

DISTRICT COURT, CITY AND COUNTY OF
DENVER, STATE OF COLORADO
City and County Building
1437 Bannock Street, Room 256
Denver, Colorado 80202

Plaintiff: : FRIENDS OF DENVER PARKS, INC., a
Colorado non-profit corporation; and STEVE
WALDSTEIN, an individual; ZELDA HAWKINS, an
individual; MEMBERS OF THE PETITIONERS
COMMITTEE TO REPEAL DENVER ORDINANCE
170, consisting of JOHN CASE, JUDITH M. CASE,
RENEE LEWIS, DAVID HILL, AND SHAWN SMITH, ,
v.

Defendant: CITY AND COUNTY OF DENVER, a
municipal corporation; and SCHOOL DISTRICT NO. 1 IN
THE CITY AND COUNTY OF DENVER.

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▲ COURT USE ONLY ▲

Case Number: 2013CV32444
Courtroom: 376

DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT

Defendants, by and through undersigned counsel, hereby submit this Joint Motion
for Summary Judgment as follows:

Introduction

In the spring of 2013, Defendant City and County of Denver (the “City”) traded the southernmost portion of Parcel 31 (the “School Site”), plus about \$700,000, to Defendant School District No. 1 in the City and County of Denver (“DPS”) in exchange for a building on a commercial plot in another part of town. The School Site is roughly triangular; South Havana Street and East Girard Avenue border its southern tip. DPS began construction on the on the School Site and anticipates opening a new elementary school for the 2014-15 school year.

Plaintiffs filed this case, arguing that the City was prevented from transferring ownership of the School Site to DPS without an at-large vote. In support of their claim, Plaintiffs assert that the City’s conduct over the years dedicated the southern parcel as a park under the common law and the City’s Charter requires that voters approve the transfer of a park belonging to the city as of December 31, 1955. Contrary to Plaintiffs’ claim, a vote was not required to transfer the School Site. The Charter only mandates a vote in two limited circumstances: (1) if a parcel was a park as of 1955 or (2) if a parcel was designated a park by ordinance after 1955. Neither of these circumstances applies to the School Site.

Undisputed Facts

For purposes of this Motion for Summary Judgment, Defendants stipulate to the following undisputed facts:

1. Since the original adoption of Denver’s home rule charter in 1904, the City Charter has restricted the sale or lease of park property.
2. In 1936, the City acquired 36.45 acres of land (“Parcel 31”). The tract was not within the City when it was acquired and was not annexed to the City until 1965. Ex. A, Affidavit of Ronald T. Ellis, ¶¶ 4-5, Attachment 1.

3. The School Site consisting of 10.77 acres is a remnant of Parcel 31. Ex. A, Affidavit of Ronald T. Ellis, ¶ 4; Ex. B., Affidavit of Greg Neitzke, ¶ 4.
4. The City acquired the entire tract known as Parcel 31 by deed. The deed does not restrict how the City may use the tract. Ex. A, Affidavit of Ronald T. Ellis, ¶ 5, Attachment 1.
5. The City acquired Parcel 31 and other properties along Cherry Creek in the mid-1930s to mitigate and control flooding along the creek. Ex. A, Affidavit of Ronald T. Ellis, ¶ 6.
6. The City did not, at any time, designate the portion of Parcel 31 that has now been conveyed to Denver Public Schools for the School Site as a park by ordinance. Ex. A, Affidavit of Ronald T. Ellis, ¶ 8; Ex. B, Affidavit of Greg Neitzke, ¶ 4.
7. No portion of Parcel 31 has been platted by any recorded subdivision plat of the City or other jurisdiction and, consequently, no park dedication by plat has occurred. Ex. A, Affidavit of Ronald T. Ellis, ¶ 9.
8. Lists of City parks dated 1951 and 1956 do not include or otherwise identify Parcel 31 or the School Site as a City park. Ex. B, Affidavit of Greg Neitzke, ¶ 5, Attachments 1 and 2.
9. As of December 31, 1955, neither Parcel 31 in general nor the School Site in particular had been improved as a City park. Ex. A, Affidavit of Ronald T. Ellis, ¶ 10; Ex. B, Affidavit of Greg Neitzke, ¶ 6; Ex. C (1955 Aerial Photograph of Parcel 31 and the surrounding area).
10. On September 5, 1955, the City deeded a portion of Parcel 31 to the Colorado Department of Transportation (CDOT), for the development of Havana Street. Ex. A, Affidavit of Ronald T. Ellis, Attachments 2 and 3.
11. As amended in 1996, section 2.4.5 of the City Charter now reads as follows:

Without the approval of a majority of those registered electors voting in an election held by the City and County of Denver, *no park or portion of any park belonging to the City as of December 31, 1955*, shall be sold or leased at any time, and *no land acquired by the City after December 31, 1955, that is designated a park by ordinance* shall be sold or leased at any time... (Emphasis supplied.)
12. Section 3.2.6 (C) of the City Charter reads as follows:

Sale or conveyance of city-owned real property. The Mayor of the City and County of Denver shall be and is hereby authorized to

initiate actions to effect the sale or conveyance of real property owned by the City upon such terms as in the Mayor's judgment shall appear proper. All contracts providing for the sale or conveyance of real property owned by the city, or amendments to such contracts, before their execution by city officials, shall be authorized by the Denver City Council acting by ordinance or resolution.

Procedural History

This court held three hearings on Plaintiffs' request for a preliminary injunction. The first hearing lasted two days in mid-June 2013, during this hearing eleven witnesses testified and fifty-six exhibits were entered into evidence.

This court held a second hearing at the end of June 2013, during which both Plaintiffs and Defendants provided the court with legal argument. This court orally denied Plaintiffs' request for a preliminary injunction because there was not a reasonable probability that they would succeed on the merits of their claims. This court issued a written order to that effect on July 5th, 2013. This court held a third hearing in September 2013, denying Plaintiffs' request for a stay pending appeal. In an oral ruling, the court reaffirmed its decision to deny plaintiffs' request for a preliminary injunction.

Plaintiffs then appealed this court's denial of their motion for preliminary injunction to the Colorado Court of Appeals. First, a motions division of the Court of Appeals denied Plaintiffs' request for a stay pending appeal. The Court of Appeals then denied Plaintiffs' appeal in a written order. *Friends of Denver Parks v. City and County of Denver, et. al.*, -- P.3d --, (Colo. App. 2013), available at WL6814985. In the written appellate order, the Court of Appeals concluded that this Court did not abuse its discretion in holding that Plaintiffs were unlikely to succeed on the merits of their claim because: (1) the amendment to the City Charter in 1955 abrogated the principal of

common law dedication after 1955 and (2) there was insufficient evidence in the record to demonstrate that the School Site was a park as of 1955.

During the pendency of the appeal, Defendants moved to dismiss Plaintiffs' claims against Plaintiff Debra Johnson. On December 11th, 2013, this Court granted Defendants' motion and dismissed Plaintiffs' second, fourth, fifth, sixth, and seventh claims for relief. Therefore, at this point, the only remaining claims for relief are Plaintiffs first and third claims—for declaratory judgment and injunctive relief.

Plaintiffs issued broad-reaching requests for Production to both remaining Defendants on January 2, 2013. Ex. D. The City and Denver Public Schools responded to the requests for production, even though much of the requested information was not only irrelevant to this case, but also unlikely to lead to the discovery of relevant information. The documents produced in response to Plaintiffs' request reveal that there is no genuine issue of material fact regarding Plaintiffs' claim that the School Site was a designated or dedicated park and that summary judgment is appropriate in this case.

