

**DRAFT 1-26-06; REVISED 1-30-06;
REVISED 1-31-06**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CITY OF ROCHESTER HILLS,

Plaintiff,

-vs-

**Case No: 05-070139-CC
HON: Colleen A. O'Brien**

**EDWARD MORAWSKI, ANNETTE MORAWSKI,
VITO A. PAMPALONA, ANGELA PAMPALONA,
FIRST STATE BANK OF EAST DETROIT,
DETROIT EDISON COMPANY, AND
COUNTY OF OAKLAND,**

Defendants.

**LAWRENCE W. DLOSKI (P29760)
Attorney for Plaintiff
SEIBERT AND DLOSKI, PLLC
59 North Walnut, Suite 202
Mt. Clemens, Michigan 48043
(586) 469-3800**

**JOHN D. STARAN (P35649)
Attorney for Plaintiff
HAFELI STARAN HALLAHAN
CHRIST & DUDEK, P.C.
4190 Telegraph Road
Suite 3000
Bloomfield Hills, Michigan 48302
(248) 731-3080**

**STEPHEN A. LANG (27858)
SUSAN E. WAGNER (P63665)
Attorneys for Defendant, First State
Bank of East Detroit
24300 Little Mack
St. Clair Shores, Michigan 48080
(586) 445-6704**

**KEITH J. LERMINIAUX (P30190)
Deputy Corporation Counsel
Oakland County Corporation Counsel
Attorneys for Defendant, County of Oakland
1200 North Telegraph Road
Pontiac, Michigan 48341-0419
(248) 858-0557**

**ALAN T. ACKERMAN(P10025)
Attorney for Defendants, Morawski
and Pampalona
5700 Crooks Road, Ste 405
Troy, Michigan 48098
(248) 537-1155**

ORDER FOR SETTLEMENT

This matter is before the court pursuant to the City of Rochester Hills, ("City"), October 27, 2005 condemnation complaint to acquire certain real property ("the property"), also referred to as parcel 13, for public highway purposes, the property is more particularly described in the Declaration of Taking attached to the complaint.

Defendants, Morawski and Pampalona's motion to review necessity has been withdrawn, therefore, under the provisions of Section 7 of the UCPA, MCL 213.57, title to the property described as being acquired in the condemnation complaint and declaration of taking vested in the City by operation of law, on October 27, 2005, upon the filing of the condemnation complaint.

The parties have resolved all issues relative to the City's acquisition of parcel 13, as more fully set forth below.

IT IS ORDERED:

1. Title to the property is vested in the City as of October 27, 2005.
2. The City shall pay to Edward Morawski, Annette Morawski, Vito A. Pampalona, Angela Pampalona, and First State Bank of East Detroit, ("Defendants") as a complete and full settlement of all claims that the Defendants have or may have, against the City arising out of the acquisition of the property, the sum of Two Hundred Ninety Seven Thousand Seven Hundred Fifty Nine and 00/100 (\$297,759.00) Dollars. The settlement amount includes all costs, interest, and appraisal fees, which could be taxable pursuant to statute or court rule.
3. In addition to the above, the City shall pay, as required by Section 16(3) of the Uniform Condemnation Procedures Act, ("UCPA"), attorney fees to Ackerman and

Ackerman, P.C., Northfield Plaza II, 5700 Crooks Road, Suite 405, Troy, Michigan 48098, in an amount not to exceed one-third (1/3) of the difference between the settlement amount and the City's good faith offer of One Hundred Seventy Nine Thousand and 00/100 (\$179,000.00) Dollars.

4. The settlement proceeds shall first be applied to the payment of delinquent taxes and/or delinquent special assessments and current taxes which have become due and payable, if any.

5. Payment of the settlement amount shall be made when at least one (1) Defendant has submitted a W-9 to the City. Payment shall be deemed to be made when the check is placed in the mail to Ackerman and Ackerman, P.C.

6. Physical possession of the property shall be surrendered to the City as of the date this order is entered with the court.

