



#1167
MATT SCHULTZ
Secretary of State
State of Iowa

TRANSMITTAL FORM FOR CONDEMNATION APPLICATION –
Pursuant to Iowa Code sections 6B.3(3), 9.2A, and 331.802(24)

Box 1

TRANSMITTAL FORM FOR SHERIFF'S STATEMENT –
Pursuant to Iowa Code sections 6B.38, 9.2A, and 331.802(24)

Box 2

Part I: CONDEMNATION APPLICATION

Pursuant to Iowa Code section 6B.3(3), the undersigned County Recorder files a copy of the attached Condemnation Application with the Office of the Secretary of State, noting as follows.

1. The name of the acquiring agency is CITY of IOWA CITY
2. The real property subject to the Application is located in JOHNSON County.
3. The date the condemnation application was filed by the undersigned County Recorder is 5 month, 23 day, 2013 year.
4. The attached Condemnation Application is filed of record at Document # —
Book 5696, Page 238.

County Recorder for

JOHNSON County

Part II: SHERIFF'S STATEMENT

Pursuant to Iowa Code section 6B.38, the undersigned County Recorder files a copy of the attached Sheriff's Statement with the Office of the Secretary of State, noting as follows.

1. The name of the acquiring agency is _____
2. The corresponding Condemnation Application to this Sheriff's Statement was filed of record at Document # _____, Book _____, Page _____ and a copy was sent to the Secretary of State.
3. The attached Sheriff's Statement was filed of record at Document # _____, Book _____, Page _____; on _____ month, _____ day, _____ year.

County Recorder for

_____ County

PLEASE SUBMIT TO:
Secretary of State
Attention: Condemnation Filings
State Capitol, Des Moines, IA 50319
FAX: 515-242-5952

SEE INSTRUCTIONS ON BACK



Doc ID: 022941700007 Type: GEN
Kind: CONDEMNATION
Recorded: 05/23/2013 at 01:59:55 PM
Fee Amt: \$42.00 Page 1 of 7
Revenue Tax: \$0.00
Johnson County Iowa
Kim Painter County Recorder

BK 5096 Pg 238-244

Fee

Recorder's Cover Sheet

TITLE OF DOCUMENT: APPLICATION FOR CONDEMNATION
(IC Rental Houses - 825 Hudson Avenue)

Preparer Information:
(name, address, phone number)

Eric R. Goers
Assistant City Attorney
410 East Washington Street
Iowa City, IA 52240

Taxpayer Information:
(name, address)

Return Address:
(name, address)

City Attorney's Office
410 East Washington Street
Iowa City, IA 52240

Grantor(s):

Grantee(s):

Legal description:
(or page number location)

Part of Lot 32, Bailey and Beck's Subdivision,
Iowa City, Johnson County, Iowa.

IN THE SHERIFF'S OFFICE OF JOHNSON COUNTY, IOWA

IN THE MATTER OF)
THE CONDEMNATION OF)
CERTAIN RIGHTS IN LAND FOR)
USE IN THE HIGHWAY 1 TRAIL)
PROJECT)

Property Owner:)
Iowa City Rental Houses, L.L.C.)

by the)

CITY OF IOWA CITY, IOWA,)

Applicant.)

APPLICATION FOR
CONDEMNATION

TO: PATRICK R. GRADY, CHIEF JUDGE, SIXTH JUDICIAL DISTRICT

YOU ARE HEREBY NOTIFIED that the Applicant City of Iowa City, Iowa, a municipal corporation, desires to take, acquire and condemn temporary easement interests in the property hereafter described, together with any and all leasehold interests, easement interests and other legal or equitable interests therein, and together with all structures and appurtenances located upon the properties sought to be condemned. The City of Iowa City desires the rights specified in the properties sought to be condemned for use for the HIGHWAY 1 TRAIL PROJECT.

