



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: December 26, 2006
SUBJECT: Milano Development Company, Inc. v. City of Troy, et. al.

The City has been named as a defendant in a re-plat lawsuit filed by Milano Development Company, Inc. According to the attached lawsuit, Milano Development Company, Inc. owns Lot 17 of Square Acres Subdivision, commonly known as 1703 Rockfield, Troy, MI. Plaintiff proposes to develop Lot 17 by constructing a 13-unit site condominium project. This project, Athens Park, has already received preliminary site plan approval from the Troy City Council. However, before the proposed development can occur, Plaintiff must first vacate an easement for a private roadway that is recorded in the original plat of 1940. According to the Complaint, the "43 foot easement for roadway purposes" must be removed, as its boundaries conflict and overlap with the proposed development.

Under the Land Division Act, the vacation of a easement requires the filing of a lawsuit against all property owners within 300 feet of the proposed vacation, as well as the utilities and governmental bodies that have jurisdiction over the property. Upon information and belief, all necessary parties have been served with a copy of the lawsuit.

Absent objections from City Council, our office will enter an appearance in the case to protect the City's interests. If you have any questions concerning the above, please let me know.

Legal Software, Inc.
(800) 530-2255
Approved, SCAO

Original - Court
1st copy -Defendant

06-079401-CZ



CAPLINTD JUDGE MICHAEL WARREN
COURT: MILANO DEVELO V AURAND, SCOTT

STATE OF MICHIGAN

JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT

6th

Court address

1200 N. Telegraph Road, Dept. 404, Pontiac, MI 48341-0404

Court telephone no.

(248) 858-1000

Plaintiff name(s), address(es) and telephone no(s).

MILANO DEVELOPMENT COMPANY, INC.
c/o Kalas Kadian, P.L.C.
43928 Mound Road, Suite 100
Sterling Heights, MI 48314 (586) 726-0760

V

Defendant name(s), address(es), and telephone no(s).

City of Troy
500 W. Big Beaver Rd.
Troy, MI 48084-5285

Plaintiff attorney, bar no., address, and telephone no.

Mark H. Kadian (P46169)
43928 Mound Road, Suite 100
Sterling Heights, MI 48314
(586) 726-0760

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan, you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued DEC 11 2006	This summons expires* MAR 12 2007	Court clerk RUTH JOHNSON
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*This summons is invalid unless served on or before its expiration date.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

Family Division Cases

- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Shelby Township, County of Macomb	Defendant(s) residence (include city, township, or village) City of Troy, County of Oakland
Place where action arose or business conducted City of Troy, County of Oakland	

Date
12/8/06

Signature of attorney **Mark H. Kadian (P46169)**

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MILANO DEVELOPMENT COMPANY, INC.
a Michigan corporation,

RECEIVED FOR FILING
OAKLAND COUNTY CLERK

Case No. 06

CZ

Plaintiff.

HON.

'06 DEC -1 A10:45

-vs-

SCOTT AURAND and PATRICIA AURAND,
husband and wife; JAMES P. MARTIN,
CHI HO KWONG and SUK FONG LI,
husband and wife; THERESA FOUNDERS and
JAMES FOUNDERS, husband and wife;
CHARLES SLATE and RUTH SLATE,
husband and wife; ARTENIO A. DELCARMEN
and EVANGELINE M. DELCARMEN, husband and wife;
RUSSELL J. PACH, a single man; RODENY A. LEAKE
and ELAINE M. LEAKE, husband and wife;
JAMES BERAR and SOPHIE BERAR, husband and wife;
HANAA S. NICKOLA, a married woman;
BRIAN WIGNER, a single man; ANGELLA DIAMANTIS,
a single woman; JACK HAY and SUSAN M. HAY,
husband and wife; JEFFREY G. HARPER, a single man;
KENNETH CRUM and AMANDA CRUM, husband and wife;
MICHAEL L. AMES and LINDA S. AMES, husband and wife;
SHARON A. VALENTE; LEONIDAS NICK TSANGANOS and
LABRENE MARIE TSANGANOS, husband and wife;
ERNIE C. RACKLEY and TINA M. RACKLEY, husband
and wife; CLIFFORD CRIST; DAVID R. PURVIS and
LINDA M. PURVIS, husband and wife; CITY OF TROY,
a Michigan municipal corporation; JAY B. RISING,
State Treasurer of the State of Michigan; JOHN MCCULLOCH,
Drain Commissioner of the County of Oakland; BRENT BAIR,
Chairperson of the County Road Commissioners for the
County of Oakland,

Defendant.

