

Memorandum

Community Economic Development Department



To: Thomas Thomas, City Manager
Subject: Colony Point, Inc. Farm Lease
Date: February 12, 2016

At the November 2, 2015 City Council meeting, Council considered and tabled a request for approval of a 1-year farm lease between the City and Mr. Andrew Kordik of Colony Point, Inc., 1209 5th Avenue in Moline, for the city-owned land at the northwest corner of IL 92 and Andalusia Road. At that meeting, Council requested additional information, including average farm rents in Rock Island County.

BACKGROUND INFORMATION: Mr. Kordik has been actively farming the above described parcel for a number of years. This activity has occurred without a lease with the City. It is believed that a handshake agreement was made between Mr. Kordik and a former City employee to allow this to occur. It came to CED staff's attention in early 2015 that the use of this land as a farm resulted in the loss of the tax exempt status on the property. As a result, the City is required to pay annual taxes on this property, which in 2014 amounted to \$415.40.

The CED Department is seeking a lease agreement with Mr. Kordik to not only recover lost revenue due to property taxes, but also to receive adequate compensation for use of City land. The City Attorney sent a letter to Mr. Frank Nowinski, Mr. Kordik's attorney, on May 19, 2015 outlining the above described situation and requested that Mr. Kordik either enter into a lease agreement with the City for use of the property or cease and desist any farming activities (refer to letter attached). Mr. Kordik was in contact with CED shortly after receiving this notification and requested to enter into a lease agreement with the City. CED staff drafted a lease agreement which was tabled at the November 2, 2015 Council meeting.

Per Council's request at that meeting, CED conducted some research to compare the City's rental rates for farm leases with averages in Illinois. In 2015, the City leased two sites for agricultural purposes. The Coyne farm, which occupies 80 acres at the northeast corner of I-280/IL-92, has been leased for \$87.75/acre since 2013. The Stegmiller farm, which occupies 17.2 acres at 8220 Ridgewood Road, was leased for \$100/acre in 2015. A report from the Department of Agricultural and Consumer Economics at the University of Illinois at Urbana-Champaign indicated the average rent in Rock Island County was \$218 per acre in 2013. Average rents in Henry County were \$246 per acre and \$227 per acre in Mercer County. Notably, commodity rates dropped significantly in 2015, which will likely impact rental rates across the state in future years.

The proposed lease rate for the Kordik site is \$87.75 per tillable acre for a total of \$1,491.75 annually, which is consistent with the other City farm leases proposed for 2016.

RECOMMENDATION: The CED Department recommends City Council approve the lease agreement with Mr. Andrew Kordik subject to minor modifications by the City Attorney and authorize the City Manager to execute the contract documents.

Submitted by: Jeffery A. Eder, Assistant City Manager/CED Director
Brandy Howe, AICP, Urban Planner

Approved by: Thomas Thomas, City Manager



ROCK ISLAND
ILLINOIS

Legal Department

May 19, 2015

Mr. Frank L. Nowinski
KATZ NOWINSKI P.C.
1000 – 36th Avenue, Suite 100
Moline, IL 61265

Re: Parcel BH-191-1
Owner: The City of Rock Island

Dear Frank:

The City of Rock Island is the owner of the above-referenced property, and applied for tax exempt status when they purchased it from the State of Illinois in September, 2006. The original parcels were part of BH- 191-X, part of BH-188 and a right-of-way. Those parcels were then combined into a new parcel number BH-191-1. Exempt status was granted and remained in place through 2007.

We were just recently advised that the City's exempt status was rescinded in 2008 and remains non-exempt. For whatever reason, it fell between the cracks and no one has ever questioned why the City has been paying taxes on the property all these years. However, it made its way to the top of the pile this year and questions were raised and our office was contacted to determine why the tax exempt status was removed.

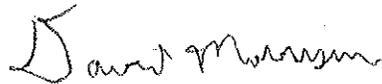
Upon contacting the Board of Review, they indicated that the City lost their exempt status because the property is being farmed, which does not qualify. The City of Rock Island is not farming the property, nor have they entered into a lease for someone else to farm the property.

