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DOC. (Liber 734 pg 388) LIBER 745 PAGE 377

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

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In the Matter of the Petition of

E. DEAN GAVNEY, et al, for the amendment,
alteration, correction and vacation of
certain parts of the 3 Plats of Idlewild
in Ross Township
.....

ORDER

--oOo--

At a session of the said Court, held in the Court House in the
City and County of Kalamazoo, on the 15th day of August, 1957.

Present: The Honorable LUCIEN F. SWEET, Circuit Judge.

The Petition in the above entitled cause signed by 100 of the 104 pro-
prietors of lots and real estate in the 3 Plats of Idlewild, Cull Lake, in Ross
Township, Kalamazoo County, came on for hearing on August 14, 1957, Frank F. Ford
of Ford, Hinga & Schmiege appearing as attorney for the Petitioners, and no one
appearing in opposition to the said Petition;

And it further appearing to this Court that the Notice of this hearing
has been published in a newspaper, posted in 4 public places and personally served
on the State officer, County officers, County Commissions, Supervisor, and utility
companies as required by law, and that all the proceedings in this matter are regular
and that the requirements of the statutes of the State of Michigan have been complied
with, and that none of the streets, driveways, walks and rights of way asked to be
vacated are State or County Roads and that there is no reasonable objection to be
vacating the streets and walks as prayed in the said Petition and to the amendments,
alteration, correction and making more clear and definite the terms, conditions and
restrictions of the 3 Plats of Idlewild described in the said Petition, and 7 wit-
nesses having testified in open court in support of the said Petition and no witness
having testified in opposition thereto, and it appearing to this Court that the said
petition should be granted: -

THEREFORE, on motion of Frank F. Ford of Ford, Hinga & Schmiege, attorney
for the Petitioners,

IT IS ORDERED AND ADJUDGED by this Court as follows: -

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ONE. That the said 3 Plats of Idlewild further described as the Original Plat of Idlewild recorded in the office of the Register of Deeds for Kalamazoo County, Michigan, on August 17, 1894 in Liber 5 of Plat on Page 35, and the "Plat of Addition to the Plat of Idlewild" recorded in the office of the Register of Deeds for Kalamazoo County on April 7, 1900 in Liber 6 of Plats on Page 13, and the "Plat of the Second Addition to Plat of Idlewild" recorded in the office of the Register of Deeds for Kalamazoo County on June 6, 1905 in Liber 7 of Plats on Page 13, shall be and are hereby amended, altered, corrected and revised as follows: -

A. The Lateral boundaries of the water front lots of Petitioners in the said 3 Idlewild Plats are extended in a straight line from their present termination at the Promenade and at Lot 55 in the First Addition to Idlewild to the waters' edge of Gull Lake and over and to include the subaqueous lands of Gull Lake in front of their respective lots and property to the thread or middle of Gull Lake; the lines and boundaries of the respective parties from and beyond the shore line and over the subaqueous lands of Gull Lake shall run and be located as near as may be perpendicular from a line which is the course, thread or center of Gull Lake to the boundary where it meets the waters' edge of the firm land of the respective Petitioners, and the title in fee which is hereby granted to the respective Petitioners of the land now existing between their respective lots and the waters' edge shall be subject only to the exclusive right of way to pass and repass over a width of 20 feet from the waters' line only and for the exclusive use of the owners lots and property and residents in the said 3 Idlewild Plats, as is more particularly later detailed in this order.

B. A right of way, easement and promenade over the land contiguous to the shore line of Gull Lake in the said 3 Idlewild Plats for a width of 20 feet is given, which is now and ever has been since the recording of the respective Plats used by the Petitioners and their predecessors in title, and shall hereafter be for the exclusive use and right to pass and repass by pedestrians on foot only who are residents and owners of lots and property in one of the said 3 Idlewild Plats and by the members of their immediate families and guests, and said promenade over the entire water front of the said 3 Idlewild Plats shall not be regarded as a public way or for the use of the public, and shall not be used by any persons who are not residents and also the owners of property

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in 1 of the said 3 Idlewild Plats, and shall not be used for passage by any vehicles or horses. Lot 55 shown on the First Addition to the Plat of Idlewild, which has always been used as a promenade, is now eliminated and vacated, but along the water front where was formerly located the said Lot 55 shall in the future be a promenade as above ordered.