_____/

KALAS KADIAN, P.L.C.
By: MARK H. KADIAN (P46169)
Attorney for Plaintiff
43928 Mound Road, Suite 100
Sterling Heights, MI 48314
☎(586) 726-0760

_____/

COMPLAINT

There is no other pending civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint.



Mark H. Kadian (P46169)

COMPLAINT

NOW COMES Plaintiff, Milano Development Company, Inc., a Michigan corporation, by and through its attorneys, Kalas Kadian, P.L.C., and for its Complaint against the above-captioned Defendants, states as follows:

PARTIES AND JURISDICTION

1. That Plaintiff, Milano Development Company, Inc. ("Plaintiff"), is a Michigan corporation, with its registered office located at 47858 Van Dyke Avenue, Suite 410, Shelby Township, MI 48317.
2. That Defendants Scott Aurand and Patricia Aurand are owners of record title to property commonly known as 1677 Hamman, Troy, MI.
3. That Defendant James P. Martin is the owner of record title to property commonly known as 1693 Hamman, Troy, MI.
4. That Defendants Chi Ho Kwong and Suk Fong Li are the owners of record title to property commonly known as 1709 Hamman, Troy, MI.
5. That Defendants Theresa Founders and James Founders are the owners of record title to property commonly known as 1725 Hamman, Troy, MI.
6. That Defendants Charles Slate and Ruth Slate are the owners of record title to property commonly known as 1773 Hamman, Troy, MI.
7. That Defendants Artenio A. DelCarmen and Evangeline M. DelCarmen are the owners of record title to property commonly known as 1805 Hamman, Troy, MI.

8. That Defendant Russell J. Pach is the owner of record title to property commonly known as 1821 Hamman, Troy, MI.

9. That Defendants Rodney A. Leake and Elaine M. Leake are the owners of record title to property commonly known as 1692 Hamman, Troy, MI.

10. That Defendants James Berar and Sophie Berar are the owners of record title to property commonly known as 1708 Hamman, Troy, MI.

11. That Defendant Hanaa S. Nickola is the owner of record title to property commonly known as 1724 Hamman, Troy, MI.

12. That Defendant Brian Wigner is the owner of record title to property commonly known as 1740 Hamman, Troy, MI.

13. That Defendant Angella Diamantis is the owner of record title to property commonly known as 1788 Hamman, Troy, MI.

14. That Defendants Jack Edward Hay and Susan M. Hay are the owners of record title to property commonly known as 1804 Hamman, Troy, MI.

15. That Defendant Jeffrey G. Harper is the owner of record title to property commonly known as 1820 Hamman, Troy, MI.

16. That Defendants Kenneth Crum and Amanda Crum are the owners of record title to property commonly known as 1643 Rockfield, Troy, MI.

17. That Defendants Michael L. Ames and Linda S. Ames are the owners of record title to property commonly known as 1661 Rockfield, Troy, MI.

18. That Defendant Sharon A. Valente is the owner of record title to property commonly known as 1656 Rockfield, Troy, MI.

19. That Defendants Leonidas Nick Tsanganos and Labrene Marie Tsanganos are the owners of record title to property commonly known as 1666 Rockfield, Troy, MI.

20. That Defendants Ernie C. Rackley and Tina M. Rackley are the owners of record title to property commonly known as 1704 Rockfield, Troy, MI.

21. That Defendant Clifford Crist is the owner of record title to property commonly known as 1677 Rockfield, Troy, MI.

22. That Defendants David R. Purvis and Linda M. Purvis are the owners of record title to property commonly known as 4461 Cynthia, Troy, MI.