Our investigation indicates the surrounding property is owned by Andrew J. Kordik, who is obviously farming the property. Please see the attached aerial photo provided by the Board of Review. The property outlined in blue is owned by the City. A deed from Mr. Kordik's corporation, KABZA, INC., to Mr. Kordik was recorded February 19, 2009, a copy of which is enclosed. It would appear that you represented Mr. Kordik at that time.

Would you please contact Mr. Kordik in order that we may resolve this matter. Perhaps Mr. Kordik would like to enter into a lease with the City to continue farming the property, and if so, a lease agreement would need to be prepared between the parties. If not, we would request that Mr. Kordik immediately cease and desist any farming activities on the property in order that the City may again request tax exempt status.

We appreciate your cooperation in this matter and look forward to hearing from you upon consultation with your client.

Sincerely,

A handwritten signature in cursive script that reads "David G. Morrison". The signature is written in dark ink and is positioned above the printed name.

David G. Morrison

DGM:dal
Enclosures

**CITY OF ROCK ISLAND
FARM LEASE
COLONY POINT, INC.**

THIS AGREEMENT, entered into this ____ day of _____ 2016 by and between the City of Rock Island (City), a municipality under the laws of the State of Illinois, and Mr. Andrew Kordik of Colony Point, Inc. (Operator) of 1209 5th Avenue, Moline, Illinois.

THE PARTIES AGREE AS FOLLOWS:

The City of Rock Island, in consideration of the terms specified herein, hereby leases to the Operator for agricultural purposes Parcel Number 11-191-1 in Blackhawk Township, City of Rock Island, Illinois.

1. **Term of Lease.** The term of this lease shall be for a period beginning March 1, 2016 and ending February 28, 2017.
2. **Purpose of the Lease.** The Operator shall have the right to use the property for agricultural purposes.
3. **Rent.** The Operator agrees to pay the City annual cash rent for the above described farm in the amount determined by the following method.
 - a. The annual cash rent shall be the sum of \$1,491.75. This represents 17.0 tillable acres of cropland at \$87.75 per acre.
 - b. The rent shall be paid in full at the time of expiration of the lease on February 28, 2017.
4. **Government Payment.** The Operator is entitled to 100% of any government payment, if the farm is applicable.
5. **Operator Duties and Conditions.** Operator agrees to:
 - a. Farm the land in an efficient and steward-like manner. Crops shall be planted and harvested in a timely fashion as weather conditions permit. In the event Operator fails to do so, the City reserves the right, personally or through designated agents, to enter upon the real estate and properly care for and harvest all growing crops, charging the cost of the care and harvest to the Operator. In the case of termination of this agreement, the Operator shall not perform any tillage nor incur any other expense for the City for the following year's crop without prior written consent of the City.
 - b. Comply with pollution control, water quality, and environmental protection requirements as required by local, state, and federal agencies, as well as to implement soil erosion control practices to comply with the soil loss standards mandated by local, state, and federal agencies.
 - c. Comply with all local, state, and federal laws and regulations governing activities related to the application of manure and the cultivation of crops and the compliance thereof.
 - d. Use reasonable efforts to control weeds in fields, fence rows, road ditches, and all other areas of the farm utilizing conventional tillage practices.

6. **Lessor Duties.** If at any time during the term of this lease, the crop is destroyed due to expansion of a right of way, buildings, or access to timberland, the Lessor will reimburse the Operator for all expenses incurred and lost revenue using production average and a price of commodity at time of loss.
7. **Indemnification.** Operator does hereby agree to release, indemnify, defend, and hold the City harmless from any and all claims, causes of action, damage, liability and cost and expenses, including litigation costs and attorneys' fees, against or incurred by the City, and hereby further agrees to waive and release any and all claims or causes of action of every kind and nature whatsoever, both in law and equity, whether known, unknown, foreseen, unforeseen, which the undersigned, or anyone claiming through or against the undersigned, might have, including without limitation claims for personal injury, death or property damage resulting from, arising out of, or being in any way connected with the use of the subject property. This indemnity agreement shall also be effective to the maximum extent permitted by law.

OPERATOR

CITY

Andrew Kordik, Colony Point, Inc.

