



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: December 23, 2009
SUBJECT: City of Troy v. Susan Sandelman, as Trustee of the
Esther Jeffrey Trust

The City needed an additional 32 feet of right of way (4,445 square feet) and a 4 foot wide public utility easement (627 square feet) from the property at 3914 Rochester Road for the Rochester Road Reconstruction project. A condemnation lawsuit was initiated, since we were unable to agree with the property owners for a voluntary sale. The only remaining issue is the amount of just compensation to be paid for the property. The case was recently submitted to case evaluation. Subsequently, we were able to negotiate a proposed consent judgment, which would finalize this case for the amount of the case evaluation, plus statutory costs and fees.

We recommend approval of the proposed consent judgment. 80% of the amount will be paid with federal funds, and the City is responsible for paying 20%, under the Rochester Road Improvement Project contract. 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. 09-097979-CC
Hon. Leo Bowman

SUSAN SANDELMAN, as Trustee of the
Esther Jeffrey Trust U/A Dated 12/18/70;
CONSUMERS POWER COMPANY, n/k/a
Consumers Energy Company,

Defendants.

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
(248) 524-3320
Lancastesm@troymi.gov

H. Adam Cohen (P47202)
Steinhardt, Pesick & Cohen, P.C.
Attorney for Defendant- ESTHER
JEFFREY TRUST
380 North Old Woodward Ave.
Suite 120
Birmingham, MI 48009
(248) 646-0888
HACohen@spclaw.com

CONSENT JUDGMENT

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

on: _____
Present: the Hon. Leo Bowman

A case evaluation hearing was held in this matter on December 2, 2009. Plaintiff (the "City") and Defendant ("Susan Sandelman as Trustee for Esther Jeffrey Trust U/A Dated 12/18/70") 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 Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 final just compensation in the amount of \$160,000.00, less estimated just compensation previously paid in the amount of \$ 64,100.00, resulting in increased just compensation totaling \$95,900.00 (the "Increased Compensation"), plus statutory interest thereon pursuant to MCL 213.65 in the amount of \$4,100.00 (the "Interest").

2. Pursuant to MCL 213.66, the City shall reimburse Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 for expert real estate appraisal fees in the amount of \$7,500.00, and expert engineering fees in the amount of \$7,000.00, for a total of \$14,500.00 (collectively the "Expert Reimbursement").

3. The City shall pay the Increased Compensation, the Interest, and the Expert Reimbursement to Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 in the form of a check payable to: "Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70".

4. Pursuant to MCL 213.66, the City shall reimburse Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 for attorney fees incurred in the amount of \$33,333.33 (the "Attorney Fee Reimbursement").

5. The City shall pay the Attorney Fee Reimbursement to Susan Sandelman, Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 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. An identification pole sign is located on the southerly side of the Property at a distance of approximately 83.75 feet from the center of Rochester Road and which has a dimension of approximately 24 feet in height and approximately 95 square feet of face area on each side of the sign face. The City shall allow the Identification pole sign to continue to exist as a legal, non-conforming structure as long as it is maintained in reasonably good repair. If the sign is relocated on the Property it must comply with the Troy Sign Ordinances in effect at the time of relocation.

8. The number of parking spaces on the Property before the taking in this matter was considered legal but non-conforming to the Troy Zoning Ordinance. The City shall allow the current number of parking spaces to continue as legal and non-conforming providing the building currently on the Property is not demolished and rebuilt, or altered in a way that increases the non-conformity of the parking.

9. This judgment shall be recorded with the Oakland County Register of Deeds and Paragraphs 7 and 8 shall run with the land and be binding on the City and any heirs, successors and assigns to the Property.

10. This court retains jurisdiction in this matter concerning the terms and conditions set out in therein.

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

Hon. Leo Bowman

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)
Susan M. Lancaster (P33168)
Attorneys for Plaintiff

By: _____
H. Adam Cohen (P29039)
Attorney for Susan Sandelman,
Trustee for the Esther Jeffrey Trust
Trust U/A dated 12/18/70

Dated: _____

Dated: _____