C. No horses or vehicles shall at any time pass or repass for any purpose over and upon the promenade, hereinbefore designated, along the shore line of the said 3 Idlewild Plats, but the said water front promenade shall be used only by pedestrians and persons on foot who are residents and owners of property in 1 of the said 3 Idlewild Plats or the members of their immediate respective families and guests.

D. There shall be no obstruction, either temporary or permanent, in the nature of a building, dock, fence more than 4 feet in height, lumber, boat, boathouse, or other object or material placed, allowed or permitted to be or exist upon the said promenade along the water front of Gull Lake nearer than 20 feet from the shore line, or for a distance of 20 feet over the subaqueous lands and over the waters of Gull Lake from the shore line and waters' edge, which in any way obstructs or hinders the right of way herein ordered and granted for the use of the property owners and residents of said 3 Idlewild Plats and the members of their immediate family and guests, except that an opening at least 4 feet wide to permit passage shall be maintained in any hedge or fence within the said 20 foot promenade.

Also it is ORDERED there shall be no solid fence whatever constructed or maintained of wood, metal or solid construction or spite fence on any boundary or on any property located in any of the said 3 Idlewild Plats.

E. The monuments, anchors and iron stakes indicating the present water front lots in the said 3 Idlewild Plats may be relocated fixing and determining the certain corners and boundaries of the lots and property of the respective Petitioners between their respective lots down to the shore line as hereinbefore determined.

F. The right of way approximately 19.8 feet in width between Lots 7 and 8 in the Original Plat of Idlewild recorded in the office of the Register of Deeds in Liber 5 of Plats on Page 35, and the right of way now known as Lake

Street between Lots 23 and 24 of the Plat of the Second Addition to Idlewild as recorded in the office of the Register of Deeds on June 6, 1905 in Liber 7 of Plats on Page 13, are hereby limited to the right to pass and repass only by the owners of lots and property in one of the said 3 Idlewild Plats so as to give access to the shores of Gull Lake for the owners of property in 1 of the said 3 Idlewild Plats, the members of their immediate family and guests, and the use of the said first mentioned right of way 19.8 feet in width between Lots 7 and 8 and the use of the said right of way 20 feet in width between Lots 23 and 24 is limited to the said widths and shall not be used by any persons who are not property owners and residents of Idlewild, but shall be used as a right of way only to pass and repass to and from the water front and for the purpose of giving access to the shore by property owners and residents in Idlewild, but the said two rights of way shall be used for no other purpose than as a right of way.

G. The 3 foot reservation from and off the side of all or many of the lots in the said 3 Idlewild Plats constituting a right of way 6 foot in width between the lots is hereby eliminated and vacated, and no right of way or easement to pass and repass between any of the platted lots in either of the said Idlewild Plats by any persons, vehicles or animals shall in the future be permitted.

H. No barn, stable or building for the stabling, housing or keeping of horses or stock shall be erected, maintained or permitted on any part of the said 3 Idlewild Plats.

I. The lots and property within the descriptions of the said 3 Idlewild Plats as recorded in the office of the Register of Deeds shall be used for residence purposes only and shall not be used for any commerce or industrial purposes of manufacturing, merchandising or selling, either at wholesale or retail, either on large or small scale of operation, except that the streets and highways may be used for delivery purposes for the service of the residents of the said 3 Idlewild Plats.

J. No trailer, basement structure for occupancy and residence purposes, tent, shack or other outbuilding intended to be used for residence purposes, or any duplex or building constructed to be used for temporary occupancy or

or as a residence or apartment building used for residence purposes by more than one family, shall be erected or permitted by any property owners in any 1 of the said 3 Idlewild Plats, nor shall any residence of a temporary character be permitted or erected.

K. There shall be no outside or separate building used as toilets or so-called privies used or constructed but all toilets used on the premises of Idlewild shall be connected with septic tanks or with regular sewage facilities.

