

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

<p>AGENDA TITLE: Proposed Ordinance No. 354 Providing for the Use of Eminent Domain to Acquire Temporary Construction Easements From Properties at 17541, 17550, 17727 15th Avenue NE to Construct the North City Project.</p> <p>DEPARTMENT: City Attorney, Public Works</p> <p>PRESENTED BY: Ian Sievers, City Attorney</p>

PROBLEM/ISSUE STATEMENT: The City Council authorized acquisition of additional permanent right-of-way by condemnation for construction of the North City Project by Ordinance No. 351 on April 5th. After successfully negotiating needed property from 36 owners in the Project area, right-of-way from five remaining properties was needed and included in that ordinance.

Condemnation has been filed, and the City has settled with two additional owners, leaving owners of properties at 17541, 17550 and 17727 15th Avenue NE as the remaining parties in the litigation. See project area map for location, Attachment A. Written offers have been issued, and a public use and necessity hearing has been scheduled for July 1st. A trial date of December 6 has been scheduled.

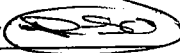

Following passage of Ordinance 351, Public Works and KPG, the City's consulting engineer, have determined that the City will need a temporary construction easement on each of the three properties to provide adjustments adjacent to the new right-of-way during construction for temporary access to the businesses and after construction to construct driveway adjustments to the back of the completed sidewalk. It is estimated that these temporary easements will be needed at most for an aggregate of 90 days over the course of the project. These temporary easements were not included in the matrix of properties authorized for acquisition for the North City Project in Ordinance 351.

There is case law to the effect that a City's condemnation ordinance need not list temporary easements of this nature since they are an incidental use of the property which is included in the ordinance. See *Spokane v. Von Holt*, Attachment B. However, this case may not be cited as controlling precedent since it is an unpublished opinion. To remove the possibility that respondents in the condemnation action may raise the failure to list these temporary easements in Ordinance 351 as an issue to delay the court's certification of public use and necessity for these temporary easements, the Council is asked to amend Ordinance 351 by adding these temporary easements. Proposed Ordinance 354 (Attachment C) makes this amendment.

The amended legal descriptions attached to the proposed ordinance also correct an error in the legal descriptions for the permanent easements for the above three properties.

RECOMMENDATION

Pass proposed Ordinance No. 354 authorizing acquisition of temporary easements needed for construction of the North City Project

