

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Vivian A. Hudson
Deputy City Clerk

RECEIVED
NOV 25 2009

DEPARTMENTAL REFERENCE COMMUNICATION

Monday, November 09, 2009

To: *The Department or Commission Listed Below*

From: *Janice M. Winfrey, Detroit City Clerk*

The following petition is herewith referred to you for report and recommendation to the City Council.

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

DPW - CITY ENGINEERING DIVISION

3910 *Daniel P. Overstreet, for conversion of alley to easement of abutting 20' alley between lots 13, plat of subdivision of parcel lots 61 and 62.*

29B

CEV/RED

PETITION FOR CONVERSION OF ALLEY TO EASEMENT
Detroit, MI

Date 11-02 2009

TO THE HONORABLE CITY COUNCIL:

Gentlemen: We, the undersigned owners of the property abutting the alley:

30 ALLEY between Lots B, PLAT of Subdivision of Park Lots 61 + 62
 Location of Alley

do respectfully petition your Honorable Body to vacate said alley and convert same into a public easement.

Further, the undersigned representing not less than two-thirds (66-2/3%) ownership of property abutting said alley hereby agree that all existing utilities in said alley are to remain in their present location, and that if at any time in the future a request is made to remove or relocate any existing poles or other utilities in the easement, the property owners making such request and upon whose property the pole or other utilities are located will pay all costs incurred in such removal or relocation unless such charges are waived by the utility owners.

We do further agree that no buildings or structures of any nature whatsoever (except necessary line fences) shall be built upon the easement or any part thereof, so that said easement shall be forever accessible for maintenance of utilities.

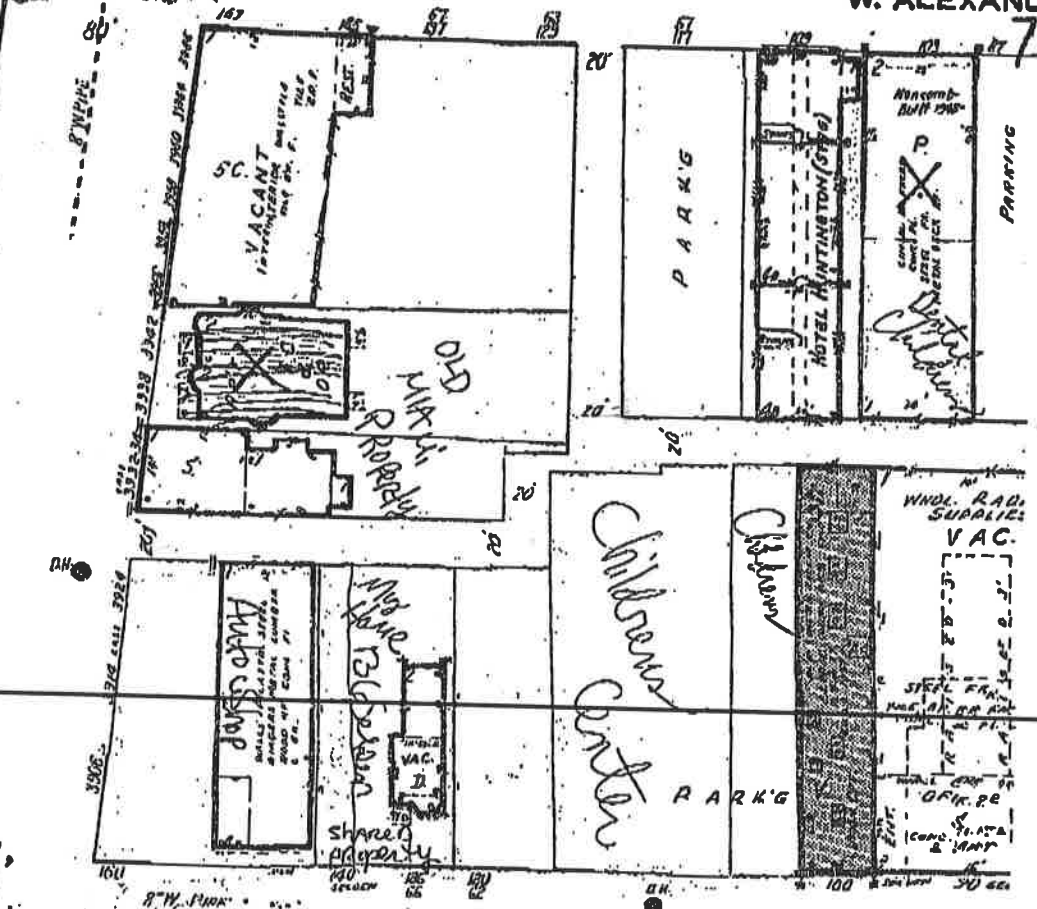
SPONSORING PETITIONER Daniel P. Overton 3930 Cass 313-843-1779
 (Name) (Address) (Phone No.)

