



CITY OF
PORTLAND
OFFICE OF
TRANSPORTATION

EXHIBIT E



Sam
Adams
Commissioner

SUMMARY OF OBJECTIONS AND FINDINGS TO COUNCIL

April 24, 2008

Susan D.
Keil
Director

Assess benefited properties for street and stormwater improvements in the SW Texas Green Street Local Improvement District (Hearing; Ordinance; C-10014)

Don
Gardner
Engineering &
Development

I. SUMMARY

Lavinia
Gordon
System
Management

Two written objections representing two of the owners of the 61 properties proposed for final assessment in the SW Texas Green Street Local Improvement District was received by the filing deadline.

Suzanne
Kahn &
Eric
Peterson
Maintenance

An untimely objection representing one of the owners of the 61 properties proposed for final assessment in the SW Texas Green Street Local Improvement District was received after the filing deadline.

John
Rist
Business
Services

Paul
Smith
Planning

An Equal
Opportunity
Employer

II. SPECIFIC RESPONSES TO THE OBJECTION FILED BY PROPERTY OWNER JANE CLAUS

An objection was submitted by Jane Claus, owner of the property at 2722 SW Texas Street; State ID #1S1E20AA 5600; Tax Account #R008600880; legal description ALBERTA; E 1/2 OF LOT 27-30 BLOCK 3; pending lien record #137414 (see Attachment 1).

ISSUES RAISED BY THE OBJECTION

Issue No. 1: I did not want or ask for these street improvements. I objected strongly to these improvements during all stages of the local improvement district process.

Findings:

- a. Although not required by City Code, Ms. Claus and all property owners were provided notice of the SW Texas Green Street local improvement district Resolution of Intent Hearing on March 2, 2005, Ms. Claus did not provide oral or written testimony; see record of Resolution No. 36296.
- b. As required by City Code, Ms. Claus and all property owners were provided notice of the SW Texas Green Street Local Improvement District Formation Hearing on March 30, 2005. Ms. Claus submitted a remonstrance against local improvement district formation by the filing deadline (see Exhibit F of Ordinance No. 179164). Ms. Claus was not present in the Council Chamber at the close of testimony by other property owners at the local improvement district formation hearing. However, City Council delayed its vote in order to provide Ms. Claus an opportunity to provide final property owner oral testimony. Her previous timely written remonstrance against local improvement district formation was subsequently overruled by City Council (see record of Ordinance No. 179164).
- c. An objection to final assessment was received by the filing deadline; see Attachment 1.

Issue No. 2: My property has not benefited from these improvements in that my back yard still has standing water in it after it rains. Because of this ongoing problem with standing water my yard remains muddy most of the year and grass will not grow.

Findings:

- a. The project now provides for proper management of stormwater runoff from SW Texas Street. Previously this stormwater adversely impacting Ms. Claus' front yard, including a driveway which slopes down towards Ms. Claus' garage. Similarly, stormwater runoff from SW 28th Avenue, which is just 50 feet west of (and uphill from) the west line of Ms. Claus' property is now also properly managed. There was no management of stormwater runoff from either street prior to formation of this local improvement district.

- b. As a courtesy to Ms. Claus, a nonpermitted French drain was connected to the newly-constructed public stormwater management system at no expense to Ms. Claus. The cost of installing an inlet and 20 feet of piping was \$1,911.08 and was not charged to the local improvement district and/or to Ms. Claus.
- c. This project was not designed to eliminate any and all drainage problems on private property, including backyards. Standing water can result from reasons including, but not limited to, the topography of private property, sloping and grading of private property, soil on private property, and placement of impervious improvements on private property. Local improvement district funds can only be used for public improvements.

Issue No. 3: The project was passed by a narrow majority of only 51% of the residents in this area and was passed at the insistence of a small number of property owners in the area without the rest. I put up with street and utility construction on my street for over two years without compensation for my inconvenience.

Findings:

- a. The SW Texas Green Street Local Improvement District was initiated by City Council on the basis of 52.2% petition support, and 13.2% waiver of remonstrance support for total support of 65.4%. Ms. Claus' property was not counted in favor of the project. A late petition was received, which if timely would have resulted in 55.1% petition support and 13.2% waiver of remonstrance support for total support of 68.3%; see record of Resolution No. 36296.
- b. Local improvement district assessments cannot be apportioned on the basis of inconvenience during construction, which affects all property owners in the local improvement district.

Issue No. 4: The cost of this assessment is not reasonable. The proposed amount should be reduced.

Findings:

- a. The proposed assessment of \$13,117.00 to Ms. Claus' property is based on special benefit to property and is below the estimate of \$13,219.94 at local improvement district formation.
- b. Ms. Claus' assessment without non-LID funding would have been \$40,400.
- c. Ms. Claus or a successive owner of her property no longer has a future requirement to construct street, curb, sidewalk and drainage improvements on the abutting portion of SW Texas Street, most of the cost of which has been borne by other property owners and by the City of Portland. Given fixed costs including but not limited to acquisition of the wetland property, future frontage improvements to Ms. Claus' property alone would not have been cost-effective even if technically feasible.

II. SPECIFIC RESPONSES TO THE OBJECTION FILED BY PROPERTY OWNER LUCAS KLESCH

An objection was submitted by Lucas Klesch, owner of the property at 7112 SW 28th Avenue; State ID #1S1E20AA 5900; Tax Account #R008600810; legal description ALBERTA; LOT 21&22 BLOCK 3; pending lien record #137410 (see Attachment 2).

ISSUES RAISED BY THE OBJECTION

Issue No. 1: As the most recent owner of this property, neither the city nor the previous owner has supplied me with all of the project documentation despite repeated verbal and written requests. As a property owner and taxpayer of last record, I am the one left holding the bag for a project I had no buy in on.

Findings:

- a. A pending lien record was created by the City Auditor subsequent to local improvement district formation on April 6, 2005. This electronic record was available for Mr. Klesch or any other prospective purchaser of this property to view and to take into account in terms of making a decision whether to purchase this property. Ownership of the property transferred to Mr. Klesch subsequent to local improvement district formation on December 12, 2006 according to Multnomah County Assessment & Taxation records.
- b. No requests for information have been submitted Andrew Aebi, project manager for the SW Texas Green Street Local Improvement District. The City of Portland cannot be responsible for communication between Mr. Klesch and Aaron De Clute, the previous owner of this property at local improvement district formation.
- c. Mr. Klesch was sent all project-related correspondence to his legal mailing address of record since the change in property ownership was reflected on Multnomah County Assessment & Taxation records.

