

COMMON COUNCIL MEETING AGENDA

NOVEMBER 8, 1984

Meeting is called to order at 8:00 O'Clock P.M. by the Honorable Mayor, James E. Dyer.

PLEDGE OF ALLEGIANCE TO THE FLAG

PRAYER

ROLL CALL

Council Members - Johnson, Sollose, Foti, Torcaso, Esposito, Godfrey, Flanagan, Zotos, Chianese, Skoff, McManus, DaSilva, Gallo, Cassano, Charles, Boynton, Butera, Durkin, Eriquez, Farah, Torian.

20 Present | Absent

NOTICES FROM MAYOR DYER

CONSENT CALENDAR

The Consent Calendar was

MINUTES

Minutes of the Common Council Meeting held on October 2, 1984.

The Minutes were

01

CLAIMS

Woodie J. Cyr & Malcolm C. Perry - Richard Romaine - Greta Simone - James McGreene - Victoria Ginsberg - Roxie Amarosa - James Leach - Mabel Green, Thomasini Green a/k/a Thomasini Grandieri.

Claims to be referred to the Claims Committee and Assistant Corporation Counsel for Claims

02

RESOLUTION

✓ - Application for Grant Funds to reduce illiteracy among adults.

The Resolution was

03

RESOLUTION

✓ - Balmforth Ave/Maple Avenue - Franklin St./Osborne St. Road Projects.

The Resolution was

04

RESOLUTION

✓ - Application for Grant Funds for a Social Services Block Grant Program

The Resolution was

05

RESOLUTION

✓ - Application for Grant Funds for the High Blood Pressure Program

The Resolution was

COMMON COUNCIL MEETING AGENDA

Nov. 8, 1984 - Page - 2

06  
COMMUNICATION - Request for the City to maintain Lakecrest Drive.  
The communication was

07  
COMMUNICATION - Land at 9 Bank Street offered for sale to the City.  
The Communication was

08  
COMMUNICATION - Application for the position at the Recycling Center.  
The Communication was

09  
COMMUNICATION - Street Flooding on Forty-Acre Mountain Road.  
The Communication was

010  
COMMUNICATION - Request from the Aviation Commission to lease property to Data Publications and the cost thereof.  
The Communication was

011  
COMMUNICATION - Request from Sunrise Lake Association for an extension of time for road opening permits.  
The Communication was

012  
COMMUNICATION - Maintenance of School Grounds  
The Communication was

013  
COMMUNICATION - Request for waiver of bid for:  
Roof Reconstruction - Hatters Community Park.  
The Communication was

014  
COMMUNICATION - Lamore vs. City of Danbury  
The Communication was

014-A  
COMMUNICATION - Revised Board of Education/State & Federal Program Budget - 1984-1985  
The Communication was

014-B  
COMMUNICATION - Macelletti property - 73 Coalpit Hill Rd. for sale to the City.  
The Communication was

014-C  
COMMUNICATION - Request for new roof at the Miry Brook Range.  
The Communication was

014-D  
RESOLUTION - Housing Site Development Plan  
The Resolution was

COMMON COUNCIL MEETING AGENDA

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015

DEPARTMENT REPORTS

Fire Chief  
Fire Marshal  
Building Inspector  
Airport Administrator  
Coordinator of Environmental & Occupational Services  
Police Dept.  
The Reports were

Health Inspector  
Agent for the Elderly  
Blood Pressure Program  
Equal Rights & Opportunity

AD HOC COMMITTEE REPORTS

016  
REPORT

Easement on East Drive

The Report was

017  
REPORT

C. D. Parks Property Advisory Committee

The Report was

PUBLIC SPEAKING SESSION

There being no further business to come before the Common Council  
a motion was made by \_\_\_\_\_ & seconded by \_\_\_\_\_ for the  
meeting to be adjourned at \_\_\_\_\_ O'Clock P.M.

NOTICE OF INTENTION TO COMMENCE SUIT

NOTICE TO: CITY OF DANBURY  
DANBURY BOARD OF EDUCATION  
JOHN KEATING  
ELIZABETH LAVELETTE  
ELLEN McGLYNN

CLAIMANTS: MABEL GREEN  
THOMASINA GREEN a/k/a THOMASINA GRANDIERI  
54 Liberty Street  
Danbury, CT 06810

TIME WHEN DAMAGES OCCURRED: September 6, 1984 at approximately 12:00 p.m.

PLACE WHERE DAMAGES OCCURRED: Broadview Junior High School  
Hospital Avenue  
Danbury, CT 06810

Pursuant to Conn. Gen. Stat. §7-465, NOTICE OF INTENTION TO COMMENCE SUIT jointly against (1) The CITY OF DANBURY, (2) The DANBURY BOARD OF EDUCATION, and (3) JOHN KEATING, (4) ELIZABETH LAVALETTE and (5) ELLEN McGLYNN, its employees, is hereby filed with the clerk of the said City of Danbury, pursuant to statute, as provided.

At said time and place above referred to, the said ELIZABETH LAVALETTE and ELLEN McGLYNN, special education teachers at said Junion High School, while acting in the performance of their duties and within the scope of their employment, failed to exercise reasonable and due care in the supervision, administration, guidance and control of the class-room wherein a fight broke out between various students, as a direct and proximate result of which negligence the claimant, THOMASINA GREEN a/k/a THOMASINA GRANDIERI, sustained serious personal injury.

RECEIVED  
OCT 18 1984

OFFICE OF CITY CLERK

22 Oct 1984

Last Friday Oct 19, 1984;  
a Danbury City Truck # 200 DA  
Was traveling on Lake Ave.  
Carrying Cement blocks. The  
Truck hit a large hole,  
throwing debris into the air  
something struck my windshield  
causing a crack. This occurred  
approx 9:30 AM 10/19/84.

RECEIVED  
OCT 22 1984  
OFFICE OF CITY CLERK

James M. Greene  
16 Magnolia St.  
BPT. CT  
phone 367-1560

201-201-1107  
Betty Cudginton,  
City Clerk

①

This is to inform you that  
on Monday, Oct. 15, 1984 at 12:30 P.M.  
I was walking down Ques St. and  
tripped and fell and broke my left  
elbow.

I had X-ray taken at the  
Norwalk Hospital and am  
currently being treated by Doctor  
Lawrence Schweitzer.

Sincerely,

Arata Simone

To whom it may concern Due to neglect  
of Repairing a Pot hole,  
on 8th Ave. And also on  
the intersection of Osborn St  
& Locust Ave. near the old  
Lions Club Play Grounds.  
I am submit a Bill  
for the Repair of my  
Bike. I constantly  
hit the same hole in  
my travel which cause  
Damage to my Bike  
I feel the hole should  
be resurfaced. And that  
way the Problem will  
be solved.

OCT 18 1984

OFFICE OF CITY CLERK

Danbury, Ct. 068

10-18-84 (1)

to whom it may concern:-

On Mon. 10-15-84, I was attempting to get to the New England Lines on Pres St., near Delay St. I went down Natl. Pl. and took a right because the north side of the parking lot was filled. I saw an opening at the end of the drive and assumed this opening was for the to take a left to get through to Delay St. since there were no barriers there at all I drove through and my car went into a ditch at the end of the drive. I got a tow truck to get me out. I reported the accident to the police. Officer St. Spuler was the officer I spoke to. ~~Enclosed~~ Enclosed please find the bill for the repairs on my car.



# J. Neale Mac Donald Company, Inc.

CLAIM AND LOSS ADMINISTRATION - NATIONWIDE

3018 DIXWELL AVE. - P.O. BOX 5217 - HAMDEN, CONN. 06518 - (203) 288-6461



October 26, 1984

Branch Offices:

1700 BOSTON POST ROAD  
FAIRFIELD, CONNECTICUT 06430  
TELEPHONE (203) 259-8348

345 NORTH MAIN STREET  
SUITE 305  
WEST HARTFORD, CONNECTICUT 06117  
TELEPHONE (203) 236-6091

132 GEORGE M. COHAN BLVD.  
PROVIDENCE, RHODE ISLAND 02903  
TELEPHONE (401) 272-4289

**RECEIVED**  
**OCT 30 1984**  
**OFFICE OF CITY CLERK**

City Clerks Office  
Town Hall  
City of Danbury  
Main Street  
Danbury, Connecticut

RE: Richard Martinson  
VS: Richard Romaine  
LOSS: 9/20/84  
CLAIM: 17-4090617  
OUR FILE: 2B 101548 TC

Gentlemen:

Kindly be advised that we are insurance claim representatives for Foremost Insurance Company which insures Richard Romaine of Brewster New York.

Mr. Romaine was involved in an accident on September 20, 1984, a Thursday, at approximately 10:00P.M. Contributing to this accident was sand which was placed at the intersection of Haystown Avenue and Acre Road. This sand was placed by the police department for a previous accident. The sand was a contributing cause to the Romaine accident.

I ask that you please turn this over to your insurance carrier for their contribution. I remain

Very truly yours,

  
Thomas Carriero  
Manager  
Fairfield Office

TC/sdj  
cc: Foremost

Karin A. NeJame  
Attorney at Law  
54 Division Street  
Danbury  
Connecticut  
06810  
203-792-3092

November 2, 1984

Terry L. Sachs, Esq.  
City of Danbury  
P.O. Box 665  
Danbury, CT. 06810

Re: City of Danbury vs. Woodie J. Cyr

Dear Terry:

In regard to your letter dated October 10, 1984, please be advised that my clients have asked me to institute an action against the City of Danbury for the damages that they incurred. I filed the enclosed plea with the City Clerk in Danbury giving notice of the same.

My clients strongly feel that they were not at fault in this incident and feel that the only reason that they were issued a citation is because the other vehicle involved was a City truck. The only settlement that I can foresee after speaking with my clients is the possibility of the City dropping their claim and my clients doing the same. If you feel that this is a feasible alternative, please advise me of the same.

The facts as relayed by my clients are as follows: My client was parked on the West side of Main Street; my client pulled out of his parking space and moved forward approximately 35 feet at which point the City truck that was involved in the incident which was driving in a northbound direction crossed the double yellow line to make a left turn and came in contact with my client's vehicle in the southbound lane, at which point came in contact with each other.

If you have any further questions in this regard, please do not hesitate to contact me.

Very truly yours,

S/

KARIN A. NEJAME

KAN/aa

cc: Mrs. Elizabeth Crudgington ✓  
City Clerk

①  
Karin A. NeJame  
Attorney at Law  
54 Division Street  
Danbury  
Connecticut  
06810  
203-792-3092

**RECEIVED**

OCT 30 1984

OFFICE OF CITY CLERK

October 30, 1984

Mrs. Elizabeth Crudgington  
City Clerk Danbury  
Danbury Town Hall  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Re: Cyr/Perry vs. City of Danbury

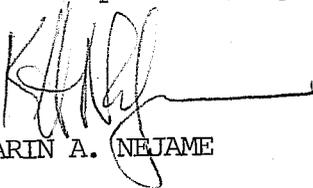
Dear Betty:

Please be advised that I represent Mr. Woodie J. Cyr and Mr. Malcolm C. Perry regarding a traffic accident that occurred on Main Street in Danbury of May 2, 1984 at 7:51 a.m..

My clients have sustained damages and are instituting an action against the City of Danbury.

If you have any questions in this regard, please do not hesitate to contact me.

Fondest personal regards,

  
KARIN A. NEJAME

KAN/clp

WOFSEY  
ROSEN  
KWESKIN &  
KURIANSKY

RECEIVED  
OCT 16 1984  
OFFICE OF CITY CLERK

LAW OFFICES      777 SUMMER STREET      STAMFORD, CONN. 06901      203-327-2300

SYDNEY C. KWESKIN

JULIUS B. KURIANSKY

\*SAUL KWARTIN

MONROE SILVERMAN

EMANUEL MARGOLIS

\*HOWARD C. KAPLAN

ANTHONY R. LORENZO

EDWARD M. KWESKIN

DAVID M. COHEN

MARSHALL GOLDBERG

October 15, 1984

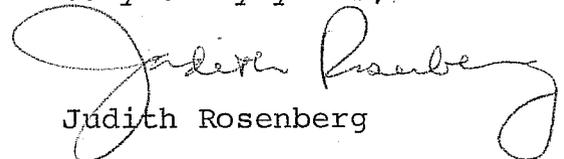
CERTIFIED MAIL

Office of the City Clerk  
of Danbury  
155 Dearhill Avenue  
Danbury, Connecticut 06810

Dear Madam or Sir:

On behalf of Victoria Ginsberg, of 160 East 38th Street, New York, New York, you are hereby given notice of her intent to commence an action against Levi Newsome and the City of Danbury jointly, pursuant to Conn.Gen.Stat. §7-465. Ms. Ginsberg sustained injury to her person on May 3, 1984, at the Mill Ridge Intermediate School, Mill Ridge Road, Danbury, Connecticut, when she was struck by a BB fired from a loaded air rifle.

Very truly yours,

  
Judith Rosenberg

JR:cf

\*\*RICHARD H. STEIN

JUDITH ROSENBERG

\*\*\*STEPHEN A. FINN

TRACY ALAN SAXE

\*ALSO OF THE NEW YORK BAR

\*\*ALSO OF THE MASS. BAR

\*\*\*ALSO OF THE R.I. BAR

Dated at Ridgefield, Connecticut this 18<sup>th</sup> day of October, 1984.

THE CLAIMANTS

By *Richard A. Smith*

RICHARD A. SMITH of  
COHAN & KULAWITZ #101408  
412 Main Street  
Ridgefield, CT 06877  
(203) 438-9663  
Their Attorneys

RECEIVED

OCT 18 1984

OFFICE OF CITY CLERK





# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

JAMES E. DYER, MAYOR

DANBURY PUBLIC LIBRARY  
170 MAIN STREET

(203) 797-4505

TO : Members of the Common Council

FROM : Marianne Woolfe, Library Director *MW*

DATE : October 23, 1984

RE : Resolution for Grant Funds for the 1984-85 Literacy  
Volunteers Program

Danbury Public Library is one of several public libraries in Connecticut which has been selected to receive a grant of \$1,055. The project is funded with Federal monies and is administered by the Connecticut State Library.

Literacy volunteers work one-on-one with adults who are either illiterate or non-English speaking, to teach them to read and write. We cooperate by providing space in the Library for these tutors; at present there are 120 of them in the Danbury area.

We plan to use the grant money to purchase high interest/low reading ability materials for new adult readers.

# RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

\_\_\_\_\_ A. D., 19

RESOLVED by the Common Council of the City of Danbury:



WHEREAS, the Federal Government has made grant funds in the amount of \$1,055 available through the State of Connecticut to reduce illiteracy among adults; and

WHEREAS, said grant is intended to foster cooperation between public libraries and Illiteracy Volunteers of Connecticut; and

WHEREAS, the City of Danbury and the Danbury Public Library wish to participate in this effort;

NOW, THEREFORE, BE IT RESOLVED THAT Mayor James E. Dyer be and hereby is authorized to make application for said grant and to take any additional steps necessary to accomplish the purposes hereof.



3

# CITY OF DANBURY

DANBURY, CONNECTICUT 06810

THEODORE H. GOLDSTEIN  
CORPORATION COUNSEL

ERIC L. GOTTSCHALK  
SANDRA V. LEHENY  
TERRY L. SACHS

ASSISTANT CORPORATION  
COUNSEL

October 22, 1984

PLEASE REPLY TO:  
P. O. Box 1261  
DANBURY, CT 06810

Hon. James E. Dyer, Mayor  
City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Re: Balmforth Avenue/Maple Avenue  
Franklin Street/Osborne Street  
Road Projects

Dear Mayor:

CE Maguire, our contract engineer on the above-captioned road projects, has provided us with an additional list of properties which are required to be taken, either totally or partially, in connection with the above road projects. In addition, we have been provided with a listing of further construction easements which we will also require.

Accordingly, I have prepared and attach herewith resolution for action by the Common Council at its next meeting. The same follows the format used in the resolution of August 27, 1984.

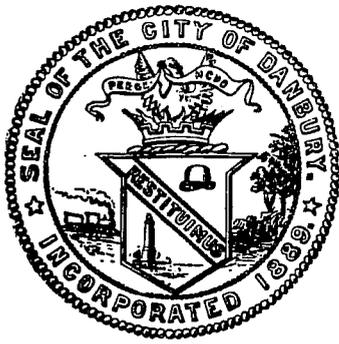
Very cordially yours,

Theodore H. Goldstein  
Corporation Counsel

THG:cr

Attachment

c: Constance A. McManus, Pres. ✓  
Common Council  
Daniel A. Garamella, Dir. of Public Works  
John A. Schweitzer, Jr., City Engineer



# RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

\_\_\_\_\_ A. D., 19

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the Common Council has duly voted to approve the Balmforth Avenue/Maple Avenue and Franklin Street/Osborne Street Road Improvement Projects; and

WHEREAS, the purposes of said projects oblige the City of Danbury to acquire interest in and to real property as hereinafter set forth; and

WHEREAS, eminent domain proceedings will be necessary if the City of Danbury cannot agree with the several owners hereinafter named upon the amount, if any, to be paid for the respective interests of each to be taken in, and to, the real property as hereinafter set forth;

NOW, THEREFORE, BE IT RESOLVED THAT the Corporation Counsel of the City of Danbury is hereby authorized to acquire the property interests as hereinafter set forth either by negotiation or by eminent domain through the institution of suits against the following named property owners, their successors and assigns and their respective mortgage holders, if any, the affected properties being indicated by Tax Assessor's lot numbers. The properties listed are designated by Easement Activities List Numbers and Letters.

I. Balmforth Avenue/Maple Avenue

A. Total Property Acquisition.

1. I-12087 - 86 Maple Ave. & Patch St., Oldfield, Douglas Alan and Sharon L

B. Partial Property Acquisitions.

1. I-12088 - 84 Maple Ave., Oldfield, Douglas Alan and Sharon Lee

2. H-12236 - 31 North St., Krupinsky, Francis

3. I-12202 - 39-41 North St., Deep, John N.

4. I-12075 - 78 Balmforth Ave., Miller, Robert T. & John Peter

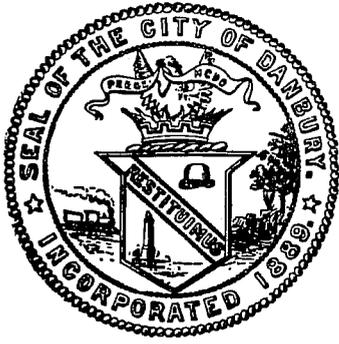
5. I-13014 - 46 Maple Ave., Urban, Harold

6. I-13105 - 8 Union Ave., Grant, George A.

7. I 13108 - 22 Balmforth Ave., Vidinha, Diniz Mederios & Vidinha, Maria do Espirito Santo

8. I-13135 - 21 Balmforth Ave., DaSilva, Joseph and Augusta

9. I-13292 - White St. & Balmforth Ave., Consolidated Rail Corporation



# RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

November 8, 1984  
A. D., 19

RESOLVED by the Common Council of the City of Danbury:

(I. Balmforth Avenue/Maple Avenue)

C. Construction Easements.

2. Grading (Includes turf establishment & placement of crushed stone).

- a. I-12075 - 78 Balmforth Ave., Miller, Robert T. & John Peter
- b. I-13105 - 8 Union Ave., Grant, George A.

4. Driveway and Grading.

- a. I-13108 - 22 Balmforth Ave., Vidinha, Diniz Mederios & Vidinha, Maria do Espirito Santo

5. Driveway and Sidewalk.

- a. I-13135 - 21 Balmforth Ave., DaSilva, Joseph and Augusta

7. Driveway, Grading and Sidewalks.

- a. H-12236 - 29-31 North St., Krupinsky, Francis
- b. I-13014 - 46 Maple Ave., Urban, Harold

19. Grading, Driveway, Curbing & Concrete Handhold, Loop Detector and Pavement Markings.

- a. I-12002 - 39-41 North St., Deep, John N.

20. Grading, Sidewalk and Reset Hedge.

- a. I-13138 - N.E. Corner Balmforth & Osborne St., Rousseau, Gilles I. and Teresa B.

II. Franklin Street/Osborne Street

B. Partial Property Acquisition.

- 1. (No Lot No.) Between Main St. & Maple Ave., Consolidated Rail Corporation

Partial Acquisition and Easement:

Relocate sign, construct curbs, grade slopes and construct driveway.

- a. H 13267 - 360 Main St. & Franklin St., Osborne-Main Realty Corp.



## RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

\_\_\_\_\_ A. D., 19

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, pursuant to Chapters 133 and 300a of the Connecticut General Statutes, the Commissioner of Human Resources is authorized to extend financial assistance to municipalities and human resource development agencies; and

WHEREAS, it is desirable and in the public interest that the City of Danbury make application to the State in order to undertake a Social Service Block Grant Program for the period of October 1, 1984 to September 30, 1985 and to execute a Grant Action Request therefor. It is understood that the City of Danbury provides a local grant-in-aid, where applicable, in accordance with the requirements of Chapter 133 and 300a of the Connecticut General Statutes, as appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF DANBURY THAT:

1. It is cognizant of the conditions and prerequisites for State assistance imposed by Chapter 133 and 300a of the Connecticut General Statutes;
2. It recognizes the responsibilities for the provision of local grant-in-aid to the extent that they are necessary and required for said program.
3. The filing of an application by the City of Danbury in an amount not to exceed \$49,707 for the period October 1, 1984 to September 30, 1985 is hereby approved, and that James E. Dyer, Mayor of the City of Danbury, is hereby authorized and directed to execute and file such application with the Commissioner of Human Resources and to execute a Grant Action Request with the State of Connecticut for State financial assistance if such an agreement is offered, to execute any amendments, recisions, and revisions thereto, and to act as the authorized representative of the City of Danbury



# RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

November 8 \_\_\_\_\_ A. D., 19<sup>84</sup>

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the American Heart Association and the State Department of Health has made grant funds available to municipalities to be used for high blood pressure screening, referral and health education; and

WHEREAS, the City of Danbury, Inc. through the Danbury Health and Housing Department has formulated a Danbury High Blood Pressure Program for three target populations; and

WHEREAS, a grant request of up to \$11,000.00 with match requirements of \$3,823.00 provided by an active Preventative Health and Health Services Block Grant Program has been processed by the Danbury Health and Housing Department; and

WHEREAS, the American Heart Association has approved and funded the grant proposal;

NOW, THEREFORE, BE IT RESOLVED THAT the actions of the Danbury Health and Housing Department in applying for the said grant be and hereby are ratified and that any and all further actions by the Danbury Health and Housing Department required to accomplish said program be and hereby are authorized;

BE IT FURTHER RESOLVED THAT to accomplish said program James E. Dyer, Mayor of the City of Danbury, Inc. is authorized to make, execute, and approve on behalf of this corporation any and all contracts or amendments.

