

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
) SS:
COUNTY OF MONROE) CAUSE NO.: 53C06-1906-PL-001293

CITY OF BLOOMINGTON, INDIANA,)
)
 Plaintiff,)
)
 v.)
)
 222 HATS LLC, and GERMAN AMERICAN)
 BANCORP, INC.,)
)
 Defendants.)
)
_____)

LANDOWNER’S MOTION FOR ATTORNEYS’ FEES AND COSTS

Defendant Landowner, 222 Hats, LLC (“Landowner” or “Hats”), by one of its attorneys, J. Eric Rochford, files its Motion for Attorneys’ Fees and Costs. In support of its motion, Landowner shows the Court that:

1. On December 20, 2019, this Court entered its Order Following Hearing on Objections and Sustaining Objection to Complaint for Appropriation (“Court’s Order Sustaining Objection”). In its Order Sustaining Objection, the Court concluded that the Plaintiff, City of Bloomington’s (“City” or “Plaintiff”) proposed taking was prohibited and that “the Complaint is dismissed on that basis.”
2. On January 28, 2020, this Court entered its Order Denying Leave to Amend Complaint for Condemnation (“Order Denying Amendment”).
3. IC 8-23-17-27 provides that: “The court having jurisdiction of a proceeding instituted by an agency to acquire real property by eminent domain shall award the owner of a right, or title to, or interest in, the real property the sum that will in the opinion of the court reimburse the owner for reasonable costs, disbursements and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if: (1) the final judgment is that the

agency cannot acquire the real property by eminent domain . . .” IC 8-23-17-27 (a). Plaintiff is an “agency” as defined in and applicable to this chapter. “As used in this chapter, “agency” means a department, board, commission, office, or instrumentality of the state, including a state supported college or university, or of a political subdivision of the state.” IC 8-23-17-1.

4. Pursuant to the Court’s Order Sustaining Objection and the Court’s Order Denying Amendment, the City cannot acquire the Landowner’s property. As such, Landowner is entitled to payment of reasonable attorneys’ fees and costs.

5. Attached to this motion as Exhibits “A” and “B” are Attorney Fee Affidavits on behalf of J. Eric Rochford and David L. Ferguson, Defendant Landowner’s attorneys. However, the undersigned attorney for Defendant Landowner reasonably believes as of the filing of this motion that additional attorneys fees and costs may potentially be incurred. Additionally, if applicable, Defendant Landowner’s appellate attorneys’ fees and costs are recoverable. See *City of Hammond v. Marina Entertainment Complex, Inc.*, 681 N.E. 2d 1139 (Ind. Ct. App. 1997) (holding that award of \$650,000 in attorney fees to landowner was not excessive, which included fees incurred defending appeal).

WHEREFORE, Defendant Landowner, 222 Hats, LLC, respectfully requests that the Court enter an Order requiring Plaintiff, City of Bloomington, pay Defendant Landowner’s attorney fees and costs; and all other just and proper relief in the premises.

Respectfully submitted,

/s/ J. Eric Rochford
J. Eric Rochford
Attorney for Landowner, 222 Hats, LLC
Atty. No. 29742-29

CERTIFICATION OF COMPLIANCE WITH TRIAL RULE 5(G)

I do hereby certify that the foregoing or attached court record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative Rule 9(G).

/s/ J. Eric Rochford _____
J. Eric Rochford
Attorney for Landowner, 222 Hats, LLC

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing Landowner’s Motion for Attorneys’ Fees and Costs has been duly served upon the counsel of record listed below, email, U.S. mail, postage prepaid or through the Indiana Electronic Filing System on this 29th day of January 2020:

David L. Ferguson
dlf@ferglaw.com

Alan Townsend
atownsend@boselaw.com

Jason Lee McAuley
jason@kochmcauley.com

/s/ J. Eric Rochford _____
J. Eric Rochford
Attorney for Landowner, 222 Hats, LLC