Issue No. 2: The project is labeled as "Green" but with any third party label and verification like LEED, there is no real market value to a "Green" label.

Finding:

- a. Special benefit to this property results from street, sidewalk and stormwater improvements, not from the inclusion of the word "green" in the name of the local improvement district.

Issue No. 3: Assessment is two times what was reported in January, despite claims of being a savings below estimate at local improvement district formation.

Findings:

- a. The estimate associated with this pending lien record was \$13,188.21. The proposed final assessment is \$13,114.38, not \$26,376.42.
- b. Similarly, City Council made no changes to the estimated assessments since local improvement district formation; e.g., it did not reduce the estimated assessment for this property now in ownership by Mr. Klesch from \$13,188.21 to \$6,594.10.

Issue No. 4: Assessment includes fixes to other property owners' parcels which I should not be burdened to cover, but did not include any fixes to the damages done to my property.

Findings:

- a. Local improvement district assessments are based on special benefit to each property, not the cost to construct improvements abutting each property.
- b. Impacts to Mr. Klesch's property were significantly minimized and avoided. There is a 13-foot unused setback area from the east edge of the newly-constructed sidewalk to Mr. Klesch's west property line abutting the public right-of-way of SW 28th Avenue. Further, the vertical catch point of the improvements is 8 feet from Mr. Klesch's west property line with no grade changes to westernmost 5 feet of Mr. Klesch's property.

Issue No. 5: A retaining wall was destroyed.

Findings:

- a. This retaining wall encroached upon the public right-of-way. No compensation is provided for removal of obstructions within the public right-of-way, which would be borne by all property owners in the local improvement district. Mr. Klesch had the opportunity to relocate the retaining wall onto his private property prior to the start of construction, but did not do so, so the material was hauled off by the contractor at no expense to him.
- b. Removal of this and other nonpermitted encroachments in the public right-of-way were minimal, especially given the topographical conditions that existed prior to construction.

- c. Mr. Klesch did not contact Andrew Aebi, project manager for the SW Texas Green Street Local Improvement District to request that the retaining wall be salvaged. The City is not responsible for any request that may have been made to personnel in the field. Correspondence during both design and construction phases of the project clearly referenced the project manager as the point of contact for concerns about the project design.

Issue No. 6: A Japanese maple was destroyed.

Findings:

- a. See Findings "a" and "b" to Issue No 5.
- b. Extra time was provided to Mr. Klesch to move the tree because this tree was among the last to be removed in the project, which Mr. Klesch did not do. Other property owners with special requests regarding trees and other items were coordinated with the project manager prior to construction.

Issue No. 7: An integrated set of stairs were destroyed.

Findings:

- a. See Findings "a" and "b" to Issue No 5.
- b. The existing walking path was connected directly to the newly-constructed sidewalk to avoid what otherwise would have been a 3 feet gap. The newly-constructed sidewalk and walking path connection improve the pedestrian access to this property.

Issue No. 8: The timing (economic downturn/housing recession) and short duration (less than 30 days) of payment for the assessment create a disproportionate burden to homeowners.

Findings:

- a. See Findings "a" and "b" to Issue No 1. Mr. Klesch has had over a year to financially plan for the impending local improvement district assessment. Financing is offered to Mr. Klesch and all property owners for 5, 10 and 20 years in lieu of requiring payment in full within 30 days.

Issue No. 9: We have been disproportionately burdened with project costs.

Findings:

- a. Mr. Klesch's proposed assessment of \$13,114.38 is below the average assessment of \$15.053.
- b. See finding "a" to Issue No. 3.

Issue No. 10: The only conclusion I can make is that I have lost value to my home because of the City's choices.

Finding:

- a. Project management and the preparation of the project plans are simply means to the end of constructing the street, stormwater and sidewalk improvements that now provide special benefit to Mr. Klesch's property.
- b. The SW Texas Green Street Local Improvement District was initiated by City Council on the basis of 52.2% petition support, which reflects the judgment of other property owners in the local improvement district that the project affords special benefit.

III. SPECIFIC RESPONSES TO THE UNTIMELY OBJECTION FILED BY PROPERTY OWNER RALPH BECKER

An untimely objection was submitted by Ralph Becker, representative of the property at 7110 SW Capitol Highway (formerly addressed as 7111 SW 29th Avenue); State ID #1S1E20AA 4003; Tax Account # R838000150; legal description TOP OF MULTNOMAH HILL; LOT 3; pending lien record # 137428 (see Attachment 3). The objection was received the day after the filing deadline and therefore shall be disregarded by the City Council; see Section 9-403 of the City Charter. The objection was mailed to an incorrect address, which appeared to account for the mail delivery delay for which the City Auditor is not responsible.

A previous owner of this property has waived the right to remonstrate against formation of a local improvement district or to object to final assessment of the local improvement district; this waiver of remonstrance was in effect at the time that B&H Associates purchased the property.

ISSUES RAISED BY THE OBJECTION

Issue No. 1: Access to the property is currently from SW Capitol Highway, not SW 29th Avenue.

Findings:

- a. Local improvement district assessments are based on potential benefit, not necessarily current benefit. This property has potential access to SW 29th Avenue and in fact was previously addressed as 7111 SW 29th Avenue. SW 29th Avenue is a local street while SW Capitol Highway is an arterial; potential access to SW 29th Avenue is therefore superior to current or potential access to SW Capitol Highway, even if this property were to have two means of access.
- b. The address change was made subsequent to local improvement district formation, but no change to the parcel itself was made.
- c. The prior owner of this property did not file an objection to local improvement district formation see record of Ordinance No. 179164.

Issue No. 2: Former access to the property from SW 29th Avenue has been eliminated and a fence built across the former easement access.

Findings:

- a. The existing fence could easily be removed by this or a future property owner to restore physical access.

- b. Similarly, even if the former easement access has been eliminated (which has not been established), a new easement to restore access to SW 29th Avenue could be negotiated. See finding "a" to Issue No. 1.

Issue No. 3: The current address for the property is 7110 SW Capitol Highway.

Issue No. 4: The official address of the property was changed from 7111 SW 29th Avenue to 7110 SW Capitol Highway in 2007.

Findings:

- a. The address change from 7111 SW 29th Avenue to 7110 SW Capitol Highway was made on March 12, 2007 subsequent to local improvement district formation on April 6, 2005.
- b. Apportionment of local improvement district assessments is based on special benefit to property, not the address assigned to a particular property. The size of the parcel has not changed, and the property continues to have potential access to SW 29th Avenue via 7107 SW 29th Avenue and/or 7117 SW 29th Avenue.

