

ACCEPTANCE

Portland, Oregon, April 2 1962

RAY SMITH
Auditor of the City of Portland,
Room 202, City Hall
Portland 4, Oregon
Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 114988 vacating a certain portion of S.W. Third Avenue between the north line of S.W. Gibbs Street and a line 40 feet south of the south line of S.W. Grover Street initiated by the City Council, under certain terms and conditions, and declaring an emergency.

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

Ralph N. Funes

Ralph N. Funes, President

* *Fred Cong Ahavath Achin*

Congregation Ahavath Achin

4216 SW Iowa St - Portland, Ore.

4216 S. W. Iowa, Address Portland 1, Oregon

[CORPORATE
SEAL]

Approved as to form:

Alexander H. Brown

City Attorney

*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

RECEIPT

No 106684

OFFICE OF
SI COHN, COUNTY CLERK
MULTNOMAH COUNTY, OREGON

RECORDING DEPARTMENT

NAME

City of Port.

FILE NO.

DOCUMENT	PARTIES	
Ord	Ord # 114988	2H
Deed	City of Port Apharath Achem	2H
Deed	City of Port Cong. Apharath Achem	2H
Deed	Union Pac R.R.	
Deed	City of Port	2H
sewer	Cong. Apharath Achem	
Easement	City of Port	2H
v	Cong. Apharath Achem City of Port	2H
	6/8/64	
	Book 2119	
	Pages 691-700	
	Book 2120 1 #212	

County Clerk's Office, Multnomah County, Oregon

CIRCUIT COURT DEPARTMENT

LITIGATION ACCOUNT

No 2239

Reg. No. Misc.

Portland, Oregon, June 8 1962

RECEIVED OF Way Smith, Auditor

Two and 50/100

DOLLARS

Plaintiff \$

Defendant \$

Bail \$

Surveyor fee \$ 2.50

Total . . . \$ 2.50

Waiving a portion of SW 3rd. Ave.

vs.

Ord. # 114988

In the above entitled case.

SI COHN,
County Clerk,

By H. E. [Signature] Deputy

2.50

XIII - A

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29-62

C-7749

ORDINANCE NO. 11988

An Ordinance vacating a certain portion of S.W. Third Avenue between the north line of S.W. Gibbs Street and a line 40 feet south of the south line of S.W. Grover Street initiated by the City Council, under certain terms and conditions, and declaring an emergency.

WHEREAS the Council by Resolution No. 28690, adopted December 27, 1961, initiated action for the vacation of a portion of S.W. Third Avenue lying between the north line of S.W. Gibbs Street and a line 40 feet south of the south line of S.W. Grover Street, pursuant to the provisions of ORS 271.010 to and including 271.230, and thereupon the City Auditor gave notice by posting and publication of a notice once each week for four successive weeks that said resolution had been adopted instituting proceedings for the vacation of said street area; that the matter of said vacation together with any objections, remonstrances and/or claims for damages which might be made in writing and filed with the Auditor of the City of Portland prior to the time of hearing would be heard and considered by the Council at a meeting to be held at 9:30 a.m. Wednesday, January 31, 1962, in the Council Chambers of the City Hall in said city, which notice was first published in the City's official newspaper, to wit, the Daily Journal of Commerce, on December 29, 1961, and the City Auditor within five days from said first publication further published said matter by posting four notices headed "Notice of Street Vacation" in three conspicuous places in the area of said proposed vacation at the places therein described and designated as follows:

<u>Location</u>	<u>Object to Which Attached</u>
At the approximate northwest corner of the intersection of S.W. Third Avenue and the north line of S.W. Gibbs Street	On a stake
On the approximate easterly line of S.W. Third Avenue approximately 100 feet north of the northerly line of S.W. Gibbs Street	On a stake
On the approximate easterly line of S.W. Third Avenue approximately 40 feet south of the south line of S.W. Grover Street	On a stake
On the approximate westerly line of S.W. Third Avenue approximately 65 feet south of the south line of S.W. Grover Street	On a stake

