

Order 275-07/08

Given first reading on 6/2/08

Public Hearing & Passage 6/16/08 9-0

EDWARD J. SUSLOVIC (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

DANIEL S. SKOLNIK (3)

CHERYL A. LEEMAN (4)

## CITY OF PORTLAND

IN THE CITY COUNCIL

JAMES I. COHEN (5)

JOHN M. ANTON (A/L)

JILL C. DUSON (A/L)

NICHOLAS M. MAVODONES (A/L)

**ORDER OF CONDEMNATION  
PURSUANT TO 30-A M.R.S.A. § 3402  
RE: CSO FALL BROOK SEWER EASEMENTS AT 23 DRAKE STREET,  
1091 WASHINGTON AVENUE AND ANTHONY AVENUE**

To the Within-named Owner(s) of Record:

- Travis and Beth McDuffie
- Current Owners Unknown

Pursuant to 30-A M.R.S.A. § 3402, the Municipal Officers of the Municipality of Portland, Maine, having given notice of their intentions to condemn the easements necessary for construction and maintenance of sewers by posting the notice at least seven days in two public places in the Municipality, at Portland City Hall, Clerk's Office, 389 Congress Street, and at Maine District Court, 142 Federal Street, and in the vicinity of the easements, at 23 Drake Street, and having met for this purpose in accordance with the notice and determined that public exigency requires the immediate taking of the easements, do hereby take certain property rights in the Municipality for this purpose, as follows:

Sewer Easement Deed Description

23 Drake Street, CBL 408-D-8, 5615 s.f., (Travis and Beth McDuffie, Owners)

1091 Washington Avenue, SW of Drake Street, 2 s.f. (Current Owner Unknown)

1091 Washington Avenue, SW of Ray Street, 4,217 s.f. (Current Owner Unknown)

Anthony Avenue, Westerly end, 424 s.f. (Current Owners Unknown)

A certain Sewer and Drainage Easement and Right-of-Way across lands situated between the southwesterly side of Ray Street and the southeasterly side of Maine Ave. in the City of Portland, Cumberland County, State of Maine, and bounded and described as follows:

COMMENCING at a point at the intersection of the northeasterly sideline of Ray Street as relocated and accepted by Order of the Portland City Council, dated Sept. 4, 1957 and recorded in the City Clerk's Volume 75, Pages 293-294 with the southeasterly sideline of Ivaloo Street as accepted by Order of the Portland City Council, dated November 2, 1936 and recorded in the City Clerk's Volume 60, Page 488, said streets are also shown on a "Plan of Ray Gardens", dated

September 1, 1914 and recorded in the Cumberland County Registry of Deeds in Plan Book 12, Page 103;

THENCE, S33°34'28"E one hundred nine and twenty hundredths feet (109.20') along the northeasterly sideline of said Ray Street to a point in the southeasterly line of the Fall Brook Right of Way as described in a Drainage and Sewer Easement Deed from Sarah E. Shmitt to the City of Portland in a deed dated December 28, 2004 and recorded in Deed Book 22184, Page 163 and as shown on a "Plan of Proposed Sewer and Drainage R.O.W. Across Land of Sarah E. Shmitt, 67 Ray Street," dated July 14, 2004, revised November 24, 2004 and recorded in Plan Book 204, Page 957;

THENCE, S59°13'27"W fifty and six hundredths feet (50.06') through Ray Street to a point in the southwesterly sideline of Ray Street and THE POINT OF BEGINNING;

THENCE, S60°12'32"W three hundred seventeen and thirty-one hundredths feet (317.31') through land now or formerly of John F. Napolitano et al. as described in a deed dated December 9, 1971 and recorded in Deed Book 3204, Page 212 and through land now or formerly of the City of Portland as described in a deed recorded June 16, 2003 in Deed Book 19566, Page 140 and through Anthony Avenue a dedicated but unaccepted street as shown on a Plan of "Washington Terrace" dated November 3, 1916 and recorded in Plan Book 13, Page 72 to a point;

THENCE, N89°04'28"W two and thirty-one hundredths feet (2.31') continuing through said Anthony Avenue to a point in the southeasterly line of land now or formerly of St. Joseph's Manor as described in a deed dated July 15, 1994 and recorded in Deed Book 11533, Page 337;