Lot No.	Signature of Deed Holder	Signature of Wife or Other Co-Owner	Address	Date
	<i>Daniel P. Overton</i>	<i>Julie D. Lynn</i>	Old Miami 3930 Cass	11-02-09
	<i>Robena M. Alexander, CEO</i>	N/A	79 West Alexandrine	11/2/09

(Over)

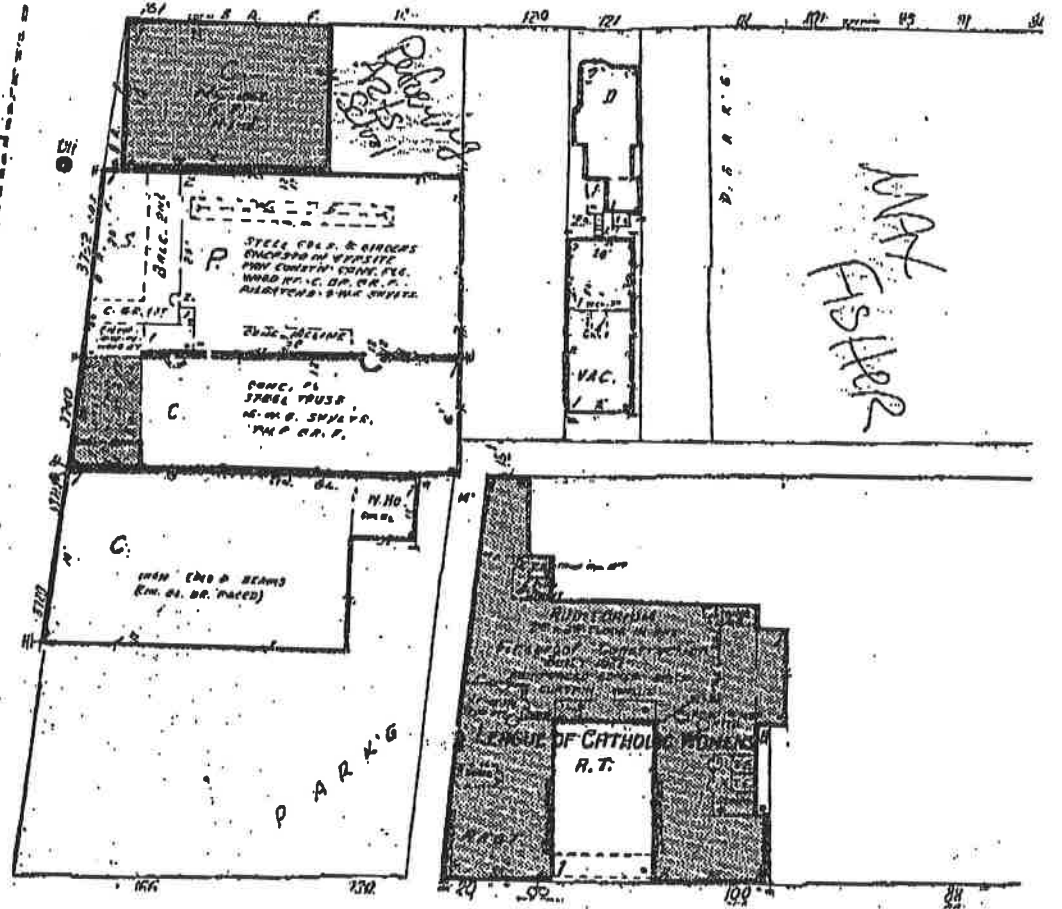
W. ALEXAND

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SELI

SELDEN
 AV.
 CASS



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DOUGLAS MOORE,
DANIEL OVERSTREET,
and JULIE FLYNN, Jointly
and Severally,

