



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

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TRANSMITTAL LETTER FOR BOARD MEETING OF DECEMBER 16, 2010

COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authority to Enter into a Settlement Agreement in the Matter of Abec & Crowe v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 03 CH 21800 Consolidated with 04 CH 752 and 03 M1 718897

Dear Sir:

In 1903, landowners along the North Branch of the Chicago River deeded certain real estate to the Water Reclamation District for the purposes of straightening and widening a segment of the Chicago River. In the deed, the landowners reserved certain rights for themselves which, in part, allowed them to build canals or slips on the deeded property to access the widened river. The deed also stated in pertinent part, that the landowners "...shall be entitled to retain the use and possession of each part of the land conveyed, to the waters edge, until the [District] shall be ready to enter upon and use the same for the purposes of said new proposed channel."

Over the years landowners, along the river between Lawrence and Montrose Avenues (which is adjacent to the deeded area) have constructed various structures on the riverbank, including docks, fences and retaining walls. It has been the District's position that some of the structures fall outside the definition of slips and canals. During this period, there have been numerous attempts to define the relationship of the parties and the types of structures that are permitted in this area.

In 2003, the District filed a lawsuit against the homeowners seeking a declaration from the Circuit Court of the rights of the parties. In response, the homeowners filed counterclaims alleging that their rights to the land were being violated. These matters were consolidated in the above captioned lawsuit. The parties filed cross motions for summary judgment and the Chancery Court entered an interim order setting forth the respective rights of the parties. In its Order, the court ruled that the District was the fee simple absolute owner of the property and that the homeowners had easement rights of egress and ingress to the water's edge. The Court found that the docks were authorized pursuant to the 1903 deed and it refused to provide for the removal of any structures which were not authorized by the 1903 deed. As a result of the Court's order, the parties have been involved in settlement negotiations in an attempt to define the relationship of the parties.

The proposed complete Settlement Agreement along with a synopsis of its content is attached hereto for your review and approval. The Agreement sets forth a procedure for regulating the existing structures as well as procedures for future structures. It also requires the homeowners to procure liability insurance in the amount of 4 million dollars to protect and indemnify the District from personal injury claims along the River.

It is the opinion of the Law Department that settlement of the litigation by execution of the aforesaid Settlement Agreement affords a mutually acceptable resolution of this controversy.

It is requested that the settlement of the lawsuits entitled Abec & Crowe v. Metropolitan Water Reclamation

District of Greater Chicago, Case No. 03 CH 21800 Consolidated with 04 CH 752 and 03 M1 718897 in the Circuit Court of Cook County, Chancery Division, by the execution and delivery of the attached Settlement Agreement and the execution of a stipulation to dismiss, with each party to pay their own costs and attorneys' fees, be authorized and approved.

It is further requested that the Executive Director and Clerk be authorized and directed to execute said Settlement Agreement on behalf of the District after it is approved as to form and legality by the Acting General Counsel, and further that the Acting General Counsel be authorized and directed to execute and deliver a stipulation to dismiss said litigation and such other documents as may be necessary to effect the settlement, final disposition and dismissal of the aforesaid litigation.

Requested, Alan J. Cook, Acting General Counsel, AJC:LJH:crb

Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for December 16, 2010

Attachments