13 Lakecrest Drive  
Danbury, CT 06811

October 30, 1984

Ms. Elizabeth Crudgington  
City Clerk  
City of Danbury  
155 Deer Hill Avenue Room 401  
Danbury, CT 06810

Dear Ms. Crudgington:

I am writing to request that the Lakecrest Drive issue as described below be placed on the next Common Council Meeting Agenda.

To bring you up to date, Lakecrest is an unfinished road and has been for some time now. It has not been accepted by the City because the original developer never brought it up to approval. As far as I know, the bond on the road has been called. City Attorney for Planning and Zoning, Sandra Leheny, is working on rectifying that situation.

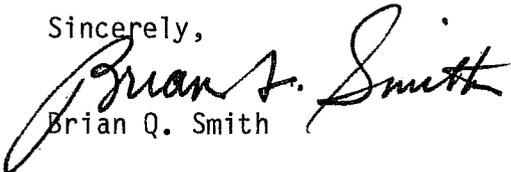
Lakecrest Drive, although not yet accepted by the City, does receive much use by city residents. In fact, an average of 200-250 vehicles, including school buses, use the road daily. We want the road to be finished and its rightful status, under City domain, be determined without delay.

A second more pressing issue is the severe deterioration of the road. Cracks and large potholes are developing, and the drains are not properly capturing water. This winter the drainage problem will be especially acute, when the water freezes and creates hazardous driving conditions. I noticed this problem last winter on several inspections.

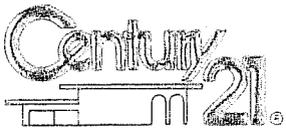
Pending the eventual completion of the road, we would like the City to, at least, assume full responsibility for maintaining it. I do not think it would be too much to ask the Department of Public Works to patch up the potholes and spread some asphalt around the drains so they can function better. Besides, if the road is kept up now, it will cost the City less later when the road is finished.

Thank you for your attention to this most important matter.

Sincerely,

  
Brian Q. Smith

cc Danny Garamello  
Sandra Leheny  
Jack Schweitzer, Jr.



**BURKSTROM REALTY, INC.**

230 Greenwood Avenue  
Bethel, Connecticut 06801-9990  
(203) 792-9177

October 25, 1984

Common Council  
City of Danbury  
155 Deer Hill Ave.  
Danbury, Ct. 06810

Dear Sirs,

Property at 9 Bank Street, Danbury belonging to Mrs. Frances McCarthy, is being sold through our agency, CENTURY 21 Burkstrom Realty, Inc.

As this home adjoins city property at the Danbury library parking lot we are wondering if the city is interested in it. The property is listed at \$150,000.

Sincerely,

GS/mk

Gordon Steck

A handwritten signature in cursive script that reads "Gordon Steck".

8

October 23, 1984

Public Works Committee  
Mr. Joe DaSilva, Chairman

RE: Recycle Center

Mr. DaSilva,

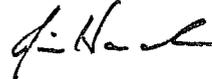
Pursuant to our conversation October 22, I wish to be considered for the position of Operations Manager at the Recycle Center.

It is my intention to continue operation of the center in affiliation with the Connecticut Earth Action Group whose support has been voiced through Mr. Norman Cusack, current operations manager.

Mr. Cusack has assured me of his availability to act as an advisor and consultant to the centers operation.

I look forward to discussing your objectives for the Recycle Center.

Regards,



Jim Hancock  
15 Germantown Road  
Danbury, Ct.  
743-0488

cc: Conservation Commission  
Norman Cusack

Dr. Zita C. Nemes  
90 Forty Acre Mount Road  
Danbury, Conn. 06810  
September 28, 1984

Ms. Constance A. McManus  
President of Common Council  
Danbury, Conn. 06810

Re: Complaints on Street Flooding

Dear Ms. McManus:

I am requesting your assistance regarding my complaints to the Superintendent of Public Works on the Street flooding that led to severe water damages to furniture, appliances and structural part of my basement in May 1984.

Enclosed please find my letter of June 1984 to Mr. Fucek, Superintendent and Mr. Garomalla, Director of Public Works. As it indicates, I had made several complaints in the past, and, up to the present time nothing effective has been done about it.

I request that your Committee put on inquiry to the matter.

*Thank you for your kind attention*

Very truly yours,

*Zita C. Nemes*  
Zita C. Nemes, MD

cc: Mr. E. Fucek, Superintendent  
Public Works

9  
Dr. Zita C. Nemes  
90 Forty Acre Mount Road  
Danbury, Conn. 06810  
June 25, 1984

Superintendent  
Bureau of Public Works  
Danbury, Conn.

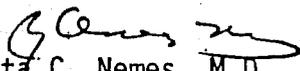
Re: Street Flooding

Dear Sir:

In the past 4 years, I had made 15 complaints about the water from the street running into my basement whenever it rained.

The rain in May 1984 caused damages to appliances, furnitures and structural part of the house. If you check your records several phone calls had been made to your office to complain. As of today, there has not been any attempt to correct the situation. I, therefore, call your attention to the matter.

Very truly yours,

  
Zita C. Nemes, M.D.

cc: City Council's Office

010

DANBURY MUNICIPAL AIRPORT  
P.O. Box 2299  
Wibling Road Maintenance Building  
Danbury, CT 06810

October 31, 1984



Mayor James E. Dyer and  
Common Council, City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

Dear Mayor and Common Council:

The Aviation Commission is negotiating a lease with Data Publications to put an office buildings for its Aviation Publication on Airport property. The property in question will be a maximum of two acres, adjacent to 20 Bacus Avenue and opposite the Danbury Mall properties.

This will not be an F.B.O. and will not be on the Airport proper. Because this property is more condusive to commercial application, an appropriate rental fee cannot be estimated by the Aviation Commission.

We would appreciate a ball park estimate so that Data Publications will have some idea as to the final cost, which will be set by the Common Council.

Sincerely,

John Scarfi  
Chairman  
Aviation Commission

/sd

RECEIVED

NOV 2 1984

OFFICE OF CITY CLERK

cc: Data Publications, Mr. Robert Dorr

(10) ✓

DANBURY MUNICIPAL AIRPORT  
P.O. Box 2299  
Wibling Road Maintenance Building  
Danbury, CT 06810

October 31, 1984

Mayor James E. Dyer and  
Common Council, City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

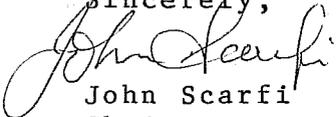
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Sincerely,



John Scarfi  
Chairman  
Aviation Commission

/sd

cc: Mr. Robert Dorr, Data Publications

011

# COHEN AND WOLF, P. C.

AUSTIN K. WOLF	ROBERT B. ADELMAN
MARTIN F. WOLF	MICHAEL S. ROSTEN
ROBERT J. ASHKINS	GRETA E. SOLOMON
STUART A. EPSTEIN	ROBIN A. KAHN
BARRY WAXMAN	JORAM HIRSCH
RICHARD L. ALBRECHT	RICHARD L. NEWMAN
JONATHAN S. BOWMAN	PATRICK J. LAPERA
IRVING J. KERN	RICHARD SLAVIN
MARTIN J. ALBERT	JUDY A. RABKIN
STEWART I. EDELSTEIN	MARC F. JOSEPH
NEIL R. MARCUS	LINDA LEDERMAN
DAVID L. GROGINS	WILLIAM F. ASKINAZI
EMIL H. FRANKEL	CAROLYN K. LONGSTRETH

HERBERT L. COHEN  
(1928-1983)

LAW OFFICES

1115 BROAD STREET  
P. O. BOX 1821  
BRIDGEPORT, CONNECTICUT 06601  
(203) 368-0211

158 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810  
(203) 792-2771

ONE ATLANTIC STREET  
STAMFORD, CONNECTICUT 06901  
(203) 964-9907

PLEASE REPLY TO Danbury

October 31, 1984

Honorable Constance McManus  
President of Common Council  
of the City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Dear Ms. McManus:

This office represents Sunrise Lake Associates, a joint venture organized under the laws of the State of Connecticut, which is currently in the process of developing a 160-unit condominium project on Kenosia Avenue in Danbury. In connection with this project, the municipal water and sewer lines are being extended from the existing pumping station on Kenosia Avenue to the site. It appears that the work which is being performed in accordance with a road opening permit will not be completed by December 1, 1984.

The ordinances of the City of Danbury provide that all road work must be completed by December 1 of each year. The reason for this ordinance is to insure that the asphalt plants will be open to provide materials for patching any road work which has been opened under a permit.

There are currently a great number of projects in the City of Danbury which involve road opening permits where it appears that the work will not be completed by December 1.

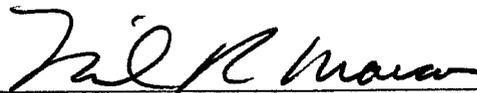
COHEN AND WOLF, P. C.

Honorable Constance McManus  
Page 2  
October 31, 1984

The undersigned on behalf of Sunrise Lake Associates and all other property owners similarly situated whose road opening permits will expire on December 1, 1984 hereby petitions the Common Council to authorize the Director of Public Works to grant an extension of the time for completion of work pursuant to any such road opening permits until December 15, 1984 or such date as he shall determine, in his discretion, that the asphalt plants will be in operation to provide materials for patching any roads opened pursuant to such permits.

In support of this petition, the undersigned will submit to the Director of Public Works letters from various asphalt suppliers indicating the latest date for which materials will be available at the plants.

Respectfully submitted,  
SUNRISE LAKE ASSOCIATES

By:   
Neil R. Marcus  
Cohen and Wolf, P.C.  
Its Attorneys

NRM:mjc



# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

JAMES E. DYER, MAYOR

112  
**RECEIVED**

NOV 2 1984  
OFFICE OF CITY CLERK

DEPARTMENT OF PARKS & RECREATION  
HATTERS COMMUNITY PARK  
7 E. HAYESTOWN RD.

ROBERT G. RYERSON, DIRECTOR  
(203) 797-4632

October 5, 1984

TO: Mayor James E. Dyer  
FROM: Robert G. Ryerson  
RE: Maintenance of School Grounds

---

The School Maintenance Committee has sent their proposal to the School Board. At a meeting on Monday, October 1st, 1984, those attending members of the School Board voted unanimously to empower the school administration to enter into an agreement with the City of Danbury's Parks & Recreation Department for the purpose of maintaining the outside grounds under the jurisdiction of the Board of Education.

The committee encourages an expedient and fruitful conclusion to the agreement.

The Finance Department and Corporation Counsel's Offices will need to be instrumental in the negotiation process.

RGR:tw

cc: V.Iovino, Jr.  
T.Evans  
S.Flanagan

*RF*



013

# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

JAMES E. DYER, MAYOR

RECEIVED

NOV 2 1984

OFFICE OF CITY CLERK

SHARON B. HAMILTON, C.P.M.  
PURCHASING AGENT

October 30, 1984

To: Mayor James E. Dyer and Members of the Common Council

Re: Roof Reconstruction - Hatters Community Park

I request a waiver of the bid procedure to allow a Board of Awards to engage a contractor to replace the roof at Hatters Park.

Following the roof collapse in July, the Board of Awards voted to engage Luke F. Sweeney, Inc. to temporarily repair the roof until specifications could be drawn and the reconstruction put out to bid. Since then, the City made several unsuccessful attempts to solicit bids; bid openings were set for October 9th and October 30, 1984, but no bids were received. Invitations to Bid went to eighteen contractors and a bidding service in an effort to obtain proposals. Construction is booming in this area, and contractors are unwilling to engage in work for the City because of stringent bonding requirements contained in our bid documents.

It is critical that this project be completed before winter to avoid further deterioration of the building. I propose that a Board of Awards consisting of the Director of Public Works, Attorney Gottschalk and myself be allowed to negotiate a suitable contract with a firm that can complete this work in a reasonable time.

I look forward to your consideration and prompt attention to this matter.

Cordially,

S.B. Hamilton, C.P.M., CPPO  
SBH/bmm

cc: D.A. Garamella  
E.L. Gottschalk  
J.P. Edwards

PAUL J. PANTANO  
CONSULTING ENGINEERS

1359 POST ROAD, FAIRFIELD, CONN. 06430

TELEPHONE 255-1559

October 22, 1984

13  
RECEIVED

OCT 24 1984

Engineering Dept.

John A. Schweitzer, Jr.,  
City Engineer  
Engineering Department  
Danbury, CT 06810

Re: Roof Repairs at Hatters Park

Gentlemen:

This office has prepared contract drawings for the placement of a new sloping roof over the existing flat timber roof system of the 63x107 building.

Our drawings were given to the City of Danbury on September 24, 1984 during a meeting with Public Works Director, Daniel A. Garamella.

At that meeting it was emphasized that the new roof should be in place before any possibility of live loads accumulating on the present defective roof.

It is my understanding that to date a contract to perform this work has not been awarded.

I must caution the City of Danbury that this building must not be occupied when the present roof is supporting any superimposed live load.

Very truly yours,



Paul J. Pantano  
PJP:rp

cc: C. Licciardi

RECEIVED

OCT 30 1984

PURCHASING DEPT.



14

# CITY OF DANBURY

DANBURY, CONNECTICUT 06810

THEODORE H. GOLDSTEIN  
CORPORATION COUNSEL

ERIC L. GOTTSCHALK  
SANDRA V. LEHENY  
TERRY L. SACHS

ASSISTANT CORPORATION  
COUNSEL

November 6, 1984

PLEASE REPLY TO:  
P. O. Box 1261  
DANBURY, CT 06810

Hon. Members of the Common Council  
City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut

**RECEIVED**

**NOV 6 1984**

**OFFICE OF CITY CLERK**

Re: Zamore vs. City of Danbury

Dear Council Members:

In order that you may have a fuller opportunity to discuss the above matter, I enclose herewith copy of the Judgment rendered by Judge Ellen Bree Burns of the U. S. Federal District Court.

Very cordially yours,

  
Theodore H. Goldstein  
Corporation Counsel

THG:cr

Enclosure

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

~~FILED~~  
OCT 1 1984

U.S. DISTRICT COURT  
NEW HAVEN, CON

PEGGY RAVICH ZAMORE )

v. )

CIVIL NO. B-82-389

JAMES E. DYER, Individually )  
and as Mayor of the City of )  
Danbury , THOMAS F. DRAPER )  
and CITY OF DANBURY )

J U D G M E N T

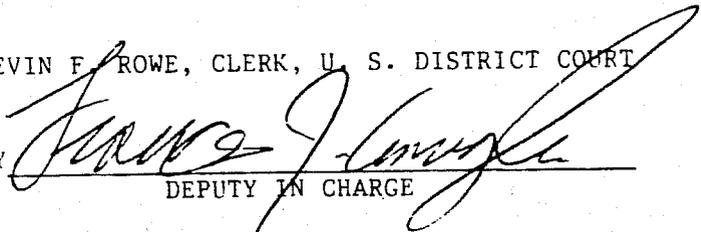
This cause came on for consideration on plaintiff's motion for summary and declaratory judgment and for reinstatement relief before the Honorable Ellen Bree Burns, United States District Judge, and a Ruling having been filed on October 1, 1984, denying in part and granting in part said motion,

It is ORDERED, ADJUDGED and DECREED that the City of Danbury reinstate Peggy Ravich Zamore to her former or an equivalent position; that she be and is hereby awarded \$55,877 in back pay for the time she was unemployed, excluding six months when she had her second child; and that she be and is hereby awarded reasonable attorney's fees under 42 U.S.C. 1988, for which her counsel should file an accounting of hours spent and an hourly rate, within 30 days of the decision (October 1, 1984).

Dated at New Haven, Connecticut, this 1st day of October, 1984.

KEVIN F. ROWE, CLERK, U. S. DISTRICT COURT

BY

  
DEPUTY IN CHARGE

RECEIVED  
OCT 1 1984

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RECEIVED  
OCT 1 1984

U.S. DISTRICT COURT  
NEW HAVEN, CONN.  
UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

U.S. DISTRICT COURT  
NEW HAVEN, CONN.

PEGGY RAVICH ZAMORE :  
v. : CIVIL NO. B-82-389  
JAMES E. DYER, Individually and :  
as Mayor of the City of Danbury, ET AL :

RULING ON PLAINTIFF'S MOTION FOR SUMMARY AND  
DECLARATORY JUDGMENT AND FOR REINSTATEMENT RELIEF

This civil action arises from the alleged wrongful termination of plaintiff as Community Health Educator for the City of Danbury. The plaintiff has moved for summary and declaratory judgment on her complaint of unlawful sex discrimination and denial of her due process rights. She requests reinstatement to her former position or, alternatively, to be given an equivalent position. She has further asked for compensatory damages of \$55,877 in back pay (\$34,557 adjusted gross wages through August, 1983, and \$1,640 per month thereafter) and an award of reasonable attorney's fees.

The action was brought pursuant to Title VII of the Civil Rights Act of 1964, codified at 42 U.S.C. § 2000e-5(g), the Connecticut Human Rights Act, Conn. Gen. Stat. § 46a-60(a)(1) and (7)(D) and 42 U.S.C. § 1983, by virtue of alleged due process and equal protection violations. The plaintiff also alleged various tort and contract claims which are not subject to the motion for summary judgment. Plaintiff has represented that she would not pursue these state law claims for damages if successful on this motion.

The defendants are James E. Dyer, individually and as Mayor of the City of Danbury, Thomas F. Draper, individually and as Acting Director of Health for the City of Danbury, and The City of Danbury. Plaintiff has alleged the court's jurisdiction under 42 U.S.C. § 1983, 28 U.S.C. § 1343(3) and (4), and § 1331 as well as under 42 U.S.C. § 2000e, et seq., Title VII of the Civil Rights Act of 1964, as amended by The Equal Opportunities Act of 1972, and the doctrine of pendent jurisdiction.

Plaintiff's motion is granted in part and denied in part.

A. Statement of the Facts

The following facts are set forth in plaintiff's affidavit and not disputed by any counter-affidavit of defendants:

Plaintiff Peggy Ravich Zamore, having passed a Civil Service examination, was hired in October, 1979, as the Community Health Educator for the City of Danbury. Prior to her employment in Danbury, Mrs. Zamore was awarded a B.A. degree in nutrition from Simmons College, Boston, Massachusetts, in 1973 and a Masters Degree in Public Health from the University of Michigan in 1975. In October, 1980, the plaintiff applied for a maternity leave, as provided for in the collective bargaining agreement between the City of Danbury and its employees. The Danbury Civil Service Commission denied the plaintiff's request for a year's leave, granting her instead a six-month maternity leave to commence

December 1, 1980. On or about May 21, 1981, the plaintiff wrote to her supervisor, defendant Thomas Draper, Acting Director of Health for the City of Danbury, to inform him of her intention to return to her position on Monday, June 1. On Friday, May 29, 1981, around 5:00 p.m., defendant James Dyer, Mayor of Danbury, sent a letter by hand to the plaintiff informing her that her position had not been funded in the 1981-1982 budget and that he was immediately abolishing the position of Community Health Educator and terminating her services as an employee of the City of Danbury. Defendant Dyer did not offer plaintiff an equivalent position at that time.<sup>1</sup> Defendant Draper's role in the abolition of plaintiff's position is a matter that is factually disputed.

Plaintiff's termination took place less than one business day before she expected to return to work. At no time was the plaintiff given a hearing or an opportunity to challenge, inquire into, or contest her dismissal.

On or about July 6, 1981, plaintiff filed a complaint of sex discrimination with the Connecticut Commission on Human Rights and Opportunities (CCHRO) charging the defendants with violating the Connecticut Human Rights statutes, in particular Conn. Gen. Stat. § 46a-60(a)(7)(D) which provides that

It shall be a discriminatory practice in violation of this section: ...

(7) For an employer, by himself or his agent: ...

(D) to fail or refuse to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other

service credits upon her signifying her intent to return [after a pregnancy leave] unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

The state complaint was sent to and received by the federal Equal Employment Opportunity Commission (EEOC) which issued a right to sue letter on April 5, 1982. No further action was taken by either the state or federal agency.

Plaintiff's motion for summary judgment is addressed to Counts One and Four of her complaint.

B. Federal Law Claims

1. Title VII

In Count One, plaintiff has alleged violation of her Title VII rights asserting that the defendants unlawfully discriminated against her on the basis of sex by refusing to reinstate her following a six-month maternity leave. The defendants allege as a special defense, allowable under Title VII<sup>2</sup> that Mrs. Zamore was terminated because of a loss of funding which required the abolition of her position. Plaintiff maintains the defense is pretextual. The Title VII dispute is, therefore, factual and cannot be resolved as a matter of law. For this reason the court finds that plaintiff's Title VII claim is not suitable for resolution by way of a motion for summary judgment. Adickes v. S.H. Kress Co., 398 U.S. 144, 157 (1970); Fed. R. Civ. P. 56(c).

2. Due Process

In Count Four, the plaintiff has alleged violation of her due process rights as guaranteed by the Fourteenth Amendment and 42 U.S.C. § 1983, claiming entitlement to her position by virtue of the reinstatement provisions of Conn. Gen. Stat. § 46a-60(a)(7)(D).<sup>3</sup> Her due process claims are substantial. She was discharged without effective notice and without a hearing from a job in which she had a state-created property interest. Although plaintiff's property interest in continued employment after her maternity leave was granted by the provisions of Conn. Gen. Stat. § 46a-60(a)(7)(D), her right to minimum procedures before losing that property interest is a matter of federal law. Logan v. Zimmerman Brush Co., 455 U.S. 422, 432 (1981); Vitek v. Jones, 445 U.S. 480, 490-91 (1980); Arnett v. Kennedy, 416 U.S. 134, 166-67 (1974).