Plaintiffs,

v

Case No.: 09-016613-CH 09-016613-CH
Hon. Isidore Torres

WALTER ORANGE, AMIN HARB,
and OCCUPANTS OF 3900 CASS
AVE., Jointly and Severally.

FILED IN MY OFFICE
WAYNE COUNTY CLERK
3/24/2014 4:24:10 PM
CATHY M. GARRETT

Defendants.

/s/ Kelly Smalley

TIMOTHY A. DINAN (P49499)
Dinan & Associates, P.C.
Attorney for Plaintiffs
14950 E. Jefferson Ave., Suite 170
Grosse Pointe Park, MI 48230
(313) 821-5904

AMIN HARB
In Pro Per
3900 Cass Ave.
Detroit, MI 48201

**AMENDED ORDER TO DISMISS
WITH PREJUDICE AND WITHOUT COSTS**

At a session of said Court held in the
City of Detroit, County of Wayne, and
State of Michigan on 3/24/2014

PRESENT: HON. Brian R. Sullivan
CIRCUIT COURT JUDGE

This matter having come before the Court upon the Plaintiffs' Motion to Amend April 26, 2010 Order, oral arguments having been held in open court, and the Court being fully advised in the premises:

IT IS HEREBY STIPULATED AND AGREED that the within matter will be dismissed with prejudice and without costs as to all parties.

IT IS FURTHER STIPULATED AND AGREED:

1. That the property lines be set forth along the current established fence line and as noted on the 6/29/09 survey between 3900 Cass Ave. and 3930 Cass Ave; (**SEE EXHIBIT A**)

2. Defendants, Amin Harb and Occupants of 3900 Cass Ave.:

a. disclaim any and all interest in the closed public alley as found in Exhibit A, that are in support of subsection 1 and;

b. approve of the vacation of the public alley as requested in Petition 3910 pending before the Detroit City Council;

3. That a privacy fence be erected between 3900 Cass Ave. and 136 Seldon with the minimum of a four foot gap between the fence and the property line as required by Detroit Fire Department Code unless there is another municipal requirement. The parties shall recognize the boundary between 3900 Cass Ave. and 136 Sheldon as set forth in Exhibit A shall remain the same. This fence shall be erected no later than June 2, 2010 and the parties will agree in writing upon where it will be erected prior to beginning construction;

4 That during the day, Defendants, AMIN HARB and OCCUPANTS OF 3900 CASS AVE., operates the garage with the back doors remaining only partially open to allow for sufficient ventilation;

5. That Defendants, AMIN HARB'S and OCCUPANTS OF 3900 CASS AVE.'S property be kept clean in a manner consistent with all Detroit ordinances and without scrap parts visible at any time;

6. That Plaintiffs, DOUGLAS MOORE, DANIEL OVERSTREET and JULIE FLYNN, will dismiss all current claims made in the lawsuit, including claims of nuisance by environmental contamination, noise and littering of the property; and

7. That Plaintiffs agree to provide their consent to Defendants, AMIN HARB'S and OCCUPANTS OF 3900 CASS AVE.'S, use of the property for a garage/repair facility and will take any reasonable measures to comply with Defendants' request for any necessary zoning variance to operate a garage/repair facility.

8. That Plaintiffs and Defendants agree that if a question arises with regard to conforming to this order, they will contact each other to attempt to work out any differences amiably.

9. That Plaintiffs and Defendants agree the court shall retain jurisdiction for purposes of enforcement of this order.

THIS AMENDED ORDER RESOLVES THE LAST PENDING CLAIM AND CLOSES THE CASE.