L. The four lots which are designated on the Plat of the First Addition to Idlewild recorded in Liber 6 of Plats on Page 13 as "Coddington 28", "Garrett 29", "Morgan 30" and "Cook 31" were not and are not included in the recorded description of the said First Addition to Idlewild, although the said lots are marked as aforesaid on said recorded plat and as it appears from the testimony of the present owners of the said four lots that they desire to have the said four lots included in an amended description of the said First Addition to Idlewild and as it appears to this Court that the said four lots should be so included in an amended description of the said Plat of the First Addition to Idlewild, IT IS ORDERED AND ADJUDGED that the said four lots marked as aforesaid shall henceforth be regarded and considered as a part of the said First Addition to the Plat of Idlewild as recorded in Liber 6 of Plats on Page 13 in the office of the Register of Deeds for Kalamazoo County, Michigan.

TWO. That the following portions of the Plat of the Second Addition to the Plat of Idlewild in Sections 17 and 18, Ross Township, as recorded in Liber 7 of Plats on Page 13 in the office of the Register of Deeds for Kalamazoo County, Michigan, be and the same are hereby vacated as follows:- That part of South Street lying west of the westerly line of First Street through its intersection with West Street; all of West Street from its intersection with South Street at the Southwest corner of the said plat to its intersection with the Southwest line of First Street; Oak Street for its entire length; that portion of Lake Street as shown on the said Plat between Second Street and Third Street; Second Street for its entire length and Third Street for its entire length; the title to all of the land formerly constituting South Street and West Street, to its intersection with Third Street, shall revert to and vest in the several and various owners of lots and parcels of land in the Second Addition to

the Plat of Idlewild abutting on the said South Street and upon the said West Street as was formerly a part of the said Plat of Idlewild pursuant to the provisions of Sections 560.65 and 560.66 of the Compiled Laws of 1948; but the title to the land formerly constituting West Street from Third Street to First Street and the entire length of Oak Street and the entire length of Second Street, Third Street and Lake Street hereby ordered vacated shall revert to and vest in the owners of the lots and parcels of land on either side of the said mentioned streets.

THREE. The following parcels of land and lots formerly designated and numbered as hereinafter stated in the Second Addition to the Plat of Idlewild recorded on June 6, 1905 in Liber 7 of Plats on Page 13 in the office of the Register of Deeds are hereby vacated and shall no longer be considered as a part of or included in the said Second Addition to the Plat of Idlewild: - Lots formerly designated as 46 and 47; lots formerly designated as numbered 69 through 121, both inclusive; and the said numbered lots and the land formerly designated by such numbers shall not in the future be a part of or considered as a part of or included in the said Second Addition to the Plat of Idlewild and the owners and persons having title to the said land formerly designated by the said numbers, their successors and assigns, and any persons or families residing thereon, shall have no access to the water front and shore line of the said 3 Idlewild Plats hereinbefore described or to the use of the beach or the promenade along the water front of Gull Lake of the said 3 Idlewild Plats.

FOUR. The vacation order of this Court dated Feb. 20, 1931 and recorded on Dec. 14, 1931 in the office of the Register of Deeds for Kalamazoo County in Liber 292 of Deeds, on Page 555, is hereby ratified and affirmed in all respects except that this order designates to whom the title to the vacated streets shall revert and be vested in, in accordance with the provisions of Sections 560.65 and 560.66 of the Compiled Laws of 1948, which was not stated in the said former order of vacation.

FIVE. The vacation of said streets is upon the condition that the title to all telephone, gas and electric facilities and appurtenances thereto and all telephone, electric and communication poles, wires, conduits, cables, appurtenances and facilities now in, under or over said streets are reserved to and shall remain in the respective owners thereof, the Michigan Bell Telephone Company and the Consumers Power Company and their respective successors or assigns, together with the easement and

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continued right to occupy said streets within the right of way thereof for public utility purposes with present and additional facilities and to operate, maintain, repair, replace or remove the same to the same effect and in the same manner as if said streets had remained a public way and had not been vacated.

SIX. IT IS ORDERED that the Clerk of this Court record the proceedings in this cause and that within thirty (30) days from the date of this order, the said Clerk shall forward to the Auditor General of the State of Michigan and record in the office of the Register of Deeds for Kalamazoo County, Michigan, a certified copy of this Order.

