

cancellation of the outstanding City tax liens as shown in Exhibit "C" on said properties, totaling \$5,300.78, summarized as follows:

1943 and prior	\$4,095.15
1944	287.93
	\$4,383.08
Special Assessments:	
Street Paving	\$ 905.50
Water Main	12.20
	\$ 917.70

Total: \$5,300.78.

Respectfully submitted,
E. A. WALINSKE, Director
Bureau of Real Estate.

Approved:
WILLIAM E. DOWLING,
Corporation Counsel.

By Councilman Castator:
Resolved, That the City Treasurer be and he is hereby authorized and directed to cancel tax liens as shown and described in Exhibit "C" submitted and on file in the office of the City Clerk, and to prepare the necessary journal entries.

EXHIBIT "C"
Court Costs Paid

W. 16, Cap. 402, Wyoming Estates Sub.:

Acct. 8-786, lot 31, 1943 and prior, \$143.11; 1944, \$8.72 (8-399); Street Paving, \$560.56 (Bk. 154/244).

Acct. 38-792, lot 20, 1943 and prior, \$158.68; 1944, \$9.57 (37-995); Street Paving, \$57.49 (Bk. 80/39).

Acct. 38-793, lot 19, 1943 and prior, \$158.68; 1944, \$9.57 (37-996); Street Paving, \$57.49 (Bk. 80/39).

Acct. 38-794, lot 18, 1943 and prior, \$131.22; 1944, \$9.57 (37-997); Street Paving, \$57.49 (Bk. 80/39).

Acct. 38-800, lot 12, 1943 and prior, \$153.57; 1944, \$9.57 (38-003); Street Paving, \$57.49 (Bk. 80/39).

Acct. 38-801, lot 11, 1943 and prior, \$153.57; 1944, \$9.57 (38-004); Street Paving, \$57.49 (Bk. 80/44).

Acct. 38-802, lot 10, 1943 and prior, \$153.57; 1944, \$9.57 (38-005); Street Paving, \$57.49 (Bk. 80/44).

Acct. 39-978, lot 173, 1943 and prior, \$92.41; 1944, \$11.82 (39-127).

W. 16, Cap. 383, Northwestern Puritan Sub.:

Acct. 7-912, lot 9, 1943 and prior, \$96.66; 1944, \$8.44 (7-649).

Acct. 7-913, lot 8, 1943 and prior, \$96.66; 1944, \$8.44 (7-650).

Acct. 7-914, lot 7, 1943 and prior, \$96.66; 1944, \$8.44 (7-651).

Acct. 39-482, lot 223, exc. st. as wd., 1943 and prior, \$39.20; 1944, \$6.19 (38-644).

Acct. 39-507, lot 195, exc. st. as wd., 1943 and prior, \$45.01; 1944, \$6.19 (38-666).

Acct. 39-511, lot 191, exc. st. as wd., 1943 and prior, \$45.01; 1944, \$6.19 (38-670).

Acct. 39-512, lot 190, exc. st. as wd., 1943 and prior, \$45.01; 1944, \$6.19 (38-671).

Acct. 46-763, lot 45, 1943 and prior, \$122.06; 1944, exempt (45-895).

Acct. 46-773, lot 55, 1943 and prior, \$104.01; 1944, \$7.32 (45-905).

Acct. 46-774, lot 56, 1943 and prior, \$91.54; 1944, \$7.32 (45-906).

Acct. 46-775, lot 57, 1943 and prior, \$91.64; 1944, \$7.32 (45-907).

Acct. 46-776, lot 58, 1943 and prior, \$91.64; 1944, \$7.32 (45-908).

Acct. 46-785, lot 67, 1943 and prior, \$91.64; 1944, \$7.32 (45-917).

Acct. 46-786, lot 68, 1943 and prior, \$91.64; 1944, \$7.32 (45-918).

Acct. 46-787, lot 69, 1943 and prior, \$91.64; 1944, \$7.32 (45-919).

Acct. 46-788, lot 70, 1943 and prior, \$91.64; 1944, \$7.32 (45-920).

Acct. 46-789, lot 71, 1943 and prior, \$91.64; 1944, \$7.32 (45-921).

Acct. 46-795, lot 77, 1943 and prior, \$100.54; 1944, \$7.32 (45-927).

Acct. 46-796, lot 78, 1943 and prior, \$141.16; 1944, \$10.13 (45-928).

Acct. 46-797, lot 79, 1943 and prior, \$145.03; 1944, \$9.00 (45-929).

Acct. 46-798, lot 80, 1943 and prior, \$105.43; 1944, \$5.63 (45-930).

Acct. 46-799, lot 81, 1943 and prior, \$94.08; 1944, \$5.63 (45-931).

Acct. 46-800, lot 82, 1943 and prior, \$94.08; 1944, \$5.63 (45-932).

Acct. 46-801, lot 83, 1943 and prior, \$94.08; 1944, \$5.63 (45-933).

Acct. 46-802, lot 84, 1943 and prior, \$94.08; 1944, \$5.63 (45-934).

Acct. 46-803, lot 85, 1943 and prior, \$94.08; 1944, \$5.63 (45-935).

Acct. 46-804, lot 86, 1943 and prior, \$94.08; 1944, \$5.63 (45-936); Water Main, \$12.20 (Bk. 24).

Acct. 46-805, lot 87, 1943 and prior, \$94.08; 1944, \$5.63 (45-937).

Acct. 46-806, lot 88, 1943 and prior, \$94.08; 1944, \$5.63 (45-938).

Acct. 46-807, lot 89, 1943 and prior, \$94.08; 1944, \$5.63 (45-939).

Acct. 46-808, lot 90, 1943 and prior, \$94.08; 1944, \$5.63 (45-940).

Acct. 46-809, lot 91, 1943 and prior, \$94.08; 1944, \$5.63 (45-941).

Adopted as follows:
Yeas—Councilmen Castator, Cody, Comstock, Dcrais, Rogell, Sweeny, and the President—7.
Nays—None.

Corporation Counsel

January 24, 1945.

To the Honorable, the Common Council:

Gentlemen—In a bill of complaint filed by Gertrude H. Merrill, owner of Lots 1, 2 and 112 of the Grosse Pointe Manor Subdivision, located at the corner of Audubon and Mack Avenues, Detroit, it was alleged that the R1-One Family Dwelling-District Classification given that property by

our Zoning Ordinance was arbitrary and unreasonable and, therefore, invalid. Lots 1 and 112 front on Audubon Avenue and abut on their southerly side of Mack Avenue. Lot 2 is immediately north of Lot 1 and does not abut on Mack, but has a 20-foot alley on its north, which she deeded to the City in May, 1929, from Lot 2. In the original Zoning Ordinance the three lots were classified for business purposes under a B2 District Classification, but were changed to a R1 District Classification by an amendment effective August 6, 1941.

After the above bill was filed, the Mack-Outer Drive Improvement Association filed a bill against Mrs. Merrill to obtain a declaratory decree as to the effect of the deed restriction of record on these lots which limited their use to residence purposes only.

The cases were tried before Honorable Robert M. Toms, Circuit Judge, who rendered opinions upholding the legality of the R1 District Classification and also the residential restrictions in the deeds. Proof was introduced showing that from 1934 to 1941, Lots 1 and 2 were assessed on the basis that they were business property fronting on Mack Avenue, and that the land deeded for the alley has not been used as such. I am embodying below a paragraph from the opinion in which it is noted that the Court made some suggestions deduced from the proofs:

"The Court having jurisdiction of the parties to this cause for all purposes and grossly inequitable conduct on the part of the defendant appearing from the record, the Court exercises its jurisdiction to remedy the injustice. It appears without contradiction from the record that the plaintiff deeded to the City of Detroit a strip on the north side of Lot 1 for use as a public alley. This was done in reliance upon the classification for business first imposed by the zoning ordinance and before the classification was restored to R1. It also appears that during the period when the lots were classified as business lots they were taxed accordingly, although they were restored to a residential basis when the classification was changed. The decree to be entered, therefore, will require the defendant, the City of Detroit, to reconvey by a quit claim deed to the plaintiff the strip on the north side of Lot 1, and also to repay to the plaintiff the taxes collected by it in excess of the taxes assessable against the land as residence property. The classification of lots 1, 2 and 112 by the City of Detroit as residence property under the zoning ordinance, is upheld and sustained and de-

creed not to be in violation of the Constitution of the State of Michigan or of the United States."

Mr. Witherspoon and I have had a conference with the Court and also with a member of the Board and also Board of Assessors, and you are advised that the Board of Assessors is making a recommendation in the matter.

If your Honorable Body grants authority for the refunding of the taxes and the return of the alley, it is suggested that it be authorized only on the condition that no appeal is taken in the case.

Very truly yours,
ARTHUR L. BARKEY,
Asst. Corporation Counsel.

Approved:
WILLIAM E. DOWLING,
Corporation Counsel.

Board of Assessors

January 26, 1945.

To the Honorable, the Common Council:

Gentlemen—The general city taxes for the years 1934 to 1941, both inclusive, were assessed against the following described property on the basis that it was business frontage on Mack Avenue.

N. W. corner of Mack and Audubon Avenues. Lot 1 and also lot 2—except alley as widened. Grosse Pointe Manor Sub. Cap. 447.

Approximately the N. 20 feet of lot 2 was deeded for alley purposes. The subdivision restrictions at the time the plat was recorded, restricted this property to residential use. These restrictions were upheld in a recent case in the Circuit Court.

Due to this parcel being assessed as business frontage instead of residential, we are asking that your Honorable Body authorize a refund to be made in the amount of \$2,120.38 on the above described property, for the years 1934 to 1941, both inclusive, as shown on attached schedule.

Owner: GERTRUDE H. MERRILL,
c/o Atty. H. H. Schoenberg, 530 Buhl Building.

Respectfully,
JAMES A. BURNS,
Secretary.

By Councilman Dorais:
Resolved, That the City Controller be and he is hereby authorized and directed to issue quit-claim deed to Gertrude H. Merrill covering "the northerly part of lot 2, Grosse Pointe Manor Sub. of part of P C 502 and 692 North of Mack Avenue, as recorded in Liber 29, Page 69 of Plats of Wayne County Records, described as follows: Beginning at the north-westerly corner of said lot 2; thence along the northerly line of said lot