Brian R. Sullivan

CIRCUIT COURT JUDGE

CITY ENGINEERING DIVISION - DPW
900 CADILLAC TOWER
DETROIT, MICHIGAN 48226-2873

RECEIVED MAR 27 2014

EXHIBIT A

CITY ENGINEERING DIVISION - DPW
900 CADILLAC TOWER
DETROIT, MICHIGAN 48226-2873

RECEIVED MAR 27 2014

EXISTING CONDITION SURVEY

SURVEY NUMBER

PICTURE # GL-2090037

REF #

CUSTOMER

LEGEND

- F.M. FOUND MONUMENT
- F.I. FOUND IRON
- (I) IRON
- F.P. FENCE POLE
- P.C. PROP CORNER
- (R) RECORD DATA
- (M) MEASURED DATA

SAMIR HARB (OWNERS)
AMIN HARB

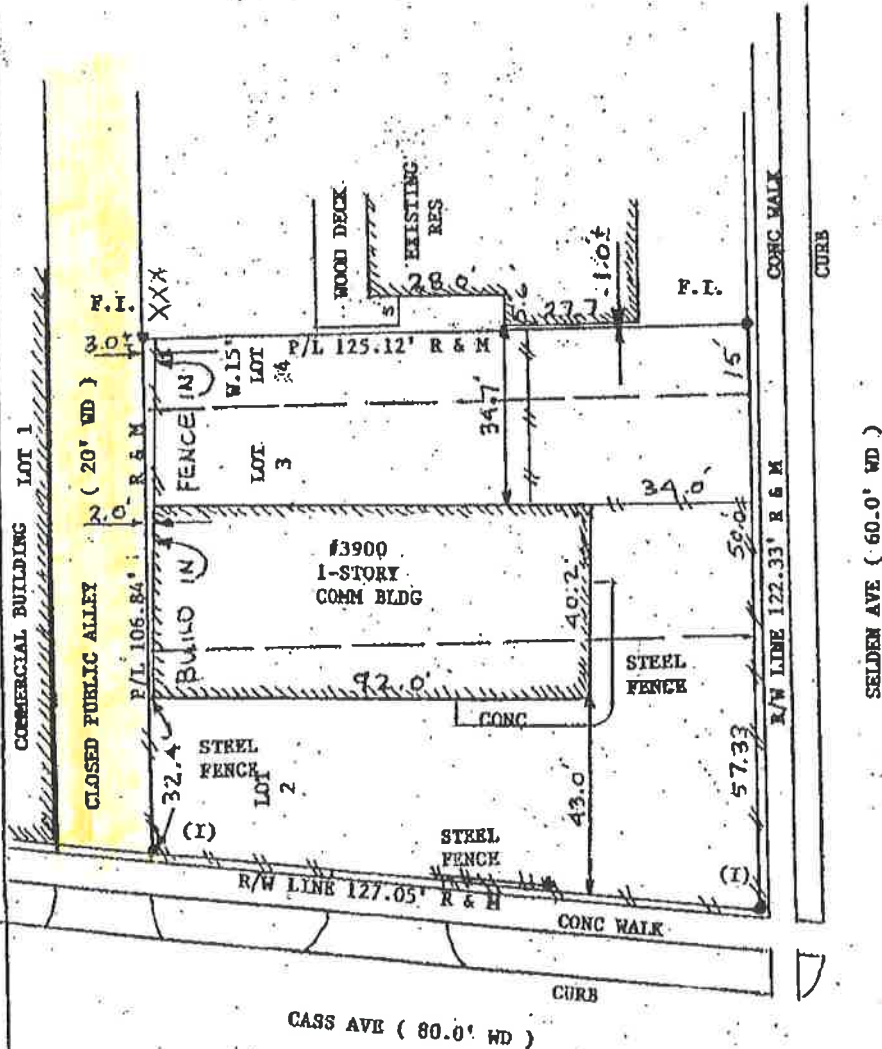
PERM:

DATE: 6-17-09

SCALE: 1"=30'

LEGAL DESCRIPTION (3900 CASS)

LOTS 2,3, AND THE WEST 15 FEET OF LOT 4,
FALES SUBDIVISION, CITY OF DETROIT, WAYNE COUNTY,
MICHIGAN, AS RECORDED IN LIBER 5, PAGE 28 OF PLATS
WAYNE COUNTY RECORDS.