Issue No. 5: At the time of purchase of the property, November 20, 2002, it was clearly stated that access to the property via SW 29th Avenue would expire after 12 months from that point in time would be from SW Capitol Highway.

Findings:

- a. See finding "a" to Issue No. 1.
- b. The SW Texas Green Street Local Improvement District was formed on April 6, 2005. The prior owners of this property, Herman and Winnifred Becker, did not file an objection to local improvement district formation.
- c. A permit to construct a driveway to access SW Capitol Highway was issued on January 25, 2000 per permit number 2000-126213-000-00-ZP, but the permit did not preclude primary or secondary access to SW 29th Avenue.
- d. The Local Improvement District Administrator reasonably relied upon the lack of an objection as well as the then current address of 7111 SW 29th Avenue, to establish that the current access to the property would be via SW 29th Avenue.
- e. The sales agreement does not provide proof that the previously-existing easement of July 23, 1993 across 7107 SW 29th Avenue has been revoked (see Attachment 4).
- f. The stormwater drainage catchment area of this project includes this property at 656 feet of elevation as well as the new wetland facility at 492 feet of elevation. Portions of this property continue to drain into the project area, which is now managed by the project

improvements, regardless of whether there is vehicular access from this property to SW 29th Avenue. Local improvement district assessments may be imposed not only on the basis of direct benefit, but also on the basis of obligation to others. A benefit exists in that this uphill land may be developed without causing damage to downhill land (see Attachment 5).

- g. The right to remonstrate against formation of a local improvement district or to object to final assessment of a local formation district was previously waived in conjunction with land use case number 93-301 MP (see Attachment 6).
- h. An adjacent property at 7117 SW 29th Avenue also abuts SW Capitol Highway and is also being assessed. The proposed assessment for Mr. Becker's property is \$10,679.88 or 41% less than the assessment proposed for this adjacent property, which is also within the stormwater drainage catchment area of this project.

RECOMMENDATION

This local improvement district has provided street and stormwater improvements for the benefit of the properties within the local improvement district and specifically to properties owned by Ms. Claus, Mr. Klesch and Mr. Becker. It is the recommendation of the Local Improvement District Administrator that the Final Assessment Ordinance be passed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Andrew H. Aebi".

Andrew H. Aebi

Jane Marie Claus

Attorney at Law
www.clauslaw.com



The Cascade Building
520 SW Sixth Avenue – Suite 600
Portland, Oregon 97204

Oregon, Illinois & US District Court Bar Member

RECEIVED
APR 21 2008

OFFICE OF THE
CITY AUDITOR

Phone: (503) 228-7154
Fax: (503) 228-7815
EM: clauslaw@comcast.net

April 17, 2008

City Auditor
Assessments, Finance and Foreclosures Division
1221 SW 4th Ave. Room #130
Portland, Oregon 97204

**Re: OBJECTION TO PROPOSED ASSESSMENT FOR PROJECT;
SW Texas Green street Local Improvement District – Construct Street & Stormwater
Improvements on SW Texas Street from 26th Ave. to 29th Ave, and portions of SW 26th, 28th &
29th**

**Re: NOTICE OF PROPOSED ASSESSMENT – AMOUNT \$13,117.00
PROPERTY ADDRESS – 2722 SW TEXAS STREET; PORTLAND, OR 97219
LEGAL DESCRIPTION – E ½ OF LOTS 27-30 – BLOCK 3**

Greetings,

My name is Jane Marie Claus. I am a local attorney, a Portland small business owner and a resident of 2722 SW Texas Street in Portland, Oregon. I am writing to you in response to the notice that was sent from your office to my home address regarding the above-reference proposed assessment for my home located at 2722 SW Texas Street.

1. **This letter will serve as formal notice of my written objection to the proposed assessment for the above-reference project.**
 - a. I did not want or ask for these street improvements. I objected strongly to these improvements during all stages of the LID process
 - b. My property has not benefited from these improvements in that my back yard still has standing water in it after it rains. Because of this ongoing problem with standing water my yard remains muddy most of the year and grass will not grow.
 - c. The project was passed by a narrow majority of only 51% of the residents in this area and was passed at the insistence of a small number of property owners in the area without regard to the rest. I put up with street and utility construction on my street for over two years without compensation for my inconvenience.
 - d. The cost of this assessment is not reasonable. The proposed amount should be reduced.

Sincerely,


Jane M. Claus

Attorney at Law and property owner
2722 SW Texas Street

JMC:ltr

Cc: Mayor Tom Potter

C:Claus/House/Object2Assess.04172008



CITY OF
PORTLAND, OREGON
OFFICE OF CITY AUDITOR

Assessments/Finance/ForeclosuresDivision
1221 S.W. 4th, Rm. 130
Portland, Oregon 97204

TO: CLAUS, JANE
2722 SW TEXAS ST
PORTLAND, OR 97219-1923

DATE: 04/09/2008
ACCOUNT NO. 00137414
PROJECT NO. C10014
TAX ACCT. NO. R008600880

NOTICE OF PROPOSED ASSESSMENT

PROJECT: SW TEXAS GREEN STREET LOCAL IMPROVEMENT DISTRICT
CONSTRUCT STREET & STORMWATER IMPROVEMENTS ON SW TEXAS ST FROM
26TH AVE TO 29TH AVE, AND ON PORTIONS OF SW 26TH, 28TH & 29TH AVENUES
The work on this improvement is now complete and the true costs are
known. The City Council proposes to assess the benefiting property in
the amount shown below. This amount could be modified as a result of
objections filed by other property owners in the district, unless the
cost to property owners is fixed.

PROPERTY ADDRESS: 2722 SW TEXAS ST

LEGAL DESCRIPTION:
ALBERTA; E 1/2 OF LOT 27-30 BLOCK 3

received
4/10/08

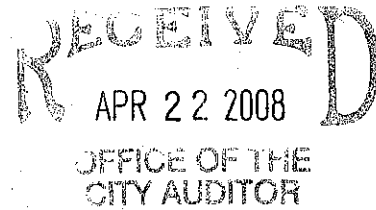
PROPOSED ASSESSMENT: \$ 13,117.00

A public hearing will be held on the proposed assessment at the
regular meeting of the City Council to be held in the Council Chambers
of City Hall, 1221 SW 4th Avenue, Portland, Oregon, beginning at
09:30 AM on April 30, 2008.

At this hearing, City Council will consider any objections to the
apportionment of the cost or the character of the work. No action is
required at this time unless you wish to object. If you do wish to
object, send your written objection to the address noted above.
Written objections must be received at the City Auditor's Office by
05:00 PM on April 23, 2008. If you have questions, please call
(503) 823-5648.

DO NOT PAY at this time. An assessment notice will be mailed to you
approximately ten days after the hearing. You can decide on your
payment method at that time.

Lucas Klesch
 7112 SW 28th Ave.
 Portland, OR 97219
 Acct. # 00137410
 Project # C10014
 Tax Acct. # R008600810



Re: SW Texas Green Street Local Improvement District (LID)

Dear City Council,

I am writing in response to the above proposed assessment related to Texas LID project. I am the owner of record at the end of the project, but not at its inception and am dismayed at the staggering cost for a project that has provided me very little real value and in several cases has decreased the value of my home. I am going to outline a list of objections to paying the assessment in full as it stands. I have been a long time supporter of this city in both my day job, as an entrepreneur and as a tax paying citizen. I feel very strongly that this process and assessment is quite burdensome, especially considering the current economic times and feel the city should kick in more funds for this project.

- As the most recent owner of this property, neither the city nor the previous owner has supplied me with all of the projects documentation despite repeated verbal and written requests. As a property owner and tax payer of last record, I am the one left holding the bag for a project I had no buy in on.
- The project is labeled as "Green" but without any third party label & verification like LEED, there is no real market value to a "Green" label.
- Assessment is 2x what was reported in January, despite claims of being a savings below estimate at LID formation.
- Assessment include fixes to other property owners parcels which I should not be burdened to cover cost, but did not include any fixes to the damages done to my property.
 - Damages or home value reduction choices done to my property include:
 - Destruction of a rustic retaining wall that had been in place since the home was built, without any regard to aesthetics or replacement. Ironically this decision now allows more debris runoff from my home to enter the watershed, contrary to the green design. This wall was one of the major reasons I purchased this home.
 - Destruction of a rare Japanese maple worth several thousand dollars.
 - We were given a couple of days notice prior to destruction of the maple to allow us to save, the problem was that this was done in winter when little chance for the tree to survive a transplant.

- We were also misled by project staff that the tree would not have to be removed only to have it destroyed while no one was home. This was extremely devastating to me and my daughter, as this tree was a major reason we purchased the home.
- Destruction of an integrated set of stairs (replaced with out of place concrete stairs that do not even match the walking path) and destruction of a stone waling path that connected the sidewalk with the driveway (replaced with dirt and rubble from stone retainer wall).
- The timing (Economic downturn/housing recession) and short duration (<30 days) of payment for the assessment create a disproportionate burden to homeowners.

Given the above objections, I request that the city council take actions to reduce the cost burden to myself and other homeowners in this project. We have been disproportionately burdened with project costs that are supposed to have benefits for all parties involved. From the list above, the only conclusion I can make is that I have lost value to my home because of the city's choices. I do not believe it is fair or just to assessment me the full amount outlined in the letter dated 4/9/08. Furthermore, given how this project has been managed and the lack of supporting documents that have still to this date never been supplied to me as my legal right, I am considering legal options in regards to the city and previous homeowners of record. I love the city of Portland, and support much of the ideal here, but in the future may consider other cities as viable options for living if this type of disproportionate view continues.

Best Regards,



Lucas Klesch

4/21/08

B & H Associates LLCPO Box 25825
Portland, OR 97298

RECEIVED

2008 APR 24 A 10:11

GARY BLACKMER, AUDITOR
CITY OF PORTLAND, OR

BY _____

April 17, 2008

Office of City Auditor
81221 S.W. 4TH Ave. Room 130
Portland, Oregon 97204

Dear Sir or Madam

We received the enclosed notice on April 10th, 2008 of Notice of Proposed Assessment for the amount of \$15556.76 for a property that we own listed as 7111 S.W. 29TH Ave, TOP OF MULTNOMAH HILL, LOT 3. This assessment is based on improvements done by the City of Portland to S.W. 29th Ave. Unfortunately these improvements are of no direct or indirect benefit to the above property for the following reasons.

1. Access to the property is currently from Capitol Hwy not 29th Ave.
2. Former access to the property from 29th Ave. has been eliminated and a fence built across the former easement access. See attached photograph.
3. The current address for the above property is 7110 S.W. Capitol Hwy.
4. The official address of the property was changed from 7111 S.W. 29TH Ave. to 7110 S.W. Capitol Hwy. in 2007.
5. At the time of purchase of the property, November 20, 2002, it was clearly stated that access to the property via 29th Ave would expire after 12 months and access from that point in time would be from Capitol Hwy. See attached ADDENDUM TO REAL ESTATE SALE AGREEMENT.

For these reasons we request that the proposed assessment of \$15556.76 for the property listed as 7111 S.W. 29TH Ave. be **dropped** and **no longer be considered for fees or assessments** associated with the TEXAS ST, 26TH, 28TH, and 29th Ave. street and storm water improvements. Thank you.

Sincerely,

Ralph P Becker
B&H Associates



CITY OF
PORTLAND, OREGON

OFFICE OF CITY AUDITOR

Assessments/Finance/Foreclosures Division
RECEIVED 1221 S.W. 4th, Rm. 130
Portland, Oregon 97204

2008 APR 24 A 10:11

GARY BLACKMER, AUDITOR
CITY OF PORTLAND, OR

BY _____

TO: B & H ASSOCIATES LLC
P O BOX 25825
PORTLAND, OR 97298

DATE: 04/09/2008
ACCOUNT NO. 00137428
PROJECT NO. C10014
TAX ACCT. NO. R838000150

NOTICE OF PROPOSED ASSESSMENT

PROJECT: SW TEXAS GREEN STREET LOCAL IMPROVEMENT DISTRICT
CONSTRUCT STREET & STORMWATER IMPROVEMENTS ON SW TEXAS ST FROM
26TH AVE TO 29TH AVE, AND ON PORTIONS OF SW 26TH, 28TH & 29TH AVENUES
The work on this improvement is now complete and the true costs are
known. The City Council proposes to assess the benefiting property in
the amount shown below. This amount could be modified as a result of
objections filed by other property owners in the district, unless the
cost to property owners is fixed.

PROPERTY ADDRESS: 7111 SW 29TH AVE

LEGAL DESCRIPTION:
TOP OF MULTNOMAH HILL; LOT 3

PROPOSED ASSESSMENT: \$ 15,556.76

A public hearing will be held on the proposed assessment at the
regular meeting of the City Council to be held in the Council Chambers
of City Hall, 1221 SW 4th Avenue, Portland, Oregon, beginning at
09:30 AM on April 30, 2008.

