

GPP Discussion regarding “Notice of Representation” Form

Date: June 18, 2008
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Subject: Notice of Representation

Attached are two examples of “Notice of Representation” Forms to be filled out by the property owner or tenant being negotiated with so that the City can be assured it is negotiating with the correct party. It can be used by either project design team and right of way agents and provides for a notary. Some people probably won't have easy access to a notary. If that becomes a problem we can take it off. This is to provide us with direction and gives us something that we do not have currently.

I would like for this to be a standard procedure that we require before an offer is made and negotiations commence. This Notice of Representation will extend to the project design team if they are talking to property owners or tenants regarding a project before Real Estate starts negotiating.

We can revise it accordingly based on how it goes in the next few months. If anyone has some suggestions, changes, or comments feel free to offer them and include everyone on the list above so the group can all be included in changes to the form.

The corporate NOR - you can revise accordingly depending on the party you are dealing with. It is a model document and can be flexible so you are free to make adjustments that make sense to you.

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As this form was developed a series of emails and discussion led to the formation of the final form. They are summarized below to help with the background for who, what, why, where, and how of this form as informational purposes.

Question: How do we address those who routinely have someone else do their business for them or those cases where an attorney comes forward and says they represent the owner/tenant and directs us to make the offer to them. Can they sign this form stating as such or does it have to come from the owner? In those cases do we give the attorney the form and tell them when we get it back signed we will make them the offer? In those cases, do we need a notary block to assure ourselves the owner really did sign and not some secretary in the attorney's office?

Answer: If an attorney already represents them and you are aware of that ask the the attorney to have the Notice of Representation signed before your meeting with the attorney regarding the offer. The owner would sign the Notice of representation. Otherwise, meet with the owner and have him or her sign the Notice of Representation. Also added notary block to the form.

Question: One case is where a son/daughter comes to all the meetings and discussions and says that Mom/Dad is in a nursing home and should not be bothered but they do not have guardianship or Power of Attorney papers. Do we bother the "owner"?

Answer: If a son or daughter has power of attorney - get a copy of the power of attorney - you would not need the mom or dad to sign. Make it clear to them, if a son or daughter says mom and dad can't be bothered than we either have to have a power of attorney or have mom or dad sign the Notice of Representation indicating that the son or daughter has permission to negotiate on their behalf. If we cannot get this accomplished then I would at the very least send the offer to the owner and make arrangements to visit in person with the owner with the family member present and document exactly what transpired.

Question: If this document is provided to the project design team early on is it sufficient to carry the City to negotiations or could the owner come back and say, "oh, I thought that was only to represent me in discussing the design and not the acquisition"?

Answer: For project design team, if they are going out to property owners or to attorneys then they should make sure they are talking to the right party or attorney. I don't know how difficult it would be for the project design team to have the owner or tenant sign the Notice of Representation while they are discussing the plans with them. I would imagine this would mostly happen in commercial tracts anyway and a business owner should not be put off by this. We could make an alternative Notice of Representation for the project design team if they are talking design with the property owners and making changes based on their discussions if that is what everyone wants. *(No one wanted to do that at this time)*

Question: It is my understanding that all of our offers are made in person. Do we ever just send the offer in the mail and then follow up?

Answer: City policy if we negotiate it out of our office is to make the offer in person if they are in the Lincoln vicinity. However it is not uncommon for contract negotiators to mail out a package containing all the necessary documents with an offer to follow up in person if desired or instructions on how to sign and return the appropriate documents if the offer is acceptable. It sort of depends on the negotiating firm. If we mail it out then then would suggest including a letter indicating that we are sending this to them as they are listed as the owner. If they would like us to negotiate with another party on their behalf then I would ask them to fill out the form and send it back. We can modify the form for that purpose. Does that work?