Approved by: City Manager  City Attorney 

ATTACHMENTS




Attachment A – Project Area Map

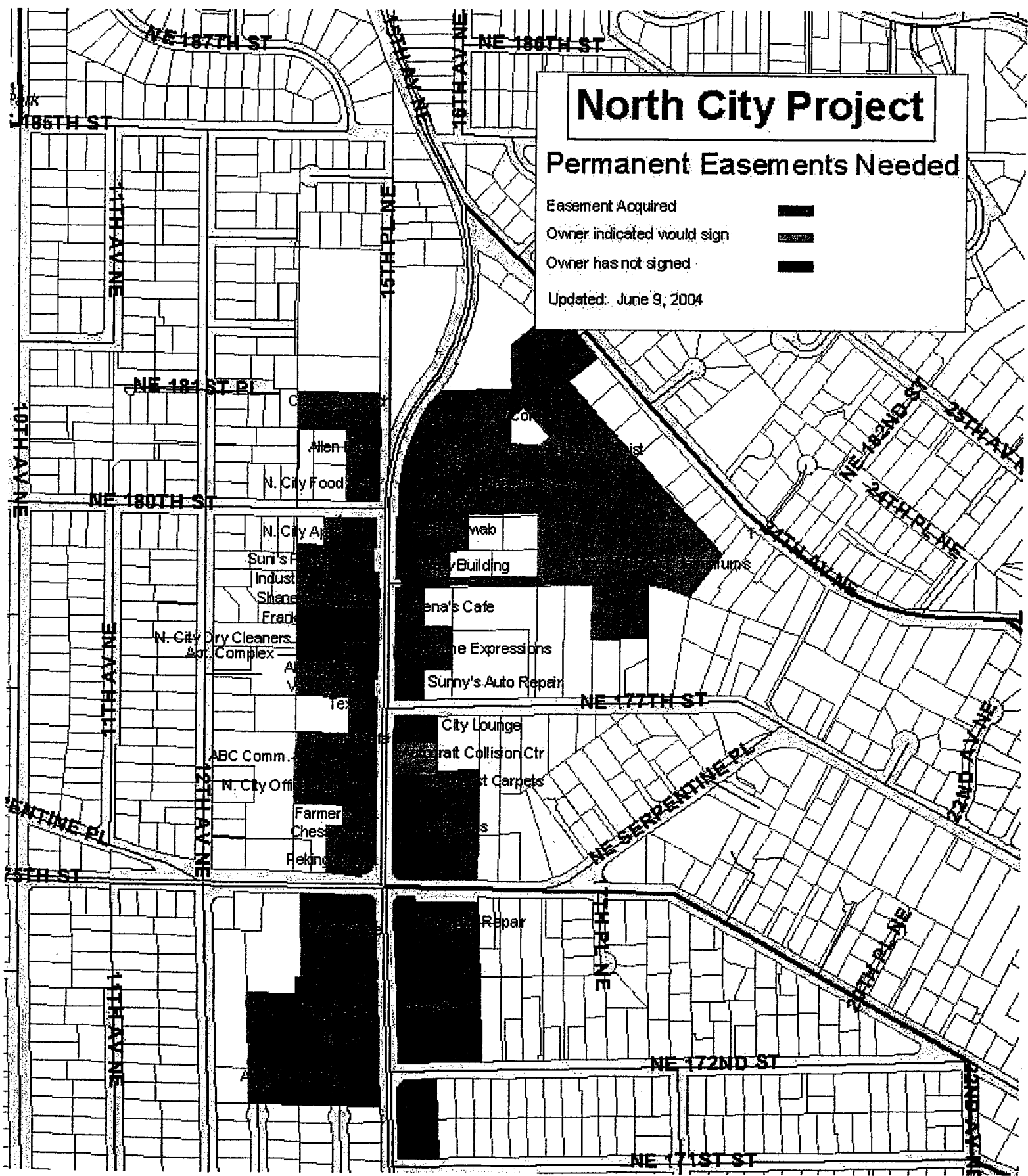
Attachment B – *Spokane v. Von Holt*, Ct. of Appeals Div. III, No. 206326-0-III

Attachment C – Proposed Ordinance No. 354

North City Project

Permanent Easements Needed

- Easement Acquired 
 - Owner indicated would sign 
 - Owner has not signed 
- Updated: June 9, 2004



206360MAJ

ATTACHMENT B

DO NOT CITE. SEE RAP 10.4(h).

Court of Appeals Division III
State of Washington

Opinion Information Sheet

Docket Number: 20636-0-III
Title of Case: City of Spokane
v.
H. Neil Von Holt, et ux, et al
File Date: 10/29/2002

SOURCE OF APPEAL

Appeal from Superior Court of Spokane County

Docket No: 002046302
Judgment or order under review
Date filed: 10/26/2001
Judge signing: Hon. Salvatore F. Cozza

JUDGES

Authored by John A. Schultheis
Concurring: Stephen M. Brown
Dennis J. Sweeney

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

CITY OF SPOKANE, a municipal corporation,
Respondent,
v.
H. NEIL VON HOLT and KEIKO VON
) No. 20636-0-III
)
)
)
)
) Division Three
) Panel Three
)

HOLT, husband and wife,)
)
 Appellants,)
) UNPUBLISHED OPINION
 WASHINGTON TRUST BANK, a)
 corporation,)
)
 Defendant.)

SCHULTHEIS, J. -- When a city desires to widen and improve a public street, it passes an ordinance authorizing the acquisition of property by eminent domain and then petitions the superior court for just compensation to be made for the property taken or damaged. RCW 8.12.030; 8.12.050. This petition must include a 'reasonably accurate' description of the property to be taken or damaged. RCW 8.12.060.

Pursuant to an ordinance designed to widen and improve the intersection of 17th Avenue and Ray Street, the City of Spokane filed a petition to acquire a strip of property along the east border of two lots owned by Neil and Keiko Von Holt. Later, when the Von Holts refused to allow the City access to additional property so that workers could complete the project and mitigate damage, the City filed an amended petition for a temporary construction easement 15-foot wide. The superior court granted a 14-day easement by way of an order of public use and necessity.