At this hearing, City Council will consider any objections to the
apportionment of the cost or the character of the work. No action is
required at this time unless you wish to object. If you do wish to
object, send your written objection to the address noted above.
Written objections must be received at the City Auditor's Office by
05:00 PM on April 23, 2008. If you have questions, please call
(503) 823-5648.

DO NOT PAY at this time. An assessment notice will be mailed to you
approximately ten days after the hearing. You can decide on your
payment method at that time.



ADDENDUM TO REAL ESTATE SALE AGREEMENT

The Oregon Real Estate Agency has reviewed this form for compliance with the applicable provisions in ORS.695 and finds that it complies with those provisions.

This is an Addendum to: Real Estate Sale Agreement Seller's Counter Offer Buyer's Counter Offer

Re: Real Estate Sale Agreement No. 99311 Dated 11-20-02 Addendum No. A

Buyer: HERMAN H. AND WINNIFRED R. BECKER

Seller: CASEY C. FABIAN

The real property described as: 4411 SW 24th Avenue, Portland OR 97219

SELLER AND BUYER HEREBY AGREE THE FOLLOWING SHALL BE A PART OF THE REAL ESTATE SALE AGREEMENT REFERENCED ABOVE.

1) THIS OFFER IS SUBJECT TO THE FOLLOWING ITEMS WITHIN 10 BUSINESS DAYS OF MUTUAL ACCEPTANCE OF THIS AGREEMENT:

a) BUYER'S REVIEW & APPROVAL OF CITY OF PORTLAND &/OR MULTNOMAH COUNTY &/OR NOT LONG RANGE PLANS FOR CAPITOL HWY.

b) BUYER'S RESEARCH & APPROVAL OF COSTS TO ADD IMPROVED DRIVEWAY ACCESS TO PROPERTY FROM CAPITOL HWY.

c) SELLER TO PROVIDE BUYER WITH DOCUMENTATION OF UST DECOMMISSIONING TO DEP STANDARDS.

2) SELLER AGREES TO ALLOW BUYER DRIVEWAY ACCESS TO PROPERTY FROM SW 24th FOR 12 MONTHS FROM DATE OF MUTUAL ACCEPTANCE OF THIS AGREEMENT.

RECEIVED
2008 APR 24 A 10: 11
GARY BLAKEMER, AUDITOR
CITY OF PORTLAND, OR

Buyer Signature [Signature] Date 11/20/02 A.M. P.M.

Buyer Signature [Signature] Date _____ A.M. P.M.

Seller Signature _____ Date _____ A.M. P.M.

Seller Signature _____ Date _____ A.M. P.M.

Listing Licensee _____ Selling Licensee [Signature]

Listing Firm Broker Initials/Date _____ Selling Firm Broker Initials/Date _____

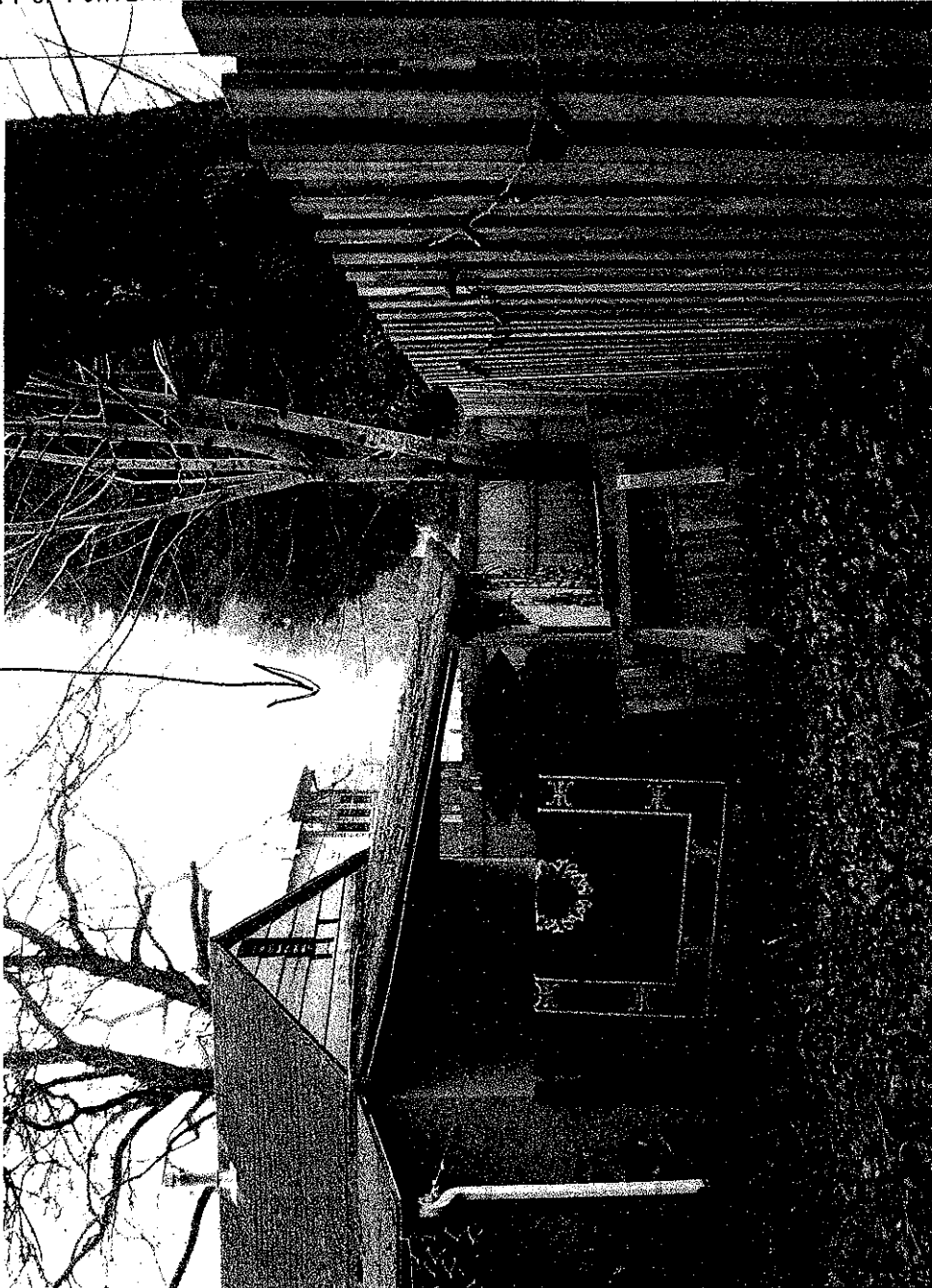
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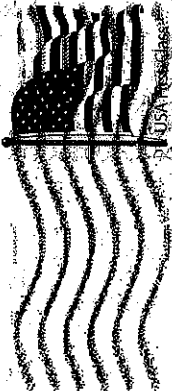
2008 APR 24 A 10:11

GARY BLACKMER, AUDITOR
CITY OF PORTLAND, OR

BY _____

*Former access
from S.W. 29th Ave.*





PORTLAND OR 972

13 APR 2008 PM 11

Office of City Auditor
81221 S.W. 4th Ave
Rm 130
Portland, OR 97204



THIS PLAT SUBJECT TO THE CONDITIONS OF CITY OF PORTLAND CASE FILE LUR 93-00301 MP

A REPLAT OF LOTS 1-9 AND 22-30, BLOCK 1, ALBERTA ADDITION, IN THE NE 1/4 OF SECTION 20, T 1S, R 1E, WM, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

THERE ARE NO OCCUPIABLE GEODETIC CONTROL MONUMENTS WITHIN 1/2 MILE OF THIS SUBDIVISION.

