

Department of Public Works
City Engineering Division

April 3, 1996

Honorable City Council:

Re: Petition No. 1419, Detroit Opera House, Michigan Opera Theatre, Alley(s) to Easement remaining part of "V-shaped" public alley(s) in the block bounded by Witherell, John R, Broadway, and Madison;

Petition No. 1419 of "Detroit Opera House" requests the conversion of the remaining part of the "V-shaped" public

alley(s), 20 feet wide, in the block bounded by Witherell and John R Streets, Broadway and Madison Avenues into a private easement for public utilities.

The requested conversion was approved by the Planning and Development Department, and Traffic Engineering Division — DPW. The petition was referred to the City Engineering Division—DPW for investigation (utility review) and report. This is our report:

The city owns all public rights-of-way in the "Governor and Judges Plan" in fee. Therefore, the Finance Director must execute a quit-claim deed to transfer vacated public rights-of-way to the "Michigan Opera Theatre."

The petitioner plans to use the paved alley return entrances (into John R Street) and requests such remain in their present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately owned utility companies have reported no objections to the conversion of public rights-of-way into a private easement for public utilities. Provisions protecting utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

SUNDAY JAIYESIMI
City Engineer

By Council Member Scott:

Resolved, All the remaining part of the "V-shaped" public alley(s), 20 feet wide, in the block bounded by Witherell and John R Streets, Broadway and Madison Avenues lying southerly of and abutting the south line of Lots 26 and 27; also lying northerly of and abutting the north line of Lot 67; also lying northerly of and abutting the north line of Lots 16 and 17; also lying southerly of and abutting the south line of Lot 67 of the "Plan of Section Numbered Nine of the City of Detroit, in the Territory of Michigan, confirmed by the Governor and Judges," as recorded in Liber 34, Page 552, Deeds, Wayne County Records;

Be and the same are hereby vacated as public alley(s) and are hereby converted into a private easement for public utilities of the full width of the alley(s), which easement shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of the lots abutting on said alley(s) and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public an easement or right-of-way over said vacated public alley(s) herein above described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or

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mains, telephone, electric light conduits or poles or things usually placed or installed in a public alley in the City of Detroit, with the right to ingress and egress at any time to and over said easement for the purpose above set forth,

Second, said utility easement or right-of-way in and over said vacated alley(s) herein above described shall be forever accessible to the maintenance and inspection forces of the utility companies, or those specifically authorized by them, for the purpose of inspecting, installing, maintaining, repairing, removing, or replacing any sewer, conduit, water main, gas line or main, telephone or light pole or any utility facility placed or installed in the utility easement or right-of-way. The utility companies shall have the right to cross or use the driveways and yards of the adjoining properties for ingress and egress at any time to and over said utility easement with any necessary equipment to perform the above mentioned tasks, with the understanding that the utility companies shall use due care in such crossing or use, and that any property damaged by the utility companies, other than that specifically prohibited by this resolution, shall be restored to a satisfactory condition.

Third, said owners for their heirs and assigns further agree that no buildings or structures of any nature whatsoever including, but not limited to, concrete slabs or driveways, retaining or partition walls, (except necessary line fence; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary) shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division — DPW,

Fourth, that if the owners of any lots abutting on said vacated alley(s) shall request the removal and/or relocation of any existing poles or other utilities in said easement, such owners, shall pay all costs incidental to such removal and/or relocation, unless such charges are waived by the utility owners,

Fifth, that if any utility located in said property shall break or be damaged as a result of any action on the part of said owners or assigns (by way of illustration but not limitation) such as storage of excessive weights of materials or construction not in accordance with Section 3, mentioned above, then in such event said owners or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility; and further

Provided, That if it becomes necessary to remove the paved alley return(s) at their entrances (into John R Street), such removal and construction of new curb and sidewalk shall be done under city permit

and inspection according to City Engineering Division — DPW specifications with all costs borne by the abutting owner(s), their heirs or assigns; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds; and be it further

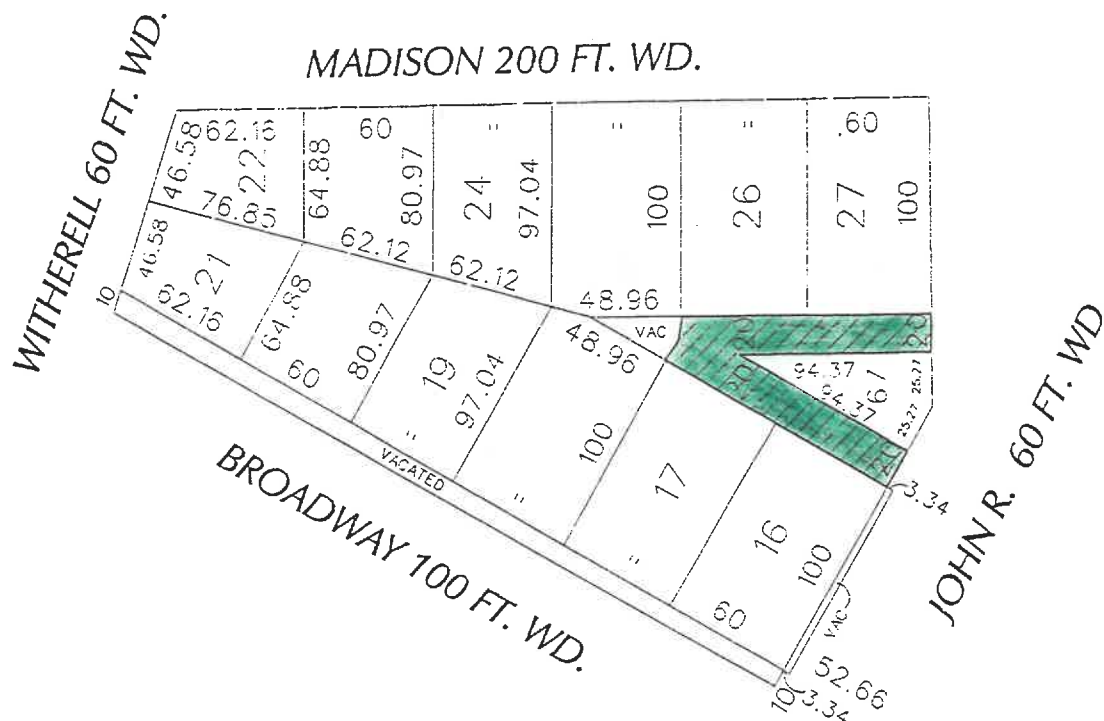
Resolved, The Finance Director is hereby authorized and directed to issue a quit-claim deed to transfer the following vacated public (alley) rights-of-way to the "Michigan Opera Theatre, 6519 Second Avenue, Detroit, MI 48202" for the fair market value and/or other valuable considerations:

"Land in the City of Detroit, Wayne County, Michigan being the remaining part of the "V-shaped" public alley(s), 20 feet wide, in the block bounded by Witherell and John R Streets, Broadway and Madison Avenues lying southerly of and abutting the south line of Lots 26 and 27; also lying northerly of and abutting the north line of Lot 67; also lying northerly of and abutting the north line of Lots 16 and 17; also lying southerly of and abutting the south line of Lot 67 of the "Plan of Section Numbered Nine of the City of Detroit, in the Territory of Michigan, confirmed by the Governor and Judges," as recorded in Liber 34, Page 552, Deeds, Wayne County Records; containing 4,426 square feet or 0.1016 acre more or less; subject to a private easement for public utilities;"

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Hill, Hood, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 8.

Nays — None.



28. A

CARTO. NO. 28A
SCALE: 1"=100'

[illegible]