

ORDINANCE NO. F-0732

**AN ORDINANCE AUTHORIZING THE ACQUISITION THROUGH
CONDEMNATION OF CERTAIN PROPERTY LOCATED WITHIN THE WHEATON
MAIN STREET REDEVELOPMENT PROJECT AREA BY THE
CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS
(109 North Main Street, Wheaton, Illinois)**

WHEREAS, on December 6, 1999, the Mayor and City Council of the City of Wheaton (the "Corporate Authorities") passed and approved Ordinance No. F-0418, "An Ordinance of the City of Wheaton, DuPage County, Illinois, Approving a Tax Increment Redevelopment Plan and Redevelopment Project for the City of Wheaton Main Street Redevelopment Project Area"; and,

WHEREAS, on December 6, 1999, the Corporate Authorities passed and approved Ordinance No. F-0419, "An Ordinance of the City of Wheaton, DuPage County, Illinois, Designating the City of Wheaton Main Street Redevelopment Project Area A Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and,

WHEREAS, on December 6, 1999, the Corporate Authorities passed and approved Ordinance No. F-0420, "An Ordinance of the City of Wheaton, DuPage County, Illinois, Adopting Tax Increment Allocation Financing for the City of Wheaton Main Street Redevelopment Project Area"; and,

WHEREAS, on January 7, 2002, the Corporate Authorities passed and approved Ordinance No. F-0675, "An Ordinance of the City of Wheaton, DuPage County, Illinois Approving an Amendment to the Wheaton Main Street Redevelopment Area Project and Plan and Ratifying and/or Confirming Certain Other Changes"; and,

WHEREAS, the Corporate Authorities deem it advisable and in the public interest and welfare to acquire title to certain real estate located within the City of Wheaton Main Street Redevelopment Project Area, with the said real estate having been found in Ordinance No. F-0418 to not be subject to growth and development by private enterprise, and also that the property would not be reasonably anticipated to be developed without the adoption of a Redevelopment Plan; and,

WHEREAS, the Corporate Authorities find that the real estate described in the attached **Exhibit A** and depicted in the attached **Exhibit B** should be acquired to fulfill the goals and purposes of the Redevelopment Plan and Redevelopment Project for the City of Wheaton Main Street Redevelopment Project Area; and,

WHEREAS, in accordance with the property ownership disclosure requirement imposed on units of local government as set forth in 50 ILCS 105/3.1, the City of Wheaton, has obtained a tract search identifying the record title holder of the real estate described in the attached Exhibit A and depicted in the attached Exhibit B to be: Robert O. Sandberg, a copy of said tract search being attached hereto and incorporated herein as **Exhibit C**; and,

WHEREAS, on the 21st day of May, 2002, Ordinance No. F-0717 was adopted providing for the negotiation for the acquisition of the property described in Exhibit A and depicted in Exhibit B attached hereto; and

WHEREAS, the Corporate Authorities have offered to purchase said property at a price which is based on information obtained from the Corporate Authorities' consultants regarding the fair cash market value of the property, however, the Corporate Authorities have been unable to agree with the owners of the property concerning just compensation and negotiations have reached an impasse as defined by Illinois case law.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, as follows:

SECTION 1: That the recitals set forth above are hereby adopted and incorporated into this Ordinance.

SECTION 2: That it is necessary and desirable that the real estate described in Exhibit A and depicted in Exhibit B attached hereto be acquired in fee simple by the said City of Wheaton by eminent domain as authorized in 65 ILCS 5/11-74.4-4.

SECTION 3: That the Corporate Authorities have reviewed the history of negotiations and hereby finds that negotiations with the owners have reached an impasse as defined by the law.

SECTION 4: That it is necessary and desirable that fee simple title to the real estate described in Exhibit A and depicted in Exhibit B attached hereto, be acquired by condemnation by the Corporate Authorities for one or more of the purposes set forth.

SECTION 5: That the City Manager, his staff, and the City Attorneys be, and hereby are, authorized to take the necessary steps by condemnation to acquire title to the real estate described in Exhibit A and depicted in Exhibit B attached hereto.

