

RESOLUTION NO. 3434

**A RESOLUTION OF THE SOUTH BEND
REDEVELOPMENT COMMISSION
AUTHORIZING ACTION
TO AFFECT RECONVEYANCE OF REAL PROPERTY**

WHEREAS, the South Bend Redevelopment Commission (“Commission”), the governing body of the South Bend, Indiana, Department of Redevelopment (“Department”), exists and operates under the provisions of I.C. 36-7-14, as amended from time to time; and

WHEREAS, the Commission was established to encourage new development through the efficient use of agreements that utilize taxpayer resources, including but not limited to real property, and, therefore, has a fiscal duty to enforce the terms of its agreements in order to protect taxpayer interests and fulfill its purpose; and

WHEREAS, the Department, acting by and through the Commission, entered into a Real Estate Purchase Agreement (“Agreement”), dated August 25, 2016, with Chris Gerard, doing business as Bare Hands Brewery (“BHB”), for the purchase of certain real property commonly known as 331 W. Wayne Street (“Property”), which Agreement was assigned by BHB to 410 W Wayne Street LLC (“410 W Wayne”) by an Assignment and Assumption of Real Estate Purchase Agreement, dated October 27, 2016; the Agreement was subsequently amended by a First Amendment to Real Estate Purchase Agreement dated October 27, 2016 and a Second Agreement to Real Estate Purchase Agreement dated December 15, 2016; and

WHEREAS, the Agreement closed on or about February 24, 2017, (“Closing Date”) and a Special Warranty Deed in favor of 410 W Wayne was recorded as Instrument No. 1704897 in the Office of the Recorder of St. Joseph County on March 2, 2017; and

WHEREAS, the Agreement contains certain conditions subsequent, which obligate 410 W Wayne to perform certain actions in a timely manner after the Closing Date; and

WHEREAS, Section 11.C. of the Agreement requires 410 W Wayne to obtain, among other things, necessary zoning and land use approvals within six (6) months of the Closing Date or negotiate in good faith with the Department for the re-conveyance of the Property to the Department; and

WHEREAS, to date, 410 W Wayne has not obtained or provided evidence of its good faith efforts to diligently pursue such zoning and land use approvals after receiving written notice regarding the same in the form of letters dated November 30, 2017, December 8, 2017, and April 25, 2018, as well as several informal notices to 410 W Wayne of such deficiency; and

WHEREAS, to date, 410 W Wayne has not re-conveyed the Property to the Department;
and

WHEREAS, the Department desires to act to affect the reconveyance of title to the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

1. The Department, through its staff and in consultation with legal counsel, shall be authorized to enforce the terms of the Agreement using any or all such remedies set forth therein or otherwise available by law or equity.

2. The staff of the Department shall be, and hereby are, authorized to accept and cause to be recorded with the St. Joseph County Recorder's Office a deed transferring the Property back to the Department.

3. This Resolution shall be in full force and effect upon its adoption.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on May 10, 2018, at 227 West Jefferson Boulevard, Room 1308, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary