

Encroachment consists of 8" sand sprayed plywood facade for a distance of 60' along Fenkell for the height of the building.

Authorized October 2, 1973, J.C.C. 2490-91

The spur track bond and agreements bear the approval of the Corporation Counsel as to form and execution.

Respectfully submitted,
W. I. STECHER
Controller

Received and placed on file.

Corporation Counsel
December 12, 1973

Honorable Common Council:
Re: Rendered Judgment of the Court
Civil Action 73-238-716-CC.

A report is herewith submitted in reference to the following: Civil Action No. 73-238-716-CC, (Recorder's Court File 2590), entitled:

IN THE MATTER OF ACQUISITION OF LAND FOR URBAN RENEWAL DEVELOPMENT AND OTHER MUNICIPAL PUBLIC PURPOSES (THE ELMWOOD PARK REHABILITATION PROJECT NO. 3) IN AREA BOUNDED BY JOSEPH CAMPAU, ELMWOOD, SHERMAN AND CHESTNUT STREETS.

A portion of this case, which was referred to the writer for trial, has been completed and a Judgment of the Court rendered on December 10, 1973 in the grand total of \$38,900.00. This Judgment included three fees and costs on the three fees. The tentative date of confirmation is January 3, 1974.

In order to make provision for payment and for the proration of taxes when confirmed, the attached resolution is submitted for your consideration.

Respectfully submitted,
BORIS K. YAKIMA
Assistant Corporation Counsel
By Councilman Eberhard:

Whereas, Judgment of the Court was rendered on December 10, 1973, in the grand total of \$38,900.00 in the Circuit Court on Civil Action No. 73-238-716-CC, (Recorder's Court 2590), entitled: IN THE MATTER OF ACQUISITION OF LAND FOR URBAN RENEWAL DEVELOPMENT AND OTHER MUNICIPAL PUBLIC PURPOSES (THE ELMWOOD PARK REHABILITATION PROJECT NO. 3) IN AREA BOUNDED BY JOSEPH CAMPAU, ELMWOOD, SHERMAN AND CHESTNUT STREETS.

Whereas, Act No. 24 of the Public Acts of 1947 provides that the unit of government that is the petitioner in the condemnation proceeding, pay the taxes and special assessments on property that is acquired after the date the assessment roll is required to be completed and before the tax is due and payable; and

Whereas, Section 35, Chapter IV, Title VI of the Charter of the City of Detroit authorized the adoption of a

resolution to provide for the payment by the City of general taxes on a prorata basis upon properties acquired during the fiscal year of acquisition; and

Whereas, Act No. 207 of the Public Acts of 1965 provides that when any real property is acquired for public purposes by condemnation, general taxes should be prorated to the date compensation is made or secured.

Resolved, That the City Controller and City Treasurer take all necessary steps to provide for the transfer of the sum necessary to pay the amount of said Judgment, when confirmed, together with interest thereon, at the rate of five (5%) per cent per annum from the date of confirmation to the date of posting of the sum for payment thereof; And Be It Further

Resolved, That the City Treasurer be and he is hereby directed to make and file duplicated certificates showing the amount of money that is in the treasury for the payment of the award, as provided by the Charter of the City of Detroit; And Be It Further

Resolved, That the City Treasurer be and he is hereby authorized to deduct from the payment of said award, all taxes and special assessments levied upon the property acquired therein, including State and County, and to prorate current City and County taxes in accordance with Act 207, P.A. 1965; And Be It Further

Resolved, That the Controller be and he is hereby authorized and directed to draw his warrant in favor of the City Treasurer for the proportion of the taxes levied by the involved in said proceeding represented by the remaining prorata shares of the respective fiscal years from the date of confirmation to the end of the fiscal year; and in the event that the property owners have paid the City and County taxes in full covering their respective fiscal years, the Controller be and he is hereby authorized and directed to provide the necessary funds, and the City Treasurer be and he is hereby authorized and directed to refund same to the property owners, excluding therefrom any interest that may have been paid by the taxpayer upon the said current taxes.

Approved:
ROBERT D. McCLEAR
Acting Corporation Counsel
Adopted as follows:

Yeas — Councilmen Browne, Eberhard, Hood, Levin, Rogell, Van Antwerp, and President Ravitz — 7.
Nays — None.

Corporation Counsel
December 12, 1973

Honorable Common Council:
Re: Petition No. 7743 of Hector Sanchez for building encroachment at 5403-5 West Vernor.

Pursuant to your request this office has prepared the appropriate resolution granting the above petition in accordance with recommendations of the City departments involved.

Respectfully submitted,
JOHN R. MCKINLAY

Assistant Corporation Counsel

By Councilman Eberhard:

Resolved, That the Department of Public Works and the Department of Building and Safety Engineering be and they are hereby authorized and directed to issue permits to Hector Sanchez for encroachment on public property at 5403-5 West Vernor, Detroit, Michigan, property being described as:

"Lot 10, sub of OL 32, PC 30, C of D, Wayne County, Mich. Rec'd L12, P56, Plats WCR 1."

Encroachment to consist of aluminum siding and stone to encroach approximately two inches for a distance of 24.50 ft. along W. Vernor and 69.00 ft. along Morrell.

Provided, That the necessary permits be obtained from the Departments of Public Works and Buildings and Safety Engineering and that same shall be constructed and maintained under the rules and regulations of said departments and the City Plan Commission in accordance with plans submitted to and approved by those departments; and

Provided, That permittee at the time of obtaining said permits file with the City Controller an indemnity agreement in form approved by the Corporation Counsel saving and protecting the City of Detroit harmless from any and all claims, damages or expenses that may arise by reason of the issuance of said permits and the faithful performance by the permittee of the terms thereof, and in addition to pay all claims, damages or expenses that may arise out of the maintenance of said permission; and

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachment shall be removed at the expense of the permittee at any time when so directed by the Common Council, and that the public property affected shall be restored to a condition satisfactory to said Departments by said permittee at its expense; and

Provided, That this resolution is revocable at the will, whim or caprice of the Common Council and permittee hereby expressly waives any right to claim damages or compensation for property constructed hereunder for the removal of same and further that permittee acquires no implied or other privileges hereunder not expressly stated herein; and

Provided, That these permits shall not be assigned or transferred without the written approval of the Common Council; and

Provided, That the filing of the indemnity agreement and the securing of the necessary permits referred to herein shall be construed as acceptance of the terms of this resolution by the permittee; and

Provided, That a certified copy of this resolution shall be recorded with the office of the Register of Deeds for Wayne County by and at permittee's expense.

Approved:

JOHN F. HATHAWAY

Acting Corporation Counsel

Adopted as follows:

Yeas — Councilmen Browne, Eberhard, Hood, Levin, Rogell, Van Antwerp, and President Ravitz — 7.

Nays — None.

Corporation Counsel

December 5, 1973

Honorable Common Council:

Re: Joseph R. DeSmet, Jr. vs. City of Detroit, a municipal corporation (Department of Public Works), Civil Action No. 73-241-136

We have reviewed the above-captioned suit, the facts and particulars of which are set forth in the attached memorandum. From this review, it is our considered opinion that a settlement in the amount of \$2,100.00 is in the best interest of the City of Detroit.

We, therefore, request your Honorable Body to direct the Controller to issue his draft in the amount of \$2,100.00 payable to Joseph R. DeSmet, Jr. and Joseph Zajac, his attorney, to be delivered upon receipt of properly executed releases and discontinuance of the lawsuit.

Respectfully submitted,

DEAN KOULOURAS

Assistant Corporation Counsel

Approved:

ROBERT D. McCLEAR

Acting Corporation Counsel

By Councilman Hood:

Resolved, that the City Controller be and he is hereby authorized and directed to draw his warrant upon the proper fund in favor of Joseph R. DeSmet, Jr. and Joseph Zajac, his attorney, in the sum of \$2,100.00, in full payment of any and all claims which they may have against the City of Detroit by reason of injuries sustained by Joseph R. DeSmet, Jr. on or about June 29, 1971 as a result of a fall from his motorcycle when it struck a buckled and dangerous portion of pavement in the City of Detroit, and that said amount be paid upon presentation of releases approved by the Office of the Corporation Counsel and Discontinuance of lawsuit No. 73-241-136.