*NOTE: NOT FOR RECORDING.

SYSTEM'S SEVEN SURVEY

LAND SURVEYING

1583 WOODGATE TROY, MI 48063

TEL: 248.528.2100 FAX: 248.578.2101

ORIGINAL: 6-20-09

REVISED:

CERTIFIED BY

AGENT FOR:
SYSTEM'S SEVEN SURVEY

NOTE: THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE





April 25, 2014

Honorable City Council:

Re: Petition No. 3910– Daniel P. Overstreet for the for conversion of alley to easement of abutting 20 foot wide alley between lots 13, plat of subdivision of parcel lots 61 and 62.

Petition No. 3910 (Initiated November 9, 2009)– Daniel P. Overstreet requests the conversion the west portion of the east – west public alley, 20 feet wide, and the south portion of the north-south public alley, 20 feet wide in the block bounded by Selden Avenue, 80 feet wide, Alexandrine Avenue, 100 feet wide, Cass Avenue, 80 feet wide and Woodward Avenue, 120 feet wide into an easement for utilities.

The request was approved by the Solid Waste Division – DPW, 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.

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

Detroit Water and Sewerage Department (DWSD) has no objection to the conversion to easement. The specific DWSD provisions for easements are included in the resolution.

The subject alley has been physically closed for several years. This petition was initiated November 9, 2009. The property line of the adjoining owners has been the subject of a court case. Now, the court case has been settled; and a Stipulation Order has been issued and amended. The Amended Stipulation Order to dismiss the case, and establish the property lines, and to disclaim any interest in the alley by the defendant has been reviewed by the City of Detroit Law Department. The Law Department has found the Amended Stipulation Order sufficient for the consent of the owners of property abutting the alley for the closure. The Amended Stipulation Order is attached as Exhibit A of the resolution.



I am recommending adoption of the attached resolution.

Respectfully submitted,

Richard Doherty, City Engineer
City Engineering Division – DPW

JMK/

Cc: Ron Brundidge, Director, DPW
Mayor's Office – City Council Liaison

BY COUNCIL MEMBER _____

RESOLVED, All that part of the East – West public alley, 20 feet wide, in the block bounded by Selden Avenue, 80 feet wide, Alexandrine Avenue, 100 feet wide, Cass Avenue, 80 feet wide and Woodward Avenue, 120 feet wide, lying Northerly of and adjoining the North line of Lots 2 thru 5, both inclusive, also lying southerly of and adjoining the South line of Lot 1; together with all that part of the North – South alley, 20 feet wide, in that same block lying easterly of and adjoining the easterly line of said Lot 1 and lying westerly of and adjoining the westerly line of Lot 6, plus part of the E-W public alley, 15 feet wide, in that same block, lying northerly of and adjoining the North line of Lot 6, all in “Plat of Fale’s Subdivision of Lots 18, 19, 20, 21, 22 and 23 of the North half of Park Lot 63, Detroit, Wayne County, Michigan T2S, R12E” as recorded in Liber 5 Page 28 of Plats, Wayne County Records; and being more particularly described as:

Beginning at the southwesterly corner of said Lot 1 “Fale’s Sub.” L5, P28 PWCR; thence southerly 20.16 feet to the northwesterly corner of said Lot 2; thence along the northerly line of said Lots 2 thru 5 to the northeasterly corner of said Lot 5; thence northerly along the westerly line of said Lot 6, 40.00 feet to the northwesterly corner of said Lot 6; thence easterly along the northerly line of said Lot 6 a distance of 11.16 feet more or less; thence northerly 15 feet to the southeasterly corner of Lot 13 “Plat of Park Lots 61 and 62” as recorded in Liber 1 Page 128 of Plats. Wayne County Records; thence along the southerly line of said Lot 13 a distance of 30.00 feet to the northeasterly corner of said Lot 1 “Fale’s Sub.” L5, P28 PWCR; thence along the easterly line of said Lot 1 a distance of 35 feet to the southeasterly corner of said Lot 1; thence along the southerly line of said Lot 1 a distance of 149.4 feet to the southwesterly corner of said Lot 1 and the point of beginning.