(Signed) LUCIEN F. SWEET
Lucien F. Sweet, Circuit Judge

Attest:

(Signed) ANTHONY STAMM
Clerk

FORD, HINCA & SCHMIEGE

By (Signed) Frank F. Ford
Frank F. Ford
Attorneys for Petitioners

Business Address:
604 Hanselman Bldg.
Kalamazoo, Michigan

STATE OF MICHIGAN)
County of Kalamazoo) ss.

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AUG 25 9 37 AM '57
STATE OF MICHIGAN
COUNTY OF KALAMAZOO
REGISTER OF DEEDS

I, ANTHONY STAMM, Clerk of the Circuit Court for the County of Kalamazoo, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of an Order entered in the above entitled cause in said Court on the 15th day of August, 1957, as appears of Record in my office, and that I have compared the same with the original and it is a true transcript therefrom and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at Kalamazoo, this 15th day of August, 1957.

ANTHONY STAMM
County Clerk

By: (Signed) Philip Hassing
Deputy Clerk

(S E A L)

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STATE OF MICHIGAN
COUNTY OF KALAMAZOO
RECEIVED FOR RECORD

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Liber 734 Page 388

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

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In the Matter of the Petition of

E. DEAN GAVNEY, et al, for the amendment,
alteration, correction and vacation of
certain parts of the 3 Plats of Idlewild
in Ross Township

ORDER

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At a session of the said Court, held in the Court House in
the City and County of Kalamazoo, on the 15th. day of August, 1957.

Present: The Honorable LUCIEN F. SWERT, Circuit Judge.

The Petition in the above entitled cause signed by 100 of the 104 pro-
prietors of lots and real estate in the 3 Plats of Idlewild, Gull Lake, in Ross
Township, Kalamazoo County, came on for hearing on August 14, 1957, Frank F. Ford
of Ford, Hinga & Schmiege appearing as attorney for the Petitioners, and no one
appearing in opposition to the said Petition;

And it further appearing to this Court that the Notice of this hear-
ing has been published in a newspaper, posted in 4 public places and personally
served on the state officer, County officers, County Commissions, Supervisor,
and utility companies as required by law, and that all the proceedings in this
matter are regular and that the requirements of the statutes of the State of
Michigan have been complied with, and that none of the streets, driveways, walks
and rights of way asked to be vacated are State or County Roads and that there
is no reasonable objection to vacating the streets and walks as prayed in the
said Petition and to the amendments, alteration, correction and making more
clear and definite the terms, conditions and restrictions of the 3 Plats of
Idlewild described in the said Petition, and 7 witnesses having testified in
open court in support of the said Petition and no witness having testified in
opposition thereto, and it appearing to this Court that the said petition
should be granted: -

THEREFORE, on motion of Frank F. Ford of Ford, Niaga & Schmiaga, attorney for the Petitioners,

IT IS ORDERED AND ADJUDGED by this Court as follows: -

ONE: That the said 3 Plats of Idlewild further described as the Original Plat of Idlewild recorded in the office of the Register of Deeds for Kalamazoo County, Michigan, on August 17, 1894 in Liber 5 of Plats on Page 35, and the "Plat of Addition to the Plat of Idlewild" recorded in the office of the Register of Deeds for Kalamazoo County on April 7, 1900 in Liber 6 of Plats on Page 13, and the "Plat of the Second Addition to Plat of Idlewild" recorded in the office of the Register of Deeds for Kalamazoo County on June 6, 1905 in Liber 7 of Plats on Page 13, shall be and are hereby amended, altered, corrected and revised as follows: -

A. The Lateral boundaries of the water front lots of Petitioners in the said 3 Idlewild Plats are extended in a straight line from their present termination at the Promenade and at Lot 55 in the First Addition to Idlewild to the waters' edge of Gull Lake and over and to include the subaqueous lands of Gull Lake in front of their respective lots and property to the thread or middle of Gull Lake; the lines and boundaries of the respective parties from and beyond the shore line and over the subaqueous lands of Gull Lake shall run and be located as near as may be perpendicular from a line which is the course, thread or center of Gull Lake to the boundary where it meets the waters' edge of the firm land of the respective Petitioners, and the title in fee which is hereby granted to the respective Petitioners of the land now existing between their respective lots and the waters' edge shall be subject only to the exclusive right of way to pass and repass over a width of 20 feet from the waters' line only and for the exclusive use of the owners lots and property and residents in the said 3 Idlewild Plats, as is more particularly later detailed in this order.