THENCE, S35°32'45"W four hundred ninety one and seventy-three hundredths feet (491.73') along the southeasterly line of land now or formerly of said St. Joseph's Manor to a point in the northeasterly sideline of Washington Avenue as accepted by the Cumberland County Commissioners on June 4, 1897, Cumberland County Commissioner's Records Volume 17, Page 963;

THENCE, N57°27'34"W thirty and four hundredths feet (30.04') along the northeasterly sideline of said Washington Ave. to a point;

THENCE, N35°32'45"E four hundred seventy-two and sixty hundredths feet (472.60') through land now or formerly of said St. Joseph's Manor to a point;

THENCE, N89°04'28"W five hundred eighty-five and ninety-four hundredths feet (585.94') continuing through land now or formerly of said St. Joseph's Manor and through lands now or formerly of the following persons and establishments to a point,

Christina Wakefield in a deed dated October 27, 2004 and recorded in Deed Book 21947, Page 263,  
St. Joseph's Manor in a deed dated May 14, 1992 and recorded in Deed Book 10062, Page 116,  
Kenneth E. Shone et al. in a deed dated June 13, 1994 and recorded in Deed Book 11489, Page 131,  
Ann L. Kremer et al. in a deed dated September 11, 2003 and recorded in Deed Book 20184, Page 49,  
James Ascanio et al. in a deed dated May 18, 1988 and recorded in Deed Book 8287, Page 325,  
St. Joseph's Manor in a deed dated June 12, 1989 and recorded in Deed Book 8786, Page 51;

THENCE, N42°42'28"W six hundred eighty-one and eighty-four hundredths feet (681.84') continuing through land now or formerly of said St. Joseph's Manor and through lands now or formerly of the following persons and establishments to a point,

Sherrin M. Lacourse et al. in a deed dated January 7, 2003 and recorded in Deed Book 18761, Page 87,  
St. Joseph's Manor in a deed dated August 21, 1989 and recorded in Deed Book 8878, Page 220,  
St. Joseph's Manor in a deed dated September 20, 1974 and recorded in Deed Book 3602, Page 294 and corrected in a deed dated October 25, 1974 and recorded in Deed Book 3614, Page 309 and as shown on a "Plan for the Roman Catholic Bishop of Portland," dated March 11, 1974, revised February 11, 1975, by H.I. and E.C. Jordan Surveyors and recorded in the City of Portland Public Works Dept. Engineering Archives Vault as Plan #324/1,  
John A. Egeland, Jr. et al. in a deed dated May 24, 2002 and recorded in Deed Book 17671, Page 28,  
Wayne Berzinis et al. in a deed dated June 24, 2005 and recorded in Deed Book 22802, Page 223;

THENCE, N23°00'45"W one hundred ten and twenty-one hundredths feet (110.21'), continuing through land now or formerly of said Wayne Berzinis et al. and through land now or formerly of St. Joseph's Manor as described in a deed dated July 24, 1987 and recorded in Deed Book 7894, Page 99 to a point;

THENCE, N71°51'12"W sixty-five and seventy-seven hundredths feet (65.77') continuing through land now or formerly of said St. Joseph's Manor and through land now or formerly of Joseph A. Fish et al. as described in a deed dated April 24, 2000 and recorded in Deed Book 15436, Page 176 to a point;

THENCE, N80°13'12"W one hundred sixty and no hundredths feet (160.00') continuing through land now or formerly of said Joseph A. Fish et al., and through land now or formerly of Keith E. Hillock et al. as described in a deed dated December 31, 2003 and recorded in Deed Book 20745, Page 229 to a point;

THENCE, N69°35'12"W fifty-six and no hundredths feet (56.00') continuing through land now or formerly of said Joseph A. Fish et al., through a private way called Drake Street as described in a deed from Albert D. Robinson to William T.E. Jackson dated March 9, 1921 and recorded in Deed Book 1071, Page 420 and through land now or formerly of Thomas U. Gordon et al. in a deed dated January 4, 1995 and recorded in Deed Book 11779, Page 96 to a point;

THENCE, N28°36'42"W three hundred forty-one and eighty-three hundredths feet (341.83') along a line that is parallel to and 100.04' distant from the northeasterly side line of said Washington Ave. and continuing through land now or formerly of said Thomas U. Gordon et al., and through land now or formerly of the following persons,

