



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: June 15, 2010
SUBJECT: City of Troy v RCU Independence, Inc., et al.

For the Rochester Road Improvement Project, the City needed to acquire right of way and a public utility easement from property located at 3688 Rochester Road, which is owned by RCU Independence and Sentry, Inc. The property is used as a gasoline station and a car wash facility. 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 facilitation. Subsequently, we were able to negotiate a proposed consent judgment, which would finalize this case for the amount of the facilitation award, plus statutory costs and fees.

We recommend approval of the proposed consent judgment. 80% of the amount of just compensation 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. 09-101399-CC
Hon. Leo Bowman

RCU INDEPENDENCE, INC., a
Michigan Corporation; SENTRY, INC.,
a Michigan Corporation; and
CONSUMERS POWER COMPANY,
n/k/a CONSUMERS ENERGY COMPANY,

Defendants.

_____/
City of Troy – City Attorney's Office
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And SENTRY, INC.
100 W. Long Lake Rd.
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Bloomfield Hills, MI 48304-2774
(248) 537-1155
_____ /

CONSENT JUDGMENT

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

PRESENT: HONORABLE LEO BOWMAN
OAKLAND COUNTY CIRCUIT COURT JUDGE

This matter is before the Court upon Stipulation of the City of Troy ("Plaintiff") and Defendants RCU Independence, Inc., and Sentry, Inc. ("Defendants").

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Title to the property described in the Declaration of Taking entered by this Court on June 8, 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 \$1,320,000. Plaintiff is entitled to a credit in the amount of \$985,000 for estimated just compensation which was previously paid in this matter, leaving a payment due in the amount of \$335,000 for additional just compensation. In addition to Just Compensation, Plaintiff shall pay to Defendants \$13,509.88 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 Defendants in the amount of \$348,509.88 for additional just compensation and interest. This amount shall be paid in a check payable to Sentry, Inc.

4. Pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq., Plaintiff shall also pay to Defendants the amount of \$ 402,900 for statutory reimbursement of attorney fees, plus 1/3 of the interest payable on the total additional just compensation paid to Defendants, which sum is \$14,045.65, for a total attorney fee reimbursement of \$416,945.65. This amount shall be paid in a check payable to Ackerman, Ackerman & Dynkowski.

5. Plaintiff shall also pay to Defendants the amount of \$ 37,187.54 for statutory reimbursement of expert fees and costs pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq. This amount should be paid in a check payable to Sentry, Inc.

6. Plaintiff shall serve as co-applicant with Defendant's contractor for a variance from the sign ordinance location requirements to allow the sign to be moved to the north end of the property. Pursuant to MCL 213.54, if the variance is granted, the property shall be considered by Plaintiff to be in conformity with the sign ordinance requirements for all future uses with respect to the nonconformity for which the variance was granted. If the variance is not granted, the Defendant may seek further relief from the Court.

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

Hon. Leo Bowman, Circuit Judge

Stipulated to and Approved as to
Form and Content:

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