



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm , City Attorney  
Susan M. Lancaster, Assistant City Attorney  
**DATE:** September 29, 2009  
**SUBJECT:** City of Troy v. UEOS Troy, LLC, et. al.

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As a result of the Rochester Road reconstruction project, it was necessary to file a condemnation case to obtain possession of a 15-foot road right-of-way and a 12 foot easement along the frontage of property owned by UEOS Troy, L.L.C. a/k/a Uncle Ed's Oil Shoppe. The appraised value of the property was paid to the property owners when the City obtained possession. In addition, the City has also paid the costs of the necessary relocation of the sign on the property.

Enclosed please find a proposed consent judgment that would finalize this condemnation case. This proposed judgment requires the City to pay an additional nominal amount, which is based on the unique configuration of the four bay doors on the building facing Rochester Road. Vehicular navigation from these bay doors will result in a loss of green space, and a need to move the flag pole on the property. The consent judgment also includes attorney fees, as provided in the state statute (the Uniform Condemnations Procedures Act).

City Administration recommends approval of the proposed attached consent judgment. Please let us know if you have any questions about this matter.

STATE OF MICHIGAN  
OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan  
Municipal Corporation,

Plaintiff,

v

Case No. 09-098178-CC  
Hon. Rae Lee Chabot

UEOS TROY, LLC, a Michigan  
Limited Liability Company; UNCLE ED'S  
OIL SHOPPES, INC., a Michigan Corporation;  
JOHN S. SIMONI; BARBARA A SIMONI;  
JP MORGAN CHASE BANK, N.A., successor by  
Merger to Bank One, Michigan and  
f/k/a NBD Bank, N.A.; and COUNTY OF OAKLAND,

Defendants.

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City of Troy – City Attorney's Office  
Lori Grigg Bluhm (P46908)  
Susan M. Lancaster (P33168)  
Attorneys for Plaintiff  
500 W. Big Beaver Road  
Troy, MI 48084  
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Kreis, Enderle, Hudgins & Borsos, P.C.  
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ED'S OIL SHOPPES, INC., JOHN S.  
SIMONI and BARBARA A. SIMONI  
One Michigan Ave. West  
Battle Creek, MI 49017  
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JP MORGAN CHASE, successor  
by merger to Bank One, Michigan  
and f/k/a NBD Bank, N.A.  
Henry Shymanski (P34643)  
Legal Department MI1-8067  
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Detroit, MI 48226  
(313) 256-0552

COUNTY OF OAKLAND  
William G. Pierson (P32119)  
Assistant Corporation Counsel  
1200 N. Telegraph Rd.  
Dept. 419  
Pontiac, MI 48341  
(248) 858-0456

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## CONSENT JUDGMENT

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

PRESENT: HONORABLE RAE LEE CHABOT  
OAKLAND COUNTY CIRCUIT COURT JUDGE

The parties have appeared through their counsel, and have consented to the entry of this Consent Judgment in full satisfaction of the case. The Court has also been fully advised as to the contents of the Consent Judgment, and orders as follows:

1. Title to property which is the subject of this cause of action, and which is fully described in the Complaint for Acquisition of Property and the Declaration of Taking filed with this Court on February 12, 2009, has vested in the Plaintiff by virtue of the filing of those pleadings and documents and the entry by this Court on March 11, 2009 of the Order for Payment of Estimated Just Compensation and Surrender of Possession.

2. As required in the Order for Payment of Estimated Just Compensation and Surrender of Possession entered by this Court on March 11, 2009, the Plaintiff previously paid the Defendants UEOS TROY, LLC and JP MORGAN CHASE BANK, N.A., jointly, the estimated just compensation in the amount of \$38,100.00.

3. Pursuant to this Consent Judgment, Plaintiff shall pay to UEOS TROY, LLC and JP MORGAN CHASE BANK, N.A., jointly, an additional sum of \$5,000.00 for the acquisition of the property described in the Complaint for Acquisition of Property and Declaration of Taking (exclusive of attorney fees) and except as otherwise expressly provided in this Judgment. Payment shall be made within 21 days of the entry of this Order.

4. In addition, Plaintiff shall pay attorney fees directly to Kreis, Enderle, Hudgins & Borsos, P.C. in the total sum of \$1,650.00, pursuant to Section 16(3) of the Uniform Condemnation Procedures Act (MCL 213.66(3)). Plaintiff shall pay the attorney fees, as set out in this paragraph, in a check made payable to Kreis, Enderle, Hudgins & Borsos, P.C., which shall be sent within 21 days after entry of this Order.

5. Upon payment by Plaintiff of the sums recited herein, any and all claims that Plaintiff or Defendants have asserted or which could have been asserted against Defendants or Plaintiff 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 shall be forever barred.

6. Plaintiff City of Troy agrees to protect the interest of Oakland County, if any, in any right-of-way and/or utility easement.

7. This Consent Judgment resolves the last pending claims and closes the case.

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Circuit Judge

Approved as to substance and form;  
Notice of entry waived:

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

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Kay E. Kossen (P56627)  
Attorney for Defendants UEOS TROY, LLC,  
Uncle Ed's Oil Shoppes, Inc., John S. Simoni;  
and Barbara A. Simoni

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Henry Shymanski (P34643)  
Attorney for JP MORGAN CHASE BANK, N.A.

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William G. Pierson (P32119)  
Assistant Corporation Counsel  
Attorney for Oakland County