

COUNCIL ACTION FORM

**SUBJECT: RELEASE OF RESTRICTIVE COVENANTS FOR STORY COUNTY
COMMUNITY LIFE PROGRAM BUILDING AND PROPERTY AT 104
SOUTH HAZEL AVENUE**

BACKGROUND:

Story County is requesting that the City Council release two restrictive covenants on the property it owns at 104 S. Hazel Avenue. Located at this address is the building that has historically housed Story County’s Community Life Program.

Story County has now outsourced its Community Life Program to a private social services provider called Optimae, and Story County is in the process of selling the building and property at 104 S. Hazel to Optimae. Story County is working with the Planning and Housing Department to re-zone the property as a result of the pending sale.

The attorney who is reviewing the abstract and writing a title opinion noted two restrictive covenants on the property. One restrictive covenant (recorded May 19, 1990) states: “The said land shall not be put to any use except as administrative offices and program facilities for the Story County Care Facility in accordance with the plan approved by the Ames Zoning Board of Adjustment until this restrictive covenant shall have been released of record by means of an instrument authorized by Resolution of the Ames City Council.” The second restrictive covenant (recorded November 14, 1990) states: “The said land shall not be put to any use except as administrative offices and residential housing for the Story County Community Life Program in accordance with the plan approved by the Ames Zoning Board of Adjustment until this restrictive covenant shall have been released of record by means of an instrument authorized by Resolution of the Ames City Council.”

Even though the Story County Board of Supervisors placed these restrictive covenants on the property, the covenants’ language gives the Ames City Council the authority to release them.

There seems to be no reason not to grant Story County’s request to release the covenants, particularly because the restrictive covenants have expired per Iowa Code section 614.24, which limits restrictive covenants to 21 years. Story County is aware

that the covenants have expired, but would still like to have a release to clear up the abstract.

To help clear the title to the property and facilitate Story County's sale of the property, it is appropriate for the Council to adopt a resolution releasing these two restrictive covenants on 104 S. Hazel: (1) restrictive covenant filed May 19, 1990 with the Story County Recorder at Book 290, Page 210; and (2) restrictive covenant filed November 14, 1990 with the Story County Recorder at Book 299, Page 315.

ALTERNATIVES:

- 1) The City Council can approve a resolution releasing the two restrictive covenants on the Story County Community Life building property at 104 South Hazel Avenue.
- 2) The City Council can elect not to approve this resolution.

MANAGER'S RECOMMENDED ACTION:

These two restrictive covenants have already expired, and Story County would like a release of the covenants to clear the title to the property before selling it. Furthermore, even with the covenants removed, the property will continue to be utilized for essentially the same purpose.

Therefore, it is recommendation of the City Manager that the City Council adopt Alternative No. 1 as stated above.