

TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: December 6, 2005
SUBJECT: Troy v. Saoud and Nidhal Jamo, Ameriquest Mortgage Company
and David Ayoub, L.L.C, d/b/a Michigan Community Financial
Services

This condemnation lawsuit was necessitated by the Big Beaver Road widening project. The property owners of 2907 Thames- Saoud and Nidhal Jamo- did not contest the total take of their property, or the amount of just compensation offered by the City after an appraisal. There were two encumbrances on the property. The first was a mortgage to Ameriquest. The second was a mortgage held by David Ayoub, L.L.C. d/b/a Michigan Community Financial Services ("Ayoub"). Although the owners did not dispute the mortgage to Ameriquest, there was some dispute concerning the second mortgage. Since the City required a clean title for the property, we initiated the condemnation action with the Oakland County Circuit Court.

Immediately after filing the condemnation case on December 6, 2004, the Court entered an order that required the City to use a portion of the just compensation to pay off the entire amount of the outstanding mortgage to Ameriquest. This amount was paid, and Ameriquest was dismissed from the lawsuit. This Court order also required the remaining just compensation to be placed in escrow until the disputes between the remaining defendants could be resolved.

The City has monitored the progression of the case, but did not actively participate in the dispute between the defendants. After completing discovery, the co-defendants have now reached a settlement, where the City will pay the remaining just compensation, in addition to statutory costs and interests, to the mortgage holder David Ayoub, L.L.C. We have drafted a proposed Consent Judgment to reflect this settlement and to conclude the condemnation case.

It is our recommendation that the Troy City Council approve the proposed Consent Judgment (attached), and authorize our office to execute the document on behalf of the City of Troy.

If you have any questions, please feel free to contact us.



OAKLAND COUNTY JUDGE GENE SCHNELZ
TROY CITY V JAMO, SAUD, .

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
municipal corporation,

Plaintiffs,

v

Case No. 04-062810-CC
Hon. Gene Schnelz

Saoud Jamo and Nidhal Jamo, husband and wife,
David Ayoub, L. L.C., a Michigan Limited Liability Company,
and Michigan Community Financial Services, an Assumed Name
Company of David Ayoub, L.L.C.

Defendants.

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City of Troy – City Attorney's Office
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Attorney for David Ayoub, L.L.C., d/b/a
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CONSENT JUDGMENT

At a session of Court held in the
Courthouse in the City of Pontiac,
Oakland County, MI

on: _____

PRESENT: HONORABLE GENE SCHNELZ, CIRCUIT JUDGE

NOW THEREFORE
IT IS HEREBY ORDERED:

1. The filing of the Complaint for Acquisition of Property and Declaration of Taking, followed by the entry by this Court of the *Order for Estimated Compensation and Surrender of Possession* on January 5, 2005 vests in Plaintiff CITY OF TROY the legal title to the property which is the subject of this cause of action, and which is fully described in the *Complaint for Acquisition of Property and Declaration of Taking* filed with this Court on December 6, 2004.
2. As required in the *Order for Payment of Estimated Compensation and Surrender of Possession*, the Plaintiff CITY OF TROY paid \$180,000 in just compensation for the Property that is described in Paragraph 1.
3. A large portion of the just compensation was paid directly to the Defendant, AMERIQUEST MORTGAGE COMPANY, as required by the *Order for Partial Disbursement of Just Compensation Held in Escrow* dated March 15, 2005. Pursuant to this order, the Plaintiff CITY OF TROY paid Defendant AMERIQUEST MORTGAGE COMPANY the sum of \$163,000 as full satisfaction for its mortgage that encumbered the Property that is described in Paragraph 1.
4. The remaining \$17,000 in just compensation for the Property described in Paragraph 1 was placed in escrow, as required by the *Order for Partial Disbursement of Just Compensation Held in*

Escrow dated March 15, 2005.

5. Defendant, AMERIQUEST MORTGAGE COMPANY, was dismissed from these proceedings as required in the *Order for Partial Disbursement of Just Compensation Held in Escrow* dated March 15, 2005.
6. Plaintiff CITY OF TROY is now ordered to pay to Defendant, DAVID AYOUB, L.L.C, d/b/a MICHIGAN COMMUNITY FINANCIAL SERVICES, as the holder of a mortgage on the Property that is described in Paragraph 1, the remaining escrowed just compensation for the Property, which is Seventeen Thousand (\$17,000.00) Dollars, minus any delinquent taxes, assessments or water bills for the Property as set forth in Paragraph 7.
7. Pursuant to the provisions of 1931 PA 270 as amended, MCL 213.291, any amounts incurred up to the date of taking as delinquent taxes, assessments or water bills, if any, shall be deducted by Plaintiff CITY OF TROY, prior to payment of just compensation. As of the date of taking, taxes on the Property were owed in the amount of Two Thousand Six Hundred Ninety Five Dollars and 64/100 Cents (\$2,695.64). This amount will be used to satisfy the outstanding tax indebtedness on the Property that is described in Paragraph 1, and therefore will be deducted from the \$17,000 in remaining just compensation.
8. Plaintiff CITY OF TROY's only liability to Defendant DAVID

AYOUB, L.L.C., d/b/a MICHIGAN COMMUNITY FINANCIAL SERVICES, for the acquisition of the Property as described in Paragraph 1, is limited to the amount that is set forth above in this Consent Judgment, plus statutory interest on the amount of escrowed just compensation (\$14,304.36) until the date of the payment, in accordance with the provisions of Section 15 of the Uniform Condemnation Procedures Act, MCL 213.65. The amount of said interest as of December 31, 2005 is One Thousand sixty seven dollars and fourteen cents (\$1,067.14). No other costs, fees, or attorney fees shall be paid in this matter.

9. The total amount of just compensation is to be paid to the mortgage holders on the Property, as set forth above. Plaintiff CITY OF TROY shall have no liability or owe any compensation, costs or fees to Defendants SAOUD JAMO and NIDAL JAMO, his wife.
10. The Defendants, SAOUD JAMO and NIDAL JAMO, his wife acknowledge receipt of relocation fees in the amount of Thirty Six Thousand One Hundred Twelve Dollars and 04/100 Cents (\$36,112.04), which Defendants JAMO were entitled to under federal law relocation provisions.
11. Upon payment by Plaintiff CITY OF TROY of the sums recited herein, any and all claims of Defendants which have been asserted or which could have been asserted against Plaintiff or each other arising out of the taking of the subject property or by reason of any

other claims for damages which could or may have been asserted by reason of the commencement of the instant proceedings and/or the dispute over the amounts owed to the Defendant mortgage holders, shall be forever barred.

- 12. This judgment resolves the last pending claims and closes the case.

Circuit Judge

Approved as to substance and form;
notice of entry waived

Susan M. Lancaster (P33168)
Attorney for City of Troy

Gerald Richter P38822
Michael a. Hassan P66176
Attorneys for Saoud Jarno and Nidhal Jarno

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Michigan Community Financial Services

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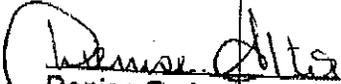
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