

May 3, 2024

Councilwoman Latisha Johnson, District 4
Councilwoman Gabriel Santiago-Romero, Chair and Members
City of Detroit City Council – Public Health and Safety Committee
Coleman A. Young Municipal Building
2 Woodward Avenue
Detroit, MI. 48226

RE: Petition No. x2024-048 – Great Lakes Water Authority request for the Vacation, ‘Outright’, of Freud Street and public alleys, lying between Conner Street and Navahoe Street.

Councilwoman Johnson, Councilwoman Santiago-Romero and Members of the Public Health and Safety Committee:

The Great Lakes Environmental Law Center (“GLELC”), in support of residents and neighborhood stakeholders, submit the following comments on the Great Lakes Water Authority (“GLWA”) petition to vacate a portion of Freud Street and corresponding public alleys.

Petition No. x2024-048 is a request from GLWA to “outright” vacate the section of Freud St. between Conner St. and Navahoe St., in addition to sections of public alleys that run north and south from the current location of Freud Street. The purpose of this request is to reroute Freud St. so that GLWA can implement a \$138 million project that includes a constructing a new 5-story sanitary Pump Station on the current route of Freud St. between Conner and Navahoe streets.

Although GLELC agrees that upgrades to the existing Freud and Connors Creek pumping stations are necessary and overdue, the process and plans for siting and constructing the proposed new pumping station did not follow required procedures, did not properly engage public participation, nor does it provide any direct benefits to a *neighborhood community already burdened by over industrialization of the surrounding area and under protected against failures of the regional wastewater system run by GLWA.*

The city of Detroit’s policy is that any application to vacate a right-of-way must be accompanied by written approval of 2/3 or 66% of the adjacent landowners.¹ Indeed, Section 43-7-1 of the city’s ordinances states that a petition for vacating portions of an alley must include written approval by 2/3 of the owners abutting the alley. The instructions on the city’s website go on to say that “[i]f the proposal for vacation results in the creation of a dead-end right of way or alley the application will be rejected.”

The decision to tear up and reroute four blocks of a residential street requiring major construction and the vacation of portions of that road and attached alleys is certainly a decision that “requires proper community engagement”, as the city’s policy states. However, it’s not clear from the Department of Public Works recommendation letter whether any public engagement occurred nor that the required written approvals were granted by the adjacent landowners of Freud Street and the alleys extending north and south from Freud. Further, the vacation of the alley extending south of Freud along with the construction of the new pumping station as proposed, would result in the alley leading to a dead end at the property line of new pumping station without access to the proposed rerouted Freud Street. These factors alone, based upon city ordinances and policy, should have resulted in

¹ City of Detroit website, Department of Public Works “Requests for Status Changes to the Right-of-Way” available at <https://detroitmi.gov/departments/departments-public-works/maps-and-records>. See also

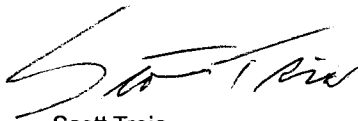
the denial by the Department of Public Works rather than this resolution moving forward to the City Council. Based on the city's ordinances and policies, the Department of Public Works should have denied the petition until the proper community engagement occurs and the required adjacent property owners have been identified, consulted, and given approval of the vacation by a 2/3 majority.

In addition, Michigan courts have long recognized that grantees of properties in a platted subdivision gain a private right "entitling the grantees to the use of the streets and ways laid down on the plat or referred to in the conveyance."² This private right to use of the streets as laid down in the plat is separate from the public's right to use the road. "Accordingly, if the platted streets in a subdivision are abandoned for public use, the lot owners still retain a separate, private right to use the streets...which is unaffected by the road commission's abandonment of these streets."³ Given there may be private rights to use the current route of Freud Street granted to property owners in the A.M. Campau Subdivision based on the original plat, it's imperative that GLWA needs to engage with the subdivision as a whole to come to a consensus on the way to move forward with the project. This Committee should refrain from approving the petition until the private rights to the use of the current Freud Street route are clearly delineated and resolved.

Finally, the principles of equity should be applied when considering the impacts of moving forward with this project. The Jefferson-Chalmers neighborhood has been overly burdened by the regionalization of the wastewater treatment system. 2.8 million S.E. Michigan residents benefit from GLWA's wastewater treatment system and 70% of the system's wastewater passes through GLWA's infrastructure surrounding the Jefferson-Chalmers neighborhood. But 70% of the system's population do NOT suffer the devastating consequences when the system is overwhelmed or fails. The Jefferson-Chalmers neighborhood sits in the "bottom of the bathtub" of the system. As such, the neighborhood has had no less than five major incidents of wastewater backing up into their basements since 2011. This has resulted in tens or even hundreds of millions of dollars of property damage to residents that are 95% African American and nearly a third are under the poverty line. This neighborhood has endured too much hardship from the wastewater system.

Now GLWA is seeking to subject the Jefferson-Chalmers residents to 4 years of major construction and the permanent installation of a five-story industrial facility in the middle of their low-density neighborhood. It is commendable that GLWA is seeking to improve the redundancy and resiliency within the system. However, this upgrade is not a direct benefit to the Jefferson-Chalmers neighborhood. Rather, it is an upgrade for the overall regional system where only the local residents are being subjected to the negative impacts. Instead of investing in the infrastructure necessary to site the new pumping station in an already industrialized area, GLWA is opting to construct this major industrial use in a strictly residential neighborhood. While the Community Benefits Ordinance may or may not be triggered by this project, it certainly is the type of project that goes to the spirit of that provision. This is a \$138 million dollar project that requires 4 years of heavy construction and results in a 5-story industrial facility right in people's "backyards". At the very least, GLWA, the city, and the impacted residents should be engaged in a negotiation process whereby the residents, being overly burdened yet again, have an opportunity to receive proportional localized benefits for the sacrifices it will have to endure if the project moves forward as planned.

For the aforementioned reasons, GLELC recommends this honorable committee deny this petition until the legal public engagement requirements are met and a fair and just resolution to the local impact/benefit balance has been agreed to by the parties.



Scott Troia
Staff Attorney
Great Lakes Environmental Law Center

² Rindone v. Community Church, Michigan Supreme Court, 335 Mich. 311 (1952)

³ Minerva Partners, Ltd. v. First Passage, LLC, 1st Dist. Court of Appeals, February 2007, 274 Mich. App. 207, 219.