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities of the full width of the alley, 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 and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public easement or right-of-way over said vacated public alley herein above described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or 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 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 task, 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, shall be built or placed upon said easements, 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 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

Provided, that an easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewerage Department for the purpose of installing, maintaining, repairing, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement for the purpose above set forth; and be it further

Provided, that free and easy access to the sewers, water mains, fire hydrants and appurtenances within the easement is required for Detroit Water and Sewerage Department equipment, including the use of backhoes, bull dozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities; and be it further

Provided, that the Detroit Water and Sewerage Department retains the right to install suitable permanent main location guide post over its water mains at reasonable intervals and at points deflection; and be it further

Provided, that said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including porches,

patios, balconies, etc., shall be built upon or over said easement, or that no grade changes or storage of materials shall be made within said easement without prior written approval and agreement with the Detroit Water and Sewerage Department; and be it further

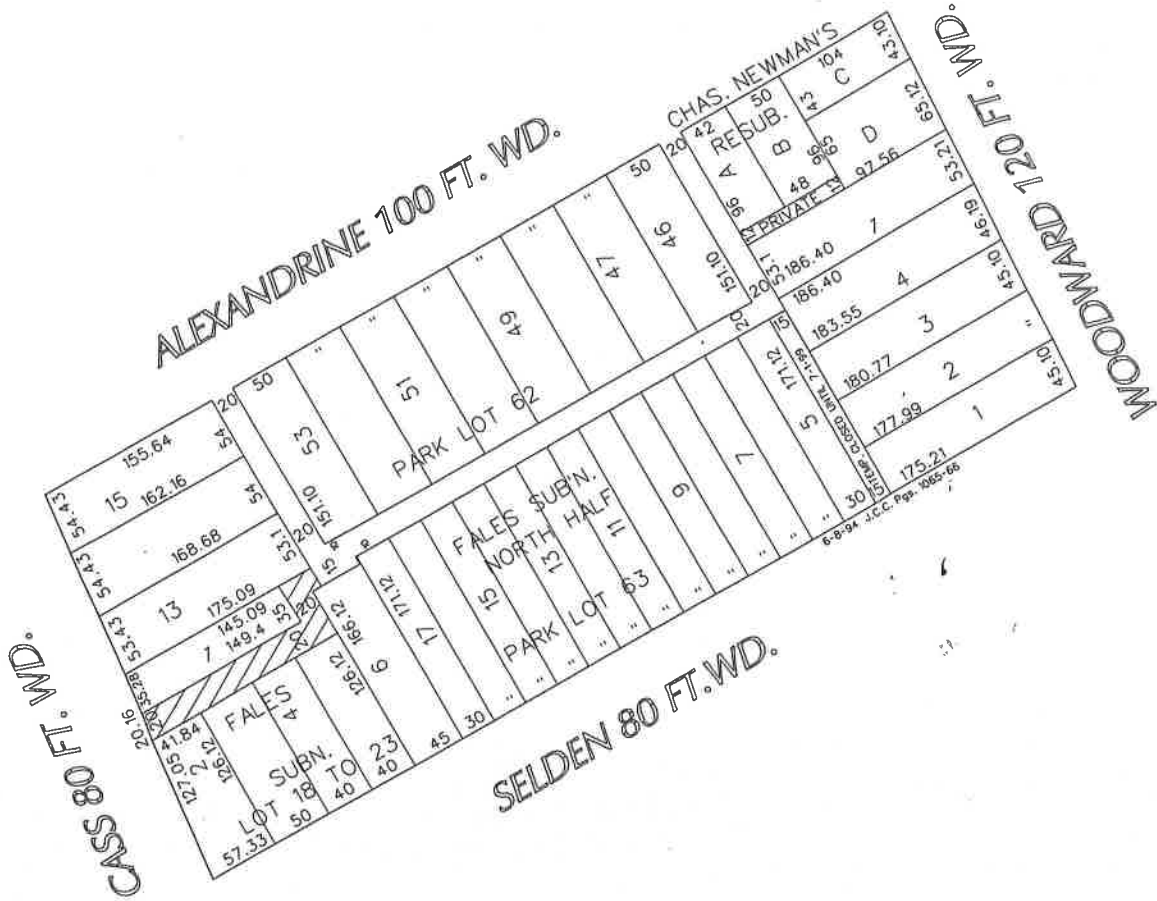
Provided, that if any time in the future, the owners of any lots abutting on said vacated alley shall request the removal and/or relocation of the aforementioned utilities in said easement, such owners shall pay all costs incident to such removal and/or relocation. It is further provided that if sewers, water mains, and/or appurtenances in said easement shall break or be damaged as a result of any action on the part of the owner, or assigns, then in such event, the owner or assigns shall be liable for all costs incident to the repair of such broken or damaged sewers and water mains, and shall also be liable for all claims for damages resulting from his action; and be it further

Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Cass Avenue), 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 heir or assigns; and further

Provided, that the subject alley has an Amended Stipulation Order to dismiss a case, and establish the property lines, and to disclaim any interest in the alley by the defendant. The Amended Stipulation Order is attached as Exhibit A of this resolution.

Provided, that the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

PETITION NO. 3910
 DANIEL P. OVERSTREET
 3930 CASS
 PHONE NO. 313-843-1779



- REQUESTED CONVERSION TO EASEMENT

(FOR OFFICE USE ONLY)

CARTO 29B

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	NP	CHECKED			
DATE	5-17-10	APPROVED			

REQUESTED CONVERSION TO EASEMENT
 A PORTION OF THE EAST-WEST AND NORTH-SOUTH
 PUBLIC ALLEYS 20 FT. WD. IN THE BLK. BND. BY CASS,
 WOODWARD, SELDEN, AND ALEXANDRINE.

CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU

JOB NO. 01-01

DRWG. NO. x3910.dgn

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DOUGLAS MOORE,
DANIEL OVERSTREET,
and JULIE FLYNN, Jointly
and Severally,

Plaintiffs,

v

WALTER ORANGE, AMIN HARB,
and OCCUPANTS OF 3900 CASS
AVE., Jointly and Severally.

Defendants.

Case No.: 09-016613-CH 09-016613-CH
Hon. Isidore Torres

FILED IN MY OFFICE
WAYNE COUNTY CLERK
3/24/2014 4:24:10 PM
CATHY M. GARRETT

/s/ Kelly Smalley

TIMOTHY A. DINAN (P49499)
Dinan & Associates, P.C.
Attorney for Plaintiffs
14950 E. Jefferson Ave., Suite 170
Grosse Pointe Park, MI 48230
(313) 821-5904

AMIN HARB
In Pro Per
3900 Cass Ave.
Detroit, MI 48201

**AMENDED ORDER TO DISMISS
WITH PREJUDICE AND WITHOUT COSTS**

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PRESENT: HON. Brian R. Sullivan
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Brian R. Sullivan

CIRCUIT COURT JUDGE

CITY ENGINEERING DIVISION - DPW
900 CADILLAC TOWER
DETROIT, MICHIGAN 48226-2873

RECEIVED MAR 27 2014

EXHIBIT A

CITY ENGINEERING DIVISION - DPW
900 CADILLAC TOWER
DETROIT, MICHIGAN 48226-2873

RECEIVED MAR 27 2014

EXISTING CONDITION SURVEY

SURVEY NUMBER

PICTURE # GL-2090037

REF #
CUSTOMER

LEGEND

- F.M. FOUND MONUMENT
- F.I. FOUND IRON
- (I) IRON
- F.P. FENCE POLE
- P.C. PROP CORNER
- (R) RECORD DATA
- (M) MEASURED DATA