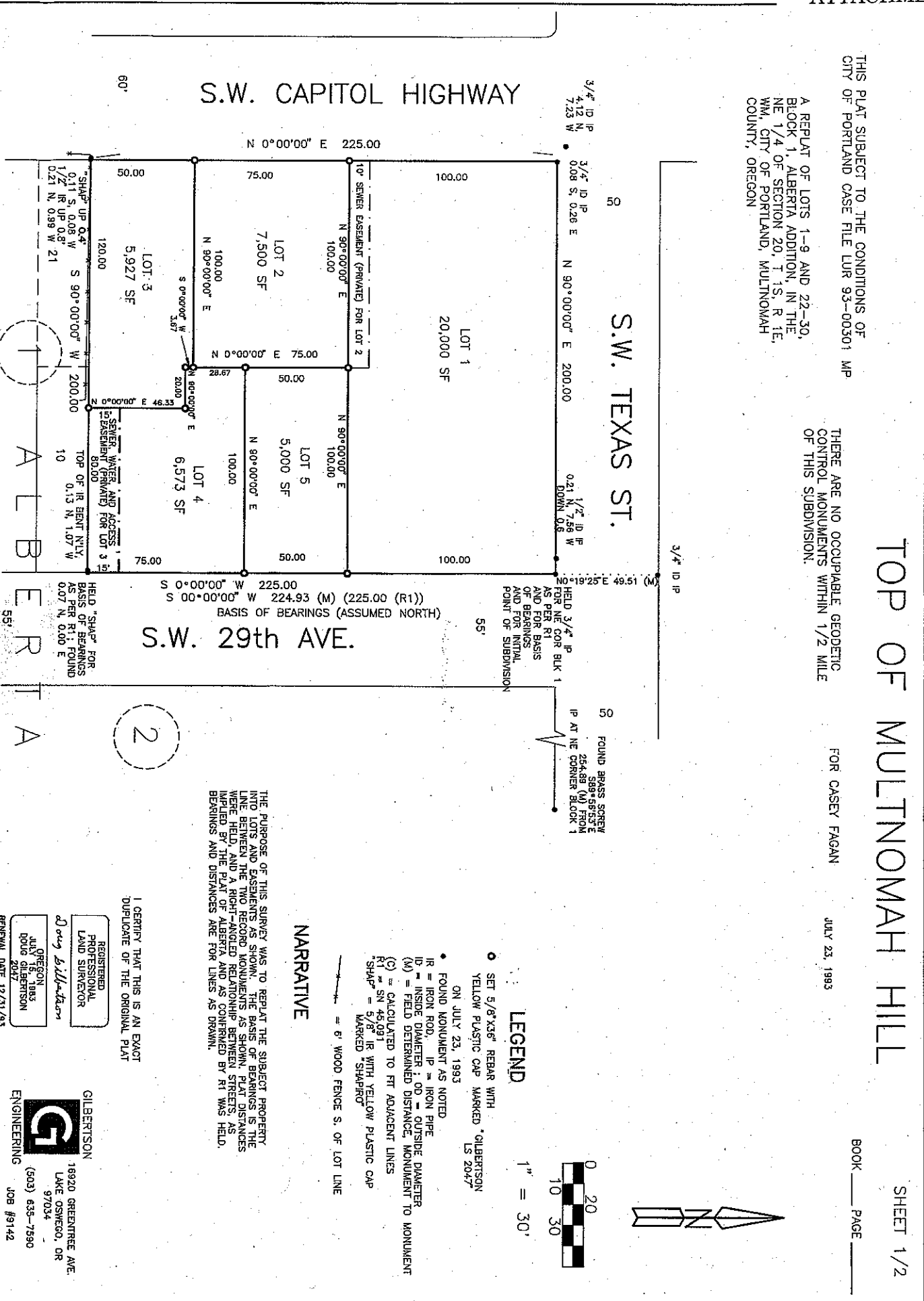
FOR CASEY FAGAN

JULY 23, 1993

TOP OF MULTNOMAH HILL

BOOK _____ PAGE _____

SHEET 1/2



LEGEND

- SET 5/8"x36" REBAR WITH YELLOW PLASTIC CAP MARKED "GILBERTSON LS 2047" ON JULY 23, 1993
- FOUND MONUMENT AS NOTED
- IR = IRON ROD, IP = IRON PIPE
- ID = INSIDE DIAMETER; OD = OUTSIDE DIAMETER
- (M) = FIELD DETERMINED DISTANCE MONUMENT TO MONUMENT
- (C) = CALCULATED TO FIT ADJACENT LINES
- R1 = SN 45,091
- SHAP = 5/8" IR WITH YELLOW PLASTIC CAP MARKED "SHAPIRO"
- = 6" WOOD FENCE S. OF LOT LINE

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO REPLAT THE SUBJECT PROPERTY INTO FIVE LOTS AND ESTABLISH MONUMENTS ON THE BASIS OF BEARINGS IS THE LINE BETWEEN THE MONUMENTS. THE BEARINGS BETWEEN THE MONUMENTS WERE HELD AND THE RIGHT-ANGLED RELATIONSHIP BETWEEN THE MONUMENTS IMPLIED BY THE PLAT OF ALBERTA AND AS CONFIRMED BY RT WAS HELD. BEARINGS AND DISTANCES ARE FOR LINES AS DRAWN.

