



TO: The Mayor and Members of City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: October 8, 2009
SUBJECT: Troy v Munchiando

In order to proceed with the road improvement project for the reconstruction and widening of John R. Road from Square Lake Road to South Boulevard, it was necessary for the City to acquire property owned by Defendants James and Elizabeth Munchiando located at 6675 John R. Road. The City filed its complaint for acquisition on August 4, 2008, and, has acquired ownership of the property. The remaining issue concerning just compensation was the subject of a case evaluation held on September 2, 2009. The case evaluators entered an award establishing a fair market value for the property of \$487,500.

Attached is a proposed Consent Judgment. Pursuant to the proposed judgment, the final just compensation is \$609,375.00, which represents the case evaluation determination of fair market value multiplied by 1.25 as required under Michigan's Constitution for the condemnation of a principal residence. The proposed judgment also provides the City will reimburse the Munchiando's for expert real estate appraisal fees in the amount of \$7,050.00 and attorney fees in the amount of \$26,041.67. These fees are authorized by MCL 213.66, which requires a condemning agency to reimburse the property owner for expert witness fees and attorney fees in an amount up to 1/3 of the amount by which the ultimate just compensation exceeds the original written good faith offer to purchase the property. The City's original good faith offer was \$531,250.00. Paragraph 7 of the proposed judgment indicates that a previous order allowing the Munchiando's to stay in the home until the end of this year, subject to the payment of rent to the City, shall remain in effect.

Since the proposed Consent Judgment comports with the case evaluation award and the applicable statutory provisions for payment of expert witness and attorney fees, we recommend its approval. If you should have any questions regarding this matter, please let us know.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR OAKLAND COUNTY

CITY OF TROY,

Plaintiff,

vs.

Case No. 08-093535-CC
Hon. Wendy Potts

JAMES W. MUNCHIANDO and
ELIZABETH S. MUNCHIANDO, ET AL.,

Defendants.

CITY OF TROY -- CITY ATTORNEY'S OFFICE
By: Lori Grigg Bluhm (P46908)
And: Allan T. Motzny (P37580)
500 West Big Beaver Road
Troy, Michigan 48084
(248) 524-3320
Attorneys for Plaintiff

STEINHARDT PESICK & COHEN
Professional Corporation
By: Jerome P. Pesick (P29039)
And: Jason C. Long (P59244)
380 N. Old Woodward, Ste. 120
Birmingham, Michigan 48009
(248) 646-0888
Attorneys for James and Elizabeth
Munchiando

CONSENT JUDGMENT

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

on: _____
Present: the Hon. Wendy L. Potts

A case evaluation hearing was held in this matter on September 2, 2009. Plaintiff (the "City") and Defendants (the "Munchiandos") have both accepted the case evaluation award, and the parties have requested that the Court enter this Consent Judgment to resolve all 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 Munchiandos final just compensation in the amount of \$609,375.00, less compensation previously paid in the amount of \$531,250.00, resulting in increased just compensation totaling \$78,125.00 (the "Increased Compensation").

2. Pursuant to MCL 213.66, the City shall reimburse the Munchiandos for expert real estate appraisal fees in the amount of \$7,005.00 (the "Appraisal Reimbursement").

3. The City shall pay the Increased Compensation and the Appraisal Reimbursement to the Munchiandos in the form of a check payable to the Munchiandos.

4. Pursuant to MCL 213.66, the City shall reimburse the Munchiandos for attorney fees incurred in the amount of \$26,041.67 (the "Attorney Fee Reimbursement").

5. The City shall pay the Attorney Fee Reimbursement to the Munchiandos in the form of a check payable to Steinhardt Pesick & Cohen, Professional Corporation.

6. All payments set forth in the Judgment shall be delivered by the City to Steinhardt Pesick & Cohen, Professional Corporation, within 21 days of the date of this Judgment.

7. The terms of this Court's Stipulated Order Extending Deadline for Surrender of Possession and Continuation of Monthly Rental Payments, dated August 11, 2009, shall remain in effect.

8. The Munchiandos' rights to relocation benefits and other statutory and administrative allowances provided under Michigan and/or federal law are not affected by this Judgment.

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

Hon. Wendy Potts

Stipulation for Entry of Consent Judgment

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

TROY CITY ATTORNEY

STEINHARDT PESICK & COHEN
Professional Corporation

By: _____
Lori Grigg Bluhm (P46908)
Allan T. Motzny (P37580)
Attorneys for Plaintiff

By: _____
Jerome P. Pesick (P29039)
Jason C. Long (P59244)
Attorneys for Defendants James
and Elizabeth Munchiando

Dated: _____

Dated: _____