1. PROPERTY TO BE ACQUIRED; PUBLIC USE OR PURPOSE FOR THE TAKING.

A. TEMPORARY CONSTRUCTION EASEMENT INTEREST. The property in which the City seeks to acquire a temporary construction easement for the HIGHWAY 1 TRAIL PROJECT is shown and legally described on the attached temporary construction easement plat. Said temporary easement plat is marked Exhibit "A" and by this reference made a part hereof (property address: 825 Hudson Avenue, Iowa City, Iowa). The temporary easement interest will be used by the City of Iowa City for the public purpose of facilitating CITY's construction of the HIGHWAY 1 TRAIL PROJECT.

1. In connection with this condemnation of a temporary construction easement, it is specifically provided as follows:

a. This temporary construction easement is being condemned for the purpose of facilitating CITY's construction of the **HIGHWAY 1 TRAIL PROJECT** ("Project"), which grant to CITY shall include necessary grading, excavation, piling of dirt, regrading, restoration, storage of materials and equipment, and ingress and egress of persons and equipment to the Temporary Easement Area, as needed to complete said Project.

b. The term of this Temporary Construction Easement will be for the period of time required by CITY to complete the construction of the public improvement, but in no event shall the duration of the Temporary Construction Easement extend beyond the date two (2) years after commencement of construction of the project.

c. The area sought to be condemned for the temporary construction easement is reserved to the Condemnee until the date the area is actually required for construction of said project. Said temporary easement shall terminate immediately upon completion of the particular portion of the project for which said property rights are sought, but in no event shall the temporary construction easement extend beyond two (2) years from the date CITY becomes entitled to possession of the temporary construction easement area upon deposit with the sheriff of the amount assessed in favor of OWNER pursuant to Iowa Code Section 6B.25.

d. With respect to the Temporary Construction Easement, CITY shall have the following rights and obligations:

i. CITY shall have the right to make excavations within the Temporary Easement area, and to grade as CITY may find reasonably necessary for the construction. CITY covenants and agrees to protect such excavations during construction; to promptly fill said excavations following construction; and to hold OWNER harmless from third party liability during said construction.

ii. CITY shall promptly backfill any trench made by it, and repair any damages caused by CITY within the Temporary Easement Area, but excluding the replacement of trees, shrubs and brush on the Easement Area. CITY shall indemnify OWNER against loss or damage which occurs as a result of CITY's negligent acts or omissions in the exercise of its easement rights herein. Once the Temporary Easement Area has been restored to substantially its prior condition and except as expressly provided in this Temporary Easement Agreement, CITY shall have no further responsibility for maintaining the Temporary Easement Area.

iii. CITY shall have the right of ingress and egress to and from the Temporary Easement Area by such route within the Temporary Easement Area as shall occasion the least practical damage and inconvenience to OWNER.

iv. CITY shall have the right to trim or remove all trees and brush which may interfere with the exercise of CITY's rights pursuant to this Temporary Easement Agreement.

e. Existing driveways, fences, underground drainage tile or other site features, with the exception of trees, shrubs and brush, which are removed or disturbed shall, to the extent reasonably possible, be replaced by CITY to conform with features or items removed during construction. CITY further agrees that all grassed areas disturbed by the construction shall be seeded within a reasonable time after construction is complete.

f. CITY covenants and agrees to remove and stockpile existing topsoil from areas to be excavated, to be used in the event of any repair. Following installation of the Project, all areas within the Temporary Easement Area which are disturbed will be graded to form a uniform slope, and topsoil shall be replaced and respread over disturbed areas, thereby restoring said area substantially to its prior condition, with the exception of the replacement of trees, shrubs and brush.