The Supreme Court observed in Logan, supra:

As our decisions have emphasized time and again, the Due Process Clause grants the aggrieved party the opportunity to present his case and have its merits fairly judged. Thus it has become a truism that 'some form of hearing' is required before the owner is finally deprived of a protected property interest. Board of Regents v. Roth, 408 U.S. 564, 570-71 n. 8 (emphasis in original) ... To put it as plainly as possible, the State may not finally destroy a property interest without first giving the putative owner an opportunity to present his claim of entitlement.

Logan v. Zimmerman Brush Co., 455 U.S. at 433-34.

In the instant case, plaintiff was given termination notice less than one business day before she was scheduled to return to work. She was never given a hearing. The court finds that, as a matter of law, the plaintiff was denied minimum due process. The motion for summary judgment on plaintiff's due process claim is therefore granted, except as to defendant Draper, whose role is disputed.

The problem confronting the court is what remedy can be granted to the plaintiff. To give her notice and a hearing years after termination appears to be inadequate. The Connecticut Supreme Court considered this question in Adamchek v. Board of Education, 174 Conn. 366 (1978), noting that:

... [A] court-ordered hearing held years after a plaintiff's employment was improperly terminated does not make good the wrong done. The wrong which such a plaintiff suffers is not merely the denial of a proper hearing -- he also suffers the deprivation of his employment without procedural due process and in violation of the statute. '[W]here ... protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief.' Bell v. Hood, 327 U.S. 678, 684, 66 S. Ct. 773, 90 L. Ed. 939. The proper relief for the present wrongs is to grant reinstatement. See Coppolla v. Personnel Appeal Board, 174 Conn. 271, 386 A.2d 228 (1978).

174 Conn. at 371. According to Adamchek, if the plaintiff were, in fact, wrongfully discharged without a hearing, she would be entitled to reinstatement. However, this court need not reach this question, for reinstatement is also proper under her state statutory cause of action.

C. State Law Claim

1. Statutory Requirement of Reinstatement

In Count One plaintiff has also alleged violation of the state human rights act, specifically, Conn. Gen. Stat. § 46a-60(a)(1) and (7)(D).

Unlike Title VII, the Connecticut statute explicitly provides that a public employer must reinstate an employee to her original or an equivalent position following maternity leave, if one is granted. Conn. Gen. Stat. § 46a-60(a)(7)(D). Although the statute would allow a private employer to raise the "changed business circumstances" defense to a charge of unjust refusal to reinstate, that defense is not available to the defendants in the instant case. The plain meaning of the statute precludes the court from considering the merits of the defendants' claim of compelling financial reasons for its action in terminating Mrs. Zamore. The defendants' excuse may be raised and proven in the Title VII action, but the language of the Connecticut statute clearly indicates that an employee on maternity leave from her job with a public employer such as the City of Danbury must be reinstated in her original or an equivalent position. This the defendants admittedly refused to do. There is, therefore, no factual dispute concerning the violation of state law.

Defendants have urged the court to consider Connecticut case law which has held that the Connecticut Human Rights Act is co-extensive with Title VII as being dispositive of the

instant case. Wroblewski v. Lexington Gardens, Inc., 188 Conn. 44 (1982); Board of Education v. Commission on Human Rights and Opportunities, 176 Conn. 533 (1979); Pik-Kwik Stores, Inc. v. Commission on Human Rights & Opportunities, 170 Conn. 327 (1976). However, the cases cited dealt with those parts of Conn. Gen. Stat. § 46a-60 which do track the language of the federal law, although they may "differ slightly." Pik-Kwik Stores, Inc. v. Commission on Human Rights & Opportunities, 170 Conn. at 331.

In the instant case, however, the plaintiff has alleged violation of Conn. Gen. Stat. § 46a-60(a)(7)(D), a provision that was not at issue in any of the cases cited by the defendants. Nor has that subsection been interpreted by the Connecticut courts. The exact protection afforded by subsection (a)(7)(D) does not appear in the federal act. An important distinction between the state and federal law on return from maternity leave is that the federal law and regulations would allow any employer to raise changed business circumstances as a legitimate reason for termination, but the Connecticut law restricts this defense to private employers.

The defendants' contention that the Connecticut statute cannot exceed the mandate of Title VII is erroneous. A state may grant its citizens greater protection than Congress has granted in Title VII, 42 U.S.C. 2000e-7. See also Huron Portland Cement Co. v. Detroit, 362 U.S. 440 (1960)(absent

preemption, states may impose stricter standards than do the federal statutes). The state statute on its face indicates that Connecticut has exercised this prerogative.<sup>4</sup>

It is clear from the facts as alleged by the parties that there has been a violation of Conn. Gen. Stat. § 46a-60(a)(7)(D), despite the fact that defendant Draper alleged and defendants Mayor Dyer and the City of Danbury have asserted belatedly in their memorandum of February 16, 1984, that an equivalent position was offered to the plaintiff. The facts as stated by the defendants themselves to not support their claim. The court finds, as a matter of law, that the plaintiff did not receive a firm offer of an equivalent position, see, note 1, supra, nor was she reinstated in her original position.

2. Agency Inaction

A troublesome issue in the present case, raised by none of the parties, is whether the plaintiff's motion for relief based on the defendants' clear violation of the state Human Rights Act is suitable for judicial action. The court recognizes that Conn. Gen. Stat. § 46a-60 does not grant a private right of action such as that granted in Title VII or that granted in Conn. Gen. Stat. § 46a-98, the law forbidding sex discrimination in a determination to grant or withhold credit. Instead, the statute at issue provides only for an appeal from action or dismissal by the state agency charged with carrying out the mandate of the Act, The Connecticut Commission on Human Rights and Opportunities [CCHRO]. The

problem that confronts this court is that the state agency has not acted. Thirty-eight months after filing her complaint, Peggy Zamore has yet to receive a ruling from the CCHRO.

The court must consider the effect of inaction and delay on the plaintiff. Courts have held that administrative inaction can be tantamount to dismissal or denial of a plaintiff's claim. Houston v. Nimmo, 670 F.2d 1375 (9th Cir. 1982); Environmental Defense Fund v. Hardin, 428 F.2d 1093, 1098-99 (DC Cir. 1970); see also K. Davis, Administrative Law § 8.08 at 282 (June 1976 Supp.); L. Jaffe, Judicial Control of Administrative Action 346, 358-59 (1965); V. Schwartz, Administrative Law § 10.18 (1982). As Judge Bazelon observed in Environmental Defense Fund v. Hardin, supra,

... when administrative inaction has precisely the same impact on the rights of the parties as denial of relief, an agency cannot preclude judicial review by casting its decision in the form of inaction rather than in the form of an order denying relief.

428 F.2d 1099. See also British Airways Board v. Port Authority of New York, 564 F.2d 1002, 1010 (2d Cir. 1977),

("The law simply will not tolerate the denial of rights by unwarranted official inaction.") ...

The Connecticut Supreme Court also has recognized that, in some cases, a plaintiff may seek judicial redress from agency inaction even though the ordinary statutory remedy is to appeal an explicitly adverse decision. Blum v. Lisbon Leasing Corp., 173 Conn. 175, 282 (1977). The Blum court denied defendants' claims that plaintiff failed to exhaust

administrative remedies and upheld the trial court's grant of injunctive relief in the face of inaction by the zoning board of the Town of Lisbon.

The attempt to define an appropriate judicial response to agency delay or inaction is also often couched in terms of "finality" or "ripeness." The Supreme Court considered these issues in Abbott Laboratories v. Gardner, 387 U.S. 137 (1967). The Court noted that injunctive and declaratory judgment remedies are discretionary and must be used only when an issue is found to be "ripe" for adjudication, emphasizing that flexibility of approach was necessary to any determination of ripeness. Id. at 148-50; accord Toilet Goods Assoc., Inc. v. Gardner, 387 U.S. 158, 162 (1967).

To aid courts in determining whether a case is fit for judicial action, the Abbott court suggested a test calling for (1) concrete issues sufficiently defined so that the court does not get entangled in "abstract disagreements over administrative policies"; (2) "a purely legal" issue requiring only statutory interpretation and application; and (3) a determination that the judicial action requested will not interfere with an ongoing administrative process. Id. at 148-49. Once these criteria for fitness are found, a court, according to Abbott, must evaluate the harm to the petitioner of withholding judicial review. Id. at 149.

The Second Circuit has applied the Abbott standards, and has emphasized the Court's admonition to be flexible and pragmatic in making a determination of ripeness or finality.

"The law of ripeness is now very much a matter of common sense, ... whether one speaks in the related terms of 'ripeness,' of satisfying the 'final agency action' requirement ... or of the exhaustion requirement...." (citations omitted). Seafarers International Union of North America, AFL-CIO v. United States Coast Guard, et al, 736 F.2d 19, 26 (2d Cir. 1984) (finding plaintiff's claim did not meet Abbott test). See also Nat'l Wildlife Federation v. Goldschmidt, 677 F.2d 259, 263 (2d Cir. 1982); Nat'l Resources Defense Council v. U.S. Nuclear Regulatory Comm., 539 F.2d 824, 837 (2d Cir. 1976); Greene County Planning Board v. Federal Power Comm., 455 F.2d 412, 425 (2d Cir.) cert. denied 409 U.S. 849 (1972).

The instant case appears to fall squarely within the Abbott guidelines. The issue between Peggy Zamore and the defendants is sharply defined. By exercising judicial authority over this case there is no possibility that the court will become enmeshed in "abstract disagreements over administrative policies" that Abbott cautioned against. The statute in question simply leaves no room for discretion on the part of the CCHRO. Furthermore, the question in this case is a purely legal one, calling only for an interpretation and application of Conn. Gen. Stat. § 46a-60(a)(7)(D). The administrative process has "been exhausted at least to the extent that an adequate factual record has been established." Seafarers, supra, 736 F.2d at 26. Finally, the judicial action requested will not interfere with an ongoing

administrative process. If there were any indication whatsoever of agency activity, this court would hesitate to intervene even though the plaintiff's complaint has been long delayed.<sup>5</sup> The responsible agency, the CCHRO, however, apparently has taken no action on the plaintiff's complaint in over three years.

Having satisfied the Abbott criteria of fitness for judicial review, it remains for the court to evaluate the harm to the plaintiff of withholding judicial action. Peggy Zamore's wrongful discharge and her prayer for reinstatement appear again to satisfy the Abbott requirements. The injury is great and continuing. Delay inflicts further harm on the plaintiff. The administrative solution has failed to address Peggy Zamore's injury. Common sense suggests that this issue should be resolved, and a judicial resolution reached.

Because of the foregoing, the court finds that, in the instant case, the inaction of the CCHRO is tantamount to final dismissal and hence suitable for judicial review as if on appeal.

The Connecticut Supreme Court has defined the scope of judicial review of an agency decision under Conn. Gen. Stat. § 46a-60.

The scope of judicial review in an appeal from an administrative agency such as the defendant commission is limited by § 4-183(g) [the Connecticut Administrative Procedures Act] which provides, in part, that '[t]he court may reverse or modify the decision [of the administrative agency] if substantial rights of the appellant have been prejudiced because the ... conclusions, or decisions are ... affected by ... error of law.'

Pik-Kwik Stores, Inc. v. Commission on Human Rights & Opportunities, 170 Conn. at 330. According to Pik-Kwik, a court may reverse or modify the decision of the CCHRO if substantial rights of the appellant have been prejudiced and if the ruling were based on a determination of law rather than of fact. The plaintiff's discharge despite the clear mandate of Conn. Gen. Stat. § 46a-60(a)(7)(D) and the subsequent inaction of the CCHRO fulfills these requirements.

### 3. Jurisdiction

Having determined that the state statute was violated, it remains for the court to examine the jurisdictional doctrines that might counsel against this court's exercise of jurisdiction.

Although the exercise of pendent jurisdiction is ultimately discretionary, there are policy considerations and legal guidelines which the court must weigh before deciding to exercise jurisdiction over this state law claim. The plaintiff must have a cause of action arising under federal law as well as the separate state law claim. Hurn v. Oursler, 289 U.S. 238 (1933); J.I. Case Co. v. Borak, 377 U.S. 426 (1964). Both causes of action must derive from a common nucleus of operative fact. United Mine Workers v. Gibbs, 383 U.S. 715 (1966). The federal claims must be serious and viable. Pennhurst State School v. Halderman, 52 U.S.L.W. 4155 (Jan. 23, 1984). Finally, judicial economy and an equitable concern for the ability of the plaintiff to

maintain separate federal and state actions must outweigh fears of possible federal intervention into uncertain areas of state law.

In the instant case, the plaintiff's federal and state claims arise from the identical incident. Her federal claims, both statutory and constitutional, are viable. Although her federal claim under Title VII allows concurrent jurisdiction in federal and state court, the plaintiff has exercised her right to bring her action in federal court. The Title VII claim is substantial, although it cannot be resolved at this juncture due to factual disputes. The constitutional due process claim, as stated above, has already been decided in favor of the plaintiff. Thus, the plaintiff is in federal court legitimately with significant federal claims. Finally, it is far more efficient to resolve all plaintiff's legal claims arising from her discharge in one court action. And, because the state statute is unambiguous, resolution of plaintiff's state law claim in federal court is not overly intrusive.

In Pandis v. Sikorsky Aircraft, 431 F. Supp. 793 (D. Conn. 1977), Judge Newman declined to exercise pendent jurisdiction over and dismissed a state law claim when the case was properly in federal court on an ADEA claim. However, Judge Newman had found that (1) ADEA preempted the state age discrimination act and (2) the state claim was still in the administrative process and hence not yet ripe. In this case, unlike Pandis, there is no preemption of the state maternity

leave provisions by Title VII. Instead the state has given additional protection to the plaintiff, and the constructive dismissal by the CCHRO has made this case ripe for judicial intervention. Given these differences, this court finds it appropriate in this case to exercise pendent jurisdiction over the state law claim.

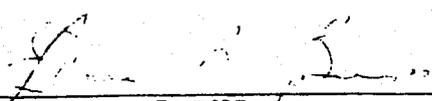
Nor does the doctrine of abstention prevent the court from exercising its jurisdiction. The rule of Railroad Commission of Texas v. Pullman Co., 312 U.S. 496 (1941), requires a federal court to abstain if a federal constitutional claim is presented along with a state law claim that may be dispositive. In theory, the federal court should then let a state court decide the state law question in an effort to avoid the federal constitutional decision. However, Pullman abstention "will not be ordered if the state law is clear on its face ... or if the constitutional issue would not be avoided or changed no matter how the statute is construed." C. Wright, The Law of Federal Courts, § 52, at 304 (4th ed. 1983). This court has already concluded that the state statute is clear on its face. Further, the constitutional issue is a due process violation based on the denial of a hearing, while the statutory claim is denial of a job following maternity leave. The two substantive claims are, therefore, distinct. The constitutional issue in this case is in no way affected and would not be avoided by the state law decision. Thus, Pullman abstention is not warranted.

D. CONCLUSION

Accordingly, plaintiff's motion for summary judgment against all defendants on her Title VII claim is denied because of material factual disputes. Summary judgment is granted in favor of plaintiff on her due process claim, Count Four, against defendants Dyer, in his official capacity and the City of Danbury, but not against defendant Draper as there are factual disputes regarding his involvement in the decision to abolish plaintiff's position and to terminate her. No remedy need be fashioned for this violation, however, because summary judgment is granted for plaintiff on that portion of Count One alleging a state statutory cause of action, again against Dyer and the City of Danbury, and such a violation carries with it the right to reinstatement and back pay.

The City of Danbury is ordered to reinstate Peggy Ravich Zamore to her former or an equivalent position. She is awarded \$55,877 in back pay for the time she was unemployed, excluding six months when she had her second child, and reasonable attorney's fees under 42 U.S.C. § 1988, for which her counsel should file an accounting of hours spent and an hourly rate, within 30 days of the date of this decision. Judgment is entered and effective as of the date of this decision, with the attorney's fee issue to be treated separately as a collateral matter.

SO ORDERED.

  
\_\_\_\_\_  
ELLEN BREE BURNS  
UNITED STATES DISTRICT JUDGE

Dated at New Haven, Connecticut, this 3<sup>rd</sup> day of  
October, 1984.

N O T E S

1. The defendants have suggested that they complied with the statutory requirement to offer plaintiff an equivalent position when her original job was discontinued. Defendant Draper's affidavit concerning this alleged compliance reveals no bona fide job offer was ever made to Mrs. Zamore. He stated "I contacted Mrs. Zamore by telephone on or about June 22, 1983, and invited her to apply for the position [of nutritionist]. A copy of the job description and qualifications for the Nutritionist position were subsequently forwarded to Mrs. Zamore." There can be no factual dispute that an invitation to apply for a possible job is not the same as the statutorily mandated placement in an equivalent position, especially since the job description was forwarded to the plaintiff more than three weeks after her abrupt discharge. Furthermore, the court notes that, based on the job description, in any event, the positions do not appear to be equivalent in their salary or levels of responsibility.

2. 29 C.F.R. § 1604.10(c)

3. Plaintiff also claims a property right in her job arising out of her status as a civil service employee entitled to protection under Chapter 113, Part 1, of Connecticut General Statutes Title 7 and Danbury Civil Service Commission Regulations (Complaint ¶ 42) which defendants have denied.

4. One federal district court in California has found that Title VII preempted a state statute mandating reinstatement from maternity leave. California Savings and Loan Assoc. v. Guerra, et al, No. 83-4927R (C.D. Cal. Mar. 19, 1984). This court finds that Title VII does not preempt state law. Indeed, the statute itself so states. 42 U.S.C. § 2000e-7. This is in direct contrast to the Age Discrimination in Employment Act (ADEA) which explicitly states that "upon commencement of action under this chapter such action shall supersede any state action." 29 U.S.C. § 633(a). Therefore, any age discrimination decisions regarding preemption are inapposite.

5. The potential for improper judicial interference in an ongoing administrative proceeding persuaded District Judge Jose Cabranes and subsequently the Second Circuit Court of Appeals that the Abbott test precluded judicial action in National Wildlife Federation v. Goldschmidt, 504 F. Supp. 314 (D. Conn. 1980), 519 F. Supp. 523 (D. Conn. 1981), aff'd. 677 F.2d 259 (2d Cir. 1982). In National Wildlife, the plaintiffs sought relief from actions of the Federal Department of Transportation and from the Connecticut Department of Transportation in connection with the environmental impact of construction of an interstate highway connector. Judge Cabranes ruled that the Abbott test was not satisfied because the agencies in question were still considering the issue.

REV. 6/82

Furthermore, this court might also choose not to intervene if it had the power instead to issue a mandamus to the CCHRO to decide plaintiff's case. Because the CCHRO is a state agency, however, orders to comply with state procedures may not be issued by a federal court. Pennhurst State School v. Halderman, 52 U.S.L.W. 4155 (Jan. 23, 1984). As mandamus is not possible and the agency apparently is no longer considering plaintiff's complaint, this element of Abbott is satisfied in the instant case.



# CITY OF DANBURY

DANBURY, CONNECTICUT 06810

THEODORE H. GOLDSTEIN  
CORPORATION COUNSEL

ERIC L. GOTTSCHALK  
SANDRA V. LEHENY  
TERRY L. SACHS

ASSISTANT CORPORATION  
COUNSEL

November 2, 1984

PLEASE REPLY TO:  
P. O. Box 1261  
DANBURY, CT 06810

Hon. James E. Dyer, Mayor  
City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Re: Zamore vs. City of Danbury

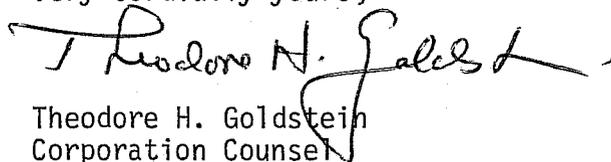
Dear Mayor:

The United States District Court for the District of Connecticut on October 1, 1984 entered Judgment for the plaintiff Zamore in the above-captioned matter.

Judgment of the Court was received subsequent to the Common Council meeting of October 2, 1984. An appeal may be taken within 30 days from entry of Judgment. Pursuant to Section 6-4 of the Charter, the undersigned has the power to appeal from Judgments and, subject to the approval of the Council, to compromise and settle any claims by or against the City. I thereupon requested from the Court and received a 20-day extension of time in order to allow the Council to determine what further action it wished undertaken at its November meeting.

Accordingly, I request that this matter be placed upon the Common Council agenda for its meeting of November 8, 1984 and that it go into executive session at that time to deal with the issues raised in this matter. I am requesting counsel from our insurance company in this matter, our Risk Manager and our Health Director to be in attendance at this meeting.

Very cordially yours,

  
Theodore H. Goldstein  
Corporation Counsel

THG:cr

c: Constance A. McManus, Pres.  
Common Council  
William Quinn, M.P.H.  
Director of Health  
Thomas Fabiano, Jr.  
Risk Manager

014-A

**DANBURY PUBLIC SCHOOLS**  
School Administration Building, Mill Ridge  
Danbury, Connecticut 06810  
(203)797-4700

**Irene M. Lober, Ed.D.**  
Superintendent  
797-4701

**John A. Wolfkeil**  
Assistant Superintendent  
Instruction-Curriculum  
797-4710

**Walter E. Skowronski**  
Director Finance & Support Services  
797-4704

**RECEIVED**

**NOV 2 1984**

**OFFICE OF CITY CLERK**

October 12, 1984

Mayor James E. Dyer  
City of Danbury  
155 Deer Hill Ave.  
Danbury, CT 06810

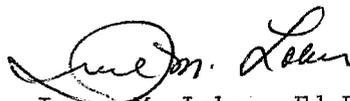
Dear Mayor Dyer:

At its October 10th meeting, the Board of Education adopted a revised 1984-1985 State and Federal Program Budget of \$1,746,396, copy attached hereto.

