



TO: The Mayor and Members of City Council
FROM: Lori Grigg Bluhm, City Attorney *LeB*
Allan T. Motzny, Assistant City Attorney *ATM*
DATE: April 14, 2016
SUBJECT: Troy v Behunin

In order to proceed with the John R. Road Reconstruction Project, the City needed to acquire a strip of property owned by Defendants Michael and Kathleen Behunin located at 6947 John R. Road. The City had an appraisal done in January 2007, and unsuccessfully attempted to negotiate with the property owners. The City eventually filed a condemnation lawsuit on December 2, 2014. The Court issued an order granting possession of the property to the City, and the only remaining issue was the value of the property taken by the City, or the just compensation. The City's updated appraisal valued the property at \$45,335. The Behunin's appraiser valued it at \$73,085.

The attached proposed Consent Judgment was negotiated after Case Evaluation, where three independent Oakland County attorneys determined the property value was \$59,500. In addition to this just compensation, the proposed Consent Judgment also requires the payment of all statutory fees and costs, including attorney fees which are calculated on a 1/3 contingency basis.

City Administration recommends approval of the proposed Consent Judgment, which would finalize this condemnation case.

Please let us know if you have any questions concerning this matter.

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
Municipal Corporation,

Plaintiff,

v

Case No. 2014-144331-CC
Hon. Martha D. Anderson

MICHAEL J. BEHUNIN and
KATHLEEN L. BEHUNIN,
husband and wife; Estate of MARJORIE E.
THORNTHWAITE, deceased, or
MARJORIE E. THORNTHWAITE'S
unknown heirs, devisees, legatees and assigns,
COMERICA BANK, a Michigan State Chartered Bank,

Defendants.

City of Troy – City Attorney's Office
Lori Grigg Bluhm (P46908)
Allan T. Motzny (P37580)
Attorney for Plaintiff
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320
motznyat@troymi.gov

David E. Nykanen (P47763)
Nykanen Dorfman PLLC
Attorney for Defendants Michael
J. Behunin and Kathleen L. Behunin
4100 Woodward Avenue
Bloomfield Hills, MI 48304-5130
(248) 629-0880
dave@nykanendorfman.com

CONSENT JUDGMENT

At a session of the Oakland County Circuit Court held
in the City of Pontiac, Michigan,

on: _____

Present: the Hon. Martha D. Anderson

A case evaluation hearing was held in this matter on March 9, 2016. Plaintiff (the "City") and Defendants (the "Behunins") have both accepted the case evaluation award, and the parties have requested that the Court enter this Judgment on Case Evaluation to implement the case evaluation award and resolve other outstanding

issues in this case. Having been so advised, and being otherwise fully advised in the premises, this Court therefore **ORDERS** and **ADJUDGES** as follows:

1. The City shall pay to the Behunins final just compensation in the amount of \$59,500.00, less compensation previously paid in the amount of \$33,500.00, resulting in increased just compensation totaling \$26,000.00 (the "Increased Compensation").

2. Pursuant to MCL 213.66, the City shall reimburse the Behunins for expert real estate and tree appraisal fees in the amount of \$4,950.00 (the "Appraisal Reimbursement").

3. The City shall pay the Increased Compensation and the Appraisal Reimbursement to the Behunins in the form of a check in the amount of \$30,950.00 payable to Michael J. Behunin and Kathleen L. Behunin.

4. Pursuant to MCL 213.66, the City shall reimburse the Behunins for attorney fees incurred in the amount of \$8,666.67 and costs in the amount of \$181.08, for a total of \$8,847.75 (the "Attorney Fee Reimbursement").

5. The City shall pay the Attorney Fee Reimbursement to the Behunins in the form of a check payable to Nykanen Dorfman, PLLC.

6. All payments set forth in the Judgment shall be delivered by the City to Nykanen Dorfman PLLC, within 21 days of the date of this Judgment.

7. The subject property is a legal non-conforming property after the taking that is the subject of this case.

8. The terms of this Court's Stipulated Order for Payment of Estimated Compensation and Surrender of Possession and Vesting of Title, dated January 14, 2015, shall survive this Consent Judgment and continue in effect as provided in that Order.

This Judgment resolves the last pending claim and closes this case.

Hon. Martha D. Anderson

STIPULATION FOR ENTRY OF CONSENT JUDGMENT

On behalf of the parties, we hereby stipulate and agree to entry of the foregoing Consent Judgment.

Lori Grigg Bluhm (P46908)
Allan T. Motzny (P37580)
Attorney for Plaintiff
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320
motznyat@troymi.gov

David E. Nykanen (P47763)
Attorney for Defendants Michael
J. Behunin and Kathleen L. Behunin
41000 Woodward Avenue
Bloomfield Hills, MI 48304-5130
(248) 629-0880
dave@nykanendorfman.com

Dated: _____

Dated: _____