I CERTIFY THAT THIS IS AN EXACT DUPLICATE OF THE ORIGINAL PLAT

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JULY 15, 1983
CASEY FAGAN
RENEWAL DATE 12/31/93

GILBERTSON ENGINEERING
18920 GREENTREE AVE.
LAKE OSWEGO, OR 97034
(503) 635-7590
JOB #9142



OREGON LEGISLATIVE POLICY & RESEARCH OFFICE

State Capitol Room 453
Salem, Oregon 97310

(503) 986-1813

Julie Neburka, Researcher

November 1997

Basics about LOCAL IMPROVEMENT DISTRICTS

Local improvement districts, or special assessment districts, function as mainstays of local improvement financing. Special assessment was used as early as the thirteenth century, when an English law provided for special assessment to finance construction and maintenance of a drainage system in certain marsh lands. This English special assessment system was adopted by the American colonies, and after independence, local governments continued to use special assessment under authority of state laws.

A local improvement district is a geographic area in which real property is taxed to defray all or part of the costs of a public improvement. The distinctive feature of a special assessment is that its costs are apportioned according to the estimated benefit that will accrue to each property. In Oregon, local improvement districts are governed by local ordinances, but the Bancroft Bonding Act (ORS 223.205-295) addresses the means by which local governments may finance public improvements. The tax limitation brought about by Ballot Measure 5 (1990) created several changes to the ways in which local governments can finance public improvements, marking perhaps the most significant change to special assessments in recent years.

Are local improvement districts the same thing as special districts or economic improvement districts?

No. *Special districts*, such as water districts or mosquito abatement districts, are separate government organizations with their own governance structures. *Economic improvement districts* (sometimes called "empowerment zones") are districts created within cities in order to support business recruitment, development, and commercial activities in particular locations. In Oregon, *local improvement districts* use special assessments to finance local improvements in cities, counties, and some special districts. Common improvements include such things as storm and sanitary sewers, street paving, curbs, sidewalks, water lines, recreational facilities, street lighting, and off-street parking. In addition, special assessments are used to finance reconstruction of deteriorated, substandard, or outmoded facilities, both in older developed areas and in areas newly annexed to a city.

On what basis may local governments designate local improvement districts?

The basic principle of special assessment is that it is a charge imposed upon property owners who receive special benefits from an improvement beyond the general benefits received by all citizens of the community. Three "principles of benefit" describe the main factors to be considered by a public agency when deciding to use special assessment. They are:

- *Direct Service.* An example would be the construction of a street that gives access to a property previously without access. The benefit exists in terms of improved land development value.
- *Obligation to Others.* This is not an intuitively obvious benefit. An example would be the construction of a storm sewer and catch basin, which would have no direct service benefit to a property on the top of a hill. The benefit exists in the fact that the uphill land may be

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developed and provided access without causing damage to downhill land.

- *Equal Sharing.* An example would be a sidewalk down the length of a street. Each property owner is usually responsible for the sidewalk in front of the property, not always because the property owner desires a sidewalk, but because all properties served by the sidewalk system benefit equally from it.

How does a local government determine the benefits of a public works project financed by special assessment?

Governing bodies need to exercise discretion in determining the benefits of a project financed by special assessment. Considerations include the following.

- Each project should meet the standards applied to other public works in the community. In the majority of cases, local improvement districts are created in order to finance public improvements in new developments. Therefore, the governing body is responsible for establishing standards for a project.
- The facility should *initially* be built in accordance with this community-wide standard. Property owners are not easily persuaded that a *new* special benefit is received from the reconstruction of a project that is already in place.
- The assessed cost must be distributed among property owners according to the proportionate benefits to each owner's land. Since individuals do not always agree on the value of the project, a governing body may consider objections from those charged.
- A developer may be granted the privilege of special assessment financing for new facilities. Using the lower interest rate on municipal borrowing reduces the developer's cost. Since there may be risks to all citizens of the jurisdiction, some governing bodies do not allow this use of special assessment.

What gives local governments legal authority for collecting special assessments?

Special assessment usually is upheld as a valid exercise of state taxing power, and less frequently as an exercise of eminent domain or police power. The Oregon Constitution requires uniform taxation on the same class of subjects, and the Oregon Supreme Court held near the turn of this century that apportionment according to benefit constitutes a sufficient kind of uniformity, and therefore special assessment is a valid form of taxation.

The Oregon Constitution gives cities the power to assume authority under home rule charters to finance local improvements by special assessment. The Legislature has provided cities with a procedure for special assessment financing (ORS 223.387-399) which applies when city charter or ordinance provisions do not specify otherwise. Cities are also specifically empowered by statute to provide for improvements and assessments in specific situations, including the provision of off-street parking and the installation of pedestrian malls.

The Oregon Constitution also allows counties to adopt home rule charters by which they may assume authority to undertake special assessment improvement projects. A county may be able to exercise local

improvement district and special assessment prerogatives under the broad general powers granted to counties in 1973 under ORS 203.030-065. This has been construed by the attorney general as granting non-home rule counties the same authority in matters of county concern (except in the area of the structure and organization of county government) as is possessed by counties operating under home rule charters.

How did Ballot Measure 5 (1990) change the way in which local governments finance public improvements?

Local governments in Oregon are financed primarily through property taxes. Ballot Measure 5 (1990) limited the amount of tax local governments can levy for funding the operations of public schools and other local government services. Current maximum allowable taxes for schools are \$5 per \$1000 of a property's real market value; the maximum for local government operations is \$10 per \$1000 of a property's real market value. Should local taxes exceed the \$10 per thousand limit, the taxes must be reduced evenly by the percentage necessary to meet the limitation for that category. (The local taxes could, for example, exceed the limit for school taxes but not exceed the limit for government operations taxes. In that instance, only school taxes would be reduced.)

But what does the property tax limitation have to do with special assessments?

Measure 5 changed the way in which local governments finance public works projects. Prior to 1990, the Bancroft Bonding Act (ORS 223.205-295) allowed local governments to assess property owners for their share of specific local improvements. Bonds could then be sold in the amount of the improvement, secured directly by the assessments charged the property owners, and indirectly by the lien against the assessed property. Under Measure 5, if bonds for particular projects have been approved by voters in an election, they may be issued as general obligation bonds not subject to property tax rate limitations. The Portland area, for example, has passed several bond issues recently for the benefit of such things as parks, libraries, and the zoo. If the bonds have **not** been approved by the voters, and are issued as limited tax bonds, they fall under the tax rate limitation for government operations of \$10 per \$1000 of real market value¹. This means that if a local government has reached its taxing limits, it cannot issue Bancroft bonds without voter approval. When governments in all areas of the state come under tax rate compression (meaning they are taxing at the full \$15 per \$1000 combined rate for schools and government operations), their capacity for issuing Bancroft bonds for local public improvements without voter approval will be eliminated.

Will Measure 50 (1997) affect Local Improvement Districts?

