



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: May 11, 2010
SUBJECT: Troy v Lukich Realty

The City needed to acquire a public utility easement from the property at 3900 Rochester Road (Lukich Family Restaurant) 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. In addition to setting forth the total just compensation, this proposed consent judgment also requires the property owner to move the sign out of the easement area prior to June 10, 2010, to minimize any delay to the Road Improvement Project.

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. 09-098156-CC
Hon. Rae Lee Chabot

LUKICH REALTY, a Michigan Limited
Liability Company; MIDWEST GUARANTY BANK,
a Michigan Banking Corporation;
INDEPENDENT BANK EAST MICHIGAN;
COUNTY OF OAKLAND; and CONSUMERS
POWER COMPANY, n/k/a Consumers Energy
Company,

Defendants.

City of Troy – City Attorney’s Office
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CONSENT JUDGMENT AS TO DEFENDANT, LUKICH REALTY

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

on _____

PRESENT: _____

HON. RAE LEE CHABOT
Oakland County Circuit Court Judge

This matter is before the Court upon Stipulation of the City of Troy (“Plaintiff”) and Lukich Realty, a Michigan Limited Liability Company (“Defendant”), 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 by this Court on February 11, 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. Total and Final Just Compensation for the taking in this matter is determined to be \$8,500, which sum includes the costs to relocate the sign on the subject property. Plaintiff is entitled to a credit in the amount of \$2,700 for the initial estimated just compensation which was previously paid in this matter, leaving a payment due in the amount of \$5,800 for additional just compensation. In addition to Just Compensation, Plaintiff shall pay to Defendant \$ 290.00 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 \$ 6,090.00 for additional just compensation and interest. This amount shall be paid in a check payable to Independent Bank and Lukich Realty. (Approximately \$4,000 of the award will be used for moving the sign located on the property.)

4. Plaintiff shall also pay to Defendant the amount of \$ 2030.00 for statutory reimbursement of attorney fees, and the amount of \$ 7,790.00 for expert witness fees pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq. The attorney fees shall be paid with a check payable to Ackerman, Ackerman & Dynkowski, and the expert witness fees shall be paid with a check payable to Alan T. Ackerman- Costs.

5. The payments required pursuant to this Consent Judgment are made and accepted in compromise and settlement of any and all claims of Defendant 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. The sign on the subject property shall be moved outside of the easement area by June 10, 2010.

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

HON. RAE LEE CHABOT
Oakland County Circuit Court Judge

APPROVED AS TO FORM:

Allan T. Motzny (P37580)
Attorney for Plaintiff

Alan T. Ackerman (P10025)
Attorney for Defendant Lukich

Mark L. Collins (P34601)
Counsel for Independent Bank,
successor in interest to Midwest Guaranty Bank