2. NAMES OF RECORD OWNERS AND HOLDERS OF LIENS AND ENCUMBRANCERS OF THE PROPERTY.

The name and address of the record owner and holders of liens and encumbrancers with respect to the property at 825 Hudson Avenue, Iowa City, are as follows:

A. TITLEHOLDERS:

Iowa City Rental Houses, L.L.C.
c/o Matthew M. Tentinger, Registered Agent
4047 Kitty Lee Road, SW
Iowa City, IA 52240

B. LIENHOLDERS, ENCUMBRANCERS, LEASEHOLDERS, EASEMENT HOLDERS AND OTHERS:

Unknown Tenants at
825 Hudson Avenue
Iowa City, IA 52246

Hills Bank & Trust Company
131 Main Street
Hills, IA 52235

Johnson County, Iowa
c/o Johnson County Auditor
County Administration Building
913 South Dubuque Street
Iowa City, IA 52240

Johnson County, Iowa
c/o Johnson County Treasurer
County Administration Building
913 South Dubuque Street
Iowa City, IA 52240

3. LANDS NECESSARY TO ACHIEVE THE PUBLIC PURPOSE AND LANDS PROPOSED TO BE ACQUIRED FOR THE PROJECT.

The temporary construction easement interest described and depicted in Exhibit "A" is required by the City of Iowa City for the public purpose of constructing, repairing, maintaining, and using certain street, storm sewer, sanitary sewer and/or water main, and

related public improvements to be constructed in conjunction with the **HIGHWAY 1 TRAIL PROJECT**. The City further asserts that said interests constitute the necessary minimum amount of and interests in land to achieve the purpose herein identified, and that no portion of said parcel is being acquired as an uneconomic remnant.

4. **GOOD FAITH EFFORTS MADE BY THE CITY TO NEGOTIATE THE PURCHASE OF THE PROPERTY.**

The City represents and warrants that it has undertaken the following activities in attempting to negotiate the purchase of the interests from the property owner:

A. On April 17, 2012, the City of Iowa City adopted **Resolution No. 12-186**, declaring the City's intent to proceed with and authorizing the acquisition of property rights for the **HIGHWAY 1 TRAIL PROJECT**, including the property interest identified above, and authorizing and directing the City Manager or designee, in consultation with the City Attorney's office, to establish, on behalf of the City, an amount the City believes to be just compensation for the property to be acquired, and to make an offer to purchase the property for the established fair market value.

B. On January 18, 2000, the City of Iowa City adopted **Resolution No. 00-26** prescribing a procedure to waive appraisal in cases involving acquisition of property with a low fair market value for public improvement projects. The City subsequently determined fair market value of the property interest identified above pursuant to a Compensation Estimate.

C. On February 21, 2013, the Iowa City Attorney's Office mailed to the property owner an offer to purchase the temporary construction easement interest depicted and described on Exhibit "A" at the fair market value thereof, as set forth in the Compensation Estimate and as established by the City Council, together with a copy of the Compensation Estimate. The offer was also accompanied by a cover letter offering to meet with the property owner. The City did

Speak with the property owner several times, but to date, the City has not been able to negotiate acquisition of the property interest described above from the owner named above.

NOW, THEREFORE, pursuant to a regularly adopted resolution by the City Council of the City of Iowa City, YOU ARE HEREBY REQUESTED to appoint a Compensation Commission to appraise the damages caused by this appropriation; said Commission to consist of six commissioners who shall be residents of Johnson County, Iowa.

YOU ARE FURTHER REQUESTED to give written notice to the City of Iowa City, Iowa as soon as the commissioners have been appointed.

Dated 5/15, 2013.

CITY OF IOWA CITY, IOWA


By: 

Eric R. Goers ATT0002835
Assistant City Attorney
410 East Washington Street
Iowa City, IA 52240
319-356-5030
319-356-5008 Fax

APPROVED , 2013.


Chief Judge, Sixth Judicial District

In accord with Iowa Code Section 6B.3(7), I, the undersigned, certify under penalty of perjury and pursuant to the laws of the State of Iowa that this Original Application for condemnation has been approved by the Chief Judge of the Sixth judicial District.