WHEREAS said matter came on regularly for hearing on January 31, 1962, and the Council considered all objections or remonstrances and overruled the same, and no claim for damage was made or filed against the same, and

WHEREAS the City of Portland through Ormond R. Bean, Commissioner of Finance, pursuant to Resolution No. 28690, adopted by the Council December 27, 1961, consented on behalf of City-owned property lying to the west of the proposed vacation area, and the owners of all property lying to the east of said proposed vacation area have likewise consented to said proposed vacation and both such consents have been filed with the City Auditor, and

WHEREAS the Council finds that the proposed street vacation has been approved by the Port of Portland and by the Commissioner of Public Docks of the City of Portland, and

WHEREAS the City Council further finds that the proposed street vacation has been investigated by the City Engineer who recommends that the vacation be granted subject to certain conditions, and

WHEREAS the Council further finds that the proposed street vacation has been investigated by the Traffic Engineer, who does not object to the street vacation, and

WHEREAS the Council finds that the proposed street vacation is for church use of all but a small portion of said property which will be reserved for access to park area on which is located a Bureau of Water Works facility, and

WHEREAS the Council finds that the proposed vacation was investigated by the Planning Commission of the City of Portland, and the Planning Commission does not object to the proposed street vacation and proposed use, subject to compliance with the provisions of the Planning and Zoning Code for the church use, upon a transfer to the Congregation Ahavath Achim, and

WHEREAS the Council further finds that said area was originally dedicated for park and street purposes by Oregon-Washington Railroad & Navigation Company and was subsequently dedicated for street purposes by the City, but the original dedication of said area contained a right of reversion, which reversionary right is being granted to the City by the Oregon-Washington Railroad & Navigation Company, conveying said reversionary right to the Union Pacific Railroad Company, which in turn is willing to convey the same to the City to enable the City to make a subsequent grant to the Congregation Ahavath Achim, and

WHEREAS the Council finds that a vacation of the street area herein described will not injuriously affect the market value of property abutting or affected by such vacation, and it appearing that said vacation in all respects will be for the public welfare, and it further appearing that all things have been done as provided by law for the vacation of said street area, and that final action should now be taken thereon and such vacation be made a matter of record; now, therefore,

The City of Portland does ordain as follows:

Section 1. It hereby is ascertained and determined that said vacation will not injuriously affect the market value of any of the property abutting upon said street area to be vacated but will be beneficial thereto; that the owners of property abutting upon said area to be vacated will not be damaged by said vacation; that notice has been duly and regularly given of such vacation and a hearing thereon duly and regularly had; that the consent of the owners of all the property abutting said area to be vacated has been obtained in writing, duly acknowledged and filed as hereinabove stated; and the Council found and does now find that no claims for damages were made or filed against said vacation and that the public interest will not be prejudiced by said vacation, but that said vacation will enhance the public interest and welfare, all of which determinations hereby are made a matter of record.

Section 2. There hereby is vacated all of the following described property in the city of Portland, Multnomah County, State of Oregon to wit:

All that portion of S.W. 3rd Avenue, lying between the north line of S.W. Gibbs Street and a line 40.0 feet south of the south line of S.W. Grover Street, more particularly described as follows:

Beginning at a point on the east line of S.W. 3rd Avenue, 40.0 feet south of the northwest corner of Block 111, Caruthers Addition to Caruthers Addition; thence south long the east line of said S.W. 3rd Avenue, 160 feet to the southwest corner thereof; thence west along the westerly extension of the north line of S.W. Gibbs Street a distance of 60 feet to a point on the west line of S.W. 3rd Avenue; thence north along said west line a distance of 135 feet; thence east 30 feet; thence north 25.0 feet; thence east 30.0 feet to the place of beginning, in the City of Portland, County of Multnomah, State of Oregon.

