STATE OF NORTH DAKOTA	IN DISTRICT COURT
COUNTY OF OLIVER	SOUTH CENTRAL JUDICIAL DISTRICT
City of Center, Plaintiff, v. Double Agent Properties, LLC (Alter Ego to William Sherwin); William Sherwin; Cassidy Sherwin; Marcella Sherwin; David Sherwin; Carole Sherwin; Vernan Henke; Zoeann Henke; Tanner Henke; James Amundson; Darby Amundson, Defendants.	**Complaint** Case No. 33-2026-CV-00021

[¶1] COMES NOW, the Plaintiff in the above-captioned matter, the City of Center (hereinafter "City") by and through its attorney, Patrick Waters, who hereby brings forth this Complaint seeking relief against the Defendants, William Sherwin (hereinafter "William"), Cassidy Sherwin (hereinafter "Cassidy"), David Sherwin (hereinafter "David"), Carole Sherwin (hereinafter "Carole"), Vernan Henke (hereinafter "Vernon"), Zoeann Henke (hereinafter "Zoeann"), Tanner Henke (hereinafter "Tanner"), Anne Johnson (hereinafter "Anne"), James Amundson (hereinafter "James"), and Darby Anderson (hereinafter "Darby") (collectively "Defendants"). and in favor of the City, as set forth below.

I. FACTUAL BACKGROUND

[¶2] The City has a series of lots located within the City of Center, Oliver County, North Dakota in an area known as the "Hazel Miner Addition to the City of Center, County of Oliver."

Certain lots therein were placed for public sale on the following date:

[¶3] Each of the lots were sold pursuant to terms and conditions appurtenant to a Transfer Agreement and Declaration of Restrictive Covenant and wee conveyed by the City to various individuals, including the Defendants to this action. The lots are also subject to the Oliver County Zoning Ordinance (see *Exhibit #1*), which is hereby incorporated by reference into this Complaint.

[¶4] As to James and Darby Amundson:

a. On 6/26/2026, the auditor for the City sent James and Darby an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #2*, which is incorporated by reference into this Complaint.

b. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lot Eight (8), Block Five (5), Hazel Miner Addition to the City of Center** for the price of $5,999.00 was signed by James and Darby (see *Exhibit #3*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants which were bargained for between the parties (and which was sent to James and Darby) included that the lot was not to be sold for a profit for three (3) years and that one person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the**

land.

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/9/2026 (*also on Exhibit #3*). **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot from three (3) years to <u>three (3) months</u>**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. Based upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendants and/or another person (or persons) acting as agent for the Defendants changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the altered language until after the Transfer Agreement and Declaration of Restrictive Covenants were recorded.**

d. On 7/9/2026, a Warranty Deed was signed by James and Darby (see *Exhibit #4*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/10/2026 at 11:30am.

e. On 7/14/2026, James and Darby signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $5,000.00, resulting in a loss to James and Darby in the amount of $999.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/20/2026 at 9:46am. See *Exhibit #5*, which is hereby incorporated by reference

into this Complaint.

[¶5] As to Tanner Henke:

a. On 6/30/2026, the auditor for the City sent Tanner an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #6*, which is incorporated by reference into this Complaint.

b. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lots Seven (7) and Eight (8), Block Three (3), Hazel Miner Addition to the City of Center** for the price of $11,998.00 was signed by Tanner (see *Exhibit #7*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants which were bargained for between the parties (and which was sent to James and Darby) included that the lot was not to be sold for a profit for three (3) years and that one person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.**

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 6/7/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of**

the lot from three (3) years to <u>three (3) months</u>. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/15/2026 at 8:55am. (*also on Exhibit #7*). The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. Based upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendant and/or another person (or persons) acting as agent for the Defendant changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the Transfer Agreement and Declaration of Restrictive Covenants was recorded.**

d. On 7/7/2026, a Warranty Deed was signed by Tanner (see *Exhibit #8*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 8:58am.

e. On 7/14/2026, Tanner signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $11,000.00, resulting in a loss to Tanner in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:37am. See *Exhibit #9*, which is hereby incorporated into this Complaint.

