

WEBSTER L. GOLDEN  
PETER K. CURRAN  
WINTON A. WINTER, JR.  
EVAN H. ICE  
SHERRI E. LOVELAND  
MOLLY M. WOOD  
CHRISTOPHER F. BURGER\*  
WESLEY F. SMITH  
BRADLEY R. FINKELDEI

\*ADMITTED IN KANSAS AND  
MISSOURI

ADMITTED IN KANSAS, MISSOURI  
AND CALIFORNIA



ATTORNEYS AT LAW  
US BANK TOWER  
900 MASSACHUSETTS, SUITE 500  
POST OFFICE BOX 189  
LAWRENCE, KANSAS 66044-0189  
(785) 843-0811 FAX: (785) 843-0341

MATTHEW H. HOY\*  
LESLIE M. MILLER  
EMILY A. DONALDSON  
REBECCA J. WEMPE  
PATRICIA E. HAMILTON\*  
JOHN T. BULLOCK  
KRISTIN L. BALLOBIN  
JEFFREY L. HEIMAN  
KANA R. LYDICK\*

RICHARD B. STEVENS  
1899-1991

JOHN W. BRAND  
1907-1971

JOHN W. BRAND, JR.  
RETIRED

April 29, 2013

**\*HAND DELIVERED and EMAILED\***

Dave Corliss-City Manager  
Toni Wheeler-City Attorney  
6 East 6<sup>th</sup> Street  
P.O. Box 708  
Lawrence, KS 66044

[dcorliss@lawrenceks.org](mailto:dcorliss@lawrenceks.org)

[twheeler@lawrenceks.org](mailto:twheeler@lawrenceks.org)

Dear Dave and Toni:

This letter follows phone conversations that I had with Dave Corliss. I am writing this letter on behalf of Riverfront, LLC. Although Lawrence Lodging, LLC is not my client, Lawrence Lodging, LLC and Riverfront, LLC are aligned in the request contained in this letter.

As you know, the City entered into a ground lease with a factory outlet store in 1989 and the factory outlet store built the Riverfront Mall. Riverfront, LLC purchased the building and factory outlet store's interest in the ground lease in the late 1990s. In 2000, the initial ground lease was divided into two separate ground leases – a ground lease with Riverfront, LLC (the "Riverfront Lease") and a ground lease with Lawrence Lodging, LLC (the "Lodging Lease"). The Lodging Lease encumbers the real estate that is within the footprint of the Spring Hill Suites hotel. The Riverfront Lease encumbers the remainder of the property included in the 1989 ground lease. Under the Riverfront Lease, Riverfront is responsible for certain payments, including payment for the 138 parking spaces that the Lodging Lease dedicates for the hotel's use. Under the Lodging Lease, Lawrence Lodging is contingently responsible to the City for some of Riverfront's obligations if Riverfront fails to pay them.

Lawrence Lodging is nearing completion of a contract to sell its hotel and assign the Lodging Lease to BC Lynd Hospitality, LLC, another hotel operator. The contract includes the Spring Hill Suites hotel and four or five other affiliated hotels. One of the obstacles in the contract for the sale of the Spring Hill Suites hotel and assignment of the Lodging Lease is a provision in the Lodging Lease (Section 2.3) that says that Lawrence Lodging is contingently liable for some of the payments that Riverfront is responsible to make under the Riverfront Lease. The purchaser does not like this because it wants to know with more certainty what ongoing expenses it will owe and factor them into

the determination of the purchase price. Therefore, the contingent liability provision in the Lodging Lease creates a significant problem. In addition, Riverfront has an equity interest in Lawrence Lodging and does not want to continue paying for the 138 parking spaces dedicated for the hotel's use if an unrelated third party owns and operates the hotel.

To resolve this and facilitate the closing of the sale of the Lawrence Lodging hotel and assignment of the Lodging Lease to BC Lynd Hospitality, LLC, Lawrence Lodging and Riverfront propose amending the Riverfront Lease and the Lodging Lease as follows:

1. Amend the Riverfront Lease to eliminate Riverfront's obligations to pay for the 138 parking spaces used for the hotel and amend the Lodging Lease to add these parking space obligations to the Lodging Lease. The City will not lose revenue; it just switches which tenant is responsible for paying for these parking spaces. If the hotel tenant does not make these payments, the City will have all landlord rights that it has against the hotel tenant for failing to comply with the Lodging Lease.
2. Amend the Lodging Lease to delete Section 2.3 (the Contingent Rent obligation). Amendment No. 1 will make the hotel tenant directly responsible for payments for the 138 parking spaces, so this does not affect those payments. With this amendment, the hotel tenant will not be in default and will not be called upon to make payments to the City that Riverfront should have paid. If Riverfront does not make any required payments, however, the City will have all landlord rights that it has against Riverfront for failing to comply with the Riverfront Lease.

Enclosed with this letter is a document titled "Assignment, Assumption, and Modification of Ground Lease and Amended & Restated Ground Lease" that will make the amendments described above. Note that these amendments are contingent upon the closing of the Lawrence Lodging sale, which is not scheduled until next fall. Nothing will change until that sale closes.

**It is our hope that you can place this request on the City Commission Agenda for May 7, 2013 with a positive recommendation.** Please review these documents and contact me if you have any questions. Thank you for your attention to this matter.

Very truly yours,  
STEVENS & BRAND, L.L.P.

[/s/ Evan H. Ice](#)

Evan H. Ice  
[eice@stevensbrand.com](mailto:eice@stevensbrand.com)

EHI:rb  
Enclosure

cc: Dan Simons  
Joel Laner