In this appeal of that order, the Von Holts contend the ordinance authorizing condemnation of their property did not include authorization for the construction easement. They further contend they were denied due process of law and argue the City failed to prove public use and necessity for the easement. Finding no merit in their contentions, we affirm.

Facts

In June 2000 the Spokane City Council approved an ordinance to widen Ray Street, add a left turn lane, and install new traffic lights at the intersection of Ray and 17th Avenue. The ordinance authorized the City to institute eminent domain proceedings to acquire property in fee from the Von Holts for the street improvements. In August 2000, the City filed a petition to acquire this property by eminent domain and to provide just compensation. In order to allow for attorney fees under RCW 8.25.070, the Von Holts stipulated to immediate use and possession of the property sought in the petition.¹

Trial on the issue of just compensation for the taking and damages was originally set for August 2001.² In May 2001, the Von Holts demanded a jury trial and moved to allow the jury to view the property. The City objected to a jury viewing because the project was set to begin only two weeks before trial, meaning the site would be 'drastically altered' compared to how it would look when the project was completed. Clerk's Papers (CP) at 61. The trial court's action on the Von Holts' motion for a jury view is not contained in the record.

Beginning in April 2001, the City made many attempts to obtain a temporary construction easement (also called a permit to enter) on additional Von Holt property so that the construction crew could complete the street improvements. The City's original proposed permit to enter requested permission for ingress and egress over 15 feet of the Von Holts' adjacent property and specifically requested the right to (1) remove a rock wall, landscaping, and sprinkler system; (2) construct a new cement wall to hold back soil and rock from the new sidewalk; and (3) slope the existing driveway to match the new sidewalk elevation. In response, the Von Holts asked how much they would be compensated for this construction easement. A revised permit to enter sent in May 2001 offered \$1,000 in compensation. The Von Holts found this proposal unacceptable because (1) a cement wall is not aesthetic and the City did not offer to replace the sprinklers or the landscaping; (2) the Von Holts did not intend to allow the City to enter

their adjacent property and would not allow it to park equipment or materials there; and (3) any property subject to the permit to enter would have to be returned to its same condition. Once again, the City revised the permit to enter so as to incorporate the changes required by the Von Holts. After receiving this revision, the Von Holts wrote a few changes into the draft and sent it back to the City, indicating they would sign once the additional changes were made. The changes were incorporated and the purported final revised permit to enter was sent to the Von Holts in July 2001. When the Von Holts returned the permit with new conditions and requirements in August 2001, negotiations ceased.

In September 2001, the City filed a motion to amend its original eminent domain petition to include a temporary construction easement. The stated purpose for the temporary easement was to provide access for contractors to complete the right-of-way improvements and to allow contractors to ameliorate damage to the Von Holts' property caused by the project.

At the hearing on the motion to amend, the City argued that a temporary easement was necessary to complete the sidewalk and to put the property back to its original condition. The affidavit of a City design engineer, John Miller, was entered as supporting evidence. Mr. Von Holt testified that the sidewalks were already completed, but admitted on cross-examination that he did not know what finishing work might need to be done to the sidewalks. The City told the trial court it sought a 14-day easement so the project could be complete by the time the jury viewed it. Finding that the temporary easement was necessary to complete the project, and that it was actually an adjunct to the original ordinance authorizing the project, the trial court granted the motion. The trial court further found that taking steps to mitigate damage to adjacent property was within the scope of the condemnation process, which requires the City to intrude on property no more than is necessary to complete the street improvements. An order of public use and necessity was filed on October 26, 2001 authorizing a 14-day construction easement over the 15 feet of the Von Holts' property adjacent to the project. Just compensation for this easement was to be determined at a jury trial later.

The Von Holts timely appealed the order of public use and necessity. A commissioner of this court denied the City's motion on the merits to affirm, finding that the length of the record and the multiple issues raised by the Von Holts indicated judicial economy would be best served by having the matter resolved by a panel of this court.

Discussion

On appeal, the Von Holts contend the order of public use and necessity is invalid for three reasons: (1) the temporary construction easement is not authorized by the ordinance adopted for the Ray Street improvement; (2) the Von Holts were denied due process at the hearing on public use and necessity; and (3) the City failed to provide sufficient evidence to support the public use and necessity for the construction easement.