[¶6] <u>As to Vernon and Zoeann Henke</u>:

a. On 6/29/2026, the auditor for the City sent Vernon and Zoeann an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed**

to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed. See *Exhibit #10*, which is incorporated by reference into this Complaint.

b. On 6/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lot Three (3), Block Five (5) and Lot Four (4), Block Six (6), Hazel Miner Addition to the City of Center** for the price of $12,998.00 was signed by Vernon and Zoeann (see *Exhibit #11*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants included that the lot was not to be sold for a profit for three (3) years and that one-person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.**

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/7/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot from three (3) years to <u>three (3) months</u>**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. (*also on Exhibit #11*). The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. Based upon information and belief, following all of the parties' signatures on the original transfer agreement

(i.e. 3-year language for sale of property), the Defendants and/or another person (or persons) acting as agent for the Defendants changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the Transfer Agreement and Declaration of Restrictive Covenants were recorded.**

d. On 7/9/2026, a Warranty Deed was signed by Vernon and Zoeann (see *Exhibit #12*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:04am.

e. On 7/14/2026, Vernon and Zoeann signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $12,000.00, resulting in a loss to Vernon and Zoeann in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:28am. See *Exhibit #13*, which is hereby incorporated by reference into this Complaint.

[¶8] As to David and Carole Sherwin:

a. On 6/26/2026, the auditor for the City sent Vernon and Zoeann an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #14*, which is incorporated by reference into this Complaint.

b. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lot Four (4), Block Three (3) and Lot Seven (7), Block Five (5), Hazel Miner Addition to the City of Center** for the price of $11,998.00 was signed by David and Carole (see *Exhibit #15*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants included that the lot was not to be sold for a profit for three (3) years and that one-person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.**

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/7/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot for profit from three (3) years to <u>three (3) months</u>**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 10:36am. (*also on Exhibit #15*).The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. Based upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendants and/or another person (or persons) acting as agent for the Defendants changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the**

Transfer Agreement and Declaration of Restrictive Covenants were recorded.

d. On 7/9/2026, a Warranty Deed was signed by David and Carole (see *Exhibit #16*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:04am.

e. On 7/13/2026, David and Carole signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $11,000.00, resulting in a loss to David and Carole in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:37am. See *Exhibit #17*, which is hereby incorporated by reference into this Complaint.

[¶10] As to Marcella Sherwin:

a. On 6/26/2026, the auditor for the City sent Marcella an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #18*, which is incorporated by reference into this Complaint.

b. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lots Five (5) and Six (6), Block Five (5), Hazel Miner Addition to the City of Center** for the price of $11,998.00 was signed by Marcella (see *Exhibit #19*), which is hereby incorporated by reference into this Complaint.

The terms of the Agreement and Restrictive Covenants included that the lot was not to be sold for a profit for three (3) years and that one-person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/9/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot for profit from three (3) years to three (3) months**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:12am. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:27am. (*also on Exhibit #19*). Based upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendant and/or another person (or persons) acting as agent for the Defendant changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the Transfer Agreement and Declaration of Restrictive Covenants were recorded.**

d. On 7/9/2026, a Warranty Deed was signed by David and Carole (see *Exhibit #20*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:04am.

e. On 7/13/2026, David and Carole signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $11,000.00, resulting in a loss to David and Carole in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:37am. See *Exhibit #21*, which is hereby incorporated by reference into this Complaint.

[¶11] As to William and Cassidy Sherwin:

a. On 6/26/2026, the auditor for the City sent Marcella an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #22*, which is incorporated by reference into this Complaint.

b. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lots Two (2) and Three (3), Block Three (3), Hazel Miner Addition to the City of Center** for the price of $11,998.00 was signed by William and Cassidy (see *Exhibit #23*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants included that the lot was not to be sold for a profit for three (3) years and that one-person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.**

c. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/7/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot for profit from three (3) years to <u>three (3) months</u>**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:21am. (*also on Exhibit #23*). Based upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendants and/or another person (or persons) acting as agent for the Defendants changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the Transfer Agreement and Declaration of Restrictive Covenants were recorded.**

d. On 7/7/2026, a Warranty Deed was signed (see *Exhibit #24*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/10/2026 at 9:28am.

e. On 7/13/2026, William and Cassidy signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $11,000.00, resulting in a loss to William and Cassidy in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:28am. See *Exhibit #25*, which is hereby incorporated by reference into this Complaint.

