



**TO:** Mayor and Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Susan M. Lancaster, Assistant City Attorney  
**DATE:** October 12, 2005  
**SUBJECT:** Vacation of Consent Judgment – Troy Long Lake, L.L.C.

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A March 25, 1988 Consent Judgment currently controls the property at the corner of Long Lake Road and Livernois Road in the City of Troy (the site of T-Birds restaurant). This Consent Judgment was in settlement of a lawsuit that was filed against the City of Troy in 1987.

The Consent Judgment limits the development on the Property, and allows for the construction of a restaurant, which is a permitted use in the B-2 (Community Business) zoning district. The Consent Judgment required the original Plaintiff, Three Plus Corporation, to convey additional right of way to the City of Troy, in addition to constructing acceleration and deceleration lanes on Livernois Road and Long Lake Roads, and limiting the number of curb cuts to the property.

According to the terms of the Consent Judgment, the use of the Property needs to be consistent with the Consent Judgment, which essentially requires a restaurant on the property. However, the successor Plaintiff, Troy Long Lake, L.L.C., has recently proposed a People's Bank to replace the T-Birds restaurant. They have submitted their proposal to the Troy Planning Commission, which has granted preliminary site plan approval, contingent upon the vacation of the Consent Judgment and the planting of a buffer between the adjoining residential property and the site. A vacation of the Consent Judgment would allow a bank branch, subject to the provisions of the B-2 (Community Business) zoning district.

A vacation of the Consent Judgment requires the approval of the Troy City Council, as well as the successor Plaintiffs, Troy Long Lake, L.L.C.. A proposed Stipulated Order for Vacation of a Consent Judgment is attached for your review and/or approval.

Troy Long Lake, L.L.C. has not yet closed on the property, but closing is scheduled for mid-October. In the interim, Troy Long Lake L.L.C. is reluctant to close on the property until they have some assurance that their proposed bank is feasible. Therefore, the proposed resolutions are contingent upon the closing on the property, and the document, if approved, would not be entered until Troy Long Lake L.L.C. provided sufficient proof of ownership of the property.

If you have any questions concerning this matter, please let us know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

TROY LONG LAKE, L.L.C., a Michigan Corporation, and the Successor in Interest to THREE PLUS CORPORATION, a Michigan Corporation,

Plaintiff,

V.

Case No. 87-340985 AW  
Hon. John J. McDonald

CITY OF TROY, a Michigan Municipal Corporation, TROY PLANNING COMMISSION, and TROY BUILDING DEPARTMENT,

Defendants.

\_\_\_\_\_/   
Philip P. Ruggeri (P31554)  
Attorney for Successor Plaintiff  
TROY LONG LAKE, L.L.C.,  
The Successor in Interest to  
THREE PLUS CORPORATION  
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Attorney for Defendants  
CITY OF TROY, TROY  
PLANNING COMMISSION and  
TROY BUILDING DEPARTMENT  
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STIPULATED ORDER FOR VACATION OF  
CONSENT JUDGMENT

At a session of said Court held  
in the Courthouse, in the City of  
Pontiac, Oakland County, Michigan  
on: \_\_\_\_\_

PRESENT: HONORABLE \_\_\_\_\_, CIRCUIT JUDGE  
John J. McDonald

## **STIPULATIONS**

1. TROY LONG LAKE, L.L.C., a Limited Liability Company, is the successor owner of real property in the City of Troy, Oakland County, Michigan, which is legally described on the attached Exhibit A, and hereafter referred to as PROPERTY. The PROPERTY was previously owned by the original Plaintiff, THREE PLUS CORPORATION, which currently possesses no interest in the PROPERTY.
2. The PROPERTY was the subject of a Consent Judgment between the original Plaintiff, THREE PLUS CORPORATION and the Defendants, CITY OF TROY, TROY PLANNING COMMISSION AND TROY BUILDING DEPARTMENT. The Consent Judgment was initially entered into on March 25, 1998.
3. According to the terms of the Consent Judgment, the Court retains and possesses jurisdiction over this action.
4. The Consent Judgment limited the development of the PROPERTY, and allowed for a restaurant to be constructed on the PROPERTY, in accordance with the terms and conditions as set forth in the Consent Judgment.
5. A restaurant was constructed on the Property shortly after the entry of the Consent Judgment.
6. The PROPERTY has been sold to the successor Plaintiff, TROY LONG LAKE, L.L.C., who has proposed to tear down the restaurant and construct a new bank on the PROPERTY.