Preliminarily, the City argues that the trial court's findings of fact are verities before this court because the Von Holts fail to assign error to them, citing RAP 10.3(g) and *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 828 P.2d 549 (1992). RAP 10.3(g) provides that a party must make a separate assignment of error for each finding of fact that the party contends was improperly made, along with a reference to the finding by number. In this case, the trial court did not file findings of fact and conclusions of law. The order of public use and necessity does contain a section entitled 'Findings,' but this section simply serves as a brief overview of the issue and the conclusion that the temporary easement is needed to complete the public improvement. CP at 759. No numbers are assigned to particular 'findings' and no section is reserved for 'conclusions of law.' The more applicable rule in this case is RAP

10.3(a)(3), which requires the party to make a separate, concise statement of each error, together with the issues pertaining to the assignments of error. In their appellate brief, the Von Holts include separate statements of each error--mostly pertaining to conclusions of law--they contend was made by the trial court, sufficiently complying with RAP 10.3(a)(3).

I. Statutory authorization for the temporary construction easement. Pursuant to article I, section 16 (amendment 9) to the Washington Constitution; RCW 35.22.280(6) and (7); and RCW 8.12.030, a first class city such as Spokane is authorized to appropriate, condemn, or damage private property in order to make improvements to public roadways, as long as the city makes just compensation for the taking. When a city desires to condemn or damage property for this purpose, the process is begun with an ordinance adopted by the city's municipal authority. RCW 8.12.040. No specific requirements for the form or content of such an ordinance are contained in RCW 8.12.040, other than inclusion of the method of funding for the project.

Once the ordinance is passed, the city files a petition in the superior court requesting a decree of public use and necessity and a determination of just compensation. *City of Des Moines v. Hemenway*, 73 Wn.2d 130, 138, 437 P.2d 171 (1968); RCW 8.12.050. This petition must contain a copy of the ordinance and a 'reasonably accurate description' of the property to be taken or damaged. RCW 8.12.060. If, after a hearing, the trial court finds that the proposed use for the condemned property is really public, public interests require it, and the property to be acquired is necessary to facilitate the public use, it will enter an order of public use and necessity. *Hemenway*, 73 Wn.2d at 138; RCW 8.12.090.

ISSUE: The Von Holts contend the temporary construction easement here was not authorized because neither the ordinance nor the original petition to acquire their property by eminent domain included such an easement. In effect, they contend no changes may be made to the scope of a taking without specific authorization by the city council in the form of an ordinance. This interpretation is not supported by statute or case law.

A code city such as Spokane has the broadest powers available under the constitution unless expressly denied by statute. *City of Bellevue v. Painter*, 58 Wn. App. 839, 843, 795 P.2d 174 (1990) (citing Title 35A RCW). These powers, including the power to condemn or damage private property for public street improvements, must be liberally construed in favor of the city. *Id.* at 842; RCW 8.12.030. An ordinance adopted by a city council to condemn land for street improvements is legislative authority for the project and the condemnation of land necessary for the project. RCW 8.12.040. It is within the trial court's jurisdiction to determine whether the condemnation authorized by the ordinance is for a public use, but it is the ambit of the municipal authority to declare whether a particular acquisition is necessary to carry out that public use. *Hemenway*, 73 Wn.2d at 138-39; RCW 8.12.090. Once the purpose for the condemnation has been adjudged public, the design and engineering details become administrative decisions that will not be set aside by the court unless the decisions exceed statutory authority or were arrived at by fraud or capriciousness. *State v. Brannan*, 85 Wn.2d 64, 67-68, 530 P.2d 322 (1975).