23. That Defendant, the City of Troy ("Defendant Troy") is a Michigan municipal corporation, having offices located at 500 West Big Beaver Road, Troy, Michigan.

24. That Defendant Jay B. Rising is the State Treasurer of the State of Michigan, having offices at 430 West Allegan St., Lansing, MI 48922.

25. That Defendant John McCulloch is the Drain Commissioner of the County of Oakland, State of Michigan, having offices located at 1 Public Works Drive, Waterford, MI.

26. That Defendant Brent Bair is the Chairperson of the County Road Commissioners for the County of Oakland, State of Michigan, having offices at 31001 Lasher Road, Beverly Hills, MI 48025.

27. That this Court has jurisdiction over this matter pursuant to MCL 560.221 et seq.

**ACTION TO PARTIALLY VACATE PLAT
IN ACCORDANCE WITH MCL 560.221, ET SEQ.**

28. That Plaintiff incorporates herein each and every preceding paragraph as though fully restated herein.

29. That Plaintiff is the owner of record of property commonly known as 1703 Rockfield, Troy, MI, which property is legally described as:

"Lot 17 of Supervisor's Plat of Square Acres Subdivision, as recorded in Liber 14 of Plats, Page 47, Oakland County Records, being a part of the south half of Section 4, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan" ("Plaintiff's Property").

30. That Plaintiff's Property is part of the Supervisors Plat for Square Acres Subdivision ("Plat for Square Acres Subdivision"), as recorded in Liber 14 of Plats, Page 49, Oakland County records.

31. That Defendants identified in paragraphs 2 through 22 above, are owners of record of property within 300' of Plaintiff's Property, and are joined as party Defendants in this action, in accordance with MCL 560.224a(1)(a).

32. That Defendants identified in paragraphs 23 through 26 above, are joined as party Defendants in accordance with MCL 560.224a(i)(b-f).

33. That the Plat for Square Acres Subdivision includes an easement for a private road ("Easement for Private Road"), as depicted on a portion of the recorded Plat for Square Acres Subdivision, attached as Exhibit "A".

34. That the northern portion of Plaintiff's Property is subject to the Easement for Private Road. The portion of Plaintiff's Property which is subject to the Easement for Private Road is legally described on attached Exhibit "B".

35. That Plaintiff seeks to vacate a part of the Plat for Square Acres Subdivision, so as to terminate the Easement for Private Road in the area legally described on attached Exhibit "B".

36. That Plaintiff seeks to vacate the part of the Plat for Square Acres Subdivision, as described in the preceding paragraph, to permit development of Plaintiff's Property in accordance with an approved site plan.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant the following relief:

A. Enter an order partially vacating the Plat for Square Acres Subdivision, so as to terminate the Easement for Private Road in the area legally described on attached Exhibit "B"; and

B. Grant such other relief as this Court deems equitable and just.

Respectfully submitted,

KALAS KADIAN, P.L.C.

By: _____

MARK H. KADIAN (P46169)
Attorney for Plaintiff
43928 Mound Road, Suite 100
Sterling Heights, MI 48314
☎(586) 726-0760

Dated: December 7, 2006

EXHIBIT "A"

J. C. AMPER

SCALE 1" = 150'. 0 50 100 150 200 250 300 350 400 450 500
JUNE 1940.

measurements are given in feet and decimals thereof.
6.18' from pipes at oil lot corners.

Examined and Approved FILED IN A. T. 102 RECORDS DEPT.
A. T. 102

Lee O. Jones
Deputy Auditor

APPROVED THIS 2nd DAY
OF August A. D. 1940 BY
Lee O. Jones
John D. Rowley
Luther D. Bowen
Deputy Auditor