[¶12] As to Double Agent Properties, LLC (Alter Ego to William Sherwin: On 6/26/2026, the auditor for the City sent William Sherwin an email containing the original purchase agreement and original warranty deed, as negotiated between the parties. **The purchase agreement which was emailed to them contained language which prohibited the sale of the lot for profit during the three (3) years immediately following the recording of the purchase agreement and warranty deed.** See *Exhibit #22*, which is incorporated by reference into this Complaint.

a. On 7/1/2026, a Transfer Agreement and Declaration of Restrictive Covenants for the sale of **Lots Two (2) and Three (3), Block Three (3), Hazel Miner Addition to the City of Center** for the price of $11,998.00 was signed by William and Cassidy (see *Exhibit #23*), which is hereby incorporated by reference into this Complaint. **The terms of the Agreement and Restrictive Covenants included that the lot was not to be sold for a profit for three (3) years and that one-person (of couple) could not own more than two (2) lots from the date of recording and the agreement and restrictive covenants therein were to run with the land.**

b. The City signed the Transfer Agreement and Declaration of Restrictive Covenants on 7/7/2026. **The terms of the recorded Transfer Agreement and Declaration of Restrictive Covenants that were recorded contained altered, non-bargained-for language which changed the covenant regarding resale of the lot for profit from three (3) years to <u>three (3) months</u>**. The Transfer Agreement and Declaration of Restrictive Covenants was recorded with the Oliver County Recorder on 7/10/2026 at 11:21am. (*also on Exhibit #23*). Based

upon information and belief, following all of the parties' signatures on the original transfer agreement (i.e. 3-year language for sale of property), the Defendants and/or another person (or persons) acting as agent for the Defendants changed the document to reflect a 3-month period for resale prior to recording it prior to recording it. **The City did not become aware of the alteration until after the Transfer Agreement and Declaration of Restrictive Covenants were recorded.**

c. On 7/7/2026, a Warranty Deed was signed (see *Exhibit #24*), which is hereby incorporated by reference into this Complaint. The Warranty Deed was recorded with the Oliver County Recorder on 7/10/2026 at 9:28am.

d. On 7/13/2026, William and Cassidy signed a Warranty Deed to convey the Property to an LLC owed by William Sherwin entitled Double Agent Properties, LLC for the sum of $11,000.00, resulting in a loss to William and Cassidy in the amount of $998.00. The Warranty Deed was recorded with the Oliver County Recorder on 7/15/2026 at 9:28am. See *Exhibit #25*, which is hereby incorporated by reference into this Complaint.

II. CAUSES OF ACTION

[¶9] **Count I — Quiet Title; Determination of Adverse Claims; Cancellation of Instruments (N.D.C.C. ch. 32-17)**

1. The City incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The City adopted and administered a municipal program governing disposition of certain municipal lots subject to restrictive covenants (hereinafter "Hazel Miner

Lots"), including that no resale for profit may occur for three years from purchase and that no person may own more than two lots, with such covenants expressly stated in purchase agreements to run with the land.

3. Pursuant to the program, warranty deeds were executed and recorded conveying certain Hazel Miner Lots (hereinafter "Hazel Miner Lots"), to initial purchasers subject to the running covenants as set forth in ¶¶ 4-12, *supra*.

4. The initial purchasers (i.e., Defendants) each altered the City's purchase agreement form returned to the City by changing the no-resale covenant from three years to three months, contrary to the City's adopted program and the offered terms, and without the City's knowing assent.

5. Following closing, the Hazel Miner Lots were conveyed, directly or through original purchasers and intermediate sellers, to an LLC owned and controlled by Attorney William Sherwin (one of the initial purchasers, which now holds record title to more than two lots in violation of the two-lot ownership cap.

6. The recorded warranty deeds and any instruments purporting to modify or nullify the three-year no-resale covenant or the two-lot cap are clouds on title and/or were procured by fraud, alteration, and/or inequitable conduct, and should be cancelled.

7. Plaintiff is entitled under N.D.C.C. ch. 32-17 to a determination of adverse claims, to have title quieted in the City, to cancellation of instruments that constitute clouds on title, and to such further relief as will restore the Hazel Miner

Lots to conformity with the covenants running with the land.