Peter A. Beliveau et al. in a deed dated February 17, 1983 and recorded in Deed Book 6128, Page 94,

Czeslaw Skowron et al. in a deed dated February 28, 1990 and recorded in Deed Book 9096, Page 209,

Stephen R. Rourke et al. in a deed dated November 11, 1983 and recorded in Deed Book 6320, Page 333,

Gail A. Buchanan in a deed dated October 15, 2004 and recorded in Deed Book 21921, Page 27,

and along the northeasterly line of land now or formerly of Daniel Donatelli as described in a deed dated May 1, 1992 and recorded in Deed Book 10043, Page 78 to a point;

THENCE, S62°36'15"W ninety-six and six hundredths feet (96.06') through land now or formerly of said Daniel Donatelli to a point in the southeasterly sideline of Maine Avenue as accepted by order of the City of Portland City Council on May 5, 1930 City of Portland Clerk's Records Volume 56, Page 145, and as shown on a plan of "The Pines, Section A", dated April, 1925 and recorded in Plan Book 16, Page 29, said point is located N47°51'40"E four and twelve hundredths (4.12') from the northeasterly sideline of said Washington Avenue;

THENCE, N47°51'40"E one hundred seventeen and eighty-eight hundredths feet (117.88') along the southeasterly sideline of said Maine Ave. to a point;

THENCE, N62°36'15"E twenty-six and sixty eight hundredths feet (26.68') through land now or formerly of Peter B. Thomas et al. as described in a deed dated January 18, 1997 and recorded in Deed Book 12914, Page 230 to a point;

THENCE, S28°35'45"E three hundred forty-six and eighteen hundredths feet (346.18') continuing through land now or formerly of said Peter B. Thomas and through land now or formerly of the following persons to a point,  
Eric J. McCusker et al. in a deed dated March 19, 2002 and recorded in Deed Book 17468, Page 227,

said Gail A. Buchanan in a deed dated October 15, 2004 and recorded in Deed Book 21921, Page 27,  
said Stephen R. Rourke et al. in a deed dated November 11, 1983 and recorded in Deed Book 6320, Page 333,  
said Czeslaw Skowron et al. in a deed dated February 28, 1990 and recorded in Deed Book 9096, Page 209;

THENCE, S81°45'45"E two hundred thirteen and seven hundredths feet (213.07') continuing through land now or formerly of said Czeslaw Skowron et al. and through lands now or formerly of the following persons and establishments to a point,  
said private way called Drake Street as described in a deed from Albert D. Robinson to William T.E. Jackson dated March 9, 1921 and recorded in Deed Book 1071, Page 420,  
said Keith E. Hillock et al. as described in a deed dated December 31, 2003 and recorded in Deed Book 20745, Page 229,  
said Joseph A. Fish et al., as described in a deed dated April 24, 2000 and recorded in Deed Book 15436, Page 176 to a point in the easterly line of said Joseph A. Fish et al.;

THENCE, N23°00'45"W one hundred eighty-four and nineteen hundredths feet (184.19') along the easterly line of land now or formerly of said Joseph A. Fish et al. and along the northwesterly line of land now or formerly of said Keith E. Hillock et al. and through said private way called Drake Street to a point;

THENCE, N42°08'20"W three hundred thirty-three and forty-five hundredths feet (333.45') through said private way called Drake Street, through land now or formerly of St. Joseph's Manor as described in a deed dated September 20, 1974 and recorded in Deed Book 3602, Page 294 and corrected in a deed dated October 25, 1974 and recorded in Deed Book 3614, Page 309, and along the northeasterly line of James R. Woodbury et al. as described in two separate deeds, one dated June 4, 1974 and recorded in Deed Book 3557, Page 333 and the second dated January 17, 1973 and recorded in Deed Book 3351, Page 156 to a point in the southeasterly sideline of said Maine Avenue;

THENCE, N47°51'40"E sixty and no hundredths feet (60.00') along the southeasterly sideline of said Maine Avenue to a point;

THENCE, S42°08'20"E three hundred forty-three and fifty-six hundredths feet (343.56') along the southwesterly line of land now or formerly of John H. Conroy et al. as described in a deed dated August 20, 2004 and recorded in Deed Book 21727, Page 214 and through land now or formerly of said St. Joseph's Manor as described in a deed dated September 20, 1974 and recorded in Deed Book 3602, Page 294 and corrected in a deed dated October 25, 1974 and recorded in Deed Book 3614, Page 309 to a point;

