

CITY COUNCIL MEETING  
MAY 21, 1986

LIABILITY CLAIM OF  
LLOYD AND MILDRED  
J. GUMS

CC-4(c)  
CC-27(a)

City Attorney Stein reported that when K Mart developed its property on Cherokee Lane in Lodi in 1981, the engineer and developer were required to obtain an easement for a watermain to serve that property. They went to Central Traction Company and received a letter agreement allowing the watermain over said property. Approximately six or seven months ago, Lloyd Gums advised the City that the property in question had been purchased by him and in fact the easement should have been obtained from him rather than from Central Traction Company. Mr. Gums is in the process of developing his property with a building. The City would either have had to remove the line or condemn the line at its present location. It was determined by the City that the cost of removing the line would be approximately \$7,000 and therefore entered into negotiations with Mr. Gums with the possibility of having the easement at the present location. The City Engineering Department and City Attorney, after such negotiations, determined it would be in the best interest of the City to purchase the easement for \$7,000. If the City were required to condemn the easement, the City would have had the expense of having an appraisal done as well as the cost of litigation of same.

Following a lengthy discussion with questions being directed to Staff and to the City Attorney, Council, on motion of Council Member Snider, Reid second, approved settlement in this matter as recommended by staff in the amount of \$7,000.

# COUNCIL COMMUNICATION

TO: THE CITY COUNCIL  
FROM: THE CITY MANAGER'S OFFICE

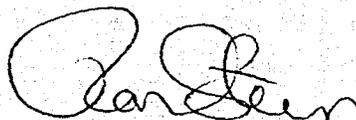
DATE:  
MAY 14, 1986

NO.

SUBJECT: LIABILITY CLAIM OF LLOYD P. AND MILDRED J. GUMS.

When K Mart developed its property on Cherokee Lane in Lodi in 1981, the engineer and developer were required to obtain an easement for a watermain to serve that property. They went to Central Traction Company and received a letter agreement allowing the watermain over said property. Approximately six or seven months ago, Lloyd Gums advised the City that the property in question had been purchased by him and in fact the easement should have been obtained from him rather than from Central Traction Company. Mr. Gums is in the process of developing his property with a building. The City would either have had to remove the line or condemn the line at its present location. It was determined by the City that the cost of removing the line would be approximately \$7,000 and therefore entered into negotiations with Mr. Gums with the possibility of having the easement at the present location. The City Engineering Department and City Attorney, after such negotiations, determined to purchase the easement for the \$7,000 cost. If the City were required to condemn the easement, the City would have had the expense of having an appraisal done as well as the cost of litigation of same.

It is therefore recommended that the City Council approve the settlement of \$7,000. In return for same, Mr. Gums will give the City the easement for said property.



RONALD M. STEIN  
CITY ATTORNEY

RMS:vc

1 LAW OFFICE OF MICHAEL L. GUMS  
2 A Professional Corporation  
3 629 "J" Street, Second Floor  
4 Sacramento, California 95814  
5 (916) 446-6416  
6 Attorney for Claimants

RECEIVED  
1986 APR 31 AM 7:14  
ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

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8 LLOYD P. GUMS and MILDRED  
9 J. GUMS,  
10 Claimants,  
11 vs.  
12 CITY OF LODI, CALIFORNIA,  
13 a Public Entity,  
14 Defendants.  
15 \_\_\_\_\_/

NOTICE OF CLAIM  
AGAINST PUBLIC ENTITY

17 TO: THE CITY OF LODI, CALIFORNIA, a Public Entity.

18 PLEASE TAKE NOTICE that LLOYD P. GUMS and MILDRED J. GUMS  
19 (Claimants) hereby make and give notice of their claim against the  
20 CITY OF LODI, CALIFORNIA, a Public Entity, for damages and for  
21 equitable relief and, in support thereof, Claimants allege:  
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25 I

26 Claimants reside at 731 Birchwood Drive, Lodi, California,  
27 and are the owners of that certain real property which is more  
28 particularly described as 720 East Lodi Avenue, Lodi, California.  
29

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32 II

33 Claimants are informed and believe and based on such  
34 information and belief allege that the above referenced public entity  
35 claims some interest in the such Lodi Avenue real property of  
36

1 Claimants as hereinabove described under a theory of easement by  
2 purchase, grant or prescription which claim is not fully known to  
3 Claimants and is hereby renounced and denied by Claimants on the  
4 grounds that same cannot be identified with the requisite degree of  
5 particularity.