8. THEREFORE, Plaintiff requests judgment quieting title to the Hazel Miner Lots in the City; declaring and determining the adverse claims of Defendants invalid and junior to the City's interests; cancelling all deeds, assignments, or other instruments that cloud title or misstate the covenants; directing the recorder to reflect the judgment; and awarding such further equitable relief as necessary to effectuate quiet title.

[¶10] **Count II — Constructive/Implied Trus (N.D.C.C. § 59-01-06)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The alterations of the purchase agreement to change the no-resale period from three years to three months, the subsequent acquisition of more than two lots through an attorney/initial purchaser William Sherwin-owned and controlled LLC, and the utilization of intermediate conveyances to concentrate ownership contravened the City's program covenants that run with the land.

3. By virtue of fraud, or wrongful conduct, Defendants (initial purchasers) acquired legal title and/or benefits in contravention of the City's equitable rights and program restrictions.

4. Under N.D.C.C. § 59-01-06 and equitable principles, Defendants (initial purchasers) hold the Hazel Miner Lots, and all proceeds and profits derived therefrom, as constructive, or implied trustees for the benefit of the City.

5. Defendant Double Agent Properties, LLC, and Defendant William Sherwin have

been unjustly enriched at the City's expense by acquiring, controlling, and profiting from more than two lots and by defeating the three-year no-resale-for-profit covenant.

6. Equity requires imposition of a constructive trust on the Hazel Miner Lots and related proceeds, disgorgement of profits, and an accounting of all transfers, rents, profits, and consideration received.

7. THEREFORE, Plaintiff seeks imposition of a constructive/implied trust over the Hazel Miner Lots and all proceeds; an accounting and transfer of legal title to the City; and such other equitable relief as will prevent unjust enrichment.

[¶11] **Count IV — Judicial Rescission of Purchase Agreements and Conveyances; Tender/Restoration (N.D.C.C. §§ 9-09-02, 9-09-04; 32-04-21; 32-04-23)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The initial purchasers altered the purchase agreement returned to the City to shorten the non-resale covenant from three years to three months, inducing execution and/or recording of conveyances inconsistent with the City's program and the offered terms.

3. The alteration and subsequent transfers to the attorney/initial purchaser William Sherwin-owned LLC, including acquisitions resulting in ownership of more than two lots, constitute grounds for rescission based on fraud, undue influence, mistake, and/or failure of consideration under N.D.C.C. §§ 9-09-02 and 9-09-04.

4. Plaintiff has not ratified the altered terms and, upon rescission, will restore or tender restoration of consideration received to the extent required by equity, with

appropriate offsets for use, profits, and damages, consistent with N.D.C.C. §§ 32-04-21 and 32-04-23.

5. Judicial rescission is necessary to unwind the tainted transactions, cancel the affected instruments, and restore the Hazel Miner Lots to the City subject to the original covenants.

6. THEREFORE, Plaintiff seeks a decree rescinding the affected purchase agreements and subsequent conveyances; cancellation of instruments; restoration of title to the City; adjudication of tenders and restorations as the court deems equitable; and such further relief to place the parties in status quo ante.

[¶12] **Count V — Actual Fraud (N.D.C.C. § 9-03-08)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The initial purchaser knowingly and intentionally altered the City's purchase agreement to misrepresent the duration of the no-resale covenant from three years to three months, intending the City to rely upon the altered term.

3. The alteration, concealment, and use of intermediate transfers to concentrate ownership in the attorney/initial purchaser William Sherwin-owned LLC, more than the two-lot cap, were undertaken with the intent to defraud the City and to obtain benefits in contravention of covenants running with the land.

4. The City justifiably relied on the integrity of the returned purchase agreements and on the deeds as reflecting the agreed covenants and suffered damages including loss of the benefit of the covenants, impairment of program objectives, and associated monetary and equitable harms.

5. Under N.D.C.C. § 9-03-08, the attorney and all contracting parties and those acting with their connivance are liable for actual fraud.

6. THEREFORE, Plaintiff seeks compensatory damages in an amount to be proven at trial; equitable relief necessary to remedy the fraud, specifically cancellation; and such further relief as the Court deems just.

