

**STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)**

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

v.

Charles A. Abraham, et al.

Defendants.

CASE NO. 01-7657-CH

HON. WILLIAM F. MYLES

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RICKY R. ROCKWELL
ARENAC COUNTY CLERK

JUDGMENT VACATING AND REVISING RECORDED PLAT

At a session of said court held in the Courthouse in the
City of Standish, County of Arenac, State of Michigan,
this 16th day of August, 2013.

Present: Honorable William F. Myles, Circuit Judge

The Court having considered a complaint to vacate, correct, or revise all or a part of the original Wallace and Orr Park Subdivision Plat of 1904 pursuant to MCL 560.221 et seq., the court having tried this matter in open court, the court having made findings of fact and conclusions of law in orders entered on August 24, 2006, December 18, 2006, January 5, 2007, March 4, 2009, April 15, 2009, July 1, 2009, and February 13, 2013, which are

appended to, and incorporated in, this judgment as Exhibit A, the court having further reviewed and approved the amended plat prepared by William J. Rigg, PS, of Rigg Land Surveying, Inc., submitted to the court, and appended to, and incorporated in, this judgment as Exhibit B, the court finding that said amended plat comports with the court's findings and rulings, all parties required by MCL 560.224a(1) having been joined, and given notice of the proceedings leading to this judgment, or been defaulted, and the court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED that the amended plat of the Wallace and Orr Park Subdivision prepared by William J. Rigg, PS, of Rigg Land Surveying, Inc. (appended to, and incorporated in, this order as Exhibit B) is approved, said amended plat generally described as follows:

"Proposed Amended Plat of Blocks 1 – 19, Inclusive, Part of Blocks 20 – 23, Part of Block 25, Blocks 26 – 31, Inclusive, Blocks A – Z Inclusive, the Block labeled α , Inclusive, Promenade Beach¹ and Certain Vacated Streets and Avenues within Plat of the Wallace and Orr Park, Section 11, T19N, R7E, Sims Township, Arenac County, Michigan, also Including Additional Unplatted Land Located in Fractional Section 12.

Part of Government Lots 1 and 2, and all of Government Lots 3 and 4, of Section 11, T19N, R7E, Sims Township, Arenac County, Michigan, Also Including Additional Unplatted Land Located in Fractional Section 12, T19N, R7E, Sims Township, Arenac County, Michigan."

¹ The original plat used the platted name "Promenade Beach" for the Promenade Beach area. This misspelling of "Promenade" has been corrected in the amended plat to state the proper spelling of the beach as "Promenade Beach".

IT IS FURTHER ORDERED AND ADJUDGED that the portion of the original Wallace and Orr Park Subdivision Plat of 1904 referenced in the aforesated amended plat is vacated and the aforesated amended plat, with its revisions, is adopted.

IT IS FURTHER ORDERED AND ADJUDGED that public easements and road right-of-ways are established or preserved as depicted in the aforesated amended plat.

IT IS FURTHER ORDERED AND ADJUDGED that only recorded easements located within the boundary of the amended plat are preserved, and the amended plat shall show only recorded easements, and shall be accompanied by a written statement of the surveyor that he or she, in determining the type, width, and location of any recorded easements shown has reviewed any existing title search and/or policy of title insurance and had searched, or caused to be searched, the records of the register of deeds for any recorded easements burdening the subject lands which were created between the date of a title search or issuance of a title policy and the most recent submittal date of the amended plat and shall provide a copy of those records to the Michigan Department of Licensing and Regulatory Affairs, Office of Land Survey and Remonumentation upon submission of the amended plat.

IT IS FURTHER ORDERED AND ADJUDGED that there is hereby reserved pursuant to MCL 560.226(3), a private easement for public utilities over the following described portions of the named vacated streets in the plat of Wallace and Orr Park as depicted on the attached Exhibit B amended plat: 1st Street as it is contained within new Lots 4 and 5, Block A, 2nd Street as it is contained within new Lot 7, Block A, 4th Street as it is contained within new Lots 11 and 12, Block A, Crescent Avenue as it is contained in new Lot 3, Block K, 18th Street as it is contained in new lot 99, Block 18, Crescent Avenue as it is contained in the new Block R,

Crescent Avenue as it is contained in new Block U, Crescent Avenue as it is contained in new Block V, Crescent Avenue as it is contained in new Block W, Crescent Avenue as it is contained in new Block 34, Crescent Avenue as it is contained in new Block 33, Crescent Avenue as it is contained in new Lot 2 of Block 32, 31st Street as it is contained in new Block 31. This easement shall run to Consumer's Energy Company and Sims Township and shall be depicted on an amended plat in substantial compliance with Exhibit B.