Legal Standard

Summary judgment is an integral part of the rules of civil procedure. The party moving for summary judgment has the burden of establishing the nonexistence of a material fact. *See Roberts v. Holland & Hart*, 857 P.2d 492, 496 (Colo. App. 1993). "To satisfy its burden, the moving party may demonstrate that there is no evidence in the record to support the nonmoving party's case." *Mehaffy, Rider, Windholz & Wilson v. Central Bank Denver, N.A.*, 892 P.2d 230, 235 (Colo. 1995), see also *Casey v. Christie Lodge Owners Assoc.*, 923 P.2d 365 (Colo. App. 1996) (concluding that summary judgment was proper when non-moving party failed to establish a triable issue of fact).

When the non-movant bears the burden of proof at trial, as in this case, summary judgment is “mandate[d]... , after adequate time for discovery and upon a motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to [its] case.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Summary Judgment also may be granted if the motion concerns purely legal questions. *See Cohen v. Empire Cas. Co.*, 771 P.2d 29, 30-31 (Colo. App. 1989).

Here, there are no genuine issues of material fact. Pursuant to the plain language of the City Charter, a vote is only required if a parcel was a park as of 1955 or if a parcel was designated a park by ordinance after 1955. That is, the amendment to the City Charter in 1955 abrogated the principal of common law dedication after 1955.¹ It is undisputed that the City never designated the School Site a park by ordinance. Therefore, Plaintiffs’ claim that post-1955 evidence supports a claim that the School Site was a dedicated park fails. Further, the School Site was not a park “as of 1955.” Prior to 1955 the City did not, by its unambiguous actions, ever demonstrate intent to set aside the School Site for use as a public park. All documents produced in discovery demonstrate that the opposite is true—the City did not develop the School Site for a particular use and demonstrated intent that the School Site would remain unencumbered.

Argument

Plaintiffs’ two remaining claims are for declaratory judgment and a permanent injunction. Both claims are entirely dependent on Plaintiffs proving at trial that the

¹ The distinction between pre-1955 and post-1955 park property originally appeared in the charter via an amendment adopted on May 17, 1955 which read as follows: ‘No portion of any park now belonging or hereafter acquired by the City and County shall be sold or leased at any time; provided, however, that no land hereafter acquired by the City and County shall be deemed to be a park unless specifically designated a park by ordinance.’ Through subsequent amendments to the charter, this language evolved into the version currently codified at section 2.4.5, as set forth above at p. 3.

School Site is a protected “park.” As explained in detail below, as a matter of law and based on the facts as revealed through discovery, there are no genuine issues of material fact and, therefore, summary judgment is appropriate here.

First, pursuant to the Charter, the City is able to sell or transfer any property that was not a park as of 1955 unless the City designated the property as a park by ordinance. It is undisputed that the City never passed an ordinance designating the School Site a park. Second, the evidence demonstrates that the School Site was not a park as of 1955. That is, as of 1955, the City did not, by its unambiguous actions, demonstrate an unequivocal intent to set aside the School Site for use as a public park by its statements and conduct.

1. The School Site was not Designated as a Park by Ordinance after 1955 and, Therefore, is not a Protected Park

This Court and the Court of Appeals have already resolved that the only way a parcel could become a protected park after 1955, and thus require a vote for its sale or transfer, is by City ordinance. Therefore, as the School Site was never designated a park by the City Charter, Plaintiffs’ argument that post-1955 evidence supports their claim of common law dedication fails as a matter of law. Even if this Court believes that additional evidence could change the interpretation of the Charter, there is nothing in the factual record that would support Plaintiffs’ purported interpretation of the City charter (that there is a third, unmentioned, category of land that cannot be sold without a vote). As the Court of Appeals recognized, “the explicit language of the pertinent sections of the city’s charter make clear that, as of December 31, 1955, the city intended (1) to eliminate the concept of common law dedication of parks; (2) for land that the city owned

as of that date; (3) that had not already been dedicated as a park by such means.” *Friends of Denver Parks*, at *7.