B. A right of way, easement and promenade over the land contiguous to the shore line of Gull Lake in the said 3 Idlewild Plats for a width of 20 feet is given, which is now and ever has been since the recording of the respective Plats used by the Petitioners and their predecessors in title, and shall hereafter be for the exclusive use and right to pass and repass by pedestrians on foot only who are residents and owners of lots and pro-

erty in one of the said 3 Idlewild Plats and by the members of their immediate families and guests, and said promenade over the entire water front of the said 3 Idlewild Plats shall not be regarded as a public way or for the use of the public, and shall not be used by any persons who are not residents and also the owners of property in 1 of the said 3 Idlewild Plats, and shall not be used for passage by any vehicles or horses. Lot 55 shown on the First Addition to the Plat of Idlewild, which has always been used as a promenade, is now eliminated and vacated, but along the water front where was formerly located the said Lot 55 shall in the future be a promenade as above ordered.

C. No horses or vehicles shall at any time pass or repass for any purpose over and upon the promenade, hereinbefore designated, along the shore line of the said 3 Idlewild Plats, but the said water front promenade shall be used only by pedestrians and persons on foot who are residents and owners of property in 1 of the said 3 Idlewild Plats or the members of their immediate respective families and guests.

D. There shall be no obstruction, either temporary or permanent, in the nature of a building, dock, fence more than 4 feet in height, lumber, boat, boathouse, or other object or material placed, allowed or permitted to be or exist upon the said promenade along the water front of Gull Lake nearer than 20 feet from the shore line, or for a distance of 20 feet over the subaqueous lands and over the waters of Gull Lake from the shore line and waters' edge, which in any way obstructs or hinders the right of way herein ordered and granted for the use of the property owners and residents of said 3 Idlewild Plats and the members of their immediate family and guests, except that an opening at least 4 feet wide to permit passage shall be maintained in any hedge or fence within the said 20 foot promenade.

Also it is ORDERED there shall be no solid fence whatever constructed or maintained of wood, metal or solid construction or split fence on any boundary or on any property located in any of the said 3 Idlewild Plats.

E. The monuments, anchors and iron stakes indicating the present water front lots in the said 3 Idlewild Plats may be relocated fixing and determining the certain corners and boundaries of the lots and property of the respective Petitioners between their respective lots down to the shore line

as hereinafter determined.

F. The right of way approximately 19.8 feet in width between Lots 7 and 8 in the Original Plat of Idlewild recorded in the office of the Register of Deeds in Liber 5 of Plats on Page 35, and the right of way now known as Lake Street between Lots 23 and 24 of the Plat of the Second Addition to Idlewild as recorded in the office of the Register of Deeds on June 6, 1905 in Liber 7 of Plats on Page 13, are hereby limited to the right to pass and repass only by the owners of lots and property in one of the said 3 Idlewild Plats so as to give access to the shores of Gull Lake for the owners of property in 1 of the said 3 Idlewild Plats, the members of their immediate family and guests, and the use of the said first mentioned right of way 19.8 feet in width between Lots 7 and 8 and the use of the said right of way 20 feet in width between Lots 23 and 24 is limited to the said widths and shall not be used by any persons who are not property owners and residents of Idlewild, but shall be used as a right of way only to pass and repass to and from the water front and for the purpose of giving access to the shores by property owners and residents in Idlewild, but the said two rights of way shall be used for no other purpose than as a right of way.

G. The 3 foot reservation from and off the side of all or many of the lots in the said 3 Idlewild Plats constituting a right of way 6 feet in width between the lots is hereby eliminated and vacated, and no right of way or easement to pass and repass between any of the platted lots in either of the said Idlewild Plats by any persons, vehicles or animals shall in the future be permitted.

H. No barn, stable or building for the stabling, housing or keeping of horses or stock shall be erected, maintained or permitted on any part of the said 3 Idlewild Plats.