Nothing in the statutory scheme prohibits a trial court or a municipal authority from amending the petition for public use and necessity to change the quantity and scope of the condemnation, provided the condemnee is compensated accordingly. As long as the municipal authority decides that the modification is necessary, the trial court finds that the modification is for a public use, and the issue of condemnation damages is reopened or addressed to the trier of fact, a modification passes statutory muster. See, e.g., *Feuerborn v. State*, 59 Wn.2d 142, 145-46, 367 P.2d 143 (1961) (modification of access plans in a state condemnation case for highway construction); *State ex rel. Eastvold v. Superior Court for Snohomish County*, 48 Wn.2d 417, 421, 294 P.2d 418 (1956) (state highway department

amendment of property description to take less property than originally contemplated). In this case, the City determined that it needed a short-term easement in order to complete the street improvement and to return the Von Holts' property to its original condition. The trial court found that the easement was integral in completing the public use and ordered just compensation to be determined by a jury later. Consequently, the amendment to the original petition did not exceed statutory authority.

II. Due process at the hearing on public use and necessity. The Von Holts next contend they were denied due process of law at the public use and necessity hearing because they were not allowed to cross-examine John Miller, the author of the expert affidavit offered by the City to support the need for the temporary easement. In response, the City notes that nothing in the statutes or case law requires live testimony at a public use and necessity hearing, and asserts that the Von Holts could have subpoenaed Mr. Miller for examination.

Under the fourteenth amendment to the United States Constitution and article I, section 3 of the Washington Constitution, a person cannot be deprived of life, liberty, or property without due process of law. Procedural due process requires at a minimum notice and an opportunity to be heard. *Silver Firs Town Homes, Inc. v. Silver Lake Water Dist.*, 103 Wn. App. 411, 425, 12 P.3d 1022 (2000), review denied, 143 Wn.2d 1013 (2001). Whether additional rights are necessary to protect due process in a particular case depends on a balancing of the following interests: (1) the private interest to be protected; (2) the risk of erroneous deprivation of that interest by the government's procedures; and (3) the government's interest in maintaining the procedures. *Id.* (citing *Rivett v. City of Tacoma*, 123 Wn.2d 573, 583, 870 P.2d 299 (1994)).

The Von Holts contend the ability to cross-examine the witness who wrote the sole affidavit offered by the City as evidence was essential to their due process rights. Clearly their interest in their property is encompassed within the protections of due process. However, they fail to clarify how that interest is threatened by the acceptance of affidavit testimony at the hearing on public use and necessity. Assuming such threat exists, they also fail to explain why they made no attempt to subpoena or depose Mr. Miller after his affidavit was filed a month before the hearing, or why they did not move for a continuance. Because the Von Holts received notice and a right to be heard, RCW 8.12.090 provides no further procedural due process rights, and the Von Holts fail to establish a need for additional procedures in this case, their claim of due process violations must fail.

III. Sufficiency of the evidence to support public use and necessity. Finally, the Von Holts contend the City failed to provide sufficient evidence to support the public use and necessity for the temporary construction easement. They argue that their photo evidence shows that the sidewalks were already completed and that the City's self-interest in mitigating the damages is not a public purpose. Additionally, they contend the City is attempting to avoid making just compensation by substituting improvements to the property, and assert that the order on public use and necessity is overbroad. On review, we ask whether the trial court's factual findings are supported by substantial evidence and whether those findings support the trial court's conclusions and judgment. *Nguyen v. Dep't of Health, Med. Quality Assurance Comm'n*, 144 Wn.2d 516, 530, 29 P.3d 689 (2001), cert. denied, 122 S. Ct. 1203 (2002).

As discussed above, Washington courts have developed a three-part test to evaluate eminent domain cases. *Hemenway*, 73 Wn.2d at 138. The decree of public use and necessity may be entered only if (1) the use is really public; (2) public interests require it; and (3) the property in question is necessary to facilitate the public use. *Id.* Although the municipal authority's declaration of public use is accorded great weight, the trial court must determine whether the acquisition is for a public use. *Id.* at

138-39. When a municipal authority such as the City declares a particular acquisition necessary, that declaration is conclusive unless the condemnee can prove actual fraud or such arbitrary and capricious conduct as would constitute constructive fraud. *Id.* at 139.

In this case there is no dispute that the street improvement as presented in the original ordinance and petition is a public use required by public interests. RCW 8.12.030 specifically authorizes the City to condemn property for widening and improving a public street. The Von Holts confine their challenge to the public nature of the temporary construction easement. They contend the easement does not further a public interest but merely enables the City to avoid its liability for just compensation. The trial court found that the construction easement was a public use because it was necessary to complete the street improvement project. In its oral ruling, the trial court found that the easement was an adjunct to the larger process, and further found that the City owed its taxpayers a duty to return property to its original state so as to mitigate liability for damages.

