



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

## CITY COUNCIL AGENDA ITEM

Date: January 18, 2023

To: Honorable Mayor and City Council Members

From: Lori Grigg Bluhm, City Attorney

Subject: R W Development LLC v. City of Troy et. al.

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RW Development LLC and Stutz Investment Group LLC have proposed the development of Harrison Poolside Troy, a 73- unit townhouse apartment complex with amenities on its property that is north of Maple Road, south of the Somerset Apartments. This property is located at 1700 Stutz, in the City of Troy. Since this property was previously used as a landfill, on November 14, 2022, Plaintiffs obtained City Council approval for a Brownfield Redevelopment Plan to facilitate any necessary environmental clean-up. Plaintiffs also submitted the materials for site plan approval, and has received preliminary approval, but final site plan approval has been delayed since the proposed development will infringe on private easements for public utilities and vehicular access, which were set aside on the original plat that was approved on February 7, 1977. The easement is over the westernmost 40 feet of the property, and the northern 50 feet of the property.

Under Michigan law, when an entity seeks to vacate a dedicated easement on a plat, they are required to file a lawsuit against any party that has a property interest in the plat or is within 300 feet. The City was therefore served with this re-plat lawsuit. The legal process allows for anyone that has a concern about a proposed easement vacation or release to file formal objections. According to the representations in Plaintiff's Complaint, the easement is not currently or ever been used for public utilities or vehicular access, and City Administration does not contest this representation or see any future need for the easement.

Plaintiffs have followed all the procedural requirements for this plat amendment lawsuit, and there have not been any objections filed. City Administration has no objections to the attached proposed Release of Platted Easement, and recommends City Council approval of this and also the proposed attached Stipulated Order Consenting to Vacate Easement and For Dismissal.

## **RELEASE OF PLATTED EASEMENT**

This Release of Platted Easement (“Release”) is executed by the City of Troy, based on the Recitals set forth hereinafter.

### **RECITALS:**

A. RW Development Group, LLC, a Michigan limited liability company (“RW Development”) is the fee owner and land contract vendor of certain real property (“Real Estate” or “Lots”) commonly known as 1700 Stutz, in the City of Troy, County of Oakland, State of Michigan, located within the plat of land identified as Design Center Park Plat, recorded at Liber 151 Page 25 and 26, Oakland County Plats (“Plat”) and more particularly described as:

Part of Lots 4 and 5, Design Center Park, part of the Southwest 1/4 of Section 29, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan, as recorded in Liber 151, Pages 25 and 26 of Plats, Oakland County Records, being more particularly described as: beginning at the Northwest corner of said Lot 5; thence South 87 degrees 17 minutes 30 seconds East 200.06 feet along the North line of said Lot 5; thence south 01 degrees 19 minutes 00 seconds West 799.05 feet to a point on the North line of Stutz Drive (60 feet wide); thence North 88 degrees 41 minutes 00 seconds West 200.00 feet along the North line of said Stutz Drive to the Southwest corner of said Lot 5; thence North 01 degrees 19 minutes 00 seconds East 803.91 feet along the West line of said Lot 5 to the point of beginning.

B. Stutz Investment Group, LLC, is a Michigan limited liability company (“Stutz” and together with RW Development “Owner(s)”) is the land contract vendee of the Real Estate.

C. In addition to other easements, the Plat created a private easement for public utilities and vehicular access over the most westerly 40 feet of the Real Estate and the most northerly 50 feet of the Real Estate (“Easement”).

D. The Owners have or will obtain voluntary releases from, or court orders against, parties required to vacate the Easement.

Now, therefore, undersigned agrees that, pursuant to section 222a (MCL 560.222a) of the Land Division Act of the State of Michigan, its interest in the Easement is released and that they consent to the vacation and Release of the Easement.

This Release of Platted Easement is exempt from transfer taxes under MCL 207.505 5(a) and MCL 207.526 6(a) as the consideration is less than \$100.00.

The foregoing Release of Platted Easement is accepted and agreed to this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by the City of Troy, the municipality in which the real property subject to the Plat is located.

