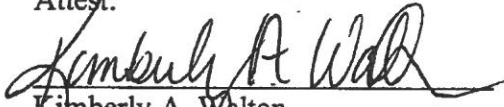
WAYNE COUNTY, INDIANA

By its duly elected Board of County Commissioners

By:

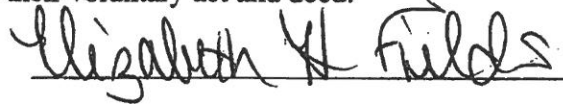

Kenneth E. Paust, President

Attest:


Kimberly A. Walton,
Wayne County Auditor

STATE OF INDIANA, COUNTY OF WAYNE, SS:

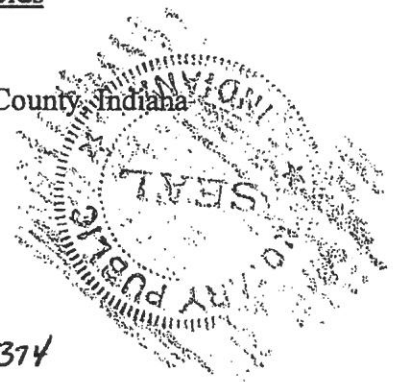
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Kenneth E. Paust, President of the Wayne County Board of County Commissioners, and Kimberly A. Walton, Wayne County Auditor, who acknowledged the execution of the foregoing Quit Claim Deed to be their voluntary act and deed.



Printed: Elizabeth H. Fields

Notary Public

Residing in Wayne, County, Indiana



My commission expires:

October 12, 2025

Return to:

Send Tax Statements to: Grantee 50 N 5th S. Richmond, IN 47374

I affirm under penalties for perjury that I have taken reasonable care to redact all social security numbers from the foregoing document except where required by law. *Ronald L. Cross*

This instrument Prepared By:
Ronald L. Cross
Indiana Attorney #3450-49
Boston Bever Forrest, Cross & Sickmann
27 North 8th Street
Richmond, IN 47374
765.962.7527

"EXHIBIT A"

Legal Description of Transferred Properties

Parcel One:

Tract 1 (Commonly known as 358 NW "F" Street)

Situated in the Northwest Quarter, Section 32, Township 14 North, Range 1 West, City of Richmond, Wayne Township, Wayne County, Indiana, being parts of Lot 10 and Lot 11 in Poe and Lynde's Outlots, as recorded in Plat Book 1, Page 387, all of Lots 1 thru 17, in William J. Griffin's Addition, as recorded in Plat Book 4, Page 139, parts of Lots 18 through 27 in said William J. Griffin's Addition, all recorded in the Wayne County Recorder's Office and being more particularly described as follows:

Beginning at the southeast corner of said Lot 11 in Poe and Lynde's Outlots, said corner being 0.50 feet south of the north right-of-way of Northwest F Street, also being North 89° 43' 00" West 394.00 feet from the west right-of-way line of Northwest 2nd Street;

thence North 89° 43' 00" West 817.42 feet along the south lines of said Lot 10 and 11, in Poe and Lynde's Outlots, in Northwest F Street, to the southeast corner of a 0.162 acre tract described in Instrument No. 200100776;

thence North 00° 00' 00" East 107.00 feet along the east line of said 0.162 acre tract, to an iron rod found;

thence North 89° 43' 00" West 66.07 feet along the north line of said 0.162 acre tract, to an iron pipe found;

thence North 00° 00' 00" East 173.35 feet, to an iron rod found on the centerline of a 12.00 feet wide vacated alley;

thence South 89° 31' 05" East 165.80 feet along the centerline of said vacated alley, to an iron pipe found on the centerline of a vacated 13.70 feet wide alley;

thence South 89° 55' 50" East 118.13 feet along the north line of Lot 17 in William J. Griffin's Addition, to an iron pipe found;

thence North 00° 04' 55" West 509.26 feet, to an iron rod found on the north line of a vacated 12.00 feet wide alley;

thence North 62° 52' 05" West 110.60 feet, to an iron pipe found;

thence North 00° 05' 45" West 54.57 feet, to an iron rod found on the south right-of-way of the Norfolk and Western Railroad;

thence South 62° 52' 05" East 787.01 feet along the south line of said railroad right-of-way, to an iron rod found;

thence South 00° 10' 35" West 538.58 feet along the east line of Lot 11 in Poe and Lynde's Outlots, to the point of beginning, containing 11.319 acres, more or less, as shown on Drawing No. D-206, dated 20 September 2004.

EXCEPT:

Being a part of Lot Number Eleven (11) in Poe and Lynde's Outlots in the Northwest Quarter of Section Thirty-two (32), Township Fourteen (14) North, Range One (1) West, in the City of Richmond, Wayne County, Indiana, and being more particularly described as follows: Beginning at the southeast corner of Lot Number Eleven (11) in said Poe and Lynde's Outlots, said point being fifty hundredths (0.50) feet south of the north line of Northwest F Street and said point also being three hundred ninety-four and zero hundredths (394.00) feet north eighty-nine (89) degrees and thirty-five (35) minutes west of the west line of Northwest 2nd Street; and running thence, from said beginning point, north eighty-nine (89) degrees and thirty-nine (39) minutes west, along the south line of said Lot Number Eleven (11), one hundred eighty-two and fifty-three hundredths (182.53) feet to a point, said point being one and sixty-five hundredths (1.65) feet south of the north line of said Northwest F Street; thence north zero (0) degrees and ten (10) minutes east six hundred thirty-one and forty hundredths (631.40) feet to an iron pipe found on the south right-of-way line of the Pennsylvania Railroad; thence along said right-of-way line, parallel with and sixteen and five tenths (16.5) feet, measured at right angles, from the center of the track, and also along the north line of said Lot Number Eleven (11), south sixty-two (62) degrees and forty-five (45) minutes east two hundred five and sixty-hundredths (205.60) feet to an iron pipe at the northeast corner of said Lot Number (11); thence along the east line of said Lot Number Eleven (11) south zero (0) degrees and seventeen (17) minutes west five hundred thirty-eight and fifty-eight (538.58) feet to the place of beginning, containing an area of two and four hundred sixty-one thousands (2.461) acres.