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8 III

9  
10 Within the last one hundred days and on or about February  
11 1, 1986, Claimants became aware that the above-referenced public  
12 entity caused a pipeline to be placed under and within the Claimants'  
13 Lodi Avenue real property and further allege that said public entity  
14 did so without the knowledge, permission or consent of Claimants or  
15 their predecessors in interest. Such pipeline constitutes a nuisance  
16 and a trespass as to Claimants' Lodi Avenue real property.

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19 IV

20  
21 The conduct of the above named public entity as hereinabove  
22 described has caused Claimants to lose the quiet use and enjoyment of  
23 their unique real property and therefore Claimants are entitled to  
24 equitable relief in the form of an injunction directing that the  
25 nuisance be abated and that the trespass cease.

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27  
28 V

29  
30 The conduct of the above-named public entity as hereinabove  
31 described has caused damages to Claimants in the nature of the  
32 diminution of value of their Lodi Avenue real property in an amount  
33 in excess of Fifty Thousand Dollars (\$50,000.00), the exact amount to  
34 be determined according to proof.

VI

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2  
3 Claimants have retained MICHAEL L. GUMS, to act as their  
4 attorney in the prosecution of this claim and all notices concerning  
5 this claim should be sent to Claimants' attorney addressed as  
6 follows: MICHAEL L. GUMS, A Professional Corporation, 629 "J"  
7 Street, Second Floor, Sacramento, California 95814. (916) 446-6416.  
8

9 WHEREFORE, Claimants pray for a determination that:

10 1. Claimants are entitled to recover damages from the  
11 above named public entity for trespassing and diminution of the  
12 value of the Lodi Avenue real property in an amount as of yet  
13 undetermined but believed to be in excess of Fifty Thousand Dollars  
14 (\$50,000.00) and to be determined according to proof.

15  
16 2. That the above named public entity be determined  
17 to be violating Claimants property rights in the manner hereinabove  
18 set forth.

19  
20 3. That the above named public entity cease and  
21 desist from a further violation of the Claimants property rights.  
22

23 4. That this claim be accepted and appropriate  
24 hearings be scheduled.

25 DATED: April 27, 1986  
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29 MICHAEL L. GUMS  
30 Attorney for Claimants  
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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and a resident of Sacramento County, California. I am over the age of 18 years and not a party to the within above entitled action. My business address is 629 J Street, Second Floor, Sacramento, California. On this date I served the foregoing by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at Sacramento, California, addressed as follows: LODI CITY COUNCIL, Post Office box 320, Lodi, California 95240, Certified Mail, Return Receipt Requested.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 29, 1986, at Sacramento, California.

*TERRI McKEY*  
\_\_\_\_\_  
TERRI McKEY

Law Offices of  
**MICHAEL L. GUMS**  
A Professional Corporation

RECEIVED

1986 APR 30 AM 10:15

Security Pacific Bank Building  
629 J Street, Second Floor  
Sacramento, California 95814  
(916) 446-6416

Conference Office:  
317 West Lodi Avenue  
Lodi, California 95240  
(209) 333-2883

April 29, 1986

ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

MR. RONALD STEIN, ESQ.  
Lodi City Attorney  
221 East Pine Street  
Lodi, California 95240

Re: Pipeline Easement at 720 East Lodi Avenue

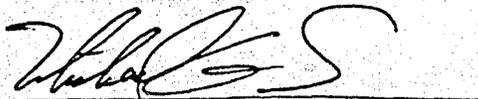
Dear Mr. Stein:

After our recent telephone conversation, I spoke to my father regarding your suggestion that he should decide what he wants to do at 720 East Lodi Avenue. As you will recall, he originally wanted to build a building on the property, but he ran into an unauthorized pipeline so he designed alternate construction plans that would accomodate the pipeline in its present location. However, if constructed on the basis of the alternate plans, the building will cost an additional \$9,600.00.

With that in mind, my father suggests that the City of Lodi should decide what it wants to do with regard to the pipeline. As I understand it, the City of Lodi would incur a cost of \$5,700.00 plus the cost of the easement if the pipeline was to be moved, but there is no direct cost in leaving the pipeline in its present location, except the \$9,600.00 reimbursement my father seeks.

At this point, my father has a valid trespass claim and he is incurring damages daily because of the construction delays encountered, but he is willing to forget the whole thing if the City of Lodi will simply reimburse him for his increase in construction costs. Please be advised that the City of Lodi has ten days from the date of this letter to either remove the pipeline from my father's property or pay the above-requested \$9,600.00.

Yours truly,

  
MICHAEL L. GUMS

MLG:tm

Encls: Notice of Claim Against Public Entity