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Ottawa Towers Wins \$7.4M Settlement from Pontiac Over Property and Parking Rights

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Ottawa Towers was awarded \$7.4 million in a settlement with the City of Pontiac over a parking dispute and other issues.

PHOTO COURTESY OF OTTAWA TOWERS

After more than six years of litigation, the City of Pontiac and the owners of the Ottawa Towers office building in the downtown district today announced they have settled their long-running dispute over parking and other issues for \$7.4 million.

The owners of Ottawa Towers, represented by Maddin Hauser Roth & Heller in Southfield, won multiple favorable interim-rulings against Pontiac over the last six years.

The legal battle began in July 2012, when Pontiac, acting through its emergency manager, attempted to condemn and demolish the 2,500 parking space Phoenix Center parking structure, amphitheater, and pedestrian plaza despite Ottawa Towers' specific property rights to use it.

The two, eight-story Ottawa Tower office buildings, formerly owned and occupied by General Motors, contain nearly 400,000 square feet of rentable office area, much of which houses State of Michigan offices.

The emergency manager's demolition plan would have damaged the Ottawa Tower office buildings, left them, residents, and visitors with virtually no public parking. The city had no plan to repair the damaged buildings or do anything more than replace the parking structure with a gravel lot.

On behalf of the owners of the Ottawa Towers, Maddin Hauser attorneys Steven Sallen and Michelle Harrell filed a lawsuit in Oakland County Circuit Court and obtained an immediate injunction preventing demolition, and further prevented Pontiac from interfering with Ottawa Towers' use and enjoyment of the Phoenix Center parking structure.

Along the way, the city violated the injunction by closing the parking structure without notice or justification, in the middle of a workday and ordering all tenants and their employees to move their cars. As a result of the breach of the court's injunction, an emergency motion was filed by Harrell and Sallen.

The Oakland County Circuit Court took the extraordinary step of holding Pontiac in contempt of court for violating the injunction. When Judge Michael Warren issued the injunction in 2012, he said: "The key issue before the court today is whether the Constitution matters. It does."

After its legal losses, the City of Pontiac attempted a new strategy: to condemn the Phoenix Center by filing an eminent domain action to seize Ottawa Towers' property rights. Again, defended by Sallen and Harrell, and with the assistance of condemnation attorney Jerome Pesick, the Ottawa Towers won an outright dismissal of the condemnation case, requiring the city to pay Ottawa Towers' attorneys' fees incurred in defense of the condemnation action.

The city appealed the dismissal of the condemnation case to the Michigan Court of Appeals, where it lost, and again to the Michigan Supreme Court, where it lost again.

Beginning in late 2017, and continuing throughout most of 2018, the parties engaged in facilitative mediation with former Hon. Gerald Rosen at JAMS, a global alternative

dispute resolution service in Detroit, where, after multiple sessions, the sides reached a settlement.

The settlement completely vindicates Ottawa Towers, and provides for a monetary payment of \$7.4 million to the owners of Ottawa Towers, including \$350,000 for reimbursement of attorneys' fees incurred in defense of the city's failed eminent domain case, plus confirmation of Ottawa Towers' parking easement rights in the Phoenix Center parking structure, plus a promise of free parking for its tenants for more than 10 years.

In addition, the city reaffirmed specific obligations imposed upon Pontiac to repair and maintain the Phoenix Center on an expedited, and ongoing basis.

"This was a great win for our client, but also a great vindication of the rule of law," says Sallen, president and CEO of Maddin Hauser. "Government has to follow the law, just like the rest of us; they cannot ignore the Constitution or make up the rules as they go along. From beginning to end, that is what this case was all about."