[¶13] **Count VI — Deceit (N.D.C.C. §§ 9-10-02, 9-10-03)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The attorney/initial purchaser-owned LLC, and intermediates committed deceit by willfully deceiving the City as to material terms and purposes of the transactions, including the three-year no-resale restriction and the two-lot ownership cap, with intent to induce action to the City's detriment.

3. The alteration of the purchase agreement, the structuring of transfers to the attorney/initial purchaser William Sherwin-owned LLC, and concealment or suppression of the true terms constitute deceit under N.D.C.C. §§ 9-10-02 and 9-10-03.

4. The City was damaged by acting upon the deceit, including through issuance of deeds and loss of control over compliance with covenants running with the land.

5. THEREFORE, Plaintiff seeks compensatory damages, equitable relief to unwind the transactions, disgorgement of benefits obtained through deceit, and such further relief as is just.

[¶14] **Count VII — Attorney Treble Damages for Deceit/Collusion (N.D.C.C. § 27-13-08) — Against Attorney William Sherwin Only**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. Defendant William Sherwin – an attorney who was acting as an initial purchaser and principal for the attorney/initial purchaser William Sherwin-owned LLC, engaged in deceit and collusion as alleged, including altering the purchase agreement, misrepresenting material terms, and orchestrating transfers to evade the two-lot cap and the three-year no-resale covenant.

3. As a direct and proximate result, the City sustained actual damages including administrative costs, market and program losses tied to violation of the covenants, and expenses necessary to investigate, remediate, and enforce the program.

4. Under N.D.C.C. § 27-13-08, Plaintiff seeks treble damages against the attorney for deceit or collusion; Plaintiff reserves the right to elect between treble damages under § 27-13-08 and exemplary damages under N.D.C.C. § 32-03.2-11 to avoid double recovery.

5. THEREFORE, Plaintiff seeks judgment for its actual damages trebled under N.D.C.C. § 27-13-08 against the attorney; costs; interest; and such further relief as is just.

[¶15] **Count VIII — Exemplary (Punitive) Damages (N.D.C.C. § 32-03.2-11)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. Plaintiff pleads underlying tort claims, including fraud and deceit, based on the initial purchaser's alteration of the purchase agreement, the transfer scheme to an attorney/initial purchaser-owned LLC, and the violation of covenants running

with the land.

3. The conduct was oppressive, fraudulent, or malicious within the meaning of N.D.C.C. § 32-03.2-11, warranting exemplary damages to punish and deter.

4. Pursuant to N.D.C.C. § 32-03.2-11(1), Plaintiff will move to amend the pleadings to claim exemplary damages upon a showing of prima facie evidence as required by statute.

5. Plaintiff reserves the right to elect between treble damages under N.D.C.C. § 27-13-08 and exemplary damages under N.D.C.C. § 32-03.2-11 to avoid double recovery.

6. THEREFORE, Plaintiff seeks leave to amend to assert exemplary damages pursuant to N.D.C.C. § 32-03.2-11 and, upon amendment and proof, an award of exemplary damages in an amount sufficient to punish and deter.

[¶16] **Count IX — Civil Conspiracy (North Dakota Common Law)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. Defendant William Sherwin, the attorney/initial purchaser William Sherwin-owned LLC, and intermediates agreed and combined to accomplish unlawful objectives, including evasion of the three-year no-resale covenant and the two-lot ownership cap, and/or to accomplish lawful objectives by unlawful means, including alteration of the purchase agreement and deceptive transfers.

3. Overt acts in furtherance included returning altered purchase agreement to the City, recording deeds, and completing transfers concentrating ownership in the attorney/initial purchaser William Sherwin-owned LLC more than the two-lot

cap.

4. The conspiracy proximately caused damages to the City, including impairment of program objectives, clouds on title, administrative and enforcement costs, and loss of the benefit of covenants running with the land.

5. THEREFORE, Plaintiff seeks joint and several liability for compensatory damages caused by the conspiracy, equitable relief to unwind the scheme, and such further relief as is just.