City Clerk

\_\_\_\_\_  
Date: \_\_\_\_\_, 202\_\_

STATE OF MICHIGAN )  
)ss.  
COUNTY OF OAKLAND )

The foregoing Release of Platted Easement was executed before me, acting in the state and county aforesaid, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, City Clerk of the City of Troy, and acknowledged to me that he/she executed the same as his/her free act and deed in his authorized capacity.

\_\_\_\_\_  
Name:  
Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_  
Acting in \_\_\_\_\_ County, MI

Drafted by and  
when recorded return to:

Kenneth J. Clarkson  
Jaffe Raitt Heuer & Weiss P.C.  
27777 Franklin Road, Suite 2500  
Southfield, MI 48304

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

RW Development, LLC, a Michigan  
limited liability company and  
Stutz Investment Group, LLC, a  
Michigan limited liability company

Plaintiffs

Case No 22- CH  
Hon.

-v-

City of Troy; Orlene Hawks, Director of  
Licensing and Regulatory Affairs;  
1715 Partners LLC,  
a Michigan limited liability company;  
DTE Energy Company, a Michigan corporation;  
AKZO Nobel Coatings Inc.,  
a Michigan corporation;  
Dean Sellers, Inc., a Michigan corporation; and  
REALM Investment Group LLC,  
a Michigan limited liability company

Defendants

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**STIPULATED ORDER CONSENTING TO VACATE EASEMENT  
AND FOR DISMISSAL**

At a session of said Court, held in the City of Pontiac,  
County of Oakland, State of Michigan, on: \_\_\_\_\_ at \_\_\_\_\_ am/pm

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PRESENT: HON.  
CIRCUIT COURT JUDGE

Upon stipulation of the parties hereto, as attested to by the signatures of their respective  
counsel appearing below, and the Court being otherwise fully advised in the premises,

The following facts serve as the basis of this order:

1. Plaintiff, RW Development Group, LLC, is the fee owner and land contract vendor of certain real property commonly known as 1700 Stutz, in the City of Troy, County of Oakland, State of Michigan, located within the plat of land identified as Design Center Park Plat, recorded at Liber 151 Page 25 and 26, Oakland County Plats (“Plat”) and more particularly described as:

Part of Lots 4 and 5, Design Center Park, part of the Southwest 1/4 of Section 29, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan, as recorded in Liber 151, Pages 25 and 26 of Plats, Oakland County Records, being more particularly described as: beginning at the Northwest corner of said Lot 5; thence South 87 degrees 17 minutes 30 seconds East 200.06 feet along the North line of said Lot 5; thence south 01 degrees 19 minutes 00 seconds West 799.05 feet to a point on the North line of Stutz Drive (60 feet wide); thence North 88 degrees 41 minutes 00 seconds West 200.00 feet along the North line of said Stutz Drive to the Southwest corner of said Lot 5; thence North 01 degrees 19 minutes 00 seconds East 803.91 feet along the West line of said Lot 5 to the point of beginning (“Real Estate”).

2. Stutz Investment Group, LLC, is a Michigan limited liability company (“Stutz” and together with RW Development “Owner(s)”) is the land contract vendee of the Real Estate.

3. The Plat created an easement for public utilities and vehicular access over the most westerly 40 feet of the Real Estate and the most northerly 50 feet of the Real Estate (“Easement”).

4. The Easement is not being used by the City of Troy for any purposes including without limit public utilities or vehicular access. The City of Troy has never accepted a dedication of the Easement for any purpose.

5. The owner or owners of record of each platted lot or parcel of land subject to the Easement has consented to the release and vacation of the Easement.

**NOW, THEREFORE, IT IS ORDERED AND ADJUDGED THAT:**

- (a) Pursuant to MCL 560.222a, the City of Troy consents to the vacation and Release of the Easement and to provide record evidence of that consent, the City of Troy shall execute the attached Release of Platted Easement; and
- (b) The portion of the Real Estate which was encumbered by the Easement shall be free from any interest of the City of Troy; and
- (c) The City of Troy is hereby dismissed from this case.
- (d) This order does not resolve the last pending claim in this matter and does not close the case.

IT IS SO ORDERED.

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CIRCUIT COURT JUDGE