The general rule in the City Charter is that city-owned property can be sold by an ordinance or resolution. This rule is stated in section 3.2.6, which broadly states that the city, through “ordinance or resolution,” “authorize[s]” all contracts for “the sale or conveyance of real property owned by the city.” Section 2.4.5 of the City Charter creates two limited exceptions to the general rule, providing as follows:

Without the approval of a majority of those registered electors voting in an election held by the City and County of Denver, no park or portion of any *park belonging to the City as of December 31, 1955*, shall be sold or leased at any time, and *no land acquired by the City after December 31, 1955, that is designated a park by ordinance* shall be sold or leased at any time...

The Court of Appeals read the plain language of sections 3.2.6 and 2.4.5 of the City Charter together and held that, pursuant to the City Charter, if property was not a park as of 1955 or was not designated a park after 1955 then the City may transfer it without the approval of the city's voters. *Friends of Denver Parks*, at *7. Specifically, the Court of Appeals concluded that these two provisions indicate that:

The charter's drafters intended to draw a bright line. It did not matter to the drafters how land became a park before December 31, 1955. But the drafters intended to limit that process for all land that the city owned after that date. They stated that dedication by ordinance was the sole method by which city land could become a park.

Friends of Denver Parks, at *7. There is no evidence in this case to suggest a contrary interpretation of the City Charter. Therefore, Plaintiffs' claim that the parcel could not be sold without a vote because the property became a park by common law dedication after 1955 fails.

At a minimum, summary judgment should be granted as to Plaintiffs' claim that the School Site became a park after 1955. As a matter of law, the only way that the School Site could become a park after 1955 is by ordinance and it is undisputed that the City never passed an ordinance so dedicating the School Site.

2. The School Site was not a Park *as of* 1955

The School Site was not a park as of 1955. That is, the uncontested facts in the record demonstrate that the City did not dedicate the School Site as a park by common law prior to 1955 and Plaintiffs will not be able to bring forth evidence demonstrating a contrary conclusion.

As the Court of Appeals recognized, “[i]n Colorado, a dedication of land to public use may be made either according to the common law or pursuant to statute.” *City & Cnty. Of Denver v. Publix Cab Co.*, 308 P.2d 1016, 1019–20 (1957). “Common law dedication occurs when the city's ‘unambiguous actions’ demonstrate its ‘unequivocal intent’ to set the land aside for a particular public use. *Friends of Denver Parks*, at *6, citing *State Dep't of Highways v. Town of Silverthorne*, 707 P.2d 1017, 1020 (Colo.App. 1985); accord *City of Northglenn v. City of Thornton*, 569 P.2d 319, 321 (1977); *City of Denver v. Jacobson*, 30 P. 246, 247 (1892). “To show a dedication, it should clearly appear that the owner intended to give the land to the public ... no presumption that the owner intended to deprive himself of his land can be relied upon to explain any ambiguities or uncertainties. The particular use for which the land was intended must plainly appear.” *Chicago, R.I. & P. Ry. Co. v. Hayes*, 113 P. 315, 318 (Colo. 1910).

One of the potential public uses for which a city may dedicate land under the common law is as a park. *See Hall v. City & Cnty. of Denver*, 177 P.2d 234, 236 (1946) (applying the doctrine). In *Hall*, the Colorado Supreme Court applied the rule of common law dedication to city-owned land. The court found that there was no “common-law acceptance of an offer to dedicate” land as a park. 177 P.2d at 236. In *Hall*, the Supreme Court rejected the plaintiffs’ argument that the City dedicated a parcel of land as a park that could not later be sold because the City improved the parcel and the public used the parcel for recreational purposes. *Id.* at 236. In reaching this conclusion, the court relied on *Starr v. People*, 30 P. 64 (1892), which held that the public’s use of a road through private property did not turn the road into a public highway unless the property owner’s statements and conduct indicated that he intended such a result.

