



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: April 12, 2010
SUBJECT: City of Troy v. Old Troy, LLC, Susan Torpey, et. al.

The City needed a triangular-shaped parcel from the property at the corner of Rochester Road and Torpey Drive, which is the shopping center at 3278-3296 Rochester Road (Costello Hardware/Colony Cleaners). This property was needed for the Rochester Road Reconstruction project. We filed a condemnation lawsuit, 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. 09-097980-CC
Hon. Rudy J. Nichols

Old Troy L.L.C., a Michigan Limited Liability
Company; Susan Torpey; First Place Bank,
f/k/a Franklin Bank; Detroit Edison Company;
SBC Communications; Consumers Power
Company, n/k/a Consumers Energy
Company,

Defendants.

_____/

City of Troy – City Attorney's Office
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Alan T. Ackerman (P10025)
Ackerman Ackerman & Dynkowski
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Susan Torpey
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Melissa M. Perkins (P64609)
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Attorney for Defendant First Place Bank
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_____/

CONSENT JUDGMENT

At a session of said Court held in the
Courthouse in the City of Pontiac,
Oakland County, Michigan
on _____

PRESENT: _____

HON. Rudy J. Nichols
Oakland County Circuit Court Judge

This matter is before the Court upon Stipulation of the City of Troy (“Plaintiff”) and Old Troy, LLC and Susan Torpey (“Defendants”), subsequent to the case evaluation process, where both parties accepted the case evaluation award.

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Title to the property described in the Declaration of Taking entered with the Register of Deeds of Oakland County on May 20, 2009 has vested in the City of Troy by virtue of filing the Complaint and Declaration of Taking, and the paying of estimated just compensation

2. The City of Troy shall pay to First Place Bank, f/k/a Franklin Bank, N.A. pursuant to the order of this court entitled “Stipulated Order of Payment of Just Compensation Proceeds and Dismissal of Defendant First Place Bank” dated January 28, 2010 an additional just compensation amount of \$22,000.00 which represent total just compensation in the amount of \$25,000.00, less estimated just compensation previously paid to Old Troy, LLC in the amount of \$ 3,000.00 plus statutory interest thereon pursuant to MCL 213.65 in the amount of \$ 1,012.60 which will also be paid to First Place Bank f/k/a Franklin Bank, N.A. Payments under this order shall be made in the form of a check payable to: First Place Bank, f/k/a Franklin Bank, N.A.

3. Pursuant to MCL 213.66, the City of Troy shall reimburse Old Troy, LLC for expert real estate appraisal fees in the amount of \$ 5,875.00 in the form of a check payable to: Alan T. Ackerman for costs.

4. Pursuant to MCL 213.66, the City of Troy shall reimburse Old Troy, LLC and Susan Torpey for attorney fees incurred in the amount of \$ 7,670.87. The City of Troy shall

pay attorney fees reimbursement in the form of a check made payable to:

“Ackerman Ackerman & Dynkowski, P.C.”

5. The payments required pursuant to this Consent Judgment are made and accepted in compromise and settlement of any and all claims of Defendants against Plaintiff for just compensation for any of the property described in the Declaration of Taking or otherwise arising out of the taking for public purposes of the property described in the Declaration of Taking.

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

HON. RUDY J. NICHOLS
Circuit Court Judge

**STIPULATED TO AND APPROVED
AS TO FORM AND CONTENT:**

Susan M. Lancaster (P33168)
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Attorney for Plaintiff

Alan T. Ackerman (10025)
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