THENCE, S23°00'45"E two hundred thirty and seventy-one hundredths feet (230.71') continuing through land now or formerly of said St. Joseph's Manor to a point;

THENCE, S81°45'45"E one hundred twenty-three and eight hundredths feet (123.08') continuing through land now or formerly of said St. Joseph's Manor to a point;

THENCE, S29°06'45"E three hundred three and sixty-six feet (303.66') continuing through land now or formerly of said St. Joseph's Manor to a point;

THENCE, S43°26'45"E four hundred forty-six and twenty-nine hundredths feet (446.29') continuing through land now or formerly of said St. Joseph's Manor and through land now or formerly of the Roman Catholic Bishop of Portland as described in a deed dated June 9, 1998 and recorded in Deed Book 13890, Page 47 and as shown on a plan of "Standard Boundary Survey for the Roman Catholic Bishop of Portland" by Owen Haskell, Inc., dated April 27, 1998, revised May 6, 1998 and recorded in Plan Book 198, Page 183 to a point;

THENCE, N66°41'45"E two hundred ninety-three and ten hundredths feet (293.10') continuing through land now or formerly of said Roman Catholic Bishop of Portland to a point;

THENCE, S73°18'15"E two hundred ninety-eight and three hundredths feet (298.03') continuing through land now or formerly of said Roman Catholic Bishop of Portland and through lands now or formerly of the following establishments to a point,  
said St. Joseph's Manor in a deed dated May 14, 1992 and recorded in Deed Book 10062, Page 116,  
said St. Joseph's Manor in a deed dated July 15, 1994 and recorded in Deed Book 11533, Page 337;

THENCE, N35°32'45"E one hundred eighty and thirty-two hundredths feet (180.32') continuing through lands now or formerly of St. Joseph's Manor to a point;

THENCE, N56°12'45"E fifty-nine and twenty-five hundredths feet (59.25') continuing through lands now or formerly of St. Joseph's Manor to a point in the southwesterly sideline of said Ray Street;

THENCE, S33°34'28"E one hundred fifty-three and forty-eight hundredths feet (153.48') along the southwesterly sideline of said Ray Street to the POINT OF BEGINNING;

Meaning and intending to release the Grantors' property interest taken by the following Orders of the Portland City Council.

1919 Milliken Branch: Accepted by Order of City Council on June 2, 1919, City Clerks Volume 46, Page 280, Vault Plan 197/1.

1920 Fall Brook Section 4: Accepted by Order of City Council on August 3, 1920, City Clerks Volume 47, Page 265, Vault Plan 260/5.

1934 Fall Brook Regulation: Accepted by Order of City Council on April 2, 1934, City Clerks Volume 59, Page 160, Vault Plan 235/11.

1951 Fall Brook Branch Combined Sewer: Accepted by Order of City Council on April 2, 1951, City Clerks Volume 70, Page 381, Vault Plan 637/1.

(Note: The plans listed in items 1 through 4 above are recorded in the City of Portland Public Works Dept. Engineering Archives Vault.)

This deed description is based on a plan titled "Fall Brook Sewer and Drainage Right of Way Between Maine Avenue and Ray Street," dated 2008, by the City of Portland, Maine, Public Works Department, Engineering Section to be on file at said Public Works Department Engineering and Archives Vault and to be recorded at said Registry.

and determine the amount of damages to be paid to the owners of record of affected properties as just compensation therefor, as follows:

\$6,400 to Travis and Beth McDuffie

\$1 to Current Owner of 1091 Washington Avenue, SW of Drake Street, 2 s.f.

\$1 to Current Owner of 1091 Washington Avenue, SW of Ray Street, 4,217 s.f.

\$1 to Current Owner of Anthony Avenue, Westerly end, 424 s.f.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008.

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Mayor Edward J. Suslovic

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James I. Cohen, City Councilor

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Kevin J. Donoghue, City Councilor

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John M. Anton, City Councilor

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David A. Marshall, City Councilor

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Jill C. Duson, City Councilor

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Daniel S. Skolnik, City Councilor

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Nicholas M. Mavonones, City Councilor

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Cheryl A. Leeman, City Councilor

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