

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR OSCEOLA COUNTY, FLORIDA

MMB PROPERTIES, a Florida general
partnership,

CASE NO.: 2014-CA1636 OC

Plaintiff,

vs.

PLANNED PARENTHOOD OF GREATER
ORLANDO, INC., a Florida non-profit
corporation,

Defendant.

AFFIDAVIT OF THOMAS R. HARBERT

STATE OF FLORIDA
COUNTY OF ORANGE

1. BEFORE ME, the undersigned authority, personally appeared Thomas R. Harbert, who after first being duly sworn on oath, deposes and says as follows:

2. My name is Thomas R. Harbert. I am over the age of 18 and otherwise fully competent to testify in this proceeding.

3. I am a member of The Florida Bar who has practiced real estate law for over 20 years with the Orlando firm of Mateer & Harbert, P.A.

4. My firm represented the defendant in the above-styled action, PLANNED PARENTHOOD OF GREATER ORLANDO, INC. ("PLANNED PARENTHOOD") in connection with PLANNED PARENTHOOD's acquisition of its real property located at 610 Oak Commons Boulevard, Kissimmee, Florida (the "Property"). Prior to closing, we reviewed title to the Property. As part of our review I became aware of the Declaration of Restrictions

recorded in O.R. Book 819, Page 16 and the Declaration of Covenants, Conditions, and Restrictions recorded in O.R. Book 898, Page 2584, all of the Public Records of Osceola County, Florida (collectively, the "Declarations").


5. As a result of speaking with Jenna Tosh, President and CEO of PLANNED PARENTHOOD, I understood that PLANNED PARENTHOOD intended to open and operate a women's health care clinic at the Property. PLANNED PARENTHOOD's physicians at the clinic would provide family planning and women's primary and preventative care services. Specifically, under the direction of PLANNED PARENTHOOD's physicians, the Kissimmee clinic expected to provide patients with all FDA-approved forms of contraception, breast and cervical cancer screening, HPV screening, HIV testing and counseling, screening and treatment for other STDs, blood pressure screening, as well as medication and surgical abortions.

6. The title search to the Property also revealed a deed restriction placed on the Property by a previous owner, Adventist Health System/Sunbelt, Inc. A special warranty deed recorded by Adventist Health System/Sunbelt, Inc. in O.R. Book 4228, Page 122 prohibited use of the Property "for the performance of elective termination of pregnancies." A copy of this deed is attached hereto as Exhibit "A." PLANNED PARENTHOOD advised me that rendering of abortion services was one of the intended uses for which it was acquiring the Property. As a result, I advised my client to contact Adventist Health System/Sunbelt, Inc. and Adventist agreed to remove the restriction as reflected in the Waiver of Deed Restriction, recorded December 26, 2013 in O.R. Book 4549, Page 37, a copy of which is attached as Exhibit "B."

7. Because Adventist Health System agreed to remove its deed restriction, I advised PLANNED PARENTHOOD that it was my opinion that the Property could be used for a women's health clinic, including providing the services set forth in paragraph 5 above; and that

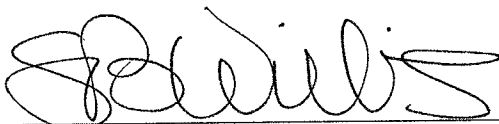
PLANNED PARENTHOOD's proposed uses for the Property would not violate any of the restrictions set forth in the Declarations as written. My advice was based on my understanding that PLANNED PARENTHOOD did not intend to operate either an outpatient surgery center, an emergency medical center, or a diagnostic imaging center and that any outpatient surgical or diagnostic imaging services that were provided at the facility would be ancillary and incidental to a physician's practice of medicine.

FURTHER AFFIANT SAITH NAUGHT.

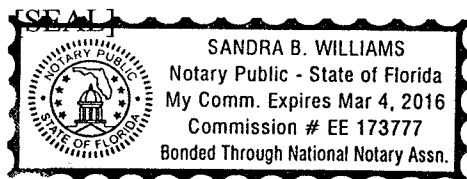


Thomas R. Harbert

SWORN TO AND SUBSCRIBED before me this 25th day of July, 2014, by Thomas R. Harbert who is [] personally known to me, or [] who produced _____ as identification.