Section 3. This vacation is made contingent and dependent upon the following conditions:

(1) Nothing contained in this vacation ordinance shall cause or require the removal of or abandonment of any sewer, water main, gas main, conduit of any kind, used or intended to be used for any public service, and the right hereby is reserved for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild and/or enlarge any and all such things. No building or other structure shall be built within ten feet of the center line of any such existing utility in said area without the prior written consent and approval of the City Engineer and the owner of such utility first having been had; that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and the Director of the Bureau of Building Inspection to the end that such construction may be so adjusted with reference to all public utilities in said area, if any there be, as to cause the minimum amount of danger or inconvenience to the public and to the owner of such utility, and to protect and preserve the same as presently constructed or hereafter reconstructed, renewed, replaced and/or enlarged.

(2) That upon acquisition of that part of Block 111, Caruthers Addition to Caruthers Addition, lying westerly of S.W. Barbur Blvd. by the Congregation Ahavath Achim, said owners shall convey to the City of Portland a sewer easement 20 feet in width and lying ten feet on either side of the following described center line:

A portion of Lot 6, Block 111, Caruthers Addition to Caruthers Addition, said portion being a strip of land 20 feet in width and lying 10 feet on either side of the following described center line:

Beginning at a point on the westerly line of Lot 6, Block 111, Caruthers Addition to Caruthers Addition, said point lying 77.25 feet northerly of the southwest corner of said Block 111; thence easterly 73.79 feet to a point in the westerly line of S.W. Barbur Boulevard as now laid out, said point lying 68.22 feet northerly from the south line of said Block 111, when measured at right angles thereto.

Upon the release of a general easement to the City of Portland for sewer purposes which contains no center line description of said westerly portion of said Block 111.

(3) Upon acquisition by Congregation Ahavath Achim of said westerly portion of Block 111 Caruthers Addition to Caruthers, said owner shall convey to the City of Portland a sewer easement 20 feet in width and lying ten feet on either side of the following described center line:

A portion of Lot 6 and Lot 5, Block 111, Caruthers Addition to Caruthers Addition, being a strip of land 20 feet in width and lying 10 feet on either side of the following described center line:

Beginning at a point in the westerly line of Lot 6, Block 111, Caruthers Addition to Caruthers Addition, said point lying 52.08 feet northerly of the southwest corner of said Block 111; thence southeasterly to a point in the southerly line of Lot 5 of said Block 111, said point lying 61.66 feet easterly of the southwest corner of said Lot 5, Block 111, Caruthers Addition to Caruthers Addition.

Upon release by the City to said owner of a sewer easement containing a different description of said westerly portion of said Block 111, which is an erroneous center line description of an existing sewer as constructed.

(4) Both the easements described above to the City of Portland shall be in accordance with the form approved by the City Attorney and shall contain a provision that no building or other structure shall be erected within said easement area without the prior written consent and approval of the City Engineer of the City of Portland.

(5) As part of the consideration for subsequent conveyance by the City of Portland to the Congregation Ahavath Achim of its interest in and to the following described property:

A parcel of land in the Elizabeth Thomas Caruthers Donation Land Claim, in the NW 1/4 of Section 10, Township 1 South, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah, Oregon, bounded and described as follows:

Beginning at an iron pipe on the west line of block 111, Caruther's Addition to the City of Portland, which point is 40.0 feet south of the northwest corner thereof; thence south along the west line of said Block 111, a distance of 160.0 feet to the southwest corner of said Block 111; thence west along the westerly prolongation of the south line

of said Block 111, a distance of 30.0 feet; thence northwesterly a distance of 31.05 feet to a point, which point is 8.0 feet north of an iron pipe set at the intersection of the westerly prolongation of the south line of said Block 111 and the west line of S.W. 3rd Avenue; thence north parallel with and 60.0 feet distant from the west line of said Block 111, when measured at right angles thereto, a distance of 127.0 feet to an iron pipe; thence east parallel to the south line of said Block 111, a distance of 30.0 feet; thence north parallel to the west line of said Block 111, a distance of 25.0 feet to an iron pipe; thence east a distance of 30.0 feet to the point of beginning,

the said congregation for its successors, grantees and assigns shall agree to hold harmless the City of Portland its officers, agents and employes from any claim for damage to any building or structure located on said property and contents, or any injury to persons in or upon said property resulting from or claimed to result from any stoppage of or failure of any sewer line of the City in that portion of Block 111, Caruthers Addition to Caruthers Addition, lying westerly of S.W. Barbur Blvd., as presently established or in the street area vacated by this ordinance, and said congregation for itself, its successors, grantees and assigns shall covenant and agree that no claim shall be made against the City for any damage as aforesaid which may be attributable to the location of any building or structure by or on behalf of the owner of said property, with relation to any City sewer line.