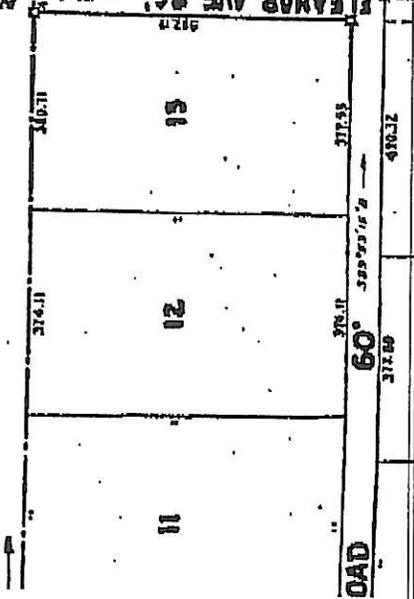
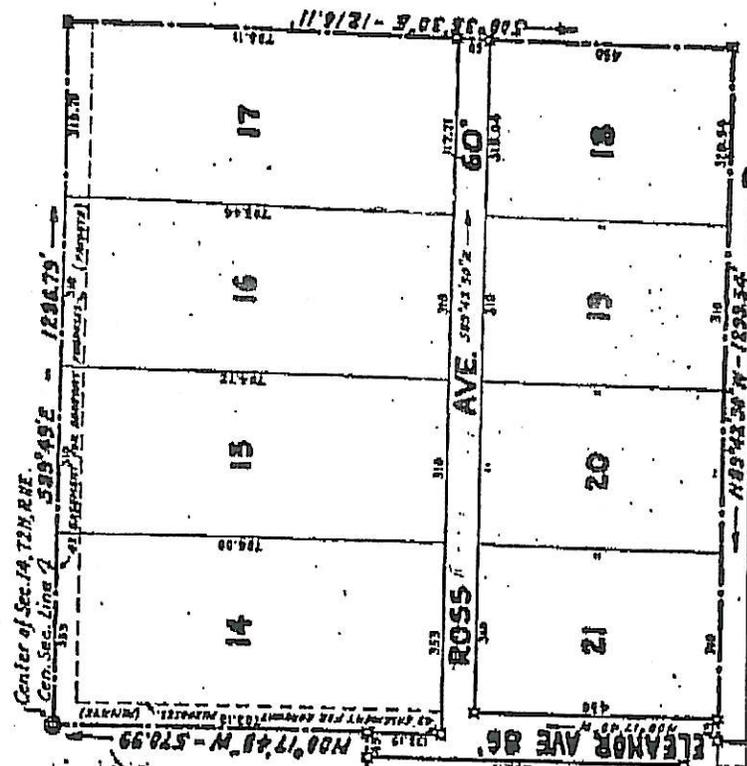


EXHIBIT “B”

DESCRIPTION
43' PRIVATE ROAD EASEMENT

THE NORTH 43.00 FEET OF LOT 17 OF SUPERVISOR'S PLAT OF SQUARE ACRES SUBDIVISION, AS RECORDED IN LIBER 14 OF PLATS, PAGE 49, OAKLAND COUNTY RECORDS, BEING A PART OF THE SOUTH HALF OF SECTION 4, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEING DESCRIBED AS;

BEGINNING AT THE NORTHWEST CORNER OF LOT 17 OF SUPERVISOR'S PLAT OF SQUARE ACRES SUBDIVISION, AS RECORDED IN LIBER 14 OF PLATS, PAGE 49, OAKLAND COUNTY RECORDS; THENCE SOUTH 89 DEGREES 49 MINUTES 00 SECONDS EAST 313.79 FEET ALONG THE NORTH LINE OF LOT 17 OF SUPERVISOR'S PLAT OF SQUARE ACRES SUB TO THE EAST LINE OF LOT 17 OF SUPERVISOR'S PLAT OF SQUARE ACRES SUB; THENCE SOUTH 00 DEGREES 33 MINUTES 32 SECONDS EAST 43.00 FEET ALONG THE EAST LINE OF SUPERVISOR'S PLAT OF SQUARE ACRES SUB; THENCE NORTH 89 DEGREES 49 MINUTES 00 SECONDS WEST 314.02 FEET TO THE WEST LINE OF SUPERVISOR'S PLAT OF SQUARE ACRES SUB; THENCE NORTH 00 DEGREES 15 MINUTES 00 SECONDS WEST 43.00 FEET ALONG THE WEST LINE OF SUPERVISOR'S PLAT OF SQUARE ACRES SUB TO THE POINT OF BEGINNING.