7. The City shall permit the parcel 13 property owners to process any future site plan or land use proposal under the City's Planned Unit Development regulations as contained in City Code Section 138-1001, et seq., as may be amended, in order to allow flexibility and innovation in site development and to afford a convenient, practical and efficient means to obtain reasonable relief from strict application of development standards and dimensional, setback and area regulations contained in the City's Zoning Ordinance. The need for such flexibility, innovation and reasonable relief arises from the irregular shape of the remainder parcel and other site development challenges caused, in part, by the City's partial taking and the proposed relocation of Adams Road. Notwithstanding the foregoing, the subject property may only be used and developed for those land uses permitted under the City's Zoning Ordinance in the O-1 Office Business

District and the ORT Office, Research, Technology Districts.

8. The City shall revise the Adams Road relocation design plans to include two (2) 6-inch sanitary sewer leads for the future use and benefit of the parcel thirteen (13) property owners. The incorporation of the two (2) sewer leads shall be consist of a tap to the existing 10-inch owned by Auburn Hills on the west side of Adams Road and extension to the proposed Adams Road easterly right-of-way line. Costs associated with the design, construction and/or Auburn Hills' tap and lateral fees for the sewer leads shall be included in the Adams Road project construction and no payment contribution or reimbursement shall be requested of the parcel 13 property owners.

9. The City will work in cooperation with the City of Auburn Hills to formalize and approve inter-local sewer agreements for both sewer leads proposed to service parcel 13.

10. The City shall ensure that the design plans for the Adams Road relocation project includes sufficient capacity in the proposed storm sewer system to accept a restricted storm water discharge rate from parcel 13. The storm drainage discharge rate from a future detention basin serving parcel 13 shall be at least equal to the typically accepted rate of 0.2 cubic feet per second per acre of contributing land area.

11. The City shall coordinate with the City of Auburn Hills, the Road Commission for Oakland County, the Oakland County Drain Commission and the Adams Road design plan consultant to accommodate the detention basin storm water discharge from parcel 13.

12. Costs incurred for the design, coordination or construction of the storm sewer system in Adams Road and the downstream discharge sewer along the Clinton

River Trailway in Auburn Hills shall be borne by the project costs and not be charged to the parcel 13 owners.

13. The Adams Road relocation project proposes to relocate a portion of the existing 16-inch water main along Adams Road. The relocation water main will be available to service the future development of the property. The property owners of parcel 13 shall be responsible for payment of any capital, lateral, tapping fees or other charges normally associated with connecting to a City water main. Future water main extensions within the limits of the resulting parcel 13 property shall be the responsibility of the parcel 13 owners.

14. The current Adam Road relocation design plan includes the removal and replacement of the driveway approach for the existing residence on the parcel 13 property. Jurisdiction for work within Adams Road is maintained by the Road Commission for Oakland County, ("RCOC"). In the event that the parcel 13 owners wishes to abandon this approach and request an alternate location, the City will assist the developer in coordinating with the RCOC for determining a satisfactory location for the replaced approach. Furthermore, in the event that additional curb cuts are requested during the development of parcel 13, the City shall work in good faith in reviewing the request and coordinating with the RCOC for their final permit decision. Construction or design costs involved with Adams Road curb cuts beyond what is currently included in the design plans shall be the responsibility of the parcel 13 owners.

15. The City shall transfer the east remainder of the Tadian property consisting of approximately 936 square feet to the parcel 13 property owners.

16. This order for settlement shall have no precedential value and shall not be

used, cited or referenced in any fashion whatsoever in any case or matter, with the sole exception to enforce the terms and provisions of this order.

17. This order resolves all of the claims of the parties, is a final order and the file may be closed.

Circuit Court Judge

Approved for entry:

LAWRENCE W. DLOSKI (P29760)

Attorney for Plaintiff

JOHN D. STARAN (P35649)

Attorney for Plaintiff

ALAN T. ACKERMAN (P10025)

Attorney for Defendants, Morawski

and Pampalona

KEITH J. LERMINIAUX (P30190)

Attorney for Defendant, Oakland County

STEPHEN A. LANG (P27858)

Attorney for Defendant, First State Bank of
East Detroit