



# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ENGINEERING DEPARTMENT  
(203) 797-4641  
FAX (203) 796-1586

WILLIAM J. BUCKLEY, JR., P.E.  
DIRECTOR OF PUBLIC WORKS / CITY ENGINEER

May 10, 2004

Honorable Mark D. Boughton, Mayor  
Common Council  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810

Dear Mayor Boughton and Common Council Members:

Claremont Terrace  
Request for Condemnation

At the May 4, 2004 Common Council meeting, the request submitted by Attorney Elie S. Coury that Claremont Terrace be condemned and accepted as a City street was forwarded to our office for a report within thirty day (reference is made to item 22 of the meeting minutes).

At the July 2, 2002 Common Council meeting, the request by the representative of 8 Claremont Terrace for permission to extend the sanitary sewer to serve 8 Claremont Terrace was approved by the council "subject to the normal eight steps". A copy of the "normal eight steps" is enclosed for your reference. "Step" number 6 requires that the petitioner convey ownership of any easements needed for future maintenance of the sanitary sewer extension to the City.

The sanitary sewer main was installed by the petitioner. Our department oversaw the installation which is acceptable. We have also received an acceptable easement map.

It is our understanding that the petitioner has been unable to obtain rights to the easement and subsequently transfer the required easement to the City.

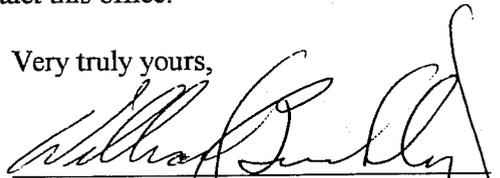
In his letter, Attorney Coury asks that the "Common Council authorize a condemnation of Claremont Terrace and accept Claremont Terrace as a city street including the utilities presently existing there." Attorney Coury's request basically has two parts:

1. That the City condemn Claremont Terrace and accept it as a City street: Our department recommends that this request be denied. There is no reason to condemn the road itself for acceptance by the City in order for the sanitary sewer to be transferred to the City. We have seen no petition from property owners along the street requesting that the road be accepted. The Public Works Department has done no inspection of the road to determine if it is in a condition suitable for acceptance by the City.

2. That the City condemn the easement over Claremont Terrace for the sanitary sewer extension installed by the petitioner. In the past, this office has supported condemnation of sanitary sewer and/or water line easements over private roads when title searches have been unable to determine the current ownership of the road. We are not sure that this particular situation is similar. According to our records, as recently as 2001, the Engineering Department has been contacted by a person claiming to be one of the owners of the road (Colleen Stanley). Has Attorney Coury done a title search as to the ownership of the road? If yes, copies should be provided to our office and to the Corporation Counsel's office. If no, it is our opinion that a title search is warranted. If it is found that the road is presently owned by people who can still be located, I would suggest that you request that the Corporation Counsel's office issue an opinion as to whether the requested condemnation of a sanitary sewer easement is proper and should proceed.

If you have any questions, please feel free to contact this office.

Very truly yours,



William J. Buckley, Jr., P.E.  
Director of Public Works/City Engineer

Encl.

C: Eric L. Gottschalk, Esq.  
Dennis Elpern

APPENDIX A

CONDITIONS AND RESTRICTIONS  
TYPICAL SANITARY SEWER AND WATER EXTENSIONS  
COMMON COUNCIL  
CITY OF DANBURY

1. The petitioner shall bear all costs relative to the installation of said sanitary sewer/water extension.
2. The petitioner shall submit as-built drawings of this extension prepared by a licensed Connecticut Land Surveyor for approval by the City Engineer.
3. Detailed engineering plans and specifications are to be approved by the City Engineer and the Superintendent of Public Utilities prior to the start of construction.
4. If required, a warranty deed in a form satisfactory to the Corporation Counsel shall be executed by the petitioner conveying to the City all right, title, interest and privileges required hereunder and said deed shall be held in escrow for recording upon completion of installation.
5. That upon completion of installation, title to said sewer/water line within City streets and any necessary documents be granted to the City in a form which is acceptable to the City Engineer and Corporation Counsel.
6. The petitioner shall convey ownership of any easements to all or such portions of the sanitary sewer/water lines as the City Engineer's Office determines are of potential benefit to other landowners in the City.
7. No Certificate of Occupancy shall be issued until the above requested forms, documents, plans, etc. are received and the City owns the extended sanitary sewer/water lines.
8. This approval shall expire eighteen (18) months following the date of the Common Council action.