7. The new bank would be permitted as of right in the underlying zoning classification of the PROPERTY (B-2). Without the existence of the Consent Judgment, the Successor Plaintiff would need only to secure site plan approval from the Troy Planning Commission in order to proceed with the proposed development of a bank.
8. On September 13, 2005, the Successor Plaintiff, TROY LONG LAKE, L.L.C., received preliminary approval for their proposed site plan from the Troy Planning Commission, which is contingent upon the vacation of the Consent Judgment entered on March 25, 1988 and the planting of three (3) additional canopy trees on the south edge of the PROPERTY.
9. The Consent Judgment currently precludes the PROPERTY from being used for any purpose other than a restaurant.
10. The parties, and/or their successors in interest, have stipulated to the vacation of the March 25, 1998 Consent Judgment, which would allow the Property uses to be consistent with the underlying zoning classification (B-2, Community Business), and would allow for the construction of a bank on the PROPERTY.
11. A vacation of the Consent Judgment is in the best interest of the parties.
12. The original consideration provided in exchange for the opportunity to construct a restaurant has already been provided. This consideration includes, but is not limited to the construction of acceleration lanes on

Livernois Road and Long Lake Road, the limit to two curb cuts for the restaurant (one on Livernois Road and one on Long Lake Road), and the conveyance of right of way by the original Plaintiffs.

13. The Successor Plaintiff, TROY LONG LAKE, L.L.C., has voluntarily agreed to plant three (3) additional canopy trees to the south edge of the PROPERTY, to buffer the adjoining residential property prior to final site plan approval. The preliminary site plan approval is contingent upon the satisfaction of this condition.

**NOW THEREFORE**, in consideration of all of the above factors, and after being apprised of the facts through stipulations of the parties, and each party having retained legal counsel,

THIS COURT **ORDERS** that the previous Consent Judgment, governing the PROPERTY described in Exhibit A and dated March 25, 1988, is hereby **VACATED**. The PROPERTY can be developed in any manner consistent with the underlying zoning classification of B-2 (Community Business District), or any future amendments to the zoning classification for the PROPERTY that are approved by the Troy City Council, as long as the proposed development is consistent with any required site plan approval that is received from the City of Troy.

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John J. McDonald, Circuit Judge

Approved as to form and substance  
and stipulated for entry:

TROY LONG LAKE, L.L.C,

CITY OF TROY,

\_\_\_\_\_  
By:

\_\_\_\_\_  
By: Louise E. Shilling, Mayor

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Philip P. Ruggeri (P31554)  
Attorney for Troy Long Lake, L.L.C.

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By: Tonni Bartholomew, Clerk

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

LEGAL DESCRIPTION:

PROPERTY DESCRIPTION - PARCEL TAX ID #20-15-101-001

A PARCEL OF LAND IN PART OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 15; THENCE ALONG THE NORTH LINE OF SECTION 15, DUE EAST 245.20 FEET; THENCE SOUTH 00°00'43" EAST 60.00 FEET TO A POINT ON THE SOUTH LINE OF LONG LAKE ROAD (120 FEET WIDE) AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°00'43" EAST 259.20 FEET TO THE NORTH LINE OF "BELZAIR SUBDIVISION" (LIBER 67, PAGE 31); THENCE ALONG THE NORTH LINE OF "BELZAIR SUBDIVISION," DUE WEST 185.20 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF LIVERNOIS AVENUE (120 FEET WIDE); THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF LIVERNOIS ROAD, NORTH 00°00'43" WEST 229.20 FEET; THENCE NORTH 44°59'38" EAST 42.42 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF LONG LAKE ROAD; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF LONG LAKE ROAD, DUE EAST 155.20 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 1.0917 ACRES OF LAND, SUBJECT TO AND TOGETHER WITH ANY EASEMENTS, RESTRICTIONS, OR RESERVATIONS AFFECTING TITLE TO THE DESCRIBED PARCEL.

EXHIBIT A

REC'D