The City has a right to take property in a condemnation case so as to minimize the condemnee's damages. See *Eastvold*, 48 Wn.2d at 423. This right is in harmony with the fundamental principle that no greater interest or estate should be taken than is reasonably necessary for a contemplated public use. *Id.*; see also *In re Petition of Municipality of Metro. Seattle*, 67 Wn.2d 923, 929, 410 P.2d 790 (1966) (the law does not favor the damaging of property for a public use beyond what is necessary). In minimizing damage to a condemnee and allowing completion of the project--including return of the adjacent property to its original condition--the temporary construction easement serves the public's interest and qualifies as a public use.

Further, the Von Holts' contention that the City is attempting to substitute improvements for just compensation is without merit. The rule is that a condemnor cannot compel a condemnee to accept something other than money in compensation for condemned property. *State v. Smith*, 25 Wn.2d 540, 544-45, 171 P.2d 853 (1946). But that rule is not triggered here. The City is not substituting rights or privileges for monetary compensation. It is merely completing the project and offering the Von Holts just compensation for all property interests taken, including any damages occasioned by the temporary construction easement. *Id.* at 544 (the condemnor must make full compensation for what is taken).

As for the Von Holts' contention that the easement is not necessary, they fail to assert fraud or arbitrary and capricious actions sufficient to constitute constructive fraud. *Hemenway*, 73 Wn.2d at 139. Absent proof of fraud or capriciousness, the City's declaration of necessity is conclusive. *Id.* Moreover, the affidavit of Mr. Miller substantially supports the City's assertion that the temporary construction easement is necessary to complete the sidewalks and to return the Von Holts' adjacent property to its preconstruction condition. Mr. Von Holt's admission that he did not know what is necessary to finish a sidewalk weakens his insistence that the sidewalks have been completed. The restrictions placed on the easement by the trial court--limiting it to 14 days and providing that the Von Holts' building must not be disturbed--meet the City's need to complete the project with a minimum of intrusion on the Von Holts.

To summarize, the evidence supports the trial court's conclusion that the temporary construction easement is a necessary public use. Consequently, the trial court did not err in issuing the order of public use and necessity.

Affirmed.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

Schultheis, J.

WE CONCUR:

Brown, C.J.

Sweeney, J.

1 RCW 8.25.070 provides that a condemnee is entitled to attorney and witness fees if the condemnee stipulates to an order of immediate use and possession and if the judgment awarded at trial exceeds at least by 10 percent the highest written offer submitted by the condemnor. The offer by the condemnor must be made at least 30 days before trial. RCW 8.25.070(1), (3).

2 The date for trial on the issue of just compensation has been continued.

>>

ATTACHMENT C

ORDINANCE NO. 354

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING THE ACQUISITION OF TEMPORARY CONSTRUCTION EASEMENTS FROM PROPERTIES AT 17541, 17550 AND 17727 15TH AVENUE NE BY EMINENT DOMAIN; CORRECTING LEGAL DESCRIPTIONS OF PERMANENT EASEMENTS SUBJECT TO CONDEMNATION; AND AMENDING ORDINANCE 351

WHEREAS, the Shoreline City Council adopted the North City Subarea Plan under provisions of the Growth Management Act, Chapter 36.70A RCW; and adopted a North City Business District special district in Ordinance No. 281 to implement the Subarea Plan; and

WHEREAS, to mitigate impacts certain environmental elements of the Subarea Plan Ordinance 281 directed, among other measures, improvements to 15th Avenue NE including lighting, street trees, convenient and safe pedestrian crossings, undergrounding of utility lines, and restriping 15th Avenue NE to a two or three-lane roadway, with appropriate transitions, turn-pockets and two-way center left turn lanes; and

WHEREAS, the Shoreline City Council determined that sidewalk and utility easements described in Ordinance No. 351 were necessary to complete the North City Business District/ 15th Avenue NE Improvements ("Improvements") including the construction of sidewalks and underground utilities; and

WHEREAS, temporary construction easements will be needed to make adjustments to certain properties during construction of the Improvements for up to 90 days to provide temporary and permanent access to these properties; and