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

PLANNING COMMISSION  
(203) 797-4525  
(203) 797-4586 (FAX)

June 10, 2004

To: Mayor Mark Boughton  
Members of Common Council

From: Planning Commission

Re: 8-24 Referral/May CC Agenda Item #22 – Claremont Terrace.

The Planning Commission has received a request from the Common Council for a report pursuant to CT General Statutes/Sec 8-24, regarding the above referenced item.

At the May 19, 2004 meeting, the Planning Commission made a motion to give a negative recommendation based on the Planning Director's report.

Joseph Justino  
Chairman

JJ/jr

Attachment

c: Engineering Dept.  
Corporation Counsel



# CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810  
OFFICE OF THE CORPORATION COUNSEL

(203) 797-4518  
(203) 796-8043 FAX

May 26, 2004

PLEASE REPLY TO:  
DANBURY, CT 06810

Honorable Mayor Mark D. Boughton  
Honorable Common Council Members  
City Hall  
155 Deer Hill Avenue  
Danbury, Connecticut 06810

Re: Claremont Utility Easements  
May Agenda Item number 22

Dear Mayor and Council Members:

Please accept this letter in response to your request for a report in connection with the above. This matter comes before the council by letter from attorney Eli S. Coury dated April 7, 2004. In that letter attorney Coury requests that the council condemn a sanitary sewer easement in Claremont Road. In addition to this office this matter was referred to and reported on by the Director of Public Works and the City Engineer.

It is my understanding that the current owner of the road is unwilling to grant an appropriate easement covering the sanitary sewer that has already been installed by Mr. Coury's clients. While this situation is certainly different than the ones dealt with recently by the council (Duck and Victor Streets come to mind), the Council does have authority to condemn easements for public purposes, including the extension of utilities.

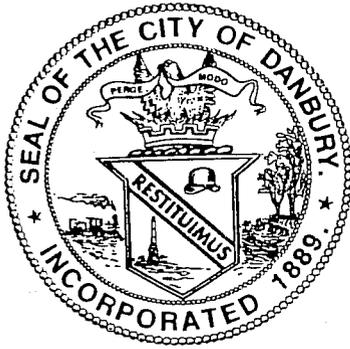
If you are willing to authorize this office to acquire the necessary easement you may do so by adopting the resolution attached hereto. Bear in mind that in the past the council has only done so with the understanding that the petitioner agrees to bear the cost associated with the condemnation. In prior cases we have requested a deposit of four thousand dollars from the applicant.

If you have any questions, please feel free to contact me.

Sincerely,

Eric L. Gottschalk  
Deputy Corporation Counsel

cc: Corporation Counsel Robert J. Yamin  
William J. Buckley, Jr., Director of Public Works



# RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

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RESOLVED by the Common Council of the City of Danbury:

**WHEREAS**, as part of a private development project utility lines have been extended across a certain private road known as Claremont Terrace; and

**WHEREAS**, it is the intention of the private developer to offer and of the City of Danbury to accept said lines as part of the public utility system; and

**WHEREAS**, the owner of Claremont Terrace is unwilling to grant utility easements within said road and eminent domain proceedings will therefore be necessary to acquire the interests to be taken in and to the easements within said road.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Corporation Counsel of the City of Danbury is hereby authorized to acquire utility easements within Claremont Terrace, on or before December 1, 2004, either by eminent domain through the institution of suit against the property owners, their heirs, executors, successors and assigns and their respective mortgage holders and encumbrances, if any.