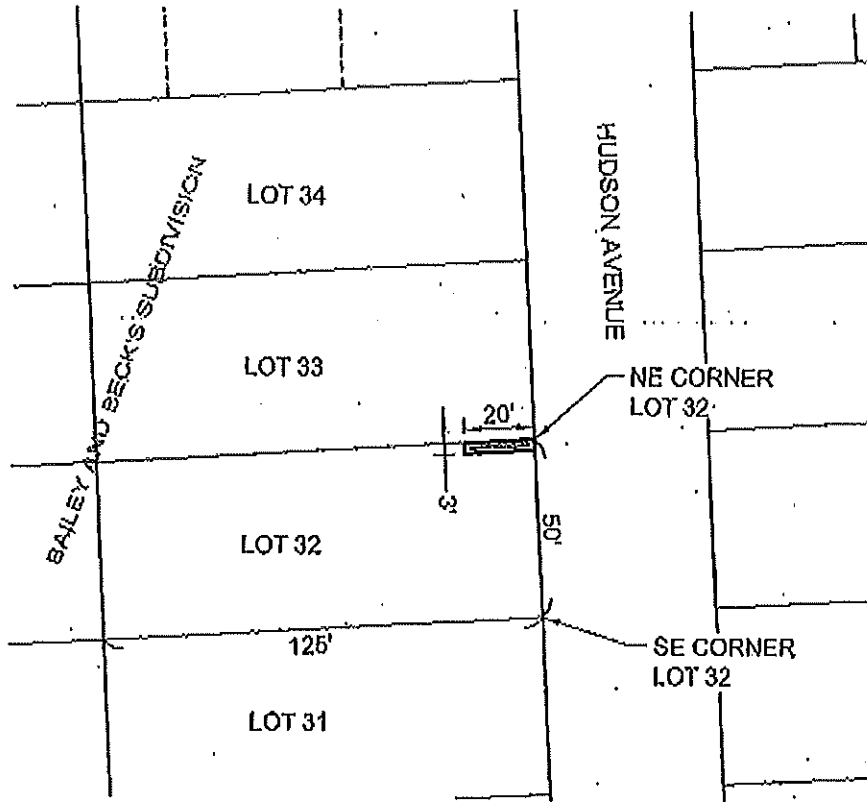

Eric R. Goers ATT0002835
Assistant City Attorney
City Iowa City, Iowa

Filed in my office at Iowa City, Iowa, on _____, 2013.

Sheriff of Johnson County, Iowa

EASEMENT EXHIBIT

TEMPORARY CONSTRUCTION EASEMENT
 LOT 32, BAILEY AND BECK'S SUBDIVISION
 IOWA CITY, JOHNSON COUNTY, IOWA



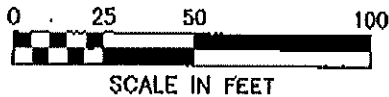
DESCRIPTION

A temporary construction easement on the North 3 feet of the East 20 feet of Lot 32, Bailey and Beck's Subdivision, Iowa City, Johnson County, Iowa and containing 60 square feet.

EASEMENT REQUESTED BY:
 THE CITY OF IOWA CITY

PROPERTY OWNER:
 IOWA CITY RENTAL HOUSES, LLC

SITE ADDRESS:
 825 HUDSON AVENUE
 IOWA CITY, IA



SHIVE-HATTERY
 ARCHITECTURE + ENGINEERING
 Iowa | Illinois | Missouri
<http://www.shive-hattery.com>
 ILLINOIS FIRM NUMBER: 184-000214

TEMPORARY CONSTRUCTION EASEMENT
 LOT 32, BAILEY AND BECK'S SUBDIVISION
 IOWA CITY, IOWA

PROJECT NO.
 111423-0

DATE	2/10/12	SCALE	1"=50'
DRAWN	JSB	FIELD BOOK	
APPROVED	JSB	REVISION	

SHEET NO.
B1.1

EXHIBIT A

| j:\boile | P: \Projects\IC\1112340\DWG\EASEMENTS\EP-B1-01-IC RENTAL HOUSES 829 HUDSON.DWG | DATE: 02/10/2012 | Time: 10:02 |