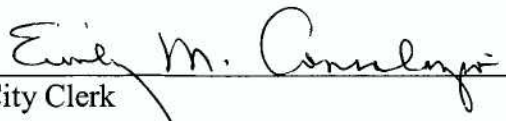
SECTION 6: That the previously issued negotiation authority as set forth in Ordinance No. F-0505, authorizing the City Manager, his staff and the City Attorneys to acquire the subject property through negotiation is hereby revoked as it relates to "good faith negotiations" necessary as a predicate for the exercise of the City of Wheaton's condemnation power. In this regard, it is the express intention of the City of Wheaton that any and all further discussions, negotiations or conferences related to the acquisition of the subject real estate be declared to be only in reference to settlement of imminent or pending condemnation litigation.

SECTION 7: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 8: All ordinances, resolutions, motions, or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict, and this Ordinance shall be in full force and effect upon its passage and approval as provided by law.


 Mayor

ATTEST:


 City Clerk

Ayes:

Roll Call Vote:

Councilman Mork
 Councilman Mouhelis
 Councilman Eckhoff
 Councilman Gresk
 Councilman Johnson
 Mayor Carr

Nays:

None

Absent:

Councilwoman Johnson

Motion Carried Unanimously

Passed: June 17, 2002

Published: June 18, 2002

LOT 3 OF OWNER'S SECOND ASSESSMENT SUBDIVISION OF LOT 6 AND THE WEST 1/2 OF LOT 7 IN BLOCK 6 (EXCEPT THE NORTH 50 FEET THEREOF) OF ORIGINAL TOWN OF WHEATON AND LAND ADJOINING SAME ON SOUTH TO NORTH RAILROAD STREET, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO SAID OWNER'S SECOND ASSESSMENT SUBDIVISION, RECORDED JULY 6, 1907 AS DOCUMENT 91155, IN DU PAGE COUNTY, ILLINOIS.

P.I.N. 05-16-303-009

5-16A

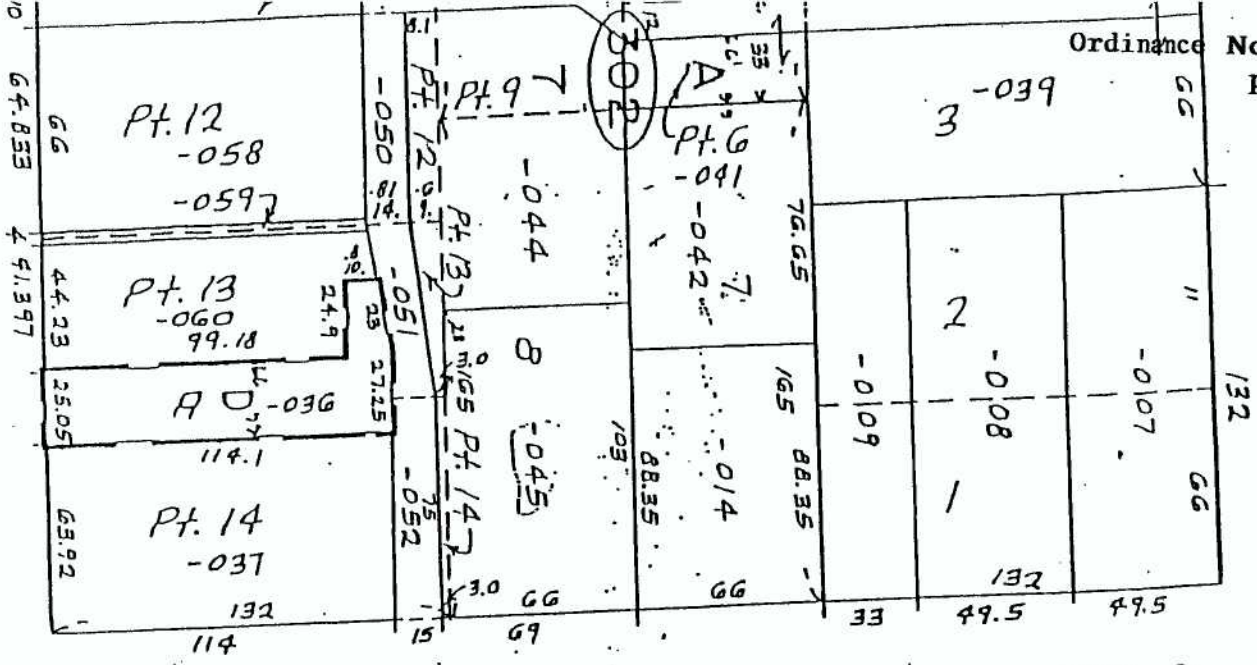


EXHIBIT B to Ordinance
(109 North Main Street)