As Colorado courts have repeatedly recognized, the use of the property by the public has no bearing on whether the City dedicated a parcel to the public as a park. *Friends of Denver Parks* at *6; *Hall v. City & Cnty. of Denver*, 177 P.2d at 236 (rejecting a claim that the public’s use of a property converted it to a park); *Starr v. People*, 30 P. at 65 (holding that mere use, without acts or declarations from the city, was insufficient to dedicate property as a public roadway). Rather, as the Court of Appeals recognized in this case, the focus is on the City’s actions and the inquiry is whether the unambiguous actions of the City demonstrate its unequivocal intent to dedicate a property to a particular use. *Id.*

Similar to the case in *Hall*, Plaintiffs argue that evidence of the public coming onto the property prior to 1955 to picnic, horseback ride, or recreate supports a claim that the City dedicated the park by common law prior to 1955. While Plaintiffs may bring

forth some evidence of the public using the School Site and the surrounding area for recreational purposes, this evidence does not support Plaintiffs' claim that the City manifested intent to dedicate the School Site as a park. Again, the public's use of the parcel is not relevant if there is no evidence of intent to dedicate the parcel by the City. The City's statements and actions, which cannot be contested, demonstrate that the City did not dedicate the School Site as a park prior to 1955.

From the acquisition of the School Site up until the time the City Charter was amended in 1955, there is no evidence that the City, by its statements and actions, intended to dedicate the School Site as a park by common law. In fact, the uncontestable evidence supports the opposite conclusion—that the intent of the City was that this property remain unencumbered and not dedicated for a specific use. The Site was acquired for flood control and there was no indication in the deed that the City was acquiring the property for a park. The City did not install park benches, plant flowers, or otherwise develop this land into a public park. Not a single plat recorded by the City identifies the School Site as a park. In 1951 and 1956, lists of parks were created and made part of the City record; no part of Parcel 31, including the School Site, was on either the 1951 or 1956 list. Finally, months before the City Charter was amended in 1955, the City deeded a portion of Parcel 31 to CDOT for the creation of Havana Street, a use that would be contrary to a park dedication.

As described above, there are no genuine issues of material fact regarding the question of whether the City manifested, by its unambiguous actions, an unequivocal intent to dedicate the School Site as a park prior to 1955. The uncontested facts

demonstrate that Defendants are entitled to summary judgment on Plaintiffs' claim that it was so dedicated.

Conclusion

As a matter of law and based on the facts as revealed through discovery, there are no genuine issues of material fact and, therefore, summary judgment is appropriate here. Accordingly, Defendants respectfully request this Court enter summary judgment on Plaintiffs' remaining two claims for relief and dismiss the case in its entirety.

By: /s/ Molly H. Ferrer

Molly H. Ferrer, 37857

Attorney for the Defendant School District No.
1 in the City and County of Denver

By: /s/ David Broadwell

David W. Broadwell, 12177

Attorney for the Defendant City and County of
Denver

In accordance with C.R.C.P. 121§1-29(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.

CERTIFICATE OF SERVICE

I hereby certify that today, February 18th, 2014, the foregoing was served via ICCES on:

John Case, Esq., Atty Registration No. 2431
Jessica Schultz, Atty Registration No. 46292
Benson & Case, LLP
1660 S. Albion St., Suite 1100
Denver, CO 80222

/s/ Tracy Romero
Denver Public Schools

Exhibit A, Affidavit of Greg Neitzke, Parks Surveyor

DISTRICT COURT, CITY AND COUNTY OF
DENVER, STATE OF COLORADO

City and County Building
1437 Bannock Street, Room 256
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▲ COURT USE ONLY ▲

Case Number: 2013CV32444


Courtroom: 376

AFFIDAVIT OF GREGORY S. NEITZKE, PROFESSIONAL LAND SURVEYOR

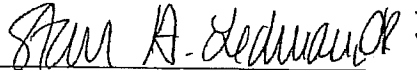
I, Gregory S. Neitzke, state as follows:

1. I hereby swear that I am above the age of eighteen and am otherwise fully competent to testify as to the statements made in this affidavit.
2. I am employed by the City and County of Denver in the Department of Parks and Recreation with the title of Professional Land Surveyor and I serve as the Parks Surveyor.
3. In my role as Parks Surveyor, I manage and am familiar with the real estate records, surveys and archives of the Department of Parks and Recreation in regard to city parks.
4. I am familiar with the location of Parcel 31, the land that was acquired by the City and County of Denver in 1936 in unincorporated Arapahoe County. I am also aware that the land which is the subject of this lawsuit, the School Site, is a remnant of Parcel 31. The School Site has never been designated as a park by any ordinance of the City and County of Denver.
5. The documents attached as **Attachment 1** and **Attachment 2** are lists of parks recognized by and maintained in the City and County of Denver as of 1951 and 1956 respectively. Neither of these lists includes Parcel 31 or the School Site as a recognized City park.
6. Upon my own personal inspection of an aerial photograph taken of Parcel 31 and the surrounding area in 1955 as well as contemporaneous maps, it is my belief that as of December 31, 1955, Parcel 31 had not been improved in any way as a City park.
7. I have no personal knowledge regarding statements or actions of any City and County of Denver official or employee related to Parcel 31 as of December 31, 1955, other than my knowledge of the records maintained by the City.
8. Further, I do not know of any individual who currently works for the City and County of Denver who has personal knowledge regarding the statements or actions of any other official or employee of the City and County of Denver related to Parcel 31 as of December 31, 1955, other than knowledge of the records maintained by the City.

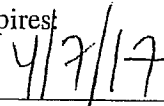
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Gregory Schweitzke
Parks Surveyor
Department of Parks and Recreation
City and County of Denver

Subscribed and sworn before me this 18th day of February, 2014 in the City and County of Denver, State of Colorado.


Notary Public

My Commission Expires


4/7/17

7 7
STANLEY A. LECHMAN JR.
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20064009059
MY COMMISSION EXPIRES APRIL 7, 2017