Please initiate the appropriate action to secure Common Council approval of this higher appropriation per City requirements.

Thank you for your assistance in this matter.

Sincerely,



Irene M. Lober, Ed.D.  
Superintendent

WES/sr

Encl

cc: John Edwards  
Dom Setaro

DANBURY PUBLIC SCHOOLS  
Danbury, Connecticut

STATE AND FEDERAL PROGRAMS

	<u>RECEIVED</u> <u>1982-1983</u>	<u>RECEIVED</u> <u>1983-1984</u>	<u>PROJECTED</u> <u>FUNDING</u> <u>1984-1985</u>
CHAPTER I	\$ 340,349	\$ 363,094	\$ 449,844
CHAPTER I CARRYOVER	79,752	114,698	118,679*
EHA PL 94-142	202,300	239,000	230,800
EHA PL 94-142 CARRYOVER	20,534	4,779	1,233*
VOCATIONAL EDUCATION	33,545	29,968	29,789
VOCATIONAL COMPETITIVE (JTPA)	9,852	9,365	68,035
CHAPTER II	26,246	18,372	31,727
CHAPTER II CARRYOVER	1,147	11,614	547*
INDOCHINESE TRANSITION	36,787	33,629	26,305
INDOCHINESE CARRYOVER	508	13,289	13,469*
HEW/HEAD START	159,199	164,582	158,488*
ADULT BASIC EDUCATION	30,651	28,809	11,116
ADULT BASIC ED. CARRYOVER	249	2,191	-0-
ADULT REFUGEE ASSISTANCE	18,997	-0-	-0-
BIRTH TO THREE PROGRAM	-0-	24,869	35,470
PROMISING PRACTICES (MOY)	-0-	54	945
<b>TOTAL FEDERAL</b>	<b>\$ 960,116</b>	<b>\$1,058,313</b>	<b>\$1,176,447</b>

STATE

ADULT BASIC EDUCATION	\$ 17,203	\$ 22,588	\$ 22,659
PA 604 HEAD START	87,710	90,989	106,505
PA 604 CARRYOVER HEAD START	-0-	21,294	13,944
PA 481 (NON-PUBLIC SCHOOLS)	179,527	184,530	208,878
PA 627 (SPECIAL EDUCATION)	74,361	80,507	89,315
BILINGUAL EDUCATION	11,092	20,232	15,725*
STATE SERVICES FOR THE BLIND	19,357	23,976	15,528
EERA	56,615	59,889	91,369*
EERA NON-PUBLIC	1,303	883	1,256
WESCONN RRC (REGIONAL READING)	3,672	-0-	-0-
<b>TOTAL STATE</b>	<b>\$ 450,840</b>	<b>\$ 504,888</b>	<b>\$ 565,179</b>

OTHER

UNION CARBIDE	\$ -0-	\$ -0-	\$ 1,770
ADULT EDUCATION TUITION	-0-	-0-	3,000
<b>TOTAL OTHER</b>	<b>\$ -0-</b>	<b>-0-</b>	<b>\$ 4,770</b>

<b>GRAND TOTAL STATE/FEDERAL AND OTHER PROGRAMS</b>	<b>\$1,410,956</b>	<b>\$1,563,201</b>	<b>\$1,746,396</b>
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9/26/84

\*Pending Official Notification

**DANBURY PUBLIC SCHOOLS**  
School Administration Building, Mill Ridge  
Danbury, Connecticut 06810  
(203)797-4700

**Irene M. Lober, Ed.D.**  
Superintendent  
797-4701

**John A. Wolfkeil**  
Assistant Superintendent  
Instruction-Curriculum  
797-4710

**Walter E. Skowronski**  
Director Finance & Support Services  
797-4715

**RECEIVED**  
**NOV 2 1984**  
**OFFICE OF CITY CLERK**

October 24, 1984

Mayor James E. Dyer  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

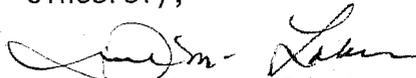
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At its October 10th meeting, the Board of Education adopted a revised 1984-1985 State and Federal Program budget of \$1,746,396.

Please initiate the appropriate action to secure Common Council approval of this higher appropriation per City requirements.

Thank you for your assistance in this matter.

Sincerely,

  
Irene M. Lober, Ed. D.  
Superintendent of Schools

IML/WES/bs  
attachment

CC: John Edwards  
Dominic Setaro

DANBURY PUBLIC SCHOOLS  
Danbury, Connecticut

STATE AND FEDERAL PROGRAMS

	<u>RECEIVED</u> <u>1982-1983</u>	<u>RECEIVED</u> <u>1983-1984</u>	<u>PROJECTED</u> <u>FUNDING</u> <u>1984-1985</u>
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	<hr/>	<hr/>	<hr/>
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GRAND TOTAL STATE/FEDERAL AND OTHER PROGRAMS	<u>\$1,410,956</u>	<u>\$1,563,201</u>	<u>\$1,746,396</u>
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9/26/84

\*Pending Official Notification



**Merrill Lynch  
Realty**

**Richard Jowdy,  
Inc.**

109 NORTH STREET  
DANBURY, CT 06811

(203) 744-5544

014-

**RECEIVED**  
**NOV 2 1984**  
**OFFICE OF CITY CLERK**

October 3, 1984

Mayor James Dyer  
City of Danbury  
Office of the Mayor  
Danbury, CT 06810

Dear Mayor Dyer:

Please be advised that the Macelletti property, adjacent to the Danbury Housing Authority, is now available for purchase. This property is located at 73 Coal Pit Hill Road, Danbury, Connecticut 06810 as indicated on the enclosed Surveyor's Certificate.

Should the City of Danbury have interest in considering the purchase of the listed first and second parcels, I would be happy to answer any inquiries or forward any additional information required to the proper committee.

Very truly yours,

Jane Gregory  
Realtor

JG/dl

Enclosure



# Surveyor's Certificate

**Richard Jowdy, Inc.**

109 NORTH STREET  
DANBURY, CT 06810

OFFICE: (203) 744-5544  
RESIDENCE: (203) 746-5905

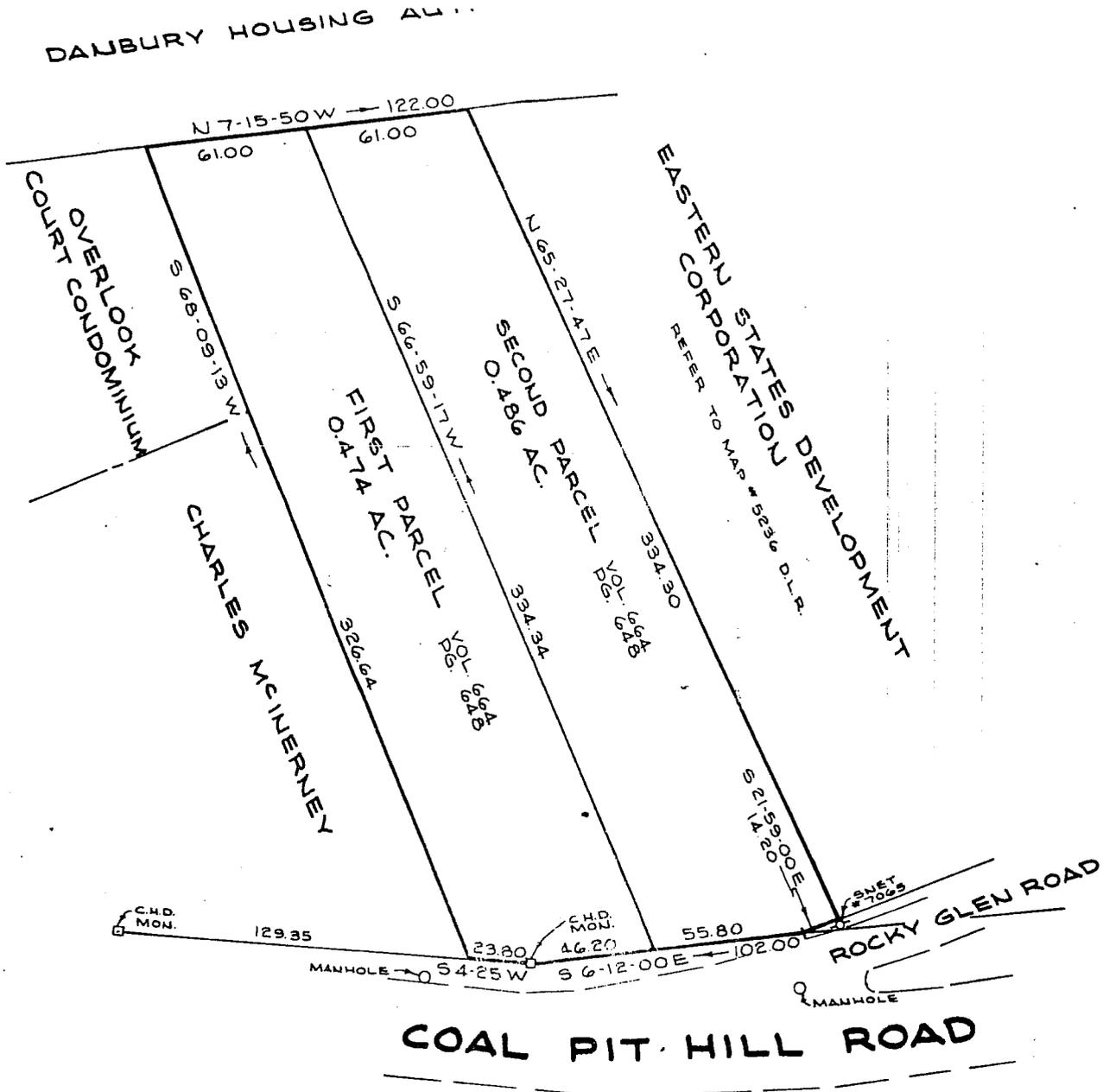
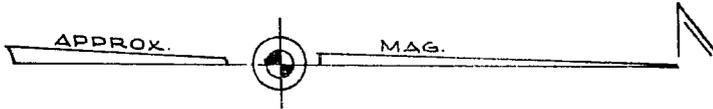
THOMAS P. and JULIA A. MACELLETTI

L. ROAD, Danbury, Connecticut. Refer to Vol. 664, Page 648,  
1 Records.

JANE GREGORY  
REALTOR

Scale: 1" = 40'

Date: August 3, 1984



I HEREBY CERTIFY that this survey and the measurements shown hereon are substantially correct; that the title lines and lines of actual possession are the same; that the buildings are located as shown and do not encroach over and upon street title or building lines; that there are no violations of zoning ordinances, restrictions or other rules and regulations with reference to the location of said buildings, and that there are no easements or encroachments affecting this property apparent from a careful physical inspection of the same, other than those shown and depicted hereon.



John M. Farnsworth & Associates  
New Milford, Connecticut  
"Certified Substantially Correct", Class A-2 in accordance with the recommended code of practice as defined by The Connecticut Association of Land Surveyors.

INTERMUNICIPAL AGREEMENT  
FOR  
DISPOSAL OF SEPTAGE WASTE

This INTERMUNICIPAL AGREEMENT is made this 6th day of November , 1984 by and among the City of Danbury, Connecticut, hereinafter referred to as "Danbury", and acting herein by its Mayor, James E. Dyer, hereunto duly authorized, and the Town of Bridgewater, the Town of Brookfield, the Town of New Fairfield, the Town of Newtown, and the Town of Redding, acting herein by their First Selectmen, each duly authorized (said towns hereafter referred to singly as "Town" and collectively as "Towns").

1. RECITALS

1.1 Section 22a-220 of Chapter 446d of the Connecticut General Statutes, Revision of 1958, as amended, requires that each municipality in the State of Connecticut make provision for the safe and sanitary disposal of septic tank pumpings, also referred to herein as "septage", which are generated from within its boundaries. Said statute permits a municipality to comply with its septage disposal requirements by making arrangements for disposal of this waste in another municipality.

1.2 The Towns do not have a septage disposal facility within their boundaries to provide for the safe and sanitary disposal of these wastes.

1.3 The Towns have determined that it would be in the best interests of their residents to dispose of their septage waste at a properly permitted facility in Danbury, rather than develop and operate their own facility.

1.4 Danbury owns and operates a septage disposal facility/water pollution control facility, hereinafter referred to as the "facility" which, when renovated, will have sufficient capacity and adequate treatment characteristics to accept the septage waste generated within the boundaries of the Towns.

## 2. TERMS

2.1 Upon completion of the renovations to the facility, and subject to the provisions hereof, Danbury shall accept all septage delivered to it for treatment at its facility from the Towns, provided that only septage actually originating from septic tanks located in the Towns will be accepted under this agreement.

2.2 Danbury shall not accept from the Towns any septage which does not comply with the rules, regulations or ordinances of Danbury relating to the disposal of sewage or septage, including specifically, but not limited to, § 16-10 of the Code of Ordinances of the City of Danbury as the same may from time to time be amended, or to any applicable regulations, orders or permits of the Danbury Health Department, the Connecticut Department of Health Services, the Connecticut Department of Environmental Protection, or the United States Environmental Protection Agency. In particular, Danbury shall not accept any septage contaminated with commercial or industrial chemical wastes, toxic wastes, pesticides, or hazardous wastes, as defined by local ordinance, and State and Federal laws and regulations, unless expressly approved in advance by the authorized officials of the appropriate local, State and Federal agencies.

2.3 Prior to the discharge of any septage under the terms of this agreement, the Towns shall establish and Danbury shall approve a procedure for licensing septage haulers authorized to discharge septage at the facility operated by Danbury. Said licensing procedure shall require the licensee to permit spot sampling and inspection of truck tank contents by employees or agents of Danbury in order to determine compliance with paragraph 2.2 above. As part of its licensing procedure, each town shall issue a label or sticker which shall be displayed by each hauler licensed by such town. The label or sticker shall include the name of the licensing town, the name of the licensee, the date of expiration of the license, and the current State of Connecticut motor vehicle registration number of the licensee's vehicle.

Any hauler not displaying such a label or sticker shall not be permitted to discharge septage at the facility.

2.4 The Town from which any discharge prohibited by Section 2.2 supra is delivered to the Danbury Treatment Plant by a hauler licensed by that Town pursuant to this agreement shall hold harmless and indemnify Danbury from any and all claims, damages, losses, expenses, or enforcement actions, including reasonable attorney's fees, which may arise from said discharge.

2.5 Each Town shall pay Danbury a fee for the disposal of septage pursuant to this agreement. The fee shall include the actual cost to Danbury to dispose of septage at its facility plus an administrative charge. The fees and charges for septage treatment and administration shall be based on budgeted costs of sewage treatment and administration for the then current fiscal year (July 1 through June 30). The fees and charges shall be determined based on the formula set forth in Schedule A.

2.6 This agreement shall terminate on June 30, 2005 A. D., or twenty (20) years after the first month in which the Towns actually use the Danbury facility for septage treatment, whichever is later in time. The parties hereto profess to reserve the right to agree to extend this agreement upon mutual consent.

2.7 This agreement shall become effective upon approval by the Common Council of Danbury and execution by its Mayor, and approval by the Legislative Council/Town Meeting of the Towns (whichever is necessary) and execution by their First Selectmen.

2.8 If any portion of this agreement is adjudicated to be invalid, illegal or contrary to public policy, such adjudication shall not affect any of the other provisions of this agreement, which such provisions shall remain in full force and effect, unless the provisions so adjudicated are so essential to the agreement that continued performance of the agreement is rendered impossible in their absence.

2.9 The capital costs of improvements and renovations to the facility are currently estimated to be Five Hundred, Twenty Thousand Dollars (\$520,000) based on the Albertson Sharp Ewing, Inc. Report of September, 1983 entitled "Regional Septage Disposal Study - Phase II", as amended by its letter dated March 21, 1984 to Mr. Jack Rosenthal, First Selectman of Newtown. Each Town shall, upon execution of this agreement, pay to Danbury its proportionate share of the estimated cost of design, currently fixed at Forty Thousand Dollars (\$40,000), in accordance with the following percentages:

New Fairfield	21.4%
Bridgewater	3.0
Brookfield	23.8
Newtown	38.5
Redding	13.3

If New Fairfield is not a party to this agreement, then the following percentages shall apply:

Bridgewater	3.82%
Brookfield	30.28
Newtown	48.98
Redding	16.92

If design costs exceed the current estimated costs thereof, each Town shall be liable for and shall prior to execution of the design contract pay to Danbury its proportionate share of the difference in said costs in accordance with the percentages established in this section.

Danbury shall thereupon seek United States Environmental Protection Agency prior approval of funds for design and construction of the facility. Danbury shall design said facility and upon receipt of EPA approval each Town shall pay to Danbury its proportionate share of the balance of the estimated cost of the project currently fixed at Four Hundred, Eighty Thousand Dollars (\$480,000) in accordance with the percentages established in this section.

If, upon completion of the bidding process, the then estimated capital cost of renovations to the facility exceeds Five Hundred, Twenty Thousand Dollars (\$520,000), the current estimated cost of renovations, by no more than

five percent (5%) each Town shall be liable for and shall prior to the commencement of construction pay to Danbury its proportionate share of the difference in said costs in accordance with the percentages established in this section.

If, upon completion of the bidding process, the then estimated capital cost of renovations to the facility exceeds Five Hundred, Twenty Thousand Dollars (\$520,000), the current estimated cost of renovations, by more than five percent (5%) Danbury shall not execute the construction contract unless each Town authorizes the increased expenditure.

If said increased expenditure is authorized by the Towns, the Towns shall prior to the commencement of construction pay to Danbury their proportionate shares of the difference in said costs in accordance with the percentages established in this section.

If said increase is not authorized by the Towns within sixty (60) days, Danbury shall reject all bids and shall, after payment of all costs incurred prior to the expiration of said 60-day period, return to the Towns all remaining funds in accordance with the percentages listed herein. This agreement shall thereupon terminate and be of no further force or effect.

If during construction of the facility Danbury receives one or more change orders or invoices requesting increases in connection with engineering, consulting or related services or in connection with the construction contract price which, if approved, would exceed the amount appropriated by the Towns for construction, Danbury shall not approve said change order or orders, or invoices unless and until the Towns appropriate the additional funds necessary to complete the project. The Towns shall bear all costs incurred as a result of any delay involved in seeking additional appropriations from the Towns. If, within sixty (60) days, the Towns fail to approve the additional appropriation required to complete the project the Towns shall be liable for all costs incurred by Danbury in demolishing the facility and for all costs incurred

by Danbury in restoring the property involved to its original condition. Danbury reserves the right to complete the facility at its own cost and expense, or to take such other action regarding completion or termination of the project as may be agreed to by the parties. The Towns shall not be liable for costs shown to be attributable to Danbury's breach of contract. Upon the failure of the Towns to approve the required additional appropriations, or to reach agreement with Danbury in accordance with this section, this agreement shall terminate and be of no further force or effect. Danbury shall thereupon return to the Towns all funds remaining after the payment of all construction costs incurred prior to the failure or refusal of the Towns to approve additional funds together with all costs of demolition and restoration, if any, as provided herein.

All funds paid to Danbury in accordance with this subsection shall be deposited in one or more interest bearing accounts or invested in one or more instruments approved by the State of Connecticut for investment by municipalities. Interest earned on said funds received by Danbury shall be paid to Newtown monthly, and Newtown shall distribute said interest payments to the Towns in accordance with the percentages fixed herein.

If, upon completion of the renovations to the facility, the actual cost of said renovations is less than the estimated costs thereof, each Town shall be reimbursed by Danbury for its proportionate share of the difference between the estimated cost and the actual cost of said renovations in accordance with the percentages listed herein.

After completion of the renovations and improvements to the facility, and payment by the Towns to Danbury of the costs thereof, Danbury shall continue to own and operate said facility.

2.10 Danbury agrees to prepare and submit an application for State and/or Federal reimbursement of the aforesaid capital costs of improvements to the facility. Any monies received pursuant to said grant shall be rebated

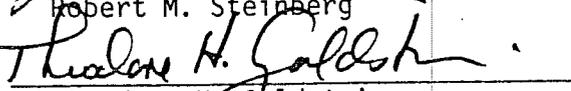
to the Towns in accordance with the percentages listed in paragraph 2.9 above for costs covered by the grant which have been paid for by the Towns.

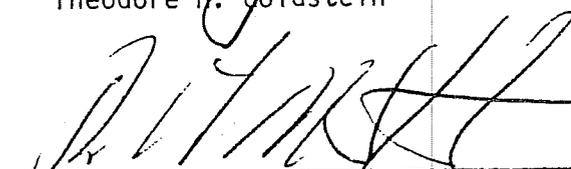
2.11 If any city or town other than Bethel shall seek to use the Danbury facility for septage disposal, and said city or town is permitted to use said facility for septage disposal, then said city or town shall be required to pay for the capital costs of said improvements and renovations in an amount to be determined by applying the formula based on use contained on Page 84 of the HVCEO Septage Study A.S.E. File No. 1404.01 prepared by Albertson Sharp Ewing, Inc. The percentage obtained shall then be multiplied by the capital cost of improvements and renovations to the facility in order to obtain the sum due in order to use the facility. The amount so paid by any new town shall be rebated back to the Towns according to each individual Town's pro-rata share of the capital cost of improvement.

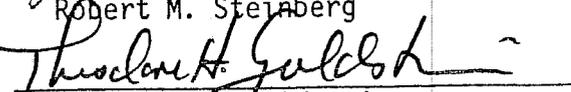
2.12 Danbury shall bill each of the Towns monthly, in accordance with the provisions of Section 2.5 hereof, based on the amount of septage received from said Town during the prior month.