Thomas Thomas, City Manager

ATTEST

Aleisha Patchin, City Clerk

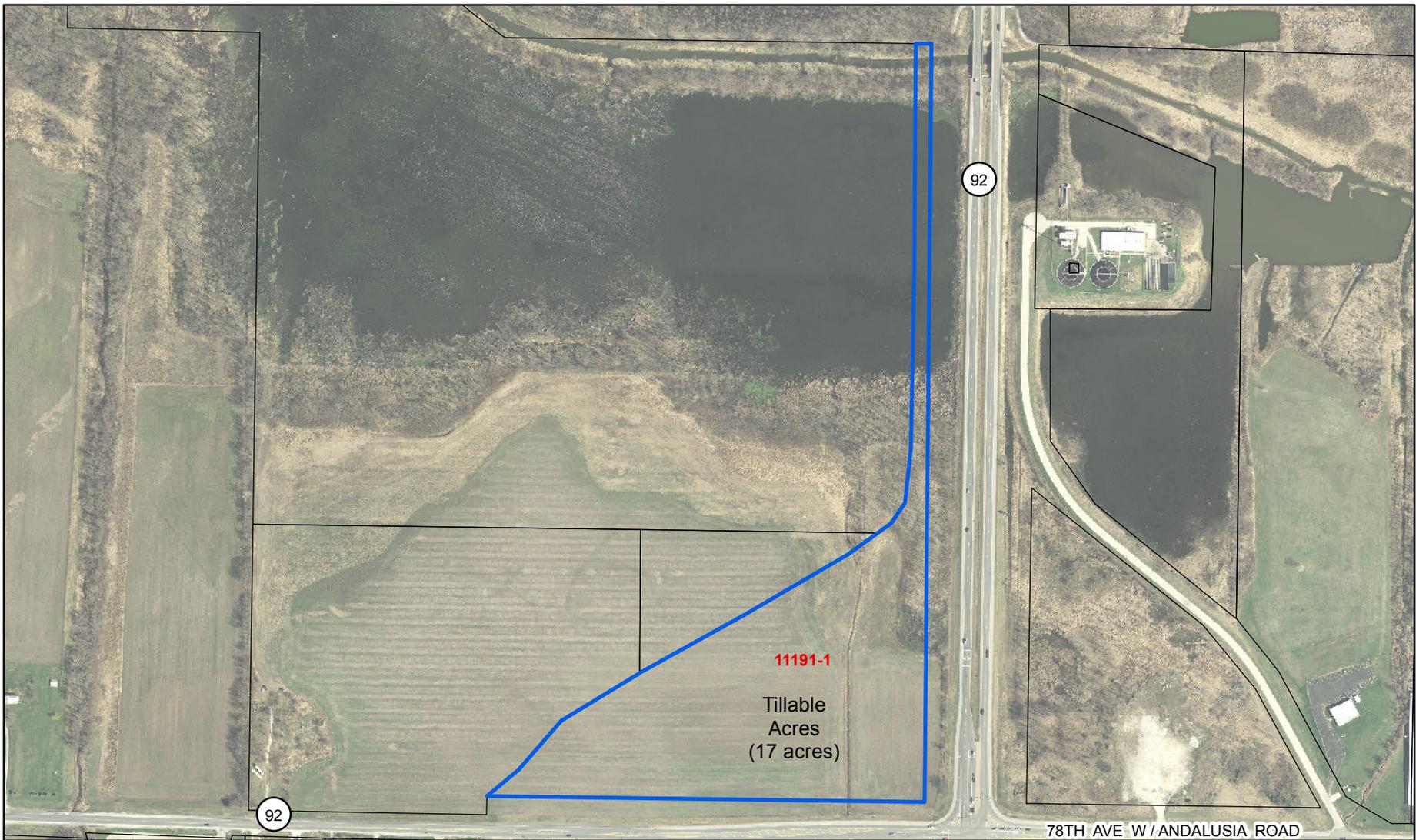


Exhibit A

 NW Rt. 92/78 Ave. West Farmland Lease

 City of Rock Island Parcels

11143 Parcel Number



Disclaimer: This map is not a substitute for an actual field survey or online investigation. The accuracy of the map is limited to the quality of the records from which it was assembled. The City of Rock Island makes no warranty concerning this information.