Passage of Measure 50 (1997) does not affect special improvement assessments themselves. Measure 50 could, however, indirectly affect ability to sell bonds for the improvement if the bonds are only backed by the special assessments and cannot be backed by property taxes.

Surely there are other ways in which local governments can finance public improvements!

There are other means by which local governments can finance public improvements, though they are not exactly comparable to special assessments. As mentioned above, a local jurisdiction may issue general obligation bonds with voter approval. This requirement asks *all* the citizens of a jurisdiction to pay for improvements to a particular neighborhood. In the majority of cases, local improvement districts are formed in order to pay for the infrastructure requirements of new development, and thus

general obligation bonds require that citizens of established communities pay for new development, violating the fundamental principle of special assessments that properties receiving special benefits should pay for them. In addition, as Bancroft bonding is a means for allowing private developers to share the risk of new development with local government (through the use of lower government interest rates), the costs of new development are driven up as the developer must assume all up-front costs of the necessary public improvements.

Local governments may also issue revenue bonds, which are backed by the revenues generated from the operation of the financed improvement. Revenue bonds thus may be issued only for those activities which generate revenues, such as water lines or sewer systems. Curbs and sidewalks, for example, would not be eligible for revenue bond financing. Finally, there are "pure" assessment bonds, backed only by the private properties directly affected by the financed improvement. Bond underwriters consider these to be extremely risky, as they are not as secure as publicly-backed bonds, and so they are difficult or nearly impossible--especially for small and/or rural communities to sell on the bond market.

Oregon law also gives local governments authority to assess Systems Development Charges (SDCs) on new development to pay for sewer, water, street, or park capital improvements. The state law specifies that the assessments be within an amount determined by the local government as the cost of accommodating the new development.

ⁱ Oregon Laws 1991, Ch. 902, Section 98 (8): "'Limited tax bond' means a bond or other obligation which is a full faith and credit obligation, and which is payable from any taxes which the issuer may levy within the limitations of section 11 or 11b, Article XI of the Oregon Constitution."

Background material is taken from the report *Financing Local Improvements by Special Assessment*, Bureau of Governmental Research and Service, University of Oregon, 1982. (BGRS Report #82-1)

**Response to Bureau of Planning
from
Street Systems Management
Bureau of Transportation Engineering**

Date: June 4, 1993
 To: Suzanne Searle, B106/R1002
 From: Cherrie Eudaly, B106/R825
 Subject: Land Use Case No. 93-301 MP
 Location: **7026 SW Capitol Highway**

I have reviewed the above case for its potential impacts regarding the public right-of-way and have the following comments:

- No objection to the current proposal
- R-O-W improvements required/recommended as noted below
- Other conditions required/recommended as noted below
- More information required
- Street and storm sewer waivers required (forms attached)

REMARKS: This site is served by three public streets; SW Capitol Highway on the west; SW Texas Street on the north; and SW 29th Avenue on the east. SW Capitol Highway is designated as a district collector, minor transit, bike route and pedestrian path. The other two facilities are considered local streets. A discussion of each facility follows:

- SW Capitol Highway This facility currently is an 18 foot paved roadway without curbs or sidewalk, which may or may not be centered within the existing 60-foot wide right-of-way. In order to serve it's designated use, the ultimate build-out probably should provide a 32-foot wide roadway (to accommodate 11-foot wide travel lanes and 5-foot wide bike lanes) and at least 6-foot wide sidewalks on both sides.

Under ideal circumstances, the applicant would be required to complete his frontage on SW Capitol Highway to the build-out configuration. In this case,

however, existing conditions appear to make this approach impractical and beyond the scope of what should be extracted from any one applicant.

South of SW Texas Street, SW Capitol Highway enters a substantial 'cut' section, with steep banks rising on either side of the roadway. The existing roadway centerline may not coincide with the center of the right-of-way. In addition, several existing residential driveways connect to the roadway along this stretch.

Given the existing topography and property access constraints, the scope of any design and construction effort must be expanded to address the entire roadway from SW Texas Street south to beyond SW Nevada Street. Very possibly, future reconstruction of this portion of SW Capitol Highway will involve alterations in vertical and horizontal roadway alignments; alterations to existing driveway accesses, and substantial construction of retaining walls.

The scope of this effort seems more appropriate as a city capital project. Given that the applicant's proposal would result in no new access to SW Capitol Highway along his frontage, it seems most appropriate to require waivers of remonstrance in lieu of improvements at this time.

• SW Texas Street The bulk of the applicant's new development would access SW Texas between SW Capitol Highway and SW 29th Avenue. At this location, SW Texas has 'bootleg' paving and no curbs or sidewalks. It will be necessary for the applicant to improve this roadway to serve his development.

Again, under ideal circumstances, the applicant would only be required to construct improvements along his property frontage. In this case, however, the existing paved roadway was not constructed under City permit, is not City maintained, and will have to be reconstructed full width.

The roadway improvement should provide for a 26-foot wide roadway with curbs on both sides, drainage facilities, paving, sidewalk and street lighting. The applicant may design and construct this improvement at his sole expense under a permit from the City Engineer, or may elect to pursue formation of a local improvement district (LID) so that all benefitting property owners share in the expense. The timing of LID improvements may be a problem; the applicant should contact Teresa Culp at 796-7056 to discuss this process.

• SW 29th Avenue This roadway is a narrow, dirt road at this location which meanders within the existing 50-foot wide right-of-way. The applicant proposes to access this street with 2 new single family residences. Although improvements to this facility are desirable, the existing road appears adequate to serve two new

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June 4, 1993

homes.

Because of the meandering alignment of the existing road, any future reconstruction will necessarily involve changes to vertical and horizontal roadway alignments and adjustment of existing driveways between SW Texas and SW Nevada Streets. All properties along this stretch of road would benefit from the improvement. Therefore, it seems most appropriate to accept waivers of remonstrance in lieu of improvements at this time, if the applicant is unable to generate sufficient interest by other property owners on the street to allow formation of an LID.

Therefore, recommendations for this development proposal are:

1. Any development on the northerly 100' of the subject property will initiate improvements to SW Texas Street between SW Capitol Highway and SW 29th Avenue. The required street improvements shall be designed and constructed in accordance with the standards and requirements of the City Engineer, under a street improvement permit issued by the Bureau of Transportation Engineering (separate from the building permit process). The improvements shall consist of curbs on both sides, drainage facilities, 26-foot wide paving, sidewalks and street lighting.
2. Street and storm sewer waivers of remonstrance must be executed for possible future participation in any LID improvement of SW Capitol Highway and/or SW 29th Avenue.