SAMIR HARB (OWNERS)
AMIN HARB

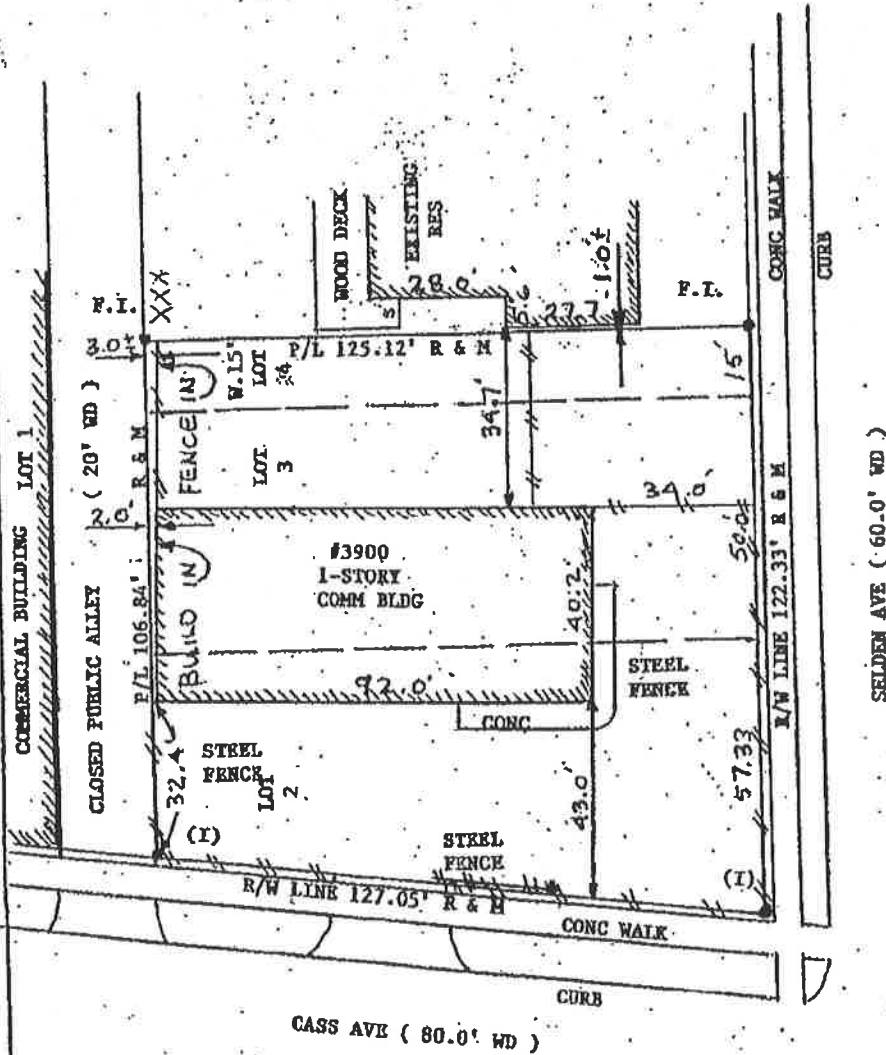
LEGAL DESCRIPTION (3900 CASS)

LOTS 2,3, AND THE WEST 15 FEET OF LOT 4,
FALES SUBDIVISION, CITY OF DETROIT, WAYNE COUNTY,
MICHIGAN, AS RECORDED IN LIBER 5, PAGE 28 OF PLATS
WAYNE COUNTY RECORDS.

PERM:

DATE: 6-17-09

SCALE: 1" = 30'



*NOTE: NOT FOR RECORDING.

SYSTEM'S SEVEN SURVEY
LAND SURVEYING

1583 WOODGATE TRKY, LA 48083
ME 248.528.2190 FAX 248.528.2191

APPROVAL: 6-20-09
REVISED

CERTIFIED BY

[Signature]

AGENT FOR:
SYSTEM'S SEVEN SURVEY

NOTE: THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE