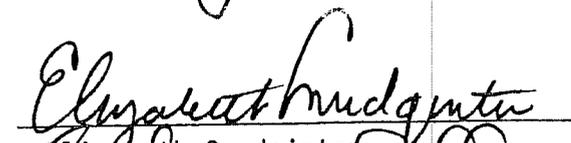
2.13 Withdrawal. Any town may withdraw from this agreement at any time following completion of construction of the facility upon the giving of thirty (30) days' written notice to each of the other parties. No withdrawing town will be entitled to any rebate of any capital contribution made by it.

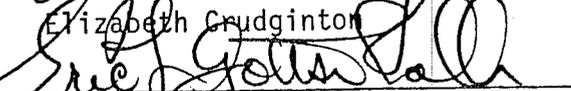
  
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Robert M. Steinberg

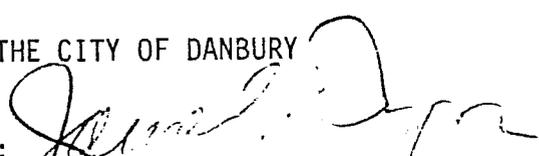
  
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Theodore H. Goldstein

  
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Robert M. Steinberg

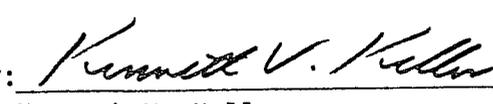
  
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Theodore H. Goldstein

  
\_\_\_\_\_  
Elizabeth Crudginton

  
\_\_\_\_\_  
Eric L. Gottschalk

THE CITY OF DANBURY  
By:   
\_\_\_\_\_  
James E. Dyer, its Mayor

THE TOWN OF BRIDGEWATER  
By:   
\_\_\_\_\_  
William T. Stuart  
Its First Selectman

THE TOWN OF BROOKFIELD  
By:   
\_\_\_\_\_  
Kenneth V. Keller  
Its First Selectman

THE TOWN OF NEW FAIRFIELD

Christine M. Roche

Christine M. Roche

By:

John Fairchild

John Fairchild  
Its First Selectman

Eric L. Gottschalk

Eric L. Gottschalk

THE TOWN OF NEWTOWN

Robert M. Steinberg

Robert M. Steinberg

By:

Jack Rosenthal

Jack Rosenthal  
Its First Selectman

Theodore H. Goldstein

Theodore H. Goldstein

THE TOWN OF REDDING

Robert M. Steinberg

Robert M. Steinberg

By:

Mary Ann Guitar

Mary Ann Guitar  
Its First Selectman

Theodore H. Goldstein

Theodore H. Goldstein

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

August 20, 1984

Personally appeared James E. Dyer, Mayor of the City of Danbury, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed and the free act and deed of the City of Danbury, before me.

Theodore H. Goldstein

Theodore H. Goldstein  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

August 20, 1984

Personally appeared William T. Stuart, First Selectman of The Town of Bridgewater, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed and the free act and deed of The Town of Bridgewater, before me.

Theodore H. Goldstein

Theodore H. Goldstein  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

August 22, 1984

Personally appeared Kenneth V. Keller, First Selectman of the Town of Brookfield, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed and the free act and deed of The Town of Brookfield, before me.

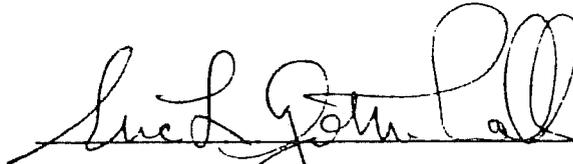
  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

November 6, , 1984

Personally appeared John Fairchild, First Selectman of The Town of New Fairfield, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed and the free act and deed of The Town of New Fairfield, before me.

  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

August 20, 1984

Personally appeared Jack Rosenthal, First Selectman of The Town of Newtown, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed and the free act and deed of The Town of Newtown, before me.

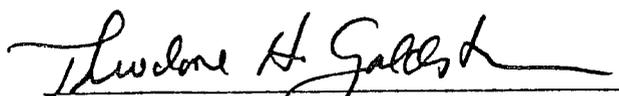
  
Theodore H. Goldstein  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD )

ss. Danbury

August 20, 1984

Personally appeared Mary Ann Guitar, First Selectman of The Town of Redding, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be her free act and deed and the free act and deed of The Town of Redding, before me.

  
Theodore H. Goldstein  
Commissioner of the Superior Court

SCHEDULE A

FORMULA FOR CALCULATING DUMPING FEE  
FOR SEPTAGE AT CITY OF DANBURY FACILITY

The fee shall be based on a formula which takes into consideration the average concentration of BOD's and suspended solids in the influent sewage received at the Danbury Sewage Treatment Facility. Additionally, the volume of both septage and sewage received at the facility for the previous calendar year will be considered. Final consideration must be given to the upcoming budgetary expenditures for the Danbury Sewage Treatment Facility each year.

The concentration of BOD<sub>5</sub> and suspended solids in the sewage will be based on laboratory tests for the previous calendar year at the Danbury Sewage Treatment Facility. This will be an average of the test results submitted to the State as per Danbury's NPDES permit requirement. Likewise, the volume of septage and sewage will be based on the amounts received for the previous calendar year at the Sewage Treatment Facility. The formula, therefore, would be defined as follows:

$$1. \frac{(W) \times (X)}{(Y) \times (Z)} = R_s$$

Where;

W = Average daily volume of septage for previous calendar year received at Danbury Facility in MGD;

X = Average BOD<sub>5</sub> and suspended solids concentration in septage.  
For purposes of this agreement X will equal 10,000 mg/l (milligrams per liter).

Y = Average daily volume of sewage for previous calendar year received at Danbury Facility in MGD;

Z = Average BOD<sub>5</sub> and suspended solids concentration in sewage for previous calendar year received at Danbury Facility in mg/l; and

R<sub>S</sub> = The amount of the total loading at the Danbury Facility which is represented by septage expressed as a ratio.

2.  $R_S \times (B) = C_S$

Where;

B = The sum of the projected budgets for the administrative and sewage treatment sections of the Sewer Department budget for the upcoming fiscal year;

C<sub>S</sub> = The cost in dollars of processing the septage at the Treatment Plant for the upcoming fiscal year.

3.  $\frac{C_S}{N_S} = C_{1000(s)}$

Where;

N<sub>S</sub> = The number of 1000 gallon loads of septage received at the Danbury Facility for the previous calendar year; or,

$$\frac{W \times 365}{1000}$$

C<sub>1000(s)</sub> = Cost in dollars per 1000 gallons to process septage at Danbury Facility for the upcoming fiscal year.

4.  $(52 \text{ Week/Year}) \times (\text{Operator's Hourly Rate}) \times (48 \text{ Hour/Week}) \times (\text{Overhead \& Fringe}) = A$

Where;

A = Projected annual costs in dollars per year to cover one receiving station operator for the upcoming fiscal year.

5.  $(52 \text{ Week/Year}) \times (20/\text{Hour/Week}) \times (\text{Overhead \& Fringe}) \times$   
 $(\text{Secretary's Hourly Rate}) = B$

Where;

B = One half of the projected annual cost in dollars per year to cover one secretary for the upcoming fiscal year.

6.  $A + B = C_A$

Where;

$C_A$  = Total projected administrative cost per year at the Danbury Facility for A and B above.

7.  $N_S = N_R + N_D$

Where;

$N_S$  = As defined above;

$N_R$  = The number of 1000 gallon loads of septage received at the Danbury Facility for the previous calendar year generated in the region excluding Danbury; and

$N_D$  = The number of 1000 gallon loads of septage received at the Danbury Facility for the previous calendar year generated in Danbury.

8.  $\frac{C_A}{N_R} = C_{1000}(A)$

Where;

$C_{1000}(A)$  = Cost in dollars per 1000 gallons for administration of septage processing for the upcoming fiscal year.

9.  $C_{1000}(T) = C_{1000}(S) + C_{1000}(A)$

Where;

$C_{1000}(T)$  = The total actual cost in dollars per 1000 gallons to be charged to the Town to process, treat, and administer the septage disposal at the Danbury Facility.

RECEIVED

Oct. 1, 1984

NOV 2 1984

Mayor James Dyer  
City Hall  
Danbury, Ct.

OFFICE OF CITY CLERK

014-C

Dear Mr. Mayor:

The members of the Special Police and the Constables of Danbury need your help and, if I may, we need it in a hurry.

As you know the Miry Brook Range is shut down. This means that we can't train or qualify with our weapons until a new indoor facility is erected. We are not able to qualify at the Wooster Mountain Range in that it is only open to the department on Thursday from eight in the morning to four in the evening. Most of us have full-time jobs that preclude any attendance at all.

We need Miry Brook. I have talked to Lt. Lovell and he assures me that the regular department is no longer interested in the Miry Brook Range and as far as they are concerned it will be declared surplus and scrapped. We are interested in the facility and let me assure you that we can get it operational and we can make it pass any test anyone wants to put it through.

The Danbury Constables and the Special Police Association of Danbury would like to sub-lease the range portion of the building from the city and be responsible for its repair, maintainance and use.

We have the manpower and the construction skills necessary to reach this goal and, if there is no city money available, we will foot the bills ourselves.

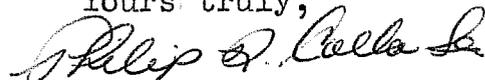
The major problem, Mr. Mayor, is the roof. If we don't get a new roof on right now then that portion of the building will be ruined and irreparable and the city loses a much needed facility.

For the past three years I have been supervising a shooting program at this range on a weekly basis. The training was equally attended by part-time and full-time officers. Should we be given permission to go ahead on this project then I would hope that all members of the department would use the facility.

Please, Mr. Dyer, don't bury this request in red tape. The range is in an awful state and that roof has to go on this month (we will do it) or the water damage will be beyond repair.

Should you wish to see the range please feel free to call me and I would be glad to show it to you anytime (after school). Again, please don't let this range go down the tubes its good enough for us. Thanks for your consideration.

Yours truly,



Philip D. Colla Sr.  
VP SPAD  
744-3270

November 8, 1984

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF DANBURY  
THAT:

The Housing Site Development Plan submitted to the  
Common Council by the Housing Site Development Agency,  
which plan calls for the rehabilitation of properties  
on New Street in the City of Danbury, is hereby adopted.

RESOLUTION OF THE COMMON COUNCIL  
OF THE CITY OF DANBURY

Certified a true copy of a resolution adopted by the Danbury Common Council on August 7, 1984 and which has not been rescinded or modified in any way whatsoever.

August 8, 1984

Date

  
Clerk

(SEAL)

WHEREAS, pursuant to Chapters 128, 129, 130, 133 and 135 of the Connecticut General Statutes, as amended, the Commissioner of Housing is authorized to extend financial assistance to local housing authorities, municipalities and non-profit corporations; and

WHEREAS, it is desirable and in the public interest that the Housing Site Development Agency make application to the State for \$198,650.00 in order to undertake a program of housing site development and, to execute an Assistance Agreement therefore. It is understood that the Housing Site Development Agency will provide a local grant-in-aid in accordance with the requirements of Chapters 128, 129, 130, 133 and 135 of the Connecticut General Statutes, as appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL:

1. That it is cognizant of the conditions and prerequisites for State Assistance imposed by Chapters 128, 129, 130, 133, and 135 of the Connecticut General Statutes.
2. That it recognized the responsibility for the provision of local grants-in-aid to the extent that they are necessary and required for said program.
3. That the filing of an application by the Housing Site Development Agency in an amount not to exceed \$198,650.00 is hereby approved, and that the Executive Director is hereby authorized and directed to execute and file such application with the Commissioner of Housing to provide such additional information, to execute such other documents as may be required by the Commissioner, to execute an Assistance Agreement with the State of Connecticut for State financial assistance if such an Agreement is offered, to execute any amendments, rescissions, and revisions thereto, and to act as the authorized representative of the Housing Site Development Agency.



# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

RECEIVED  
JUL 12 1984  
DANBURY HEALTH DEPT.

LEONARD G. SEDNEY  
Planning Director

PLANNING DEPARTMENT  
797-4525

July 11, 1984

Mr. Paul Schierloh  
Associate Director for Housing  
City of Danbury  
20 West Street  
Danbury, CT 06810

Re: HSD - New and Rowan Project

Dear Paul:

I have reviewed the Housing Site Development Plan prepared by your office. It is clear that the target neighborhoods selected, Rowan and New Streets, were selected after careful deliberation. These two neighborhoods represent pockets of blight and key areas in the City's efforts to revitalize the downtown. New Street, in particular, is a highly visible accessway in the downtown which greatly needs rehabilitation efforts of the sort that are being planned.

The efforts that are being planned in these areas are in conformance with the City's Plan of Development and the Comprehensive Plan. The targeting of monies and efforts in neighborhoods is an idea which we heartily endorse. For housing revitalization efforts to be successful targeting is essential. Your efforts at fostering homeownership for low and moderate income family, managing rental properties, encouraging property owners to initiate improvement projects, and a rigorous code enforcement program is an example of a comprehensive program of targeting. Our office stands ready to assist you in your efforts at code enforcement.

The Development Plan indicates that on-site and off-site improvements will be made in these two neighborhoods, such as parking areas, landscaping, and sidewalks. If you are not already aware, monies have been set aside for street and sidewalk improvements in the tenth year Community Development

(continued)

Mr. Paul Schierloh  
Associate Director for Housing  
Re: HSD - New & Rowan Project

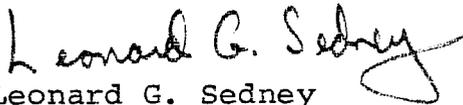
page 2.

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Block Grant Program for residential rehab areas, such as New and Rowan Streets. Your efforts in these two areas should include new sidewalks and tree plantings along the entire length of the street utilizing Block Grant funds.

For information purposes the Housing Site Development Plan is being forwarded to the Planning Commission. Should the Commission have any additional comments I will forward those comments to you.

Sincerely,



Leonard G. Sedney  
Planning Director

140

PROGRAM: HSD - NEW AND ROWAN  
Danbury, Connecticut

## HOUSING SITE DEVELOPMENT PLAN

### PROGRAM DESCRIPTION

The proposed program involves the acquisition and rehabilitation of three existing dwellings: two located on New Street and the other on Rowan Street. These streets have been chosen as target neighborhoods due to their key downtown location and the nature of the housing on the streets. The project sites are within pockets of deterioration that if revitalized will greatly upgrade and stabilize the neighborhoods.

The project will be a joint venture between the HSDA and NPDCD, Incorporated, with the help of in-kind staff services provided by the City of Danbury. The HSDA will administer the acquisition phase of the project, with NPDCD, Incorporated administering the rehabilitation work and sale of the properties to qualified homeowners. State funds will be used to help write down the costs of acquisition and site preparation such that the HSDA can transfer the properties to NPDCD, Incorporated at an affordable cost to make the project work. The local matching share will come from CDBG funds under the control of the Housing Development Program of the City's Health and Housing Department. Funds from this program, designed to support the activities of NPDCD, Incorporated, will also be used to finance the rehabilitation of the structures.

One goal of the Corporation is to foster neighborhood stability through the provision of home-ownership opportunities for low and moderate income persons. The first dwelling, located at 24 New Street, is therefore slated to be renovated as a two-family home and sold to a qualified first time homebuyer of low or moderate income. The rental unit will provide needed housing and assist the homeowner with his mortgage and maintenance obligations. The second structure, located at 26 New Street, is currently listed as a one-family house. The Corporation proposes to renovate this structure as a two-family dwelling and sell it to a qualified low and moderate income owner-occupant. The property at 45 Rowan Street will be renovated as a two-family dwelling and sold to a qualified homebuyer of low or moderate income. A delapidated single-family structure on the parcel will have to be removed.

The proposed projects thus involve a total of six units. Relocation assistance will be required for the current occupants of 24 New Street and 45 Rowan Street.

NPDCD, Incorporated is currently undertaking other rehabilitation projects in these same neighborhoods. The structure located at 20 New Street is being renovated as a three-family dwelling and

will be managed by the Corporation. The Corporation is also renovating a three-family house at 41 Rowan Street. This rental property will also be managed by the Corporation. The Corporation is also working to encourage adjacent property owners to initiate improvements on their properties in conjunction with the proposed projects. The City is also prepared to undertake code enforcement efforts in the neighborhoods to complement Corporation activities. The results of these projects will be the preservation of badly needed housing and revitalized neighborhoods in key downtown locations.

PLAN AS PER SECTION 8-213, C.G.S.

(a) DESCRIPTION OF DEVELOPMENT AREA

The housing site development area consists of the New Street and Rowan Street areas. The project area on New Street is located on the west side of New Street, and consists of older residential buildings, used for low and moderate rental purposes. The dwellings in the immediate project area are old and have been poorly maintained, and represent a pocket of blight on the street. The eastern side of the street contains mixed uses, including residential, office, and public structures (fire house) and an ambulance service. The street is located in a key downtown location where the effects of rehabilitation will be readily visible. The Non-Profit Development Corporation of Danbury, Incorporated is in the process of rehabilitating a three-family rental structure near the project area.

The project area on Rowan Street, is located on the south side of Rowan Street, consisting mainly of older residential structures. Again, the dwellings in the immediate project area make up a pocket of blight in the middle of the street. The street contains a mix of owner-occupied and rental housing, and would be described as a low to moderate income neighborhood. Many of the owner-occupied dwellings in this area are well-maintained, but the pocket of deteriorated absentee-owner property exerts blighting influences. The lower portion of Rowan Street contains some mixed uses, including residential and several small, light industrial uses. A church is located at the corner of Rowan and Oakland Avenue. The Non-Profit Development Corporation of Danbury is currently completing a rehabilitation project involving a three-family dwelling adjacent to the immediate sites proposed for acquisition under this project.

The sites proposed for acquisition in these areas consist of the parcel known as 45 Rowan Street, and the parcels known as 24 New Street and 26 New Street. (Maps of areas attached.)

(b) STREETS AND PUBLIC UTILITIES

The project areas on both New and Rowan Streets are served by City sewer and water facilities. The City's main fire headquarters and station is located across from the project area on New Street. Gas and electrical service is currently supplied to all sites involved in the project. Sidewalks currently exist on both streets. (Walks on New Street sites will be improved under the proposed project.) (Map attached.)

(c) RELOCATION SCHEDULES

The project will require the relocation of the current occupants of 24 New Street and 45 Rowan Street. The current occupants of 26 New Street will not have to be relocated. All relocation activities will be carried out in accordance with the requirements of the Uniform Relocation Assistance Act, and the policies and regulations of the Connecticut Department of Housing, the Department of Housing and Urban Development, and the City of Danbury.

RELOCATION REQUIREMENTS

<u>Site:</u>	<u>Families:</u>	<u>Relocated To:</u>	<u>Assisted By:</u>
24 New Street	4	Private Housing	Relocation Officer
26 New Street	0	----	----
45 Rowan Street	4	Private Housing	Relocation Officer
Total	8		

METHOD OF RELOCATION

The Relocation process shall be carried out in accordance with all provisions of the Uniform Relocation Assistance Act (CGS, Chapter 135), and all provisions of the Relocation Regulations published by the Connecticut Department of Housing.

The relocation process shall be managed and executed by the Relocation Officer of the City of Danbury in conjunction with the HSDA. All eligible "displaced persons" resulting from this project shall receive all payments due them under Section 8-268 and Section 8-270 of the U.R.A.A. All persons to be displaced shall be notified in writing of the intended action, the reason for displacement, and their rights and responsibilities as outlined by the U.R.A.A. and the Relocation Regulations. The Relocation Officer shall execute a Relocation Assistance Advisory Program consisting of the following services:

1. Shall determine the needs of all displaced persons for relocation assistance.
2. Shall provide all displaced persons with current and continuing information on availability, prices, and rentals of comparable decent, safe and sanitary sales and rental housing.

3. To determine and assure that, within a reasonable time prior to displacement, there will be in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the displaced persons, decent, safe and sanitary dwellings (as defined by the DOH Relocation Regulations), equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment.
4. Will assist all displaced persons in obtaining and becoming established in suitable replacement housing.
5. Will supply information concerning available federal and state housing programs to displaced persons.
6. Will provide other advisory assistance services to displaced persons to minimize hardship to such persons adjusting to relocation.

Both the New and Rowan Street sites are located within neighborhoods containing multi-family rental units at reasonable prices. It is, therefore, expected that all displaced persons can be relocated to private housing. (A Relocation Plan is contained in the Project Plan.)

(d) PRESENT AND PROPOSED ZONING

The Rowan Street project area is zoned RM-16, a residential multi-family zone allowing up to 16 dwelling units per acre. As indicated in the Danbury Zoning Regulations:

"The purpose of this zone is to provide an area of high medium density residential development compatible with centrally located retail, office and higher density residential development. This zone is intended for areas with an established urban character where facilities such as shopping, schools, recreation facilities and public transit already exist. This zone is not intended for outlying areas of the City where access to public facilities is limited to the automobile or where the high medium density would be incompatible with established residential neighborhoods."

The New Street project area is zoned RH-3, a residential high use zone, allowing residential dwellings and apartment houses as permitted uses.

There are no proposed zone changes of these areas either pending or anticipated. No zone changes are required in connection with this project since these properties will continue as residential uses. The proposed uses in connection with this project are permitted uses in the respective zones and are consistent with the intent and purpose behind the establishment of the zoning categories in both cases.

(e) DESCRIPTION OF REAL PROPERTY TO BE ACQUIRED AND SITE WORK

Three parcels consisting of land and buildings will be acquired by the HSDA. Purchase prices have been negotiated with the present owners. No condemnation action will be involved.