CHICAGO TITLE INSURANCE COMPANY

505 E. NORTH AVE., CAROL STREAM, IL 60188

(630) 588-4870

Ordinance No. F-0732 p. 6

TRACT INDEX SEARCH

DAY & ROBERT
300 E 5TH AVE
SUITE 365
NAPERVILLE, ILLINOIS 60563
KELLI SMITH

CTIC Order No.: 1410 C53422001 STP
Cover Date: FEBRUARY 18, 2002
Ref: KELLI SMITH-WHEATON PPTY, DUPAGE CNTY

KLH

Legal Description of Land Searched: (See Attached)

Permanent Tax Number (P.I.N.):
05-16-303-009

Street Address of Land Search (as furnished by Applicant):
WHEATON, ILLINOIS

Grantee(s) in last recorded conveyance:
ROBERT O. SANDBERG

In accordance with the application, a search of tract indices discloses the following items. With respect to residential properties, we may not have shown mortgages, trust deeds, or other liens which were eliminated by transactions closed through CTIC or Chicago Title and Trust Company.

DOCUMENT/CASE NO.: R65-024049
GRANTOR: FRANK J. FERNANDES AND BETTY FERNANDES, HIS WIFE
GRANTEE: ROBERT O. SANDBERG
INSTRUMENT: WARRANTY DEED
DATE: 05/28/1965
RECORDED: 07/06/1965

DOCUMENT/CASE NO.: 2000ED-53
GRANTOR: CITY OF WHEATON
GRANTEE: ROBERT SANDBERG, ETAL
INSTRUMENT: COMPLAINT FOR CONDEMNATION
DATE: 00/00/00
RECORDED: 09/12/2000

DOCUMENT/CASE NO.: R2000-141794
GRANTOR: CITY OF WHEATON
GRANTEE: ROBERT O. SANDBERG AND DUPAGE TRUST
INSTRUMENT: LIS PENDENS NOTICE
DATE: 00/00/00
RECORDED: 09/13/2000
REMARKS: (RE: CASE NO. 2000ED-53)

(CONTINUED)

CHICAGO TITLE INSURANCE COMPANY

By: Kenneth L. Smith

SEE ATTACHED FOR TERM

This is not a title insurance

TRIND1

KLH

EXHIBIT C to Ordinance
(109 North Main Street)

ABBREVIATIONS

filed upon as such.



CHICAGO TITLE INSURANCE COMPANY

Ordinance No. F-0732 p.7

Order No.: 1410 C53422001 STP

Disclosures (Continued):

DOCUMENT/CASE NO.:	R2001-019041
GRANTOR:	WHEATON SANITARY DISTRICT
INSTRUMENT:	LIEN
DATE:	01/30/2001
RECORDED:	02/02/2001
REMARKS:	(FOR PROVIDING SEWERAGE & RELATED SERVICES)



CHICAGO TITLE INSURANCE COMPANY

505 E. NORTH AVE., CAROL STREAM, IL 60188

TRACT INDEX SEARCH

Order No.: 1410 C53422001 STP

Additional Tax Numbers:

Legal Description:

LOT 3 OF OWNER'S SECOND ASSESSMENT SUBDIVISION OF LOT 6 AND THE WEST HALF OF LOT 7 IN BLOCK 6 (EXCEPT THE NORTH 50 FEET THEREOF) OF ORIGINAL TOWN OF WHEATON AND LAND ADJOINING SAME ON SOUTH TO NORTH RAILROAD STREET, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE SECOND ASSESSMENT PLAT RECORDED JULY 6, 1907 AS DOCUMENT 91155, IN DUPAGE COUNTY, ILLINOIS.