

*The Law Office of*  
**McATEE & WOODS, P.C.**  
**ATTORNEYS AT LAW**

MICHAEL G. McATEE  
MAURICE G. WOODS, II  
ADAM M. BAKER  
CHRISTINE B. McINNES  
ORION A. STRAND

410 Northwest 13<sup>th</sup>  
Oklahoma City, Oklahoma 73103  
Telephone (405) 232-5067  
Facsimile (405) 232-0009  
[office@mcateeandwoods.com](mailto:office@mcateeandwoods.com)

Tulsa Office  
DON W. DANZ  
SETH A. CAYWOOD  
(918) 928-5960  
Direct Dial

November 14, 2023

Board of Adjustment  
The City Oklahoma City  
420 W. Main  
Suite 910  
Oklahoma City, OK 73102

Re: BLDC-2023-05982  
Locke Supply Co.  
Appeal from Non-action by Development Services Director

Dear Board of Adjustment:

I represent Locke Supply Co. who has been assessed a Development Fee pursuant to Chapter 50 §14 for their new warehouse facility to be located at 8811 S. Bryant Avenue, Oklahoma City in the amount of \$725,158.56. Locke Supply Co. hereby disputes the basis for the calculation of the fee, and appeals.

On September 28, 2023 Christopher Moses, Plans Examiner, gave first notice of the assessed Development Fee, the exact amount of which was made clear by Donna McMurtry on October 25, 2023. Pursuant to OKC Municipal Code, §50-14(k)(1) timely appeal was hand-delivered to Rick Wickencamp, Development Services Director, within thirty (30) days of that decision on October 27, 2023, together with the following enclosures:

- A. A copy of the building permit application and permits;
- B. An email from Donna McMurtrey dated October 25, 2023 setting forth the determination of the fee by City staff;
- C. A copy of the final approved development plan; and
- D. A letter from the engineer of record, Tim Johnson, P.E. explaining the calculations and basis for the appeal.

According to subsection (k)(1), “the Development Services Director will review the appeal and provide the building permit applicant an opportunity to be heard, within ten days of the appeal filing, in the form of a meeting or teleconference.” The language utilized is mandatory, rather than permissive. Nonetheless, no hearing has been provided, nor has there been any indication the appeal is under review. Ten days from October 27, 2023 expired on November 6, 2023, and Locke Supply Co., treats the Building Services’ Director’s lack of mandatorily required action as the appeal being deemed denied.

November 14, 2023

Page 2

Pursuant to subsection (k)(2), Locke Supply Co. is afforded a second-tier review by the Board of Adjustment, if made “within five business days of such calculation [by the Development Services Director].” On Friday, November 10, 2023 City offices were closed in recognition of Veteran’s Day. This appeal to the Board of Adjustment is therefore timely made on Tuesday, November 14, 2023.

On the morning of November 14, 2023 counsel received a telephone call from Toni in Mr. Wickencamp’s office offering a teleconference Teams meeting, which has now been scheduled for Monday, November 27, 2023 at 1:30 p.m. The offer of the meeting was out of time, as is the available date of the meeting. Locke Supply will proceed with the teleconference as scheduled in furtherance of the potential relief requested. However, out of an abundance of caution regarding inflexible deadlines set forth by statute and ordinance, Locke Supply Co. proceeds with this Application for Appeal to the Board of Adjustment at this time.

Pursuant to §50-14(m), Development Fees assessed are subject to objective standards:

Subject to the provisions and limitations of 62 O.S. §895, and the requirement that development exactions by the City shall not exceed a clear, ascertainable, and reasonably determined proportionate share of the cost of capital improvement to the public infrastructure system attributable to the expansion or increase in functional service capacity generated, or to be generated by, the development being charged the fee . . .”

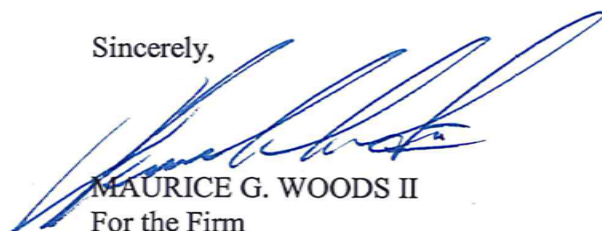
A careful review of the submitted materials will lead you to a conclusion that the Development Fee currently assessed against Locke Supply Co. is neither 1) clear, ascertainable, or reasonably proportional to the nature and extent of the impact of the development; nor 2) results from any projected required increase in functional service capacity; nor 3) is based upon reliable, ascertainable or reasonable projections of system improvement costs attributable to Locke Supply Co’s new warehouse facility.

In accordance with subsection (k)(2), I attach herewith for the Board of Adjustment’s review:

- A. A copy of the building permit application and permits;
- B. Omitted. (No Timely Determination by Development Services Director);
- C. A copy of the final approved development plan; and
- D. A letter from the engineer of record, Tim Johnson, P.E. explaining the calculations and basis for the appeal.

Should you have any questions or concerns, please do not hesitate to call.

Sincerely,



MAURICE G. WOODS II  
For the Firm