The following parcels will be purchased:

- 24 New Street: This parcel consists of land and an older residential structure with a legal occupancy of two-families. The building will be rehabilitated as a two-family dwelling for low and moderate income persons. A small delapidated shed will be demolished. Site improvements shall also include installing new sidewalks, landscaping and paved parking area. Access to parking will be via existing driveway adjoining property line for 26 New Street.
- 26 New Street: This parcel consists of land and a residential structure currently listed as a one-family dwelling. The building will be rehabilitated as a two-family dwelling (with proper approvals) for low and moderate income persons. No demolition shall be undertaken at this site. Site improvements shall include paving the existing driveway (which will also serve 24 New Street), parking area, sidewalks, curb cuts, and landscaping.
- 45 Rowan Street: This parcel consists of land and two residential structures. An older, poorly maintained three-family structure will be rehabilitated as a two-family dwelling for low and moderate income persons. A small single-family dwelling on the parcel has been determined to be not suitable for rehabilitation due to its inadequate size and very poor condition. This structure will be removed. This will also provide needed open space and an off-street parking area for the remaining

(g) RELATIONSHIPS TO LOCAL OBJECTIVES

This project and the proposed land uses are in accord with the City's Plan of Development, the City's housing and neighborhood preservation objectives, and the needs of the community with respect to affordable housing for low and moderate income persons. The project will result in the rehabilitation of badly-needed rental and home ownership units that would otherwise be lost through neglect and deterioration. The project will also strengthen the project neighborhoods and encourage private owners to preserve their own units. The objectives and activities of The Non-Profit Development Corporation of Danbury, Incorporated have the full support of the City of Danbury. The preservation of Danbury's older housing stock in such key downtown neighborhoods and the continuation of a mix of viable housing options are essential to the City's continued vitality.

The sites chosen also provide convenient access to public facilities and recreational facilities. The New Street sites are located across from the City's Fire Headquarters, one block from City Hall, three blocks from Main Street and the public library. A City park/playground located on Balmforth Avenue is within a convenient distance from the Rowan Street site. Rowan Street is also convenient to shopping and businesses on North Street.

(h) FINANCIAL ASPECTS OF PROJECT

The required local matching share to participate in this program will be provided to the Housing Site Development Agency from the Housing Site Development account administered by the Danbury Health and Housing Department. This account consists of funds obtained through the Community Development Block Grant Program. All CDBG rules, regulations and policies will be followed in the use of these funds.

A Project Budget is attached which outlines in detail the financial aspects of the program. The sites acquired under this project will be disposed of for a consideration less than cost or market value to The Non-Profit Development Corporation of Danbury, Incorporated; a designated Community Housing Development Corporation whose objectives include the provision of housing for low and moderate income persons. The properties shall be rehabilitated by the corporation to provide housing for low and moderate income persons according to prescribed limits. (Budget attached.)

structure. Site improvements to be undertaken at this site include installation of a driveway and parking area, new sidewalks and curb cuts, grading and landscaping.

Legal descriptions of the above properties as well as the copies of the City Assessors cards for the properties are attached.

(f) PROPOSED LAND USES

All parcels will remain residential uses and no new structures shall be built. The exterior dimensions and locations of the structures to be rehabilitated will remain substantially unchanged. The demolition of a small single family structure on the Rowan Street parcel will allow for a more appropriate density and provide for parking required on the site.

Existing legal land uses and proposed land uses on the project parcels are as follows:

	<u>Current Legal Use</u>	<u>Proposed Legal Use</u>
24 New Street	2 units <sup>1</sup>	2 units
26 New Street	1 unit	2 units <sup>2</sup>
45 Rowan Street	4 units	2 units
Totals	7 units	6 units

<sup>1</sup>Observed use of structure as 5-family dwelling cited as violation by Zoning Enforcement Officer.

<sup>2</sup>Zoning approval will be requested to increase current use of a one-family to a two-family.



16

# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

November 8, 1984

PUBLIC WORKS COMMITTEE REPORT

Honorable Mayor James E. Dyer  
Honorable Members of the Common Council

Re: Request for an easement on East Drive.

The Public Works Committee reviewed a request from a property owner on East Drive for an easement. The well which serves this property protrudes a few inches into City property and the owners want to assure themselves of a secure water supply. The Public Works Department reported no problem in the granting of this easement.

The Public Works Committee voted to recommend the granting of an easement to Mr. & Mrs. Cimino of East Drive for their well. Their Easement is to be drafted by the Office of the Corporation Counsel and will avoid any City liability. It should further state that if ever a new well is needed it will be located completely on the property of the petitioner.

Respectfully submitted

Joseph DaSilva  
Joseph DaSilva, Chairman

Constance McManus  
Constance McManus

Anthony Cassano

Mounir Farah  
Mounir Farah

Carole Torcaso  
Carole Torcaso

John Esposito

Gene Enriquez  
Gene Enriquez

A.

- #1. CASTLE
- (a) Electrical service corroded and outdated should be replaced.
  - (b) Plumbing outdated
  - (c) Heating unit 30 year old.
  - (d) Kitchen, parlor sitting room, pink BR, Green room, Gold room, hall, first, second floor, ceilings all need repairs.
  - (e) Walls in most of same rooms also need extensive repair which mean replacing plaster and lath.
- Porch floor and ceilings need extensive repairs as there is both frost and water damage.
- Roof needs to be replaced. Some rafters are bad.
- Many spots in masonry exterior need attention.
- Windows need to be replaced!
- #2. COTTAGE (Rented)  
Extensive roof repairs and interior renovation not worthwhile.  
Water tower - Worthless and not being used.
- #3. GARAGE  
Three bay needs roof and electric service to be replaced.
- #4. MACHINERY BARN  
Worthless
- #5. PUMP HOUSE  
Essential / Needs repairs
- #6. MACHINERY SHED  
(NG) Worthless (Antiquated)
- #7. MR. & MRS. DAVIS HOUSE  
Needs roof and general repairs, painting. Plumbing and heating still operating, yet antiquated. Some ceiling repairs.
- #8. GARAGE & COTTAGE  
Good shape.
- #9. GREENHOUSE  
Needs glass
- #10 MONTESSORI SCHOOL  
Good shape/ Concrete block building (CGI)
- Not shown Six Room Cottage: Pretty good shape.
- #11. Hot water heat 15 years old; needs paint.
- #12 STORAGE BARN  
Sixty Feet long, trussed roof in good shape; needs cleanup and cosmetics.
- #13 ONE FAMILY HOUSE (Rented)  
Two stories. Hot water heat/needs cosmetics/ some updating.
- #14 HAY BARN & TWO BAY GARAGE(with high doors) TOOL SHED, STORAGE SHED.  
Garage & Storage units concrete block construction good. The rest

#15 CEMENT BLOCK BUILDING/Housing plumbing contractor  
Has heat and is in pretty good shape.

#16 COW BARN & MILL PARLOR  
Is in decent condition.

#17 COW BARN also POLE BARN  
In decent shape.

October 31, 1984

TO: Honorable Mayor James E. Dyer  
Honorable Members of the Common Council

FROM: The C. D. Parks Advisory Committee: Formed March 6, 1984.

SUBJECT: Report of findings:  
A. King's Mark Environmental Review Team Report  
B. Potential Uses of Property.

Committee Members: Chairman, Councilman Ernest M. Boynton;  
Council Members - Constance McManus, Steven Flanagan.  
Planning Dept. Members - Len. Sedney - Keith Colgan.  
Private Sector Members - Geraldine George - Betty Ann McGran.

Committee charge:

- A. To review the King's Mark Environmental Review Team Report
- B. To develop potential uses of the C.D. Parks Property.

Meetings: The committee met as a group on the following dated:  
3/21/84 - 6/19/84 - 7/18/84 - 8/8/84 - 8/21/84 - 9/24/84 - 9/26/84 and  
10/22/84. Some members went on an informal on-site inspection of the Castle.

#### REPORT

The committee, at its first meeting on March 21, 1984, met to establish guidelines for reviewing this property for three distinct methods of use by the City and citizens of Danbury. They were as follows:

- A. Open Space: To use the property as open space without any other pre-determined use.
- B. Passive Recreation and Open Space: To develop the usable acres of the property for passive recreation and the balance would remain as open space.
- C. Land Development: To determine those portions of the approximately 535 acres of land that could be developed by the City and sold to private land developers, thereby re-cooping some of the 4.7 million plus dollars required to purchase and develop this property.

To accomplish our task a site analysis was performed using the King's Mark Environmental Review Team Report as well as a Soil Survey of Fairfield County, conducted by the U.S. Department of Agriculture. Through the professional efforts of Planning Director Len Sedney and his Associate Planner Keith Colgan, four maps were prepared for the Committee. They are as follows:

- I. A Hydrology map covering existing streams, ponds, wetlands and dry stream beds, Forest Line, Meadows and vegetation.
- II. A topography map: a slope analysis to determine the contours of the property.
- III. A Geology map: To determine the type of soil, rock and ledge.
- IV. Potential Development Map: To determine the existing zoning and the developable acres on the property.

Note: A formal presentation by the committee is planned for the Public Hearing to review with the Council the above maps.

Other sources of information to the committee were:

- a. Leo Null, City Building Inspector. \*
- b. John P. Edwards, Acting Director of Finance.\*
- c. Eric Gottschalk, Ass't Corporation Counsel.\*
- d. Robert Ryerson, Director of Parks & Recreation.
- e. Parks & Recreation Commission.\*
- f. Thomas Fabiano - Risk Manager. \*
- g. Emil Morey - Realtor.
- h. Hal Meeker
- i. King's Mark Environmental Team Report.

Note: \* = Attached to this report for your review.

COMMITTEE RECOMMENDATIONS:

After careful review of all the information the committee can only recommend two of the three methods \* for property use. They are:

- A. To purchase the property and use as open space with no clear direction for future use.
- or
- B. To purchase the property with the purpose of passive recreation and open space.

\* Note: refer to the report of Atty Gottschalk "c" Due to this information the committee abandoned all efforts to secure further information as regards Plan "C" Land Development.

While the committee does not believe determining final costs for its recommendations are part of its charge, we believe we should list some areas the Council may wish to look into to determine all Bonding Costs to the taxpayers both direct and indirect.

Recommendation A - Open Space.

Direct Costs - 1.	\$4,700,000	- Purchase Price.
2.	<u>100,000</u>	- Bond Costs
	\$4,800,000	- Direct Cost

Indirect Costs - 1.	Loss of existing tax revenue	\$15,246.84
2.	Cost to secure the property - Must be done to keep the City taxpayers free of potential law suits.	
3.	On-site security.	
4.	Loss of Rental Income (approx 30,000 yearly -now existing)	
5.	Removal of some existing buildings - Note - see report of Leo Null, City Building Inspector.	

Recommendation B - Passive Recreation & Open Space.

Direct Cost - 1.	\$4,700,000	- Purchase Price.
2.	<u>100,000</u>	- Bond Costs
	\$4,800,000	

Indirect Costs - 1.	Loss of existing Tax Revenue	
2.	Loss of Rental Income	
3.	Recreational Development Costs	
4.	Road and Structure Costs	
5.	On-site security.	
6.	Removal of some existing buildings.	

The committee's list of direct and indirect costs are not to be taken as all inclusive but rather as a guideline to the Council in its deliberation of total Bond issue costs.

Please note the report of John P. Edwards (b)

Under existing sub-division regulations, if the property were not purchased by the City but by a private developer the City would receive approximately 5 acres of this parcel as open space. Source - L. Sedney.

The committee respectfully submits this report in hopes that it will be of some assistance to the Common Council in its deliberations regarding the C. D. Parks Property.

Respectfully submitted

\_\_\_\_\_  
Ernest M. Boynton

Chairman

\_\_\_\_\_  
Constance Mc Manus

\_\_\_\_\_  
Stephen T. Flanagan

\_\_\_\_\_  
Leonard Sedney

\_\_\_\_\_  
Keith Colgan

\_\_\_\_\_  
Geraldine George

\_\_\_\_\_  
Betty Ann McGran

C. D. PARKS PROPERTY - CHRONOLOGICAL REPORT

- July 5, 1983 -- The Land Acquisition committee voted to offer the C. D. Parks Company \$4,700,000 for approximately 535 acres of land known as the C.D. Parks Property.
- Aug. 25, 1983 -- Planning Director Leonard Sedney advised Councilman Thomas Evans that King's Mark had agreed to do an environmental review of the C. D. Parks Property.
- Aug. 31, 1983 -- The Common Council held public hearings regarding the  
&  
Sept. 26, 1983 Land Acquisition Committee's report of 7/5/1983 to purchase the C. D. Parks Property for \$4,700,000.
- Sept. 26, 1983 -- The Common Council met as a committee "of a whole" and adopted a recommendation to the Mayor that a Advisory committee be formed to review the King's Mark Study and develop long range plans for the intended use of the C. D. Parks property, should it be purchased by the City.
- Feb. 17, 1984 -- The King's Mark Environmental Review Team submitted its Report to the Mayor.
- March 6, 1984 -- Mayor Dyer submitted his committee recommendations to the Common Council.
- March 19, 1984 -- Councilman Russell Foti questions the make-up of the committee.
- March 26, 1984 -- Ass't Corporation Counsel E. Gottschalk answers the questions raised by Councilman Foti and clears the way for the committee to conduct its review of the C. D. Parks Property.
- Note: Report to Land Acquisition committee - dated 1/27/1983 from Thomas A. Wixted, Realtors -Appraisers. The Appraisal Report valued the C. D. Parks propert at \$4,700,000.



# CITY OF DANBURY

DANBURY, CONNECTICUT 06810

THEODORE H. GOLDSTEIN  
CORPORATION COUNSEL

ERIC L. GOTTSCHALK  
SANDRA V. LEHENY  
TERRY L. SACHS

ASSISTANT CORPORATION  
COUNSEL

October 22, 1984

PLEASE REPLY TO:

DANBURY, CT 06810

Councilman Ernest M. Boynton, Chairman  
Ad Hoc Committee, Common Council  
City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut

Re: C. D. Parks Property Review Committee

Dear Councilman Boynton:

As requested, I am prepared to advise that the power of the C. D. Parks Property Review Committee is limited by its charge. Although the minutes of the Common Council meeting of March 6, 1984 are somewhat unclear on this point, it is my understanding that the charge to the committee concerns an analysis of potential uses for the property involved.

Accordingly, the C. D. Parks Property Review Committee is limited to recommending appropriate potential uses for this property to the Common Council as a whole. No review of other issues is appropriate until the Common Council expands the committee's charge.

Sincerely yours,

Eric L. Gottschalk  
Assistant Corporation Counsel

ELG:cr



# CITY OF DANBURY

OFFICE OF THE MAYOR

DANBURY, CONNECTICUT 06810

JAMES E. DYER  
MAYOR

March 6, 1984

Honorable Members of the Common Council  
City of Danbury, Connecticut

Dear Council Members:

I am in receipt of the King's Mark Environmental Review Team review of the C. D. Parks Property. I now feel that it is appropriate to appoint the review committee for this project that was requested by the Council.

I am making the following appointments:

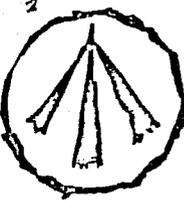
1. Councilman Ernest Boynton
2. Councilwoman Constance McManus
3. Keith Colgan
4. Leonard Sedney
5. Geraldine George
6. Betty Ann McGran
7. Stephen Flanagan

Please note that the Freedom of Information law must be complied with by this Advisory Group.

Sincerely yours,

James E. Dyer  
Mayor

JED/mr



**KING'S MARK ENVIRONMENTAL REVIEW TEAM**

KING'S MARK RESOURCE CONSERVATION AND DEVELOPMENT AREA  
SACKETT HILL RD. • WARREN, CT 06754 (203) 868-7342

February 17, 1984

Mayor James E. Dyer  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

Dear Mayor Dyer:

On behalf of the King's Mark Executive Committee and the ERT, I am pleased to transmit to you five (5) copies of the ERT's final report on the "Park's Property". As you know, the report was prepared at your request to identify the natural resource base of the subject site and to discuss the opportunities and limitations for land management and development.

If you should have any questions on the contents of the ERT's report, please feel free to telephone me. If you would like a formal presentation of the Team's report, please let me know. Representatives of the Team would be happy to attend a meeting in Danbury for such purposes.

King's Mark hopes that the ERT's report on the "Park's Property" will prove helpful to you as an informational tool and that you will keep the services offered by the Team in mind for future projects.

Sincerely yours,



Richard M. Lynn, Jr.  
ERT Coordinator

RML:jlw  
encs.

cc: Leonard Sedney, Planning Director (5 copies)  
Edmond Deveaux, Chairman, Planning Commission (2 copies)  
Janet Schaefer, Chairman, Environmental Impact Commission (2 copies)  
Bernadette Demunde, Chairman, Conservation Commission (2 copies)  
Jack Kozuchowski, Health Department (1 copy)  
Jack Schweitzer, City Engineer (1 copy)  
John & Betsy Murphy, 8 Boughton St., Danbury, 06810 (1 copy)  
Mrs. Jean Parks Davis, C. D. Parks Company, 23 Brushy Hill Rd., Danbury (2 copies)  
Emil Morey, 18 Downs Street, Danbury (1 copy)



B

# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

JAMES E. DYER, MAYOR

DEPARTMENT  
OF FINANCE

August 23, 1984

MEMO TO: Councilman Ernest Boynton

FROM: John P. Edwards, Comptroller

In reference to your request on a proposed bond issue in the amount of \$4,800,000.00 and \$7,000,000.00, please be advised that we estimate the first year cost to be \$720,000.00 on the \$4,800,000.00 issue and \$1,050,000.00 on the \$7,000,000.00 issue. This is a 20-year bond issue at an estimated interest rate of 10% per year.

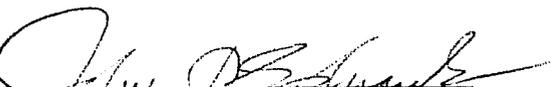
We currently have two bond issues outstanding, Road Bonds in the amount of \$9,202,000.00 and Public Improvements in the amount of \$7,725,000.00. We estimate the first year cost of these two issues to be \$2,539,050.00 using the same 10% interest rate.

The Common Council is about ready to ask the voters to approve a \$6,610,000.00 Code Compliance Bond Issue. The estimated cost for this would be \$991,500.00 for the first year using the same 10% interest rate.

Attached you will find a copy of our debt service schedule which includes sewer and water bonds. As you can see, in fiscal year 7/1/86 - 6/30/87 our bond costs are \$4,078,763.00. Also attached you will find a comparison of what we project our debt costs to be if all approved and pending bond issues were included or if just approved bond issues were included.

It is apparent that the mill rate will have to increase. As you can see, our current cost for the year 1986-87 is \$4,078,763.00, and if all approved and pending issues were added to this, our cost would go up to a high of \$8,659,913.00.

If you have any questions, please give me a call.

  
John P. Edwards

JPE/af  
Enclosures

<p>A Cost Fiscal Year Ended 6/30/87</p>	<p>B Projected Cost including \$9,202,000 \$7,725,000 Bond Issues A + B</p>	<p>C Projected Cost including \$6,610,000 Proposal A + B + C</p>	<p>D Projected Cost including \$4,800,000 A + B + C + D</p>	<p>E Projected Cost including \$7,000,000 A + B + C + D + E</p>
\$4,078,763	\$6,617,813	\$7,609,913	\$8,329,913	\$8,659,913

\* Includes water and sewer bonds.

BONDED DEBT MATURITY SCHEDULE  
As of August 2, 1984

Due Fiscal Year Ended 6/30	Principal Payments	Interest Payments	Total Payments
1985	\$ 2,260,000	\$ 2,231,533	\$ 4,491,533
1986	2,220,000	2,049,664	4,269,664
1987	2,210,000	1,868,763	4,078,763
1988	2,205,000	1,688,146	3,893,146
1989	2,140,000	1,507,743	3,647,743
1990	2,140,000	1,330,136	3,470,136
1991	1,940,000	1,158,828	3,098,828
1992	1,940,000	993,433	2,933,433
1993	1,840,000	830,538	2,670,538
1994	1,380,000	682,506	2,062,506
1995	1,380,000	544,737	1,924,737
1996	1,380,000	406,989	1,786,989
1997	1,210,000	273,990	1,483,990
1998	445,000	146,889	591,889
1999	445,000	106,471	551,471
2000	335,000	69,010	404,010
2001	335,000	34,505	369,505
Total	\$25,605,000	\$15,923,881	\$41,728,881

NOTE: Long-term capital leases for school buses and a compactor not included.



D

# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

JAMES E. DYER, MAYOR

DEPARTMENT OF PARKS & RECREATION  
HATTERS COMMUNITY PARK  
7 E. HAYESTOWN RD.

ROBERT G. RYERSON, DIRECTOR  
(203) 797-4632

September 24, 1984

TO: Ernest Boynton, Chairperson and  
Committee Members

FROM: Robert G. Ryerson

RE: C. D. Parks Property

---

The Parks & Recreation Commission wishes the committee to know that they have unanimously voted in favor of the city actively pursuing the purchase of the C. D. Parks property. The land lends itself to passive recreational activities.

Winter activities such as tobogganing, cross-country skiing, and snowshoeing are possible on the sloping pasture lands and the area off Mountainville Road.

Hiking, campsites, bridal paths, fishing, and hunting are activities for the natural mountainous terrain.

The buildings on the property are not of any recreational use. Many organizations, such as the Police Athletic League and Little League, Inc., need space for equipment storage and meetings.

The land is not suitable for ballfields. Although some of the land could be terraced, the cost would be prohibitive.

RGR:tw



# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

DEPARTMENT  
OF FINANCE

RISK MANAGER  
797-4619

September 24, 1984

Ernest Boynton, Councilman  
City Hall  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Dear Ernie:

Please be advised that if the City purchases the Parks property, it would assume all liabilities associated with such ownership.

If passive recreation is the most the property will be used for, I foresee no additional premiums being charged by our insurance carrier.

Please contact me if you need any additional information.

Regards

Thomas Fabiano  
Risk Manager

TF/k



# CITY OF DANBURY

DANBURY, CONNECTICUT 06810

THEODORE H. GOLDSTEIN  
CORPORATION COUNSEL

ERIC L. GOTTSCHALK  
SANDRA V. LEHENY  
TERRY L. SACHS

ASSISTANT CORPORATION  
COUNSEL

September 20, 1984

PLEASE REPLY TO:

DANBURY, CT 06810

Councilman Stephen Flanagan  
Common Council, City of Danbury  
155 Deer Hill Avenue  
Danbury, Connecticut

Re: C. D. Parks - Restaurant Use

Dear Councilman Flanagan:

I have now had an opportunity to review the legality of devoting a portion of the C. D. Parks property to use as a restaurant in conjunction with the acquisition and use of the balance of the C. D. Parks property for a park. Begin with the proposition that a court will indulge in a presumption that municipal purchases are for authorized purposes.

Generally speaking, municipalities may only purchase and hold property for purposes authorized by its charter, or by applicable statutes. Municipalities have no power to purchase lands except for municipal purposes. Among other things, municipalities cannot engage in the business of dealing generally in real estate.

The acquisition and use of property for park purposes is, however, beyond doubt, a public purpose. The ability of a city to devote park property to a restaurant use has been the subject of some litigation nationally, although I have not found any Connecticut cases on point. The consensus of these cases is that the use of park property as a restaurant is generally regarded as "ancillary" to park use, or a "common incident" to the use and enjoyment of park property, and therefore permissible.

To acquaint you with this line of thought, consider the following language from a couple of New York cases which suggest the proper line of analysis:

"That, in the control and management of the public parks of a great city, it is perfectly proper to furnish, not only such innocent amusements as may enhance the pleasure of those who resort to the parks, but such opportunities for rest and refreshment for themselves and their animals as may be required, will not be disputed." Gushee v. City of New York, 58 NYS 967; and

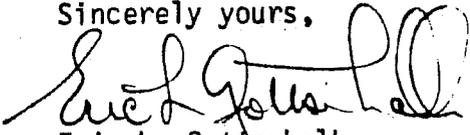
"A park is a pleasure ground set apart for recreation of the public, to promote its health and enjoyment .... No objects, however worthy, such as courthouses and schoolhouses, which have no connection with park purposes, should be permitted .... Monuments and buildings of architectural pretention which attract the eye and divert the mind of the visitor, floral and horticultural displays, zoological gardens, playing grounds and even restaurants and resthouses, and many other common incidents of a pleasure ground, contribute to the use and enjoyment of the park. The end of all such embellishments and conveniences is substantially the same public good." William H. Williams v. Gallatin, 128 N.E. 121.

Accepting the proposition that the use of park property for a restaurant is permissible, you must then determine whether or not the operation of such a restaurant by private parties is permissible. As you know, the acquisition of private property with a view to the transfer of the property to private interests must have specific statutory authority (as is the case with redevelopment and other similar statutory mechanisms designed to revitalize municipalities). Therefore, the acquisition of the Parks property with a view to the transfer of a portion to private interests for a restaurant must be authorized by statute. Under the present circumstances I find no such authority.

However, some cases suggest that a permit to operate such a restaurant subject to the rules and regulations of a municipality is more apt to be valid than a sale or long-term lease arrangement without restriction. This sometimes results from a court's perception that in the latter cases a municipality has abdicated its duty to govern the use of municipal property. In any event, I am confident that a valid and binding arrangement could be achieved which would meet the legal requirements and still be attractive to a potential restaurant operator.

I still await information from the Connecticut Conference of Municipalities and will provide it to you when it arrives. If you have any additional questions concerning this material, or if you would like to see a representative sampling of the case law, please advise me.

Sincerely yours,

  
Eric L. Gottschalk  
Assistant Corporation Counsel

ELG:cr

c: Councilman Ernest M. Boynton, Chairman  
Ad Hoc Committee

Committee Members



**MOREY**  
associates inc.



*"The Real Estate People"*

September 27, 1984

Councilman Ernest Boynton  
Chairman Parks Property Evaluation Committee  
155 Deer Hill Avenue  
Danbury, Connecticut, 06810

Dear Mr. Boynton:

Pursuant to our conversation of this date, I wish to formally inform you and your committee that the owners of the Park's property, as an alternative financing method, are willing to accept the sum of \$1,700,000.00 as a down payment and to accept a mortgage for the balance of \$3,000,000.00.

The mortgage would be written for a 30-year term, carry an interest of 10% per annum. Payments could be made by you monthly or quarterly, whichever you prefer. The City would have the right to anticipate principal payments with no penalty, however, it is contemplated that the whole balance would be due and payable in full at the end of ten years.

You would also have the option if you wish to pay only the interest at stated intervals with the right as said before to anticipate principal payments as you wish.

As you can see the intent of this letter is to offer terms and conditions which may make it easier for the City to acquire the property. The offered interest rate is below current money rate in the United States, the 30 year term is designed to reduce the payments by using a lengthy schedule. A point to keep in mind is that the cost of this arrangement to the City will be no more than an ordinary real estate closing because it is anticipated it would not involve bonding cost and bonding counsel.

This could be done if the City were to seek out a favorable rate from local lenders for the \$1,700,000.00 down payment.

I am willing as a representative of the C.D. Parks Co., to sit with you, your committee, the city comptroller and the corporation counsel to explore this further.

Page 1 of 2



# MOREY

associates inc.



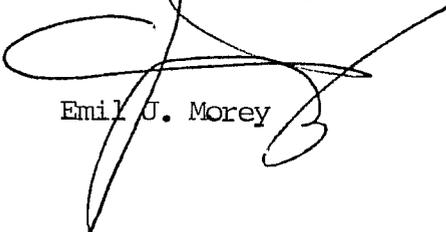
*"The Real Estate People"*

Page 2 of 2  
Councilman Ernest Boynton

In consideration of your diligence directed to setting a referendum date as soon as possible, we agree that our agreement can be extended to January 31, 1985.

Agreed and approved by: Jean Parks Davis  
Jean Parks Davis  
President  
C.D. Parks Co.

Yours very truly,

  
Emil J. Morey

COMMUNICATION - Appointment by Mayor Dyer of a review committee  
the C.D. Parks Property. The King's Mark Environmental  
view Team review of the C.D.Parks Property has been received and the  
Mayor feels that it is appropriate to appoint the review committee for  
this project that was requested by the Council.

The committee appointed is as follows:

3/6/84

Councilman Ernest Boynton  
Councilwoman Constance McManus  
Keith Colgan  
Leonard Sedney  
Geraldine George  
Betty Ann McGran  
Stephen Flanagan - Mayor Dyer added Councilman Flanagan to the committee  
granting his request to serve on this committee.

The Freedom of Information law must be complied with by this Advisory Group.

Motion was made by Councilwoman McManus and seconded by Councilman  
Gonzalez that the amended communication be accepted and appointments confirmed.  
Motion carried unanimously.

~~It is~~ appropriate to appoint the review committee for this project that  
was requested by the Council.

I am making the following appointments:

1. Councilman Ernest Boynton
2. Councilwoman Constance McManus
3. Keith Colgan
4. Leonard Sedney
5. Geraldine George
6. Betty Ann McGran
7. Stephen Flanagan

Please note that the Freedom of Information law must be complied  
with by this Advisory Group.

Sincerely yours,

James E. Dyer  
Mayor

facilities, payable out of revenue of lighting system).

An ordinance providing for the "purchase and/or installation of parking meters" was broad enough to include rental as well as purchase. *Morris v. Salem*, 179 Ore 666, 174 P2d 192.

<sup>4</sup> *South Dakota*. *Vermillion v. Hugener*, 75 SD 106, 59 NW2d 732.

<sup>5</sup> *New York*. *Smith v. Newburgh*, 77 NY 130 (ratification of lease by council); *People v. Green*, 64 NY 499, revg 6 Hun 11 (execution of lease).

<sup>6</sup> *United States*. *Hart v. Knox County*, 79 F Supp 654.

*New York*. *Holder v. Yonkers*, 39 App Div 1, 56 NYS 912.

*North Carolina*. *Atkins v. Durham*, 210 NC 295, 186 SE 330, 333, quoting McQuillin text.

City had authority under statute to acquire land for municipal golf course either by lease or purchase, and 99-year lease with option to purchase was valid and not for unreasonable length of time where right was reserved to terminate tenure of city after 15 years. *Vermillion v. Hugener*, 75 SD 106, 59 NW2d 732.

See also §§28.51-28.54.

<sup>7</sup> *Wisconsin*. *Gilman v. Milwaukee*, 31 Wis 563.

<sup>8</sup> *Indiana*. *Anderson v. O'Conner*, 98 Ind 168, 172.

<sup>9</sup> *Massachusetts*. *Commercial Wharf Corp. v. Boston*, 208 Mass 482, 94 NE 805.

<sup>10</sup> *Pennsylvania*. *Bloomsburg Land Improvement Co. v. Bloomsburg*, 215 Pa 452, 64 A 602.

Municipal trading, see ch 36.

<sup>11</sup> *New York*. *Smith v. Newburgh*, 77 NY 130; *People v. Green*, 64 NY 499; *Greenwich Sav. Bank v. New York*, 256 App Div 575, 10 NYS2d 499.

*Ohio*. *Hines v. Bellefontaine*, 74 Ohio App 393, 57 NE2d 164, 172 (advertisement for bids for parking meters under ordinance was authorized by constitutional power to lease).

See §28.17.

<sup>12</sup> *New Jersey*. *Longi v. Raymond-Commerce Corp.*, 34 NJ Super 593, 113 A2d 69 (defective sidewalk as a nuisance).

See, generally, *Tiffany Real Property* (3rd Ed) §§72-184; as to rents, §876 et seq.

Where city leased a flying field from landlords, and lease contained a clause stipulating city's right to remove any hangar or building or flying equipment at the lease's termination, but in 1942 city decided not to carry lease any longer, whereupon landlords leased field to a flying service corporation, it was held that under landlord-tenant holdover statute, the rights, including right of hangar removal, continued from year to year, and city ordinance authorizing lease to flying service corporation was constructive notice to landlords that city actually had made or was about to make a hangar or building lease to flying service incorporated, and of the city's rights thereunder. *Anderson v. Lexington*, 301 Ky 885, 192 SW2d 361.

<sup>13</sup> *New York*. *Davies v. New York*, 93 NY 250.

<sup>14</sup> *Texas*. *San Antonio v. French*, 80 Tex 575, 16 SW 440.

### § 28.11. Purposes for which property may be acquired.

Authority to buy and hold real estate exists only to the extent that it may be necessary to carry into effect corporate purposes.<sup>1</sup> The two general classes of property which a municipal corporation may hold include, first, that essential or convenient to function as a body politic and corporate; second, that held for general convenience, pleasure and profit.<sup>2</sup> It is within the province of the legislature to declare what is a municipal purpose;<sup>3</sup> and a duly enacted statute

Smith v. Newburgh, 77  
 v. Green, 64 NY 499;  
 Bank v. New York, 256  
 NYS2d 499.  
 Bellefontaine, 74 Ohio  
 22d 164, 172 (advertis-  
 er parking meters under  
 authorized by constitu-  
 lease).

Longi v. Raymond-  
 34 NJ Super 593, 113  
 sidewalk as a nui-

Tiffany Real Property  
 as to rents, §876 et seq.  
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 ty's rights thereunder.  
 gton, 301 Ky 885, 192

Davies v. New York, 93

Antonio v. French, 80  
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acquired.

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 purposes.<sup>1</sup> The two  
 corporation may hold  
 function as a body  
 of general convenience,  
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designating a municipal purpose is subject only to the provisions and principles of organic law.<sup>4</sup>

A municipal corporation may purchase and hold property for purposes authorized by its charter or an applicable statute,<sup>5</sup> and, generally speaking, for no other purposes.<sup>6</sup> It has no power to purchase lands and erect buildings thereon, except for municipal purposes.<sup>7</sup> In other words, it cannot engage in the business of dealing generally in real estate.<sup>8</sup> As expressed in substance in an Illinois case, power to purchase real property for particular purposes is a limitation on the powers of such corporations and excludes, by necessary implication, all purchases for mere speculative profit.<sup>9</sup> Power to purchase real estate for speculative purposes is not among the usual powers bestowed on municipal corporations nor does such power arise, by implication, from any of the ordinary powers conferred on such corporations.<sup>10</sup> However, in the absence of a contrary provision, ordinarily it will be presumed that lands purchased by a municipal corporation were purchased for a purpose authorized by law.<sup>11</sup> It has been held that the purchase of property in excess of that actually needed for the development of a housing project does not constitute a taking the property of one individual to be devoted to the private use of another.<sup>12</sup>

But while a municipality cannot purchase land for other than municipal purposes, it may sometimes acquire land by adverse possession, or by gift for other than corporation objects.<sup>13</sup> For example, a city may, in a proper case, become the owner of a farm and operate it as a private enterprise for its own pecuniary advantage, at least until an opportunity presents itself to dispose of its title thereto.<sup>14</sup> "The cases cited in support of the exceptions do not go to the point that a town cannot acquire land by possession for other than municipal purposes, but only to the point that it is ultra vires for a town to purchase land for other than such purposes. We think this is quite a different proposition; for a town cannot purchase land without expending its moneys, and it has no right to expend its moneys, raised by taxation or otherwise for municipal purposes, for other purposes. The acquirement of land by possession does not involve an expenditure any more than does the acquirement of land by deed of gift or by devise; and it has been decided that a gift or devise of land to a town is good, even though the land be given or devised in general terms, and be accepted without any intent to use it directly for municipal purposes.<sup>15</sup> Land so given, even when not wanted for municipal purposes, may be applied by sale or lease to the alleviation of municipal burdens."<sup>16</sup>

The purpose of a municipal corporation in acquiring property cannot be invoked to limit or qualify the estate granted.<sup>17</sup> Thus, where land was purchased in fee simple and had been used for a public market, it may thereafter be used by the city to maintain thereon a garage for police automobiles.<sup>18</sup>

<sup>1</sup> United States. *Hoskins v. Orlando*, 51 F2d 901.

Florida. *Sanford v. Dofnos Corp.*, 115 Fla 795, 156 So 142.

Illinois. *Jacksonville v. Padgett*, 413 Ill 189, 108 NE2d 460; *Champaign v. Harmon*, 98 Ill 491, 494.

Kentucky. *Frankfort v. White*, 224 Ky 570, 6 SW2d 699.

Missouri. *Kennedy v. Nevada* (Mo App), 281 SW 56.

Washington. *Carpenter v. Okanogan County*, 163 Wash 18, 299 P 400.

The proprietary powers of municipal corporations are limited to functions and purposes which are municipal and public in character as distinguished from those which are private in character and engaged in for private profit. *Village of Moyie Springs v. Aurora Mfg. Co.*, 82 Idaho 337, 353 P2d 767.

Purposes for which land may be taken in condemnation proceedings, see ch 32.

<sup>2</sup> Arkansas. *Fussell-Graham-Alderson Co. v. Forrest City*, 145 Ark 375, 224 SW 745.

New York. *Cotrone v. New York*, 38 Misc2d 580, 237 NYS2d 487 (municipality may hold property in its corporate capacity either in proprietary sense or solely for public use).

Vacant city land, never dedicated to public use, was held in proprietary capacity. *Reeves v. Phoenix*, 1 Ariz App 157, 400 P2d 364.

Statute empowering municipality to acquire property for "use" authorizes the municipality to acquire property for its "benefit" regardless of whether property is adapted to governmental or private purposes. *Carter v. Greenville*, 175 SC 130, 178 SE 508.

<sup>3</sup> Florida. *Zinnen v. Fort Lauderdale*, 159 Fla 498, 32 So2d 162 (statute making

acquisition of recreational facilities a municipal purpose).

<sup>4</sup> Florida. *Tampa v. Prince*, 63 Fla 387, 58 So 542 (holding a library is a municipal purpose).

South Carolina. *Ashmore v. Greater Greenville Sewer Dist.*, 211 SC 77, 44 SE2d 88 (auditorium declared public purpose by statute).

<sup>5</sup> Alabama. *Powell v. Birmingham*, 258 Ala 159, 61 So2d 11; *State v. Mobile*, 229 Ala 93, 155 So 872, 875, citing *McQuillin* text.

Maryland. *Gregg v. Baltimore*, 56 Md 256.

Massachusetts. *D. N. Kelly & Son v. Fair Haven*, 294 Mass 570, 3 NE2d 241.

Mississippi. *Webb v. Meridian* (Miss), 195 So2d 832 (equipment to mix paving materials to be used on city streets).

New Jersey. *State v. Mansfield Com'rs*, 23 NJL 510.

Particular statute was construed to authorize a municipality to acquire land for city hall, the United States to acquire lot for new postoffice site, and owners of lot would acquire city hall property. Moreover, it was held that under the common law such transaction could be carried out. *Carter v. Greenville*, 175 SC 130, 178 SE 508.

City could acquire property for resale to enforce city tax claims, and could pay off incumbrance of delinquent state taxes thereon. *Slutz v. Brown*, 295 Mich 185, 294 NW 147.

<sup>6</sup> United States. *Amen v. Dearborn*, 363 F Supp 1267 (ED Mich) (construing Michigan statute as limiting acquisitions of property to those having a public purpose).

City which had no authority to engage in business of testing cars could be enjoined from purchasing equipment for

acquiring property  
be granted.<sup>17</sup> Thus,  
had been used for a  
the city to maintain

recreational facilities a  
(see).

*Compa v. Prince*, 63 Fla  
holding a library is a mu-

*Ma. Ashmore v. Greater  
r Dist.*, 211 SC 77, 44  
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*Powell v. Birmingham*,  
So2d 11; *State v. Mobile*,  
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*Egg v. Baltimore*, 56 Md

*s. D. N. Kelly & Son v.*  
*Mass* 570, 3 NE2d 241.

*Webb v. Meridian (Miss)*,  
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used on city streets).

*State v. Mansfield*  
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testing cars. *Davenport v. Blackmur*, 184  
*Miss* 836, 186 So 321.

In action by resident taxpayer, city  
housing authority was properly enjoined  
from purchasing realty and turning it  
over to private interests for development  
and construction of houses for low rent  
housing project for navy. *Lewis v. Peters*  
(Fla), 66 So2d 489.

Under constitution authorizing a city  
to purchase sites and construct and equip  
hospitals, ordinance providing for con-  
struction and "maintenance" of hospital  
was held void. *Neal v. Morrilton*, 192 Ark  
450, 92 SW2d 208, 209.

<sup>7</sup> *Illinois. Sherlock v. Winnetka*, 59 Ill  
389, 68 Ill 530.

*Wisconsin. Waisman v. Wagner*, 227  
*Wis* 193, 278 NW 418.

Power and authority of municipality  
under statute "to take and hold property,  
real, personal and mixed, and to control  
and dispose of the same," carries with it  
the necessary limitation that the same  
shall be for municipal purpose. Thus,  
municipality did not have power or au-  
thority to purchase land and erect manu-  
facturing plant thereon to be leased to  
private corporation for private profit, as  
not serving municipal purpose. *State v.*  
*Town of North Miami (Fla)*, 59 So2d 779.

<sup>8</sup> *United States. Hoskins v. Orlando*,  
51 F2d 901 (city cannot acquire lease on  
apartment house as investment).

*Colorado. Hayward v. Red Cliff*, 20  
*Colo* 33, 36 P 795.

Can take coal mine property. *Delaney*  
*v. Salina*, 34 Kan 532, 9 P 271.

<sup>9</sup> *Illinois. Champaign v. Harmon*, 98  
*Ill* 491, 494.

<sup>10</sup> *Alabama. Powell v. Birmingham*,  
258 Ala 159, 61 So2d 11.

*Illinois. Champaign v. Harmon*, 98 Ill  
491.

"Land owned by a municipal corpora-  
tion, but not used for a public purpose, is  
held by the owner as a private individual  
. . . Property used primarily to obtain  
revenue or profit is not held for a public  
use." *Little Falls v. State*, 266 App Div 87,  
41 NYS2d 882, revg 178 Misc 1063, 37

.NYS2d 463, and following *County of Her-  
kimer v. Village of Herkimer*, 251 App  
Div 126, 295 NYS 629, affd 279 NY 560,  
18 NE2d 854.

"A municipality does not have the  
right to acquire real estate for invest-  
ment purposes or for the purpose of join-  
ing with other individuals or entities in  
the furtherance of some business enter-  
prise." *Gilbert v. Dayton*, 42 Ohio L Abst  
193, 59 NE2d 954.

<sup>11</sup> *Indiana. Henry County Com'rs v.*  
*Slatter*, 52 Ind 171.

Acquisition and maintenance of public  
housing for a city's elderly citizens out-  
side the state in which the city is located  
is within the constitutional provision au-  
thorizing a city to acquire public works  
within or without its corporate limits. *Sa-  
baugh v. Dearborn*, 384 Mich 510, 185  
NW2d 363.

<sup>12</sup> *New York. Borek v. Golder*, 190  
*Misc* 366, 74 NYS2d 675.

<sup>13</sup> *Maine. Libby v. Portland*, 105 Me  
370, 74 A 805.

*North Carolina. Gault v. Lake Wac-  
camaw*, 200 NC 593, 158 SE 104.

*Pennsylvania. Philadelphia Elec. Co.*  
*v. Philadelphia*, 303 Pa 422, 154 A 492.

*Rhode Island. New Shoreham v.*  
*Ball*, 14 RI 566.

*Texas. Bonne v. Stephenville (Tex Civ*  
*App)*, 37 SW2d 842.

*Virginia. Talbot v. Norfolk*, 152 Va  
851, 148 SE 865.

*Wisconsin. Polanski v. Town of Eagle*  
*Point*, 30 Wis2d 507, 141 NW2d 281,  
quoting *McQuillin* text.

Dedications of property to municipal  
corporations, see ch 33.

<sup>14</sup> *Maine. Libby v. Portland*, 105 Me  
370, 74 A 805. See also *Moulton v. Scar-  
borough*, 71 Me 267.

<sup>15</sup> Citing *Worcester v. Eaton*, 13 Mass  
371; *Sargent v. Cornish*, 54 NH 18.

*Wisconsin. Polanski v. Town of Eagle*  
*Point*, 30 Wis2d 507, 141 NW2d 281,  
quoting *McQuillin* text.

<sup>16</sup> *New Shoreham v. Ball*, 14 RI 566,  
567.

<sup>17</sup> Lands set aside for general welfare

may be employed in any way beneficial to citizens so long as the use remains public. *Wentz v. Philadelphia*, 301 Pa 261, 151 A 883, 887.

<sup>18</sup> *Missouri. Neil v. Kansas City*, 194 Mo App 282, 188 SW 919 (denying an injunction to prevent such use at instance of a resident taxpayer).

§ 28.12. — Applications of "corporate purpose" rule.

A municipal corporation may purchase or lease property for corporate purposes, as previously mentioned.<sup>1</sup> Corporate purposes have been said to be those purposes germane to the objects of the creation and existence of the municipality.<sup>2</sup> A power conferred by charter or statute to acquire property for municipal purposes is ordinarily sufficient to authorize the lease or purchase of lands or other property for a fire or police station or like place,<sup>3</sup> or of equipment, implements, and apparatus commonly used in police and fire departments.<sup>4</sup>

Under authority to acquire, establish and maintain public works involving the public health and safety, within or without the corporate limits,<sup>5</sup> a municipality may purchase and operate housing for its senior citizens in another state.<sup>6</sup>

Under authority to acquire property for municipal purposes a city may acquire land for a public park,<sup>7</sup> within or outside the corporate limits,<sup>8</sup> and for rights-of-way for streets leading to it,<sup>9</sup> or for a playground,<sup>10</sup> or recreational facilities.<sup>11</sup> Power to acquire land for a park, it has been held, includes power to acquire and maintain golf courses thereon.<sup>12</sup> Golf links, it has been held, constitute a "public utility" which the city may purchase by a bond issue, to furnish means of public recreation.<sup>13</sup> So, a municipal corporation may acquire land for necessary municipal buildings and erect such buildings thereon. Charter power to purchase real estate for the use of the city is sufficient.<sup>14</sup> Similarly, the acquisition of parking meters is for a municipal purpose within the meaning of a statutory or charter provision,<sup>15</sup> and the same is true of parking lots or other facilities for the off-street parking and storage of motor vehicles.<sup>16</sup> Ordinarily, a municipality may acquire land for a water supply,<sup>17</sup> or land and other property for a waterworks or water system.<sup>18</sup> But power to grant a license to a water company to supply water gives no authority to acquire a lot either for the location of the works of such private company, or to give it or its use to such company.<sup>19</sup>

A municipal corporation ordinarily can acquire land and other property for an airport,<sup>20</sup> water frontage, landings, wharves, docks and piers,<sup>21</sup> slum clearance,<sup>22</sup> library,<sup>23</sup> municipal auditorium,<sup>24</sup> or a dumping ground,<sup>25</sup> upon which to place garbage and refuse and maintain thereon an incinerator.<sup>26</sup> It may accept the conveyance of

Neil v. Kansas City, 194  
3 SW 919 (denying an  
event such use at in-  
ent taxpayer).

### "e" rule.

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arves, docks  
orium,<sup>24</sup> or  
refuse and  
veyance of

a public street from property owners for public use.<sup>27</sup> And the ease-  
ment in lots abutting on streets may be acquired.<sup>28</sup> So, under the  
authority to provide cemetery grounds, the city may purchase burial  
grounds.<sup>29</sup>

Under a general law authorizing real and personal estates to be  
conveyed to the corporation of any city or village to be held in trust  
for purposes of education, diffusion of knowledge or relief of distress,  
a city may accept a devise and bequest of a home and furnishings to  
be used as a hospital.<sup>30</sup> Power to acquire buildings for use of the city  
is not authority to purchase a site and erect thereon an armory for  
use of the National Guard.<sup>31</sup>

A municipality cannot engage in the business of dealing generally  
in real estate.<sup>32</sup> Likewise, it cannot acquire and hold real estate to  
give to those who construct manufacturing plants within the city.<sup>33</sup>  
And ordinarily it cannot buy lands and establish manufactories on  
its own account.<sup>34</sup> And, although contrary opinions have been ex-  
pressed,<sup>35</sup> authority cannot be granted to empower a municipality to  
buy coal and wood as fuel and sell them to its inhabitants.<sup>36</sup> But a  
city may, it has been held, purchase or hire a barge for its use, e.g.,  
to transport paving materials.<sup>37</sup> The municipal ownership of public  
utilities is considered in a separate chapter of this work.<sup>38</sup> Charter  
power to purchase and provide for the payment of "all such real  
estate and personal property as may be required for the use, conve-  
nience and improvement of the city" does not authorize the purchase  
of lands within the corporate limits for the benefit of a fair associa-  
tion, or the giving to such association "the exclusive use of the prem-  
ises" as a place for holding "their annual fairs."<sup>39</sup>

A municipal corporation will not be allowed to purchase realty in  
order, by controlling it, to compel a taxpayer to abandon or compro-  
mise his litigation with the corporation. In such case extrinsic evi-  
dence may be used to show the true object of municipal action.<sup>40</sup>  
While there is contrary authority,<sup>41</sup> it has in some instances been  
decided that a municipal corporation without special authority can-  
not acquire a rock quarry—that it is not indispensable to municipal  
objects that a city should own and operate such quarry.<sup>42</sup> So, it has  
been held in Illinois that providing a location or site for a state  
institution, as a reform school, is not a corporate purpose.<sup>43</sup> Where  
the design in purchasing the land and erecting the buildings is for  
private purposes and gain to the exclusion of corporate purposes, it  
is a gross breach of trust, a fraud upon the law and the taxpayers  
of the municipality; and a court of equity will take cognizance of  
such case.<sup>44</sup>

<sup>1</sup> See §28.11.

<sup>2</sup> *Illinois*. Livingston County Sup'rs v. Weider, 64 Ill 427.

*Kentucky*. Board of Trustees of Madison Academy v. Board of Education, 282 Ky 671, 139 SW2d 766.

*Michigan*. Morley Bros. v. Carroll Tp., 305 Mich 285, 9 NW2d 543 (may acquire or construct water supply system).

Property purchased by city and school district at tax sale and held for resale was an owning and holding for a public purpose. *State v. San Antonio*, 147 Tex 1, 209 SW2d 756.

City could purchase sanitary pit toilets and rent them to property owners to enable them to comply with sanitary ordinance. *Collins v. Eldorado* (Tex Civ App), 122 SW2d 690.

Under proper power land may be acquired to protect the view oceanward, even though the land is under water. *Murphy v. Long Branch* (NJ), 61 A 593.

<sup>3</sup> *California*. Santa Barbara v. Davis, 142 Cal 669, 76 P2d 495; La Habra v. Pellerin, 216 Cal App2d 99, 30 Cal Rptr 752 (lease of building for fire and police station).

*Maryland*. Renshaw v. Grace, 155 Md 294, 142 A 99.

See also §28.13.

<sup>4</sup> *Indiana*. Bluffton v. Studebaker, 106 Ind 129, 6 NE 1.

*New Jersey*. Green v. Cape May, 41 NJL 45.

*New York*. Leonard v. Long Island City, 65 Hun 621, 20 NYS 26.

See also ch 45; implied power as to fire prevention property, see §28.06.

<sup>5</sup> *Michigan*. Sabaugh v. Dearborn, 16 Mich App 182, 167 NW2d 826.

<sup>6</sup> *Michigan*. Sabaugh v. Dearborn, 16 Mich App 182, 167 NW2d 826.

<sup>7</sup> *California*. Bank of Sonoma County v. Fairbanks, 52 Cal 196.

*Iowa*. Golf View Realty Co. v. Sioux City, 222 Iowa 433, 269 NW 451.

*Kentucky*. Lexington v. Kentucky Chautauqua Assembly, 114 Ky 781, 71 SW 943, 24 Ky L Rep 1568.

*Massachusetts*. Wright v. Walcott,

238 Mass 432, 131 NE 291, 18 ALR 1242.

*New York*. Campbell v. Hamburg, 156 Misc 134, 281 NYS 753 (deed of land for park purposes construed).

*North Carolina*. Dudley v. Charlotte, 223 NC 638, 27 SE2d 732 (acquisition of park lands was within discretion of municipal officers).

*Oklahoma*. Johnson v. Muskogee, 194 Okla 513, 153 P2d 118.

In Missouri, however, a village, although authorized by a statute to purchase lands, such statute not specifying the purposes for which land can be bought, cannot purchase except for village purposes, and inasmuch as a park is not indispensable and since the statutes expressly authorize cities to purchase land for parks, it is held that a village has no authority to purchase land for a park. *Vaughn v. Greencastle*, 104 Mo App 206, 78 SW 50.

<sup>8</sup> *Georgia*. Quitman v. Jelks & McLeod, 139 Ga 238, 77 SE 76, citing McQuillin text.

See also §28.51.

<sup>9</sup> *North Carolina*. Dudley v. Charlotte, 223 NC 638, 27 SE2d 732.

See also ch 32.

<sup>10</sup> *California*. Law v. San Francisco, 144 Cal 384, 390, 77 P 1014.

*New York*. Connolly v. Jones (Misc), 72 NYS2d 472 (town beach).

<sup>11</sup> *Florida*. State v. Treasure Island (Fla), 48 So2d 749.

Statute authorizes city of Fort Lauderdale to acquire real estate and to construct recreational facilities thereon. *Zinnen v. Fort Lauderdale*, 159 Fla 498, 32 So2d 162.

Hockey rink was not public purpose for which municipality could acquire property. *Burns v. Essling*, 156 Minn 171, 194 NW 404, citing McQuillin text.

<sup>12</sup> *Florida*. West v. Lake Placid, 97 Fla 127, 120 So 361; Bolick v. State, 95 Fla 982, 117 So 387.

*Iowa*. Golf View Realty Co. v. Sioux City, 222 Iowa 433, 269 NW 451.

*Minnesota*. Booth v. Minneapolis, 163 Minn 223, 203 NW 625.

1 NE 291, 18 ALR 1242.  
Campbell v. Hamburg,  
22d 732 (deed of land  
construed).

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22d 732 (acquisition of  
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P2d 118.

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tle, 104 Mo App 206,

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7 SE 76, citing Mc-

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in text.

Lake Placid, 97  
lick v. State, 95

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NW 451.

. Minneapolis,  
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**Pennsylvania.** New Castle v. Law-  
rence County, 353 Pa 175, 44 A2d 589,  
591.

**South Dakota.** Vermillion v. Hugen-  
er, 75 SD 106, 59 NW2d 732 (statutory  
power to establish and maintain golf  
courses as part of park system).

<sup>13</sup> **Oregon.** Capen v. Portland, 112  
Ore 14, 128 P 105, 35 ALR 589.

<sup>14</sup> See §28.13.

<sup>15</sup> **Georgia.** Stubbs v. Macon, 78 Ga  
App 237, 50 SE2d 866.

**Ohio.** Turnbull v. Xenia, 80 Ohio App  
389, 69 NE2d 378; Hines v. Bellefontaine,  
74 Ohio App 393, 57 NE2d 164, 173  
(power is incidental to power to regulate  
traffic).

**Tennessee.** Porter v. Paris, 184 Tenn  
555, 201 SW2d 688 (rental-purchase con-  
tract payable out of revenues not against  
public policy).

<sup>16</sup> **California.** Larsen v. San Francis-  
co, 152 Cal App2d 355, 313 P2d 959.

**Colorado.** Brodhead v. Denver, 126  
Colo 119, 247 P2d 140 (land already in  
private use as off-street parking place  
could be acquired by home-rule city for  
public use); McNichols v. Denver, 123  
Colo 132, 230 P2d 591 (proper exercise of  
municipal police power).

**Florida.** Gate City Garage, Inc. v.  
Jacksonville (Fla), 66 So2d 653.

**Illinois.** Poole v. Kankakee, 406 Ill  
521, 94 NE2d 416 (statute constitution-  
al).

**Iowa.** Ermels v. Webster City, 246  
Iowa 1305, 71 NW2d 911 (statutory decla-  
ration of public purpose of off-street  
parking facilities was constitutional).

**Kentucky.** Miller v. Georgetown, 301  
Ky 241, 191 SW2d 403, 405.

**Maryland.** McRobie v. Mayor and  
Com'rs of Westernport, 260 Md 464, 272  
A2d 655.

**Michigan.** Parr v. Ladd, 323 Mich  
592, 36 NW2d 157 (village authorized to  
acquire parking facility).

**Missouri.** Liberty v. Jones (Mo), 296  
SW2d 117 (facilities were not grant of  
special privilege or immunity by munici-  
pality).

**New Jersey.** Lavin v. Camden, 39 NJ  
57, 186 A2d 693 (parking authority could  
sell facilities to city, under statute); Cam-  
den Plaza Parking, Inc. v. Camden, 16 NJ  
150, 107 A2d 1; Trenton v. Lenzner, 16  
NJ 465, 109 A2d 409.

**Ohio.** Bazell v. Cincinnati, 13 Ohio  
St2d 63, 233 NE2d 864 (in connection  
with operation of stadium).

**Pennsylvania.** McSorley v. Fitzger-  
ald, 359 Pa 264, 59 A2d 142.

<sup>17</sup> **California.** Wehrle v. Board of  
Water and Power Com'rs of Los Angeles,  
211 Cal 70, 293 P 67.

**Idaho.** Beus v. Soda Springs, 62 Idaho  
1, 107 P2d 151.

**Massachusetts.** Rockport v. Webster,  
174 Mass 385, 54 NE 852.

**Montana.** Carlson v. Helena, 39 Mont  
82, 102 P 39.

**New Jersey.** East Orange v. Board of  
Water Com'rs of East Orange, 73 NJ  
Super 440, 180 A2d 185.

**Utah.** Fisher v. Bountiful City, 21  
Utah 29, 59 P 520.

<sup>18</sup> **Minnesota.** Backus v. Virginia,  
123 Minn 48, 142 NW 1042 (purchase of  
water and light plant).

**New York.** Mill Neck v. Oyster Bay,  
140 Misc 164, 250 NYS 317.

**Wisconsin.** Eau Claire Dells Improve-  
ment Co. v. Eau Claire, 172 Wis 240, 179  
NW 2.

In Pennsylvania a borough, at any  
time after 20 years from introduction of  
water and gas, may become owner of  
such works, and the property of compa-  
ny, etc. It was held that word "works"  
included entire plant, embracing all  
buildings, machinery or other equip-  
ment. Tyrone Gas & Water Co. v. Tyrone,  
299 Pa 533, 149 A 713.

Municipal ownership of public utili-  
ties, see ch 35.

<sup>19</sup> **Illinois.** Cain v. Wyoming, 104 Ill  
App 538.

<sup>20</sup> **California.** Pipes v. Hilderbrand,  
110 Cal App2d 645, 243 P2d 123 (acquisi-  
tion, erection, maintenance of airports  
and facilities authorized by statute).

**Florida.** *Brooks v. Patterson*, 159 Fla 263, 31 So2d 472.

**North Carolina.** *Goswick v. Durham*, 211 NC 687, 191 SE 728 (city could purchase airport, without consent of voters).

**Pennsylvania.** *Wentz v. Philadelphia*, 301 Pa 261, 151 A 883, 886, 887.

Pursuant to power conferred by statute Dade County Port Authority has acquired title to and is operating Miami International Airport. *Miami Beach Airline Service v. Crandon*, 159 Fla 504, 32 So2d 153, 172 ALR 1425.

Park district was specifically and directly authorized: (1) to acquire, own and maintain a municipal airport and landing field, (2) to levy a special tax to acquire and operate the same. This power, having been directly delegated to it by the legislature, of course no question of implied power or powers germane to the power to operate parks was involved. Furthermore the statute was not unconstitutional because it authorized the airport to be located within or without the boundaries of the park district, and because both airports of the Decatur Park District, the one leased, and the one under construction, were located without the corporate limits of the district. *People v. Wabash R. Co.*, 391 Ill 200, 62 NE2d 819, 823.

<sup>21</sup> **New York.** *Knickerbocker Ice Co. v. Forty-Second St. & Grand St. Ferry R. Co.*, 39 Misc 27, 78 NYS 838, aff'd 85 App Div 530, 83 NYS 469, which was aff'd in 176 NY 408, 68 NE 864, reh den 177 NY 528, 69 NE 1125.

**Washington.** *Hutchinson v. Port of Benton*, 62 Wash2d 451, 383 P2d 500 (comprehensive plan of harbor improvements sufficient to satisfy statutory requirements for acquisition of tract).

<sup>22</sup> **Louisiana.** *State v. Housing Authority of New Orleans*, 190 La 710, 182 So 725.

**Montana.** *State v. City Council of City of Helena*, 108 Mont 347, 90 P2d 514.

**New York.** *In re Harlem Slum Clearance Project*, New York (Misc), 114 NYS2d 787.

**North Carolina.** *Wells v. Housing Authority of City of Wilmington*, 213 NC 744, 197 SE 693.

**West Virginia.** *Chapman v. Huntington, W. Va., Housing Authority*, 121 W Va 319, 3 SE2d 502.

Municipal condemnation for slum clearance and housing, see ch 32.

<sup>23</sup> **United States.** *Kerr v. Enoch Pratt Free Library of Baltimore City*, 54 F Supp 514, 519 (gift by private citizen of free circulating library).

**Florida.** *Tampa v. Prince*, 62 Fla 387, 58 So 542.

<sup>24</sup> See §28.14.

<sup>25</sup> **California.** *Southwestern Inv. Corp. v. Los Angeles*, 72 Cal App2d 689, 165 P2d 497 (which was action to establish a trust for dumping rights on portion of certain real estate acquired by city under quitclaim deeds executed and delivered to the city).

**Connecticut.** *Wood v. Town of Wilton*, 156 Conn 304, 240 A2d 904.

**North Carolina.** *Waldrop v. Town of Brevard*, 233 NC 26, 62 SE2d 512.

**Rhode Island.** *Collier v. Cuculo*, 98 RI 68, 199 A2d 725 (under charter provisions relating to preservation of public health).

Town could acquire land containing gravel bed for use as public dump, and sell gravel to private enterprise. *Sengelaub v. Town of Smithtown*, 29 Misc2d 655, 214 NYS2d 573.

Acquisition of land outside city limits for dumping, sewage outlets, etc., see §28.05.

<sup>26</sup> **Illinois.** *Consumers' Co. v. Chicago*, 313 Ill 408, 145 NE 114.

Construction of a covered dump on certain land held by city to be used by street department could not be enjoined as it was within the purposes for which the land was designated to be used and the structure was not a nuisance per se or likely to become such. *Riverdale Realty Co. v. New York*, 168 App Div 103, 153 NYS 742.

<sup>27</sup> **Connecticut.** *Derby v. Alling*, 40 Conn 410.

<sup>28</sup> **Minnesota.** *Kuschke v. St. Paul*, 45 Minn 225, 47 NW 786.

<sup>29</sup> **Iowa.** *Duntz v. Ames Cemetery Ass'n*, 192 Iowa 1341, 186 NW 443 (power usually conferred by statute).

**New York.** *Witt v. New York*, 28 NY Super 441.

**Wisconsin.** *State v. Madison*, 7 Wis 688.

<sup>30</sup> **California.** *Pratt v. Security Trust & Savings Bank*, 15 Cal App2d 630, 59 P2d 862.

**New York.** *In re Hemstreet's Will*, 101 Misc 340, 167 NYS 1016.

<sup>31</sup> **Arizona.** *McClintock v. Phoenix*, 24 Ariz 155, 207 P 611.

<sup>32</sup> See §28.11.

<sup>33</sup> **Ohio.** *Markley v. Mineral City*, 58 Ohio St 430, 51 NE 28.

For validity of municipal revenue bonds in aid of private industry, see ch 43.

<sup>34</sup> **Maine.** *Opinion of Judges*, 58 Me 590.

<sup>35</sup> See ch 36.

<sup>36</sup> **Massachusetts.** *Opinion of Justices*, 155 Mass 598, 30 NE 1142.

<sup>37</sup> **Georgia.** *Augusta v. Thomas*, 159 Ga 435, 126 SE 144, 39 ALR 1317.

<sup>38</sup> See ch 35.

<sup>39</sup> *Eufaula v. McNab*, 67 Ala 588, 42 Am Rep 118.

<sup>40</sup> **Rhode Island.** *Place v. Providence*, 12 RI 1, 5.

<sup>41</sup> Purchase of gravel pit was within general corporate powers of city. *Stockwell v. Sioux Falls*, 68 SD 157, 299 NW 453.

<sup>42</sup> See §28.04.

<sup>43</sup> **Illinois.** *Livingston County Sup'rs v. Weider*, 64 Ill 427.

In Illinois it has been held that donations of municipal corporations, to secure the location and erection of a university, was authorized under the constitution of 1848, as such was a "corporate purpose" within the meaning of that constitution. *Hensley Tp. v. People*, 84 Ill 544.

<sup>44</sup> **Arkansas.** *Williams v. Harris*, 215 Ark 928, 224 SW2d 9.

Charter authority to purchase grounds, erect buildings, borrow money to establish a school of high grade and levy taxes for the erection and support of the same, does not authorize the conveyance or leasing of the buildings when completed without pay or rent, to an individual, or private corporation, for the purpose of having a school taught therein for pay. *Sherlock v. Winnetka*, 59 Ill 389, 68 Ill 530, citing *Milhan v. Sharp*, 15 Barb (NY) 193, and *Davis v. Mayor*, 1 Duer (NY) 453.

### § 28.13. Power to acquire, erect or repair buildings.

A municipal corporation has the power to acquire,<sup>1</sup> erect and keep in good condition buildings for municipal purposes.<sup>2</sup> It need not have express power to erect a fire-engine house,<sup>3</sup> or a jail,<sup>4</sup> or any necessary municipal building.<sup>5</sup> So, unless prohibited by its charter, a municipal corporation may erect a schoolhouse, this being within the scope of its general powers as a municipal corporation.<sup>6</sup> In Massachusetts it has been held that a city may erect a memorial hall to be used as a memorial to the soldiers and sailors of the Civil War.<sup>7</sup> "The right to fit up a building for city or public purposes, and provide suitable accommodations for the transaction of the business of the city, is a necessity, incident to the administration of every municipal government, without which it would be impossible to carry out the objects and purposes of the incorporation."<sup>8</sup>