I. The lots and property within the descriptions of the said 3 Idlewild Plats as recorded in the office of the Register of Deeds shall be used for residence purposes only and shall not be used for any commerce or industrial purposes of manufacturing, merchandising or selling, either at wholesale or retail, either on large or small scale of operation, except that the streets and highways may be used for delivery purposes for the service of the residents of the said 3 Idlewild Plats.

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that portion of Lake Street as shown on the said Plat between Second Street and Third Street; Second Street for its entire length and Third Street for its entire length; the title to all of the land formerly constituting South Street and West Street, to its intersection with Third Street, shall revert to and vest in the several and various owners of lots and parcels of land in the Second Addition to the Plat of Idlewild abutting on the said South Street and upon the said West Street as was formerly a part of the said Plat of Idlewild pursuant to the provisions of Sections 560.65 and 560.66 of the Compiled Laws of 1948; but the title to the land formerly constituting West Street from Third Street to First Street and the entire length of Oak Street and the entire length of Second Street, Third Street and Lake Street hereby ordered vacated shall revert to and vest in the owners of the lots and parcels of land on either side of the said mentioned streets.

THREE. The following parcels of land and lots formerly designated and numbered as hereinafter stated in the Second Addition to the Plat of Idlewild recorded on June 6, 1905 in Liber 7 of Plats on Page 13 in the office of the Register of Deeds are hereby vacated and shall no longer be considered as a part of or included in the said Second Addition to the Plat of Idlewild: - Lots formerly designated as 46 and 47; lots formerly designated as numbered 69 through 121, both inclusive; and the said numbered lots and the land formerly designated by such numbers shall not in the future be a part of or considered as a part of or included in the said Second Addition to the Plat of Idlewild and the owners and persons having title to the said land formerly designated by the said numbers, their successors and assigns, and any persons or families residing thereon, shall have no access to the water front and shore line of the said 3 Idlewild Plats hereinafore described or to the use of the beach or the promenade along the water front of Gull Lake of the said 3 Idlewild Plats.

FOUR. The vacation order of this Court dated Feb. 20, 1931 and recorded on Dec. 14, 1931 in the office of the Register of Deeds for Kalamazoo County in Liber 292 of Deeds, on Page 555, is hereby ratified and affirmed in all respects except that this order designates to whom the title to the vacated streets shall revert and be vested in, in accordance with the provisions of Sections 560.65 and

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560.66 of the Compiled Laws of 1948, which was not stated in the said former order of vacation.

FIVE. The vacation of said streets is upon the condition that the title to all telephons, gas and electric facilities and appurtenances thereto and all telephone, electric and communication poles, wires, conduits, cables, appurtenances and facilities now in, under or over said streets are reserved to and shall remain in the respective owners thereof, the Michigan Bell Telephone Company and the Consumers Power Company and their respective successors or assigns, together with the easement and continued right to occupy said streets within the right of way thereof for public utility purposes with present and additional facilities and to operate, maintain, repair, replace or remove the same to the same effect and in the same manner as if said streets had remained a public way and had not been vacated.

SIX. IT IS ORDERED that the Clerk of this Court record the proceedings in this cause and that within thirty (30) days from the date of this order, the said Clerk shall forward to the Auditor General of the State of Michigan and record in the office of the Register of Deeds for Kalamazoo County, Michigan, a certified copy of this Order.

LUCIEN F. SWEET

Lucian F. Sweet, Circuit Judge

Attest:

ANTHONY STAMM

clerk

FORD, HINCA & SCHMIDT

By

Frank F. Ford
Attorneys for Petitioners

Business Address:
604 Mansfield Bldg.
Kalamazoo, Michigan

734 8395

Handwritten notes and scribbles in the top right corner, including the number '12' and some illegible characters.

STATE OF MICHIGAN

County of Kalamazoo

vs.

I, ANTHONY STAMM, Clerk of the District Court for the County of Kalamazoo, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of an Order entered in the above entitled cause in said Court on the 15th. day of August, 1937, as appears of record in my office, and that I have compared the same with the original and it is a true transcript thereof and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at Kalamazoo, this 15th. day of August, 1937.

ANTHONY STAMM

County Clerk

Signature of Philip Hasing, Deputy Clerk, written over a line.

Deputy Clerk