WHEREAS, legal descriptions for easements included in Ordinance 351 for some properties contain an error in defining which should be corrected; and

WHEREAS, the City of Shoreline has the power to acquire lands through eminent domain for the establishment, construction, enlargement, improvement, and maintenance of public streets; and

WHEREAS, acquisition of property is categorically exempt from SEPA review under WAC 197-11-800(5)(a); now, therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment, Condemnation Authorized. Property interests authorized to be acquired by negotiation or condemnation by Ordinance 351, Section 1 at 17541, 17550 and

To the extent practicable, the City Manager, or his designee, shall adhere to acquisition guidelines of RCW Chapter 8.26, and is hereby authorized and directed to execute all documents for the acquisition of said properties and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the lands and property interests described in this section pursuant to the powers granted to the City of Shoreline including RCW 35A.64.200 and Chapters 8.12 and 8.25 RCW. The properties subject to acquisition listed in Exhibit A-1 are of low value and the City may base its offers on 1) an appraisal completed within six months of the offer; or 2) a restricted appraisal report under the Uniform Standards of Professional Appraisal.

Section 2. Finding of Public Use and Necessity. The Shoreline City Council finds that the acquisition of the property listed in Exhibit A-1 is for a public use and purpose, to-wit: to promote economic development in the North City Business District under RCW 35.21.703 through development of a safe and attractive pedestrian shopping district, and RCW 8.12.030 for the widening and extending of the 15th Avenue NE right-of-way for street, utility, curb and sidewalk improvements. The Council further finds the properties listed in Exhibit A-1 are necessary for the proposed public use and for the benefit of the public.

Section 3. Purchase Funds. Funds allocated in the City of Shoreline 2004-2009 Capital Improvement Plan for the North City Business District/15th Avenue Improvements shall be made available to carry out the provisions of this Ordinance.

Section 4. Effective Date and Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper and the Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON June 14, 2004.

Mayor Ronald B. Hansen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: June 17, 2004

Effective Date: June 22, 2004

EXHIBIT A-1

PROPERTIES TO BE ACQUIRED

Owner(s)	Property Address	Tax Parcel #	Easement Legal	Temporary Construction Easement	Property Legal Description
John Sims, Jr.	17727 15th Ave. NE	616390-0732-06	The east <u>west 2.50 feet of the east 8.5 feet of the property</u>	The west <u>10 feet of the east 18.5 feet of the property</u>	The south half of Lot 13, Block 4, Northend Country Estates according to the plat thereof recorded in Volume 28 of Plats, page 37, In King County, Washington
Stekar L.L.C.	17550 15th Ave. NE	402410-1340-09	The east <u>west 2.50 feet of the east 8.5 feet of the property</u>	The east <u>25 feet of the west 33.5 feet of the property</u>	The south 118 feet of the north 216 feet of Lot 18, Block 30, Lake Forest Park 3rd Addition, according to the plat thereof recorded in Volume 22 of Plats, page 4, in King County, Washington
Sims & Sims, LLP	17727 15th Ave. NE	616390-0742-04	The east <u>west 2.50 feet of the east 8.5 feet of the property</u>	The west <u>10 feet of the east 18.5 feet of the property</u>	The east 134 feet of Lot 14, Block 4, Northend Country Estates, according to the plat thereof recorded in Volume 28 of Plats, page 37, in King County, Washington; EXCEPT the south 70 feet thereof
James H. Cotton and Rena E. Cotton	17541 15th Ave. NE	616390-0771-08	The east <u>west 2.50 feet of the east 8.5 feet of the property</u>	The west <u>8 feet of the east 16.5 feet of the property</u>	The south 50 feet of the east 100 feet of Lot 17, Block 4, Northend Country Estates, according to the plat thereof recorded in Volume 28 of Plats, page 37, in King County, Washington
James H. Cotton and Rena E. Cotton	17541 15th Ave. NE	616390-0780-07	The east <u>west 2.50 feet of the east 8.5 feet of the property</u>	The west <u>6 feet of the east 14.5 feet of the property</u>	The north 50 feet of the east 100 feet of Lot 18, Block 4, Northend Country Estates, according to the plat thereof recorded in Volume 28 of Plats, page 37, in King County, Washington