



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm , City Attorney *LGB*  
Susan M. Lancaster, Assistant City Attorney *smk*  
**DATE:** November 10, 2010  
**SUBJECT:** City of Troy v. Ida Rudack Trust

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The City unsuccessfully attempted to purchase right of way and a public utility easement from the Ida Rudack Trust, the owner of a building at 3615 Rochester Road (Hungry Howie's and Broadway Market). Since the property was critical for the Rochester Road Improvement Project, the City filed a condemnation lawsuit, and has now acquired ownership of the property. The City took 2,200 square feet for right-of-way and 1, 200 square feet for public utility easement. The only remaining issue is the amount of just compensation to be paid for the property. Subsequently, we were able to negotiate a proposed consent judgment, which would finalize this case, 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. 09-097974-CC  
Hon. Wendy L. Potts

IDA RUDACK TRUST,  
Defendant.

\_\_\_\_\_/

City of Troy – City Attorney's Office  
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**CONSENT JUDGMENT**

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

on: \_\_\_\_\_  
Present: the Hon. Wendy L. Potts

This matter is before the Court on stipulation of the parties. The parties request that the Court enter this Consent Judgment to resolve all outstanding issues in this case. The Court, being fully advised, ORDERS as follows:

1. The Plaintiff City of Troy ("City") shall pay to the Defendant Ida Rudack Trust ("Rudack") final just compensation in the amount of \$130,562.00, less estimated just compensation previously paid in the amount of \$30,562.00, representing an increase in principal just compensation in the amount of \$100,000.00 ("Increased Compensation"). The City shall pay statutory interest on the Increased Compensation pursuant to MCL 213.65, in the amount of \$ 7,402.70 ("Interest").
2. Pursuant to MCL 213.66, the City shall reimburse Rudack for expert real estate appraisal fees in the amount of \$ 7,500.00, expert engineering fees in the amount of \$3,875.00, and deposition fees in the amount of \$1,000.40 for a total of \$12,375.40 (collectively "Expert Reimbursement"). The Increased Compensation, Interest, and Expert Reimbursement shall be paid in the form of a check made payable to the Ida Rudack Trust.
3. Pursuant to MCL 213.66, the City shall reimburse Rudack for its attorney fees in an amount equal to one-third of the Increased Compensation and Interest. This reimbursement shall be paid in the form of a check payable to Steinhardt Pesick & Cohen, Professional Corporation.
4. The City shall deliver all payments, as set forth in this Consent Judgment, to Rudack's attorneys, Steinhardt Pesick & Cohen, Professional Corporation, within 20 days of the date of this Judgment.
5. Rudack owns property commonly known as 3615 Rochester Road, Troy, and more

particularly described on the attached Exhibit A (the "Property"). The City shall not require Rudack and/or Rudack's heirs, successors and/or assigns to comply with the City's Code of Ordinances for the following as long as (1) the building on the Property is not demolished and rebuilt in violation of Chapter 39, Zoning Section 40.50.04 or (2) the site is not altered in violation of Chapter 39, Zoning, Section 40.50.04 or in any way that increases the non-conformity with the City's Code of Ordinances as provided in Chapter 39, Zoning, Section 40.50.04 or Section 40.50.06:

- A. The requirement to provide 13 parking spaces is waived. Instead, the Property shall be deemed in compliance (legal non-conforming), as long as Rudack maintains a minimum of six spaces. Parking shall be prohibited in City's 75 foot right-of way.
- B. The required 20 foot rear yard setback shall be reduced to 13 feet.
- C. The requirement under the Code of Ordinances to plant three trees in the greenbelt along Rochester Road is waived with the entry of this Consent Judgment. Rudack may use concrete where this Rochester Road greenbelt would otherwise be required, since Rudack is excused from the requirement to maintain a greenbelt in this location. The use of any other materials must be pre-approved by the City's Planning Department.

6. This Consent Judgment shall be recorded with the Oakland County Register of Deeds, and shall run with the land and be binding on the City, Rudack, and any heirs, successors and assigns to the property. The Oakland County Register of Deeds shall accept a copy of this Consent Judgment for recording.

7. This Court shall retain jurisdiction over this matter, and shall resolve any disputes

concerning the terms and conditions contained herein.

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

\_\_\_\_\_  
Hon. Wendy L. Potts

**Stipulation for Entry of Consent Judgment**

On behalf of the parties, we stipulate and agree to entry of the foregoing Consent Judgment.

CITY OF TROY,  
A Michigan Municipal  
Corporation

STEINHARDT PESICK & COHEN  
Professional Corporation

By: \_\_\_\_\_  
Lori Grigg Bluhm (P46908)  
City Attorney

By: \_\_\_\_\_  
H. Adam Cohen (P29039)  
Attorney for Ida Rudack Trust

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_