Notary Public



Printed Name

My commission expires: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 28, 2014, I electronically filed the foregoing with the Clerk of the Court by using the E-Portal system which will serve a copy via email on:

Dennis R. O'Connor, Esq.
O'Connor & O'Connor, LLC
840 S. Denning Drive, Suite 200
Winter Park, FL 32789
doconnor@oconlaw.com

Maureen A. Arago, Esq.
The Arago Law Office
P.O. Box 452275
Kissimmee, FL 34745-2275
maureenarago@aragolaw.com

/s/ Donald E. Christopher
Donald E. Christopher

EXHIBIT "A"



CFN 2012016935
 Bk 04228 Pgs 0122 - 123; (2pgs)
 DATE: 02/06/2012 03:02:16 PM
 MALCOM THOMPSON, CLERK OF COURT
 DSCEDLA COUNTY
 RECORDING FEES 18.50
 DEED DOC 8,820.00

**THIS INSTRUMENT PREPARED BY
 AND SHOULD BE RETURNED TO:**

Borron J. Owen, Jr., Esq. (DLT)
 GrayRobinson, P.A.
 301 East Pine Street, Suite 1400
 Orlando, Florida 32801
 Telephone: (407) 843-8880

Property Appraisers Parcel ID Number:
 21-25-29-1809-0001-0100

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made and executed this 31st day of January, 2012, by **ADVENTIST HEALTH SYSTEM/SUNBELT, INC., a Florida not-for-profit corporation, doing business as Florida Hospital Kissimmee**, whose address is 2400 Bedford Road, 2nd Floor, , Orlando, Florida 32804, (hereinafter referred to as "Grantor"), to **K & K LAND HOLDING – KISSIMMEE, INC., a Florida corporation, also known as K&K Landholding – Kissimmee, Inc.**, whose address is 604 Oak Commons Blvd., Kissimmee, FL 34741 (hereinafter referred to as "Grantee"):

[Whenever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.]

WITNESSETH:

THAT the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey, and confirm unto the Grantee that certain piece, parcel or tract of land situated in Osceola County, Florida more particularly described as follows, to wit:

Lot 10, Oak Commons Medical Park, according to the plat thereof as recorded in Plat Book 5, Page 128, Public Records of Osceola County, Florida. (hereinafter referred to as the "Subject Property");

TOGETHER with all the tenements, hereditaments, easements and appurtenances, including riparian rights, if any, thereto belonging or in anywise appertaining;

TO HAVE AND TO HOLD, the Subject Property in fee simple forever;

AND, the Grantor does hereby covenant with and warrant to the Grantee that the Grantor is lawfully seized of the Subject Property in fee simple; that the Grantor has good right and lawful authority to sell and convey the Subject Property; and that the Grantor fully warrants the title to the Subject Property and will defend the same against the lawful claims of all persons claiming by, through or under the Grantor, but against none other.

THE conveyance made herein, however, is expressly made SUBJECT TO ad valorem real property taxes and assessments for the year 2012 and thereafter, and easements, covenants and restrictions of record, if any, the reference to which shall not operate to reimpose the same.

FURTHER, by the acceptance of this conveyance as evidenced by the recording of this Deed among the Public Records of Osceola County, Florida, this Deed and conveyance is also made SUBJECT TO the following restriction and condition, which Grantee acknowledges and agrees to; and which shall run with the Subject Property and shall be binding upon all subsequent owners of the Subject Property: 1) the use of the Subject Property for the performance of elective termination of pregnancies is prohibited. Grantor, its successors and assigns, hereby reserve the right to enforce, waive or cancel the restriction herein established. This restriction may not be altered, amended, changed, or modified without the written consent of Grantor. In addition to any other remedies which Grantor, its successors and assigns, may have at law or in equity, Grantor shall have the right to injunction in order to enforce the foregoing restriction.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in manner and form sufficient to bind it as of the day and year first above written.

Signed, sealed and delivered in the presence of:

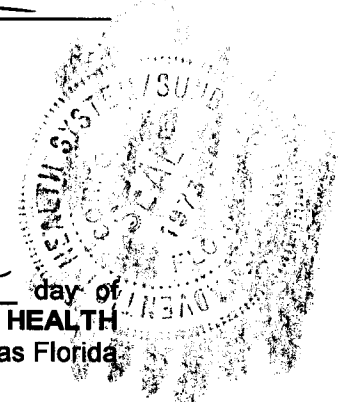
Jody BADA
Print Name: JODY BADA

Dorothy L. Hamlin
Print Name: DOROTHY L. HAMLIN

**ADVENTIST HEALTH SYSTEM/
SUNBELT, INC.**, a Florida not-for-profit corporation, doing business as Florida Hospital Kissimmee

