

★ Roll Call Number

14-0756

Agenda Item Number

17

Date May 19, 2014

RESOLUTION AUTHORIZING PARTIAL RELEASE OF JUDGMENT LIEN

WHEREAS, the City of Des Moines filed a lawsuit and obtained a judgment against Victor Machir in the amount of \$36,576.77 in relation to nuisance abatement and demolition and disposal costs for real property located at 1140 E. 8th Street, Des Moines; and

WHEREAS, the Conservator for Victor Machir and Grand View University have entered into a purchase agreement for the sale to Grand View University of real property owned by Mr. Machir as his homestead, located at 1333 Boyd Street, Des Moines, which purchase agreement has been approved by Court order in Polk County District Court Case No. GCPR 065393, In the Matter of the Guardianship and Conservatorship of Victor A. Machir; and

WHEREAS, said purchase agreement and Court order provide that 1333 Boyd Street will be sold for a purchase price of up to \$54,500.00 in order to pay off the current mortgage balance that is owed against the property; and

WHEREAS, the City has been requested to release the judgment lien against 1333 Boyd Street in order for the mortgagee, Wells Fargo Bank, to receive all proceeds from the sale and release its mortgage lien and for the sale of the property to Grand View University to proceed; and

WHEREAS, the property is now expected to be sold to Grand View University for \$50,000.00, which amount will pay the mortgage balance of approximately \$44,000.00, as well as property taxes and assessments owed on the property and closing costs associated with the sale, with no proceeds going to seller Victor Machir; and

WHEREAS, Grand View University has submitted a letter, attached hereto, stating the possibilities of using the property located at 1333 Boyd Street for short-term assemblage and housing purposes, and for long-term redevelopment for campus improvements such as a campus building or additional parking.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that:

1. The attached letter from Grand View University regarding its proposed purchase of 1333 Boyd Street is hereby received and filed.
2. The City approves partial release of its judgment lien, solely as to any lien that the City may have against the real property locally known as 1333 Boyd Street, Des Moines, in Polk County District Court Case No. EQCE 52771, City of Des Moines v. Victor Machir, et al, and for the sole purpose of effectuating the sale of 1333 Boyd Street, Des Moines, to Grand View University for assemblage and redevelopment purposes, subject to the conditions that such sale is approved by Wells Fargo Bank for release of its mortgage and that all proceeds from the sale are used to pay off said mortgage, taxes,

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assessments and closing costs, with no proceeds going to the seller. In the event that any or all of said conditions do not occur, or that the sale to Grand View University does not occur for the purposes set forth in the attached letter, the City's partial release as approved herein shall be ineffectual and void.

3. The Mayor and City Clerk are authorized and directed to sign and attest, respectively, any necessary partial releases, after approval as to form by the City Legal Department, for use at or after closing on the sale of 1333 Boyd to Grand View University and subject to the conditions set forth herein.
4. The City hereby retains any judgment lien that it may have against Mr. Machir and all other defendants personally and against any other real or personal property affected by the judgment lien in Polk County District Court Case No. EQCE 52771, City of Des Moines v. Victor Machir, et al.

MOVED by Hensley to approve.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh

City Clerk