[¶17] **Count X — Alter Ego/Veil Piercing (N.D.C.C. § 10-32.1-26(3))**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. The attorney/initial purchaser-owned LLC is the alter ego and instrumentality of the Defendant Attorney William Sherwin. Based upon information and belief, Defendant Attorney William Sherwin dominated and controlled the LLC, used it to acquire more than two lots and to evade the three-year no-resale covenant, and observed insufficient separateness in capitalization, governance, and purpose related to the challenged transactions.

3. Recognizing the LLC's separate existence would sanction fraud or promote injustice by allowing evasion of covenants running with the land and retention of ill-gotten benefits.

4. Under N.D.C.C. § 10-32.1-26(3) and applicable veil-piercing principles, the Court should disregard the LLC's separate existence to the extent necessary to impose liability and equitable remedies against the attorney personally.

5. THEREFORE, Plaintiff seeks a determination that the LLC is the alter ego of the

attorney for purposes of the claims and remedies herein; imposition of liability and equitable orders against the Defendant Attorney William Sherwin to the same extent as the LLC; and such further relief as is just.

[¶18] **Count XII — Uniform Voidable Transactions Act (N.D.C.C. ch. 13-02.1)**

1. Plaintiff incorporates by reference all prior and subsequent allegations of this Complaint as though fully set forth herein.

2. Transfers of the Hazel Miner Lots from initial purchasers and intermediates to the attorney/initial purchaser William Sherwin-owned LLC were made with actual intent to hinder, delay, or defraud the City's rights under covenants running with the land, including by evasion of the two-lot cap and the three-year no-resale covenant.

3. Alternatively, the transfers were constructively voidable because they occurred in violation of covenants running with the land for inadequate or illusory consideration relative to the City's equitable interests and left the lots beyond the City's enforcement reach.

4. Under N.D.C.C. § 13-02.1-07, Plaintiff is entitled to avoidance of the transfers to the extent necessary to satisfy the City's claims, attachment or other provisional remedies, injunctions against further disposition, appointment of a receiver, and any other relief the circumstances may require.

5. THEREFORE, Plaintiff seeks avoidance of the subject transfers to the attorney/initial purchaser William Sherwin-owned LLC; injunctions and receivership as appropriate; levy or execution upon the Hazel Miner Lots; and such further remedies authorized by N.D.C.C. ch. 13-02.1.

[¶19] **Lis Pendens Notice Paragraph**

1. The Hazel Miner Lots are the subject of this action within the meaning of North Dakota law; upon filing of this Complaint, Plaintiff will record a notice of lis pendens identifying the parties, the object of the action, and the legal description of the Hazel Miner Lots to provide constructive notice of Plaintiff's claims and requested relief.

[¶20] **Request for Temporary Restraining Order and Preliminary Injunction**

1. Plaintiff seeks a temporary restraining order and preliminary injunction, followed by a permanent injunction, prohibiting Defendants from transferring, encumbering, or otherwise disposing of the Hazel Miner Lots; requiring maintenance of the status quo; and compelling interim compliance with the three-year no-resale covenant and the two-lot cap pending final adjudication, supported by verified pleadings and/or affidavits and secured by an appropriate bond as the Court orders.

[¶21] **General Prayer for Relief**

1. Plaintiff requests entry of judgment in its favor and against all Defendants, jointly and severally as applicable, granting the following relief:
    a. quiet title;
    b. cancellation and avoidance of instruments and transfers;
    c. judicial rescission with appropriate tenders and restorations;
    d. constructive trust, disgorgement, restitution, accounting, and receivership as warranted; compensatory damages in an amount to be proven at trial;
    e. treble damages against the attorney under N.D.C.C. § 27-13-08 or,

alternatively, exemplary damages under N.D.C.C. § 32-03.2-11 upon amendment and proof, with election to avoid double recovery;

f. issuance and recordation of a lis pendens;

g. pre- and post-judgment interest as allowed by law;

h. taxable costs;

i. attorney's fees to the extent permitted by N.D.C.C. §§ 28-26-01(2) and 28-26-31, N.D.R.Civ.P. 11, and any other applicable authority; and

j. such further legal and equitable relief as the Court deems just and proper.

Dated: 8/20/2026

/s/ Patrick W Waters

Patrick W. Waters (#08505)
City Attorney for City of Center
Heartland Law Office, PC
418 North 2nd Street
Bismarck, ND 58501
Phone: (701) 587-8423
E-file address: patrick@701justice.com