(6) The Congregation Ahavath Achim shall agree to relocate and replace the surface drain and sewer connection thereof, together with the inlet therefor presently serving to dispose of surface water from the park property lying west of the street area being vacated by this ordinance, prior to construction of any structure or building which will cover the present inlet, but this shall not prevent the moving of a building to said site in a location which does not cause such obstruction.

(7) As damages to the City from the street closure to result from this street vacation, the said Congregation Ahavath Achim shall pay to the City Treasurer the sum of \$2,000 in compensation for additional expenses which may be incurred by the City in the future as a result of such street closure.

114959

ORDINANCE No.

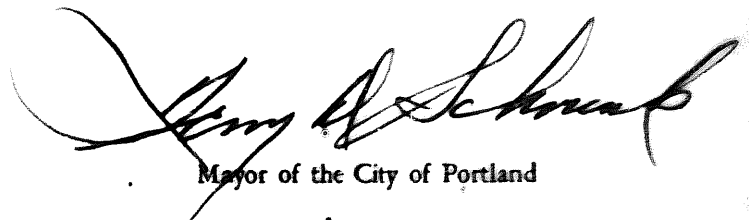
(8) In any conveyance by the City as aforesaid to the Congregation Ahavath Achim, there shall be reserved over the westerly 25 feet of the vacated street area after conveyance by the City the right and privilege of access to park area lying west of said street area being vacated by this ordinance for pedestrian use of the public and the conveyance of City equipment for maintenance of said park area.

(9) Said Congregation Ahavath Achim, through its duly authorized officers, shall file with the City Auditor a written acceptance, approved as to form by the City Attorney, of all the terms and conditions contained in this ordinance.

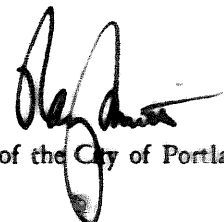
(10) The City Auditor shall file for record with the County Clerk as ex officio recorder in and for Multnomah County, State of Oregon, a certified copy of this ordinance and a certified copy of said acceptance as provided by law, and likewise file copies with the County Assessor and the County Surveyor of said County, and this ordinance shall not take effect until said acceptance is filed with the said Auditor.

Section 4. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the city of Portland in this: Said street vacation should be expedited in order to permit removal of an existing building from the South Auditorium Urban Renewal Area, so as to allow development thereof; therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, MAR 29 1962


Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Calendar No.

1159
1159

ORDINANCE No. 114988

Title

An Ordinance vacating a certain portion of S.W. Third Avenue between the north line of S.W. Gibbs Street and a line 40 feet south of the south line of S.W. Grover Street initiated by the City Council, under certain terms and conditions, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS		
	Yea	Nays
Dean	/	
Bowen	/	
Earl	/	
Grayson	/	
Schrank	/	

FOUR-FIFTHS CALENDAR	
Dean	
Bowen	
Earl	
Grayson	
Schrank	

INTRODUCED BY
Order of Council

DRAWN BY
MCR:jw
Date March 29, 1962

NOTED BY THE COMMISSIONER
Affairs
Finance
Safety
Utilities
Works WAR

City Attorney	WAR
---------------	------------

NOTED FOR CITY AUDITOR
WAR

APPROVED
Date
By
City Engineer
Date
By

Filed... **MAR 29 1962**

RAY SMITH
Auditor of the CITY OF PORTLAND

By **R. L. Dwyer** Deputy