



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm , City Attorney  
Allan T. Motzny, Assistant City Attorney  
**DATE:** May 11, 2010  
**SUBJECT:** Troy v Picano Land Limited Partnership

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As part of the Rochester Road Improvement project, the City needed to acquire a 15 to 18 foot strip of property for right of way and a 12 foot deep public utility easement from the Picano's Restaurant property at 3775 Rochester Road. After unsuccessfully attempting to purchase the property and easement, the City initiated a condemnation proceeding. The City acquired ownership of the right of way and the easement through a stipulated court order. However, since the parties could not reach an agreement as to the amount of just compensation, that issue proceeded to jury trial that commenced on May 3, 2010, and concluded on May 6, 2010.

At trial, the City's independent appraiser, Raymond V. Bologna, testified that he used a sales comparison approach to arrive at a value of \$15.60 per square foot, for a total just compensation award of \$49,280. This breaks down as: \$37,500 for the right of way acquisition, \$5,980 for the easement (20% of the total fee simple value), and \$5,800 for site improvements.

The property owner's appraiser, Andrew B. Chamberlain, testified that he used a before and after the take approach, and opined that the total just compensation should be \$384,100, which included \$49,100 to remove and replace the sign and install landscaping around the sign. In addition to the sign, Mr. Chamberlain claimed just compensation was \$335,000, which was the difference in his estimate of value of the property before and after the take. However, during the trial, Mr. Chamberlain revised his estimate of just compensation to \$368,100. He did this by acknowledging that the new sign was an improvement from the existing sign, warranting a \$16,000 reduction in his estimate of just compensation.

At the conclusion of the trial, the jury returned a verdict, determining that just compensation should be \$120,000. Since the case evaluation in this case was \$250,000, and since the Defendant's last settlement proposal before trial was \$199,000, the verdict is essentially a victory for the City.

The attached proposed judgment incorporates the jury verdict and includes the statutory reimbursement for attorney fees and expert witness fees. We recommend approval of the judgment.

If you have any questions concerning this matter please let us know.

STATE OF MICHIGAN  
OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan  
municipal corporation,

Plaintiff,

v

Case No. 09-097982-CC  
Hon. Edward Sosnick

Picano Land Limited Partnership;  
Warren Bank; Consumers Power  
Company, n/k/a Consumers Energy  
Company,

Defendants.

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

Melissa R. McTaggart (P71942)  
Gerald Van Wyke, PC  
Attorneys for Warren Bank  
5440 Corporate Drive, Suite 250  
Troy, MI 48098  
(248) 641-7000

Alan T. Ackerman (P10025)  
Darius W. Dynkowski (P52382)  
Ackerman Ackerman & Dynkowski  
Attorneys for Defendant, Picano Land  
Limited Partnership  
100 W. Long Lake Road  
Suite 210  
Bloomfield Hills, MI 48304-2774  
(248) 537-1155

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**JUDGMENT ON JURY VERDICT**  
**DETERMINING JUST COMPENSATION**

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

PRESENT: \_\_\_\_\_

**HON. EDWARD SOSNICK**  
**Oakland County Circuit Court Judge**

This cause came on for trial before the Court and a jury, the Honorable Edward Sosnick presiding, and the jury having determined Defendant Picano's Land Limited Partnership (Defendant) is entitled to \$120,000 as just compensation for the subject property, now therefore,

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Title to the property described in the Declaration of Taking entered by this Court on February 5, 2009 has vested in Plaintiff by virtue of filing the Complaint and Declaration of Taking, depositing the estimated just compensation and recording a copy of a Declaration of Taking with the Register of Deeds of Oakland County.

2. In accordance with the jury verdict, Total and Final Just Compensation for the taking in this matter is determined to be \$120,000. Plaintiff is entitled to a credit in the amount of \$36,600 for the initial estimated just compensation which was previously paid in this matter, leaving a payment due in the amount of \$83,400. In addition to Just Compensation, Plaintiff shall pay to Defendant \$ 5,004.00 in statutory interest on the additional just compensation due pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq.

3. As set forth in paragraph 2, Plaintiff shall make a payment to Defendant in the amount of \$ 88,404.00 for additional just compensation and interest. This amount shall be paid in a check payable to Picano Land Limited Partnership.

4. Plaintiff shall also pay to Defendant the amount of \$ 29,468.00 for statutory reimbursement of attorney fees, and costs pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq. This amount shall be paid in a check payable to Ackerman, Ackerman & Dynkowski.

5. Plaintiff shall also pay to Defendant the amount of \$ 19,655.06 for statutory reimbursement of expert appraisal fees pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq. This amount should be paid in a check payable to Alan T. Ackerman- Costs.

6. Subject to the enforcement of the terms herein, this Consent Judgment constitutes a final disposition and closes the case.

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**HON. EDWARD SOSNICK**  
**Oakland County Circuit Court Judge**

**APPROVED AS TO FORM AND CONTENT:**

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Allan T. Motzny (P37580)  
City of Troy-City Attorney's Office  
Attorney for Plaintiff  
500 W. Big Beaver Road  
Troy, MI 48084  
(248) 524-3320

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Alan T. Ackerman (10025)  
ACKERMAN, ACKERMAN & DYNKOWSKI  
Attorney for Defendant MNAD Property LLC.  
100 W. Long Lake Road, Ste. 210  
Bloomfield Hills, MI 48304  
(248) 537-1155