IT IS FURTHER ORDERED AND ADJUDGED that there is reserved pursuant to MCL 560.226(3), a private easement for public utilities over the remaining private streets and alleys within the boundary of the amended plat as depicted in attached Exhibit B. This easement shall run to Consumers Energy Company and Sims Township and shall be depicted on an amended plat in substantial compliance with Exhibit B.

IT IS FURTHER ORDERED AND ADJUDGED that title shall vest in the rightful proprietors of that part of the plat vacated by this judgment and adopted in the aforesaid amended plat, with its revisions.

IT IS FURTHER ORDERED AND ADJUDGED that the 100-year floodplain contour line as established by the Michigan Department of Environmental Quality, if applicable, and the floodplain area, if applicable, shall be depicted on the amended plat in accordance with MCL 560.138.

IT IS FURTHER ORDERED AND ADJUDGED that the following floodplain restrictions are imposed upon the amended plat as required by MCL 560.194, if the floodplain area burdens any portion of the amended plat.

(a). No new buildings for residential purposes and occupancy shall be located on any portion of a lot line within the floodplain, unless approved in accordance with the

administrative rules, being R560.304(2)(a-g), adopted by the Michigan Department of Environmental Quality.

(b). Other activities in the floodplain are subject to the restrictions of the Land Division Act, MCL 560.101 et. seq. and Part 31 of the Natural Resources and Environmental Protection Act, MCL 324.3107 and 324.3108 and shall not be conducted except pursuant to those statutes.

(c). These restrictions are to be observed in perpetuity, and may not be amended without approval of the Michigan Department of Environmental Quality.

IT IS FURTHER ORDERED AND ADJUDGED that there is hereby reserved, in accordance with MCL 560.226(3) and for the purpose of providing suitable access in accordance with MCL 560.182(4)(a) and 183(4), a private easement for ingress and egress to the below described portion of unplatted land over the certain portion of proposed Lot 6, 7, 8, and 9 as depicted on Exhibit B. This easement shall run with and attach to the below described unplatted parcel and shall be depicted on an amended plat:

All that part of Section 12, T19N, R7E, Sims Township, Arenac County, Michigan more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 12, thence North 02°20'27" West 226.04 feet along the West line of said Section 12 to the POINT OF BEGINNING; thence continuing North 02°20'27" West along the West Section line 307.67 feet; thence North 83°22'35" East 83.06 feet to a point on an intermediate traverse line lying South 83°22'35" West 59.2 feet, more or less from the waters edge of the Saginaw Bay; thence South 17°03'13" East 294.02 feet along said intermediate traverse line to a point located South 77°03'18" West 82.7 feet, more or less from the waters edge of the Saginaw Bay; thence South 77°03'18" West 160.24 feet to the Point of Beginning, further including all lands lying east of the intermediate traverse

line and between the North and South lines of said described parcel extended to the waters edge of the Saginaw Bay.


Contains 1.29 acres, more or less.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff must record this judgment in the office of the Register of Deeds for the County of Arenac, State of Michigan, within 30 days of entry of this judgment, as required by MCL 560.228 and a copy of the recorded judgment shall accompany the amended plat to be filed with the Michigan Department of Licensing and Regulatory Affairs, Office of Land Survey and Remonumentation.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff shall prepare and file, no later than 180 days from the entry of this Judgment, the amended plat for the Wallace and Orr Park Subdivision as afore-described on the materials specified in 2008 MR 10, R560.104 and submitted for the review and approval of the Michigan Department of Licensing and Regulatory Affairs (LARA), Office of Land Survey and Remonumentation. The amended plat must be consistent with this judgment, and in recordable form that complies with the Land Division Act, MCL 560.101, et. seq. Upon receipt by LARA of the proposed amended plat, LARA will, within the 15 days provided by MCL 560.171, either approve the plat for recording or reject and return the amended plat if it fails to conform with the requirements of the Land Division Act, the promulgated rules, or this judgment with an explanation of the reasons for rejection.

IT IS FURTHER ORDERED AND ADJUDGED that upon notice and hearing, this judgment shall be declared null and void, *nunc pro tunc* should the amended or proprietor's plat not be prepared and filed as required by this judgment and by the requirements of the Land Division Act no later than 180 days from the entry of this Judgment.

This judgment resolves the last pending claim in this matter and closes the case except as may be necessary to enforce the provisions of this judgment.



HON. WILLIAM F. MYLES, Circuit Judge