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April 14, 2023

VIA FEDEX AND ELECTRONIC MAIL

Mr. Bill Zolper
Town of Dewey Beach Manager
105 Rodney Avenue
Dewey Beach, Delaware 19971
townmanager@townofdeweybeach.com

**RE: Town of Dewey Beach and DelDOT Street and Beach Maintenance Agreement
Rodney Avenue Right-of-Way**

Dear Town Manager Zolper –

Our firm has been retained by Highway One, LLC to review various rights, obligations, and expectations concerning right-of-way areas within the Town of Dewey Beach, specifically concerning, but not limited to, Rodney Avenue. As part of this representation, we reviewed the State and Town Codes, recorded documents, site plans, leases, and other publicly available records.

Among these documents reviewed was a “Street and Beach Maintenance Agreement” between the State of Delaware, by and through DelDOT, and the Town, dated May 7, 1983 and further supplemented on April 6, 1984. This Agreement details the jurisdiction, maintenance, and control of streets, roads, and beach lands located within the Town’s municipal limits. Our understanding is that this Agreement is the latest, and controlling, Agreement on this subject.

The Agreement identifies the portion of Rodney Avenue extending 0.11 miles west of “A Street” (i.e. Coastal Highway/State Route 1) as a “State Maintained Street,” for which exclusive jurisdiction is vested with the State. The State, thus, has the responsibility to construct, reconstruct, and maintain Rodney Avenue and other State Maintained Streets, which might include patching and resurfacing. The Town does, however, have jurisdiction over parking, the enforcement of parking, and the control of traffic over these State Maintained Streets.

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The Agreement also identifies the portions of right-of-way not specifically identified in the Agreement as State Maintained Streets as “Beach Lands,” which would presumably include any land beyond the 0.11-mile stretch of Rodney Avenue west of Coastal Highway. Beach Lands, per the Agreement, are left to the jurisdiction of the Town, with the condition that the use thereof be limited to the “public use and enjoyment” in perpetuity and, consistently, kept “open for the use and enjoyment of the public within all reasonable means.”

We understand that the Town has similarly been reviewing its rights, obligations, and expectations concerning such right-of-way areas within the Town as it evaluates parking improvements to the subject area of Rodney Avenue. Given this review, can you please advise as to whether our understanding, as outlined in this letter, is consistent with the Town’s understanding? In addition, we understand that a related matter concerning a Temporary License Agreement associated with the Rodney Avenue right-of-way is scheduled to be considered by the Town Commissioners on Friday, April 21. Can you please confirm that our firm will be able to participate in that discussion?

Please do not hesitate to reach out should you have any questions.

Very truly yours,

/s/ Michael J. Hoffman

Michael J. Hoffman

cc: Alexander J. Pires, Esq. (via electronic mail)
Fred A. Townsend, III, Esq. (via electronic mail)