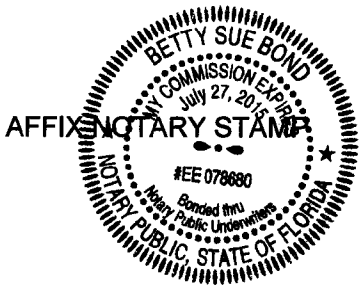
By: *Lars D. Houmann*
Name: Lars D. Houmann
Title: Vice President

[CORPORATE SEAL]



STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 31st day of January, 2012, by Lars D. Houmann, as Vice President of **ADVENTIST HEALTH SYSTEM/SUNBELT, INC.**, a Florida not-for-profit corporation, doing business as Florida Hospital Kissimmee, on behalf of the corporation.



Betty Sue Bond
Signature of Notary Public

Betty Sue Bond
(Print Notary Name)

My Commission Expires: _____
Commission No.: _____

Personally known, or
 Produced Identification
Type of Identification Produced: _____

EXHIBIT "B"

**THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:**

Borron J. Owen, Jr., Esq.
GrayRobinson, P.A.
301 East Pine Street, Suite 1400
Orlando, Florida 32801
Telephone: (407) 843-8880

Property Appraisers Parcel ID Number:
21-25-29-1809-0001-0100

WAIVER OF DEED RESTRICTION

THIS WAIVER OF DEED RESTRICTION is made and executed this 7TH day of November, 2013, by **ADVENTIST HEALTH SYSTEM/SUNBELT, INC.**, a Florida not-for-profit corporation, doing business as **Florida Hospital Kissimmee**, whose address is 2400 Bedford Road, 2nd Floor, Orlando, Florida 32804, (hereinafter referred to as "**Florida Hospital Kissimmee**").

WITNESSETH:

WHEREAS, Florida Hospital Kissimmee, by that certain Special Warranty Deed dated January 31, 2012, filed February 6, 2012 and recorded in Official Records Book 04228, Pages 0122 - 0123, Public Records of Osceola County, Florida (hereinafter referred to as the "**Deed**") has heretofore granted and conveyed to **K & K LAND HOLDING - KISSIMMEE, INC.**, a Florida corporation, also known as **K&K Landholding - Kissimmee, Inc.**, whose address is 604 Oak Commons Blvd., Kissimmee, Florida 34741, that certain real property situated in Osceola County, Florida more particularly described as follows (hereinafter referred to as the "**Property**");

Lot 10, Oak Commons Medical Park, according to the plat thereof as recorded in Plat Book 5, Page 128, Public Records of Osceola County, Florida.

WHEREAS, the Deed, among other things, contains a certain deed restriction and condition on the Property in favor of Florida Hospital Kissimmee; and

WHEREAS, Florida Hospital Kissimmee now desires to waive and cancel such deed restriction and condition, as set forth hereinafter.

NOW, THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Florida Hospital Kissimmee, Florida Hospital Kissimmee hereby waives and cancels in its entirety that certain deed restriction and condition number 1) contained in the Deed, and such deed restriction and condition is hereby stricken from the Deed, and the Property is hereby released therefrom.

Exhibit "B" - Page 1 of 2

IN WITNESS WHEREOF, Florida Hospital Kissimmee has caused these presents to be executed in manner and form sufficient to bind it as of the day and year first above written.

Signed, sealed and delivered in the presence of

Eddie Siler
Print Name: Eddie Siler

J. Brian Parady
Print Name: J. BRIAN PARADY

ADVENTIST HEALTH SYSTEM/
SUNBELT, INC., a Florida not-for-profit corporation, doing business as Florida Hospital Kissimmee

By: *Lars D. Houmann*
Lars D. Houmann, Vice President

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 7th day of November, 2013, by Lars D. Houmann, as Vice President of ADVENTIST HEALTH SYSTEM/SUNBELT, INC., a Florida not-for-profit corporation, doing business as Florida Hospital Kissimmee, on behalf of the corporation.

Betty Sue Bond
Signature of Notary Public
Betty SUE

(Print Notary Name)

My Commission Expires: _____

Commission No.: _____

Personally known, or

Produced Identification

Type of Identification Produced: _____

AFFIX NOTARY STAMP

