



## Legislation Details (With Text)

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**Effective date:**

**Title:** Resolution removing a deed restriction from the two properties located at 806 South 3rd Street and 810 South 3rd Street to permit sale of the property at 810 South 3rd Street.

**Sponsors:** James N. Witkowiak

**Indexes:**

**Attachments:**

Date	Ver.	Action By	Action	Result	Tally
5/31/2006	0	COMMON COUNCIL	ADOPTED	Pass	13:0
6/8/2006	0	MAYOR	SIGNED		

060184  
ORIGINAL

### ALD. WITKOWIAK

Resolution removing a deed restriction from the two properties located at 806 South 3<sup>rd</sup> Street and 810 South 3<sup>rd</sup> Street to permit sale of the property at 810 South 3<sup>rd</sup> Street.

This resolution removes a deed restriction which has the effect of combining two residential properties, preventing a sale of one without the other. The Owner owns both properties and imposed the deed restriction in 2002 to obtain City permission to construct garages at the rear of each property. Due to a change in the zoning code and issuance of a variance by the Board of Zoning Appeals, the garages are now code compliant without the necessity of maintaining the deed restriction. Removal of the deed restriction will permit Owner to sell one of the properties.

Whereas, J. Dain Maddox (the "Owner") is the owner of two separate, residential properties located at 806 South 3<sup>rd</sup> Street and 810 South 3<sup>rd</sup> Street (each, a "Parcel"); and

Whereas, In early 2002, Owner sought permission to construct two detached, two-car garages one each at the rear of each of the Parcels (the "Garages"); and

Whereas, Due to the size of each Parcel, Owner found it impossible to design garages that conformed to zoning requirements for minimum setback and allowable areas of construction on each Parcel; and

Whereas, The City determined later in 2002 that a deed restriction encumbering each Parcel to combine such Parcels for zoning code compliance purposes would permit construction of the two Garages; and

Whereas, Owner, by instrument dated April 1, 2002 and recorded April 3, 2002 at the Milwaukee County Register of Deeds Office as Document No. 8255327, encumbered the Parcels with a deed

restriction (the “Deed Restriction”), combining the Parcels for zoning code compliance purposes and preventing the sale of any less than both Parcels at the same time to the same purchaser; and

Whereas, In October 2002, the zoning code was amended such that each Garage is compliant with the area limitation set forth in the zoning code for the Parcel upon which it is located; and

Whereas, In April 2006, the City Board of Zoning Appeals granted Owner a variance (the “Variance”) in respect of the minimum setback requirements for the location of both Garages; and

Whereas, The Deed Restriction is no longer necessary for each Garage to be fully compliant with the zoning code and the Variance, but the Deed Restriction continues to encumber the Parcels, preventing the sale of one Parcel apart from the other Parcel; and

Whereas, The Deed Restriction provides that it “shall run to and be enforceable by the City of Milwaukee;” and

Whereas, Owner now wishes to sell the Parcel located at 810 South 3<sup>rd</sup> Street while retaining the Parcel located at 806 South 3<sup>rd</sup> Street, but cannot do so as long as the Deed Restriction continues to encumber the Parcels and so has requested the City to remove, release and terminate the Deed Restriction; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Commissioner of the Department of City Development, or his designee, is hereby authorized to execute the necessary legal documents to remove, release and terminate the Deed Restriction from both Parcels, so as to permit Owner to convey the Parcel located at 810 South 3<sup>rd</sup> Street.

City Attorney  
KPS:ms  
May 25, 2006  
1050-2006-1397:105880