Tax ID #029-05674-00

Parcel One (continued):

Tract 2 (Commonly known as 310 NW F Street)



Being a part of Lot Number Eleven (11) in Poe and Lynde's Outlots in the Northwest Quarter of Section Thirty-two (32), Township Fourteen (14) North, Range One (1) West, in the City of Richmond, Wayne County, Indiana, and being more particularly described as follows: Beginning at the southeast corner of Lot Number Eleven (11) in said Poe and Lynde's Outlots, said point being fifty hundredths (0.50) feet south of the north line of Northwest F Street and said point also being three hundred ninety-four and zero hundredths (394.00) feet north eighty-nine (89) degrees and thirty-five (35) minutes west of the west line of Northwest 2nd Street; and running thence, from said beginning point, north eighty-nine (89) degrees and thirty-nine (39) minutes west, along the south line of said Lot Number Eleven (11), one hundred eighty-two and fifty-three hundredths (182.53) feet to a point, said point being one and sixty-five hundredths (1.65) feet south of the north line of said Northwest F Street; thence north zero (0) degrees and ten (10) minutes east six hundred thirty-one and forty hundredths (631.40) feet to an iron pipe found on the south right-of-way line of the Pennsylvania Railroad; thence along said right-of-way line, parallel with and sixteen and five tenths (16.5) feet, measured at right angles, from the center of the track, and also along the north line of said Lot Number Eleven (11), south sixty-two (62) degrees and forty-five (45) minutes east two hundred five and sixty-hundredths (205.60) feet to an iron pipe at the northeast corner of said Lot Number (11); thence along the east line of said Lot Number Eleven (11) south zero (0) degrees and seventeen (17) minutes west five hundred thirty-eight and fifty-eight (538.58) feet to the place of beginning, containing an area of two and four hundred sixty-one thousands (2.461) acres.

Parcel Two: (commonly known as 648 S "J" Street, Richmond, Indiana)

The South Half of Lot Number Eight (8) in the Town of Oakland as laid out by James Poe and Squire L. Hittle, and being a part of the South Half of Section Five (5), Township Thirteen (13), Range One (1) West, containing Two (2) acres, more or less.

EXCEPTING Two (2) strips of land sold off the west side of above described real estate by Catherine H. Uhlenbrock to the Cincinnati, Richmond and Muncie Railroad described as follows:

A strip of land twenty-five (25) feet in width off the west side of the South Half of Lot Number Eight (8) in the Town of Oakland, now a part of the City of Richmond, as described in Deed Record 114, page 99 in the office of the Recorder of Wayne County, Indiana.

EXCEPT ALSO, the following strip of land conveyed by Catherine Uhlenbrock to the Cincinnati, Muncie and Richmond Railroad, to-wit:

A part of the South Half of Lot Number Eight (8) in the Town of Oakland, as laid out by Poe and Hittle; beginning twenty-five (25) feet east of the southwest corner of said Lot;

thence East ten (10) feet; thence North parallel with the center line of said railroad to the north line of the South Half of said Lot; thence West ten (10) feet; thence South to the place of beginning, which deed is recorded in Deed Record 115, page 133 of the records of the Recorder of Wayne County, Indiana.

Tax ID #029-45484-00

Parcel Three: (commonly known as 1200 E. Main Street, Richmond, IN)

Lot Number One Hundred Eighty-three (183) and five (5) feet off of the west side of Lot One Hundred Eighty-four (184), both in that part of the City of Richmond laid out by Charles W. Starr and situate in the Southwest Quarter of Section 33, Township 14, Range 1 west, and being further known and designated as the Wayne Apartment as located on the Northeast corner of Twelfth and Main Streets.

Tax ID #029-30498-00

Parcel Four: (commonly known as 1102 North "F" Street, Richmond, IN)

Being forty-eight (48) feet taken in a body off of the east side of Lots Number Two (2), Three (3), and Four (4), in Indiana Yearly Meeting of the Religious Society of Friends Second Addition to Richmond, as laid out and platted and plat recorded in the Office of the Recorder of said County in Plat Record No. 2, page 71.

ALSO: Being Lots Number Two (2), Three (3) and Four (4) in Indiana Yearly Meeting of the Religious Society of Friends Second Addition to Richmond, as laid out and platted and plat recorded in the Office of the Recorder of said County, in Plat Record, No. 2, page 71, except a strip 48 feet wide off of the east side of said Lots, leaving 85 feet off of west end of said Lots, fronting on North "G" Street.

ALSO: Lots Numbered Five (5), Six (6), Seven (7), Eight (8) and Nine (9) in Indiana Yearly Meeting of the Religious Society of Friends Second Addition to Richmond as laid out platted and plat recorded in the office of the Recorder of said County in Plat Record No. 2, page 71.

ALSO: The east ½ of vacated North 11th St. adjacent to the west side of the above described Lots 2 through 9 as shown on plat of vacation Plat Book 5 Page 57.

TAX ID: 029-52684-00