· Attachment 1 to Exhibit A

Notes to Summary

PARK	Code No.	FLORIST PLANTING	FOREST PLANTING	SHRUBBERY EST.	GRAVEL PAVED	WATER	OTHER	LAWN	TOTAL PLANTED AREAS (ACRES)	DEVELOPED AREAS	UNDEVELOPED AREAS	TOTAL AREA* (ACRES)	PERCENT	
ALCO (Gloucester Ave)	1001	756	none	988	125,788	pool	2,020	132,979	3.06	262,511	6.07	365,570	6.39	
C ALVARO PLACE	1301	7,888	1,550	22,824	70,345	none	none	236,071	3.11	238,280	5.18	238,280	5.18	
C ARLINGTON	1302	none	1,725	4,824	12,054	none	none	204,047	4.69	222,650	5.12	222,650	5.12	
BARNUM	1009	1,562	1,256	17,117	34,785	none	324	299,802	6.86	355,122	8.15	2,513,412	57.70	
BELLEVIEW	1401	none	none	6,000	37,560	none	875	239,935	5.51	284,350	6.54	284,350	6.54	
C BENEDICT (FOUNTAIN)	1310	none	none	none	none	none	none	831,522	19.04	3,431,051	78.77	3,431,051	78.77	
BENICKEY	1002	3,926	15,944	92,578	421,524	2,055,800	3,760	55,159	1.27	72,872	1.67	72,872	1.67	
BONNIE HILLS	1702	624	none	6,316	10,773	none	none	4,544	0.11	18,336	0.42	18,336	0.42	
BRENDON	1311	none	10,491	none	3,301	none	none	4,100,849,196	111.29	5,161,026	118.48	5,161,026	118.48	
C BRIDGWAY TRIANGLES	1418	none	none	none	none	none	none	589	0.00	139,339	3.18	295,700	5.17	
BURNS	2101	1,920	185,987	33,620	72,133	13,000	4,100,849,196	111.29	116.38	139,339	3.18	295,700	5.17	
CASE GOLF COURSE	1712	none	none	none	138,750	none	320	96,872	2.22	133,876	3.08	251,120	5.78	
CEDAR & MYRTLE	1003	none	none	2,187	34,477	none	5,870	2,875,102	65.92	3,525,016	80.92	3,525,016	80.92	
CHESTER	1312	7,776	82,969	181,355	371,950	none	none	151,274	3.48	162,916	3.74	162,916	3.74	
C CHESTNUT ESTIMATE	1313	none	8,624	3,018	none	none	none	3,229	125,668	2.88	355,797	3.58	411,150	9.45
CHESTNUT & 34th	1417	none	none	none	44,171	none	none	56,727	1.30	99,282	2.28	133,352	3.06	
CHESTNUT & S MADISON	1201	44,858	122,524	299,600	376,380	1,272,793	2,676,149	10,059,580	230.94	13,815,234	317.15	13,815,234	317.15	
CHESTNUT PARK	1202	816	none	1,099	136,480	none	6,039	171,220	3.70	316,154	7.25	316,154	7.25	
CITY PARK ESTIMATE	2102	none	none	none	177,000	none	6,200	3,107,828	76.21	3,197,025	82.45	6,288,095	144.15	
CITY PARK COURSE	1203	4,117	3,249	2,444	194,442	none	11,182	149,130	3.43	346,464	12.97	346,464	12.97	
CITY CENTER	1212	none	none	none	none	none	3,229	125,668	2.88	155,797	3.58	255,353	5.87	
C CLAYTON & 37th	1402	none	none	none	44,171	none	none	56,727	1.30	99,282	2.28	133,352	3.06	
COLD SPRING & CHESTNUT DR.	1404	315	574	4,620	34,044	none	2,972	56,727	1.30	99,282	2.28	133,352	3.06	
COLLENS	1004	none	none	9,474	70,387	none	3,121	379,692	8.52	453,454	10.42	771,822	17.72	
C CONGRESS	1314	824	1,100	282	7,910	none	none	118,254	2.72	128,660	2.95	128,660	2.95	
C COOK & 35th	1211	none	none	none	none	none	none	118,254	2.72	128,660	2.95	128,660	2.95	
CHESTNUT	1403	none	2,285	none	none	none	none	12,599	.29	14,884	.34	14,884	.34	
CHESTNUT ISLANDS	1402	none	none	none	none	none	none	12,599	.29	14,884	.34	14,884	.34	
CHESTNUT PARK	1022	none	none	none	215,842	none	6,400	120,400	2.80	316,562	7.87	645,559	14.82	
CHESTNUT PARK (5th & FEDERAL)	1011	none	48	1,207	106,918	pool	3,581	243,401	5.54	355,155	8.15	400,805	9.20	
CHESTNUT PARK	1209	none	none	15,335	28,965	none	1,805	84,450	1.90	130,555	2.99	143,500	3.29	
CHESTNUT PARK	1209	none	none	none	13,485	none	none	110,635	2.51	124,120	2.89	124,120	2.89	
CHESTNUT PARK	1414	none	none	none	12,050	none	450	115,474	2.65	128,724	2.96	200,376	4.60	
CHESTNUT PARK	1205	none	780	none	12,050	none	450	115,474	2.65	128,724	2.96	128,724	2.96	
CHESTNUT PARK	1714	none	none	none	none	none	none	none	none	none	none	none	none	
CHESTNUT PARK	1012	1,619	5,758	26,065	55,254	none	1,670	275,306	6.32	364,472	8.37	364,472	8.37	
CHESTNUT PARK	1013	250	11,234	3,381	90,000	none	3,760	3,022	0.07	111,647	2.68	111,647	2.68	
CHESTNUT PARK	1014	none	86,500	none	170,100	none	none	none	0.00	256,600	6.07	653,400	15.00	
CHESTNUT PARK	1015	300	none	54,275	48,311	none	898	230,916	5.08	324,690	7.45	324,690	7.45	
CHESTNUT PARK	1204	none	none	900	28,680	none	4,736	35,162	0.81	69,478	1.60	126,900	2.91	
CHESTNUT PARK	1315	998	1,169	9,313	228,194	pool	8,622	478,364	10.97	727,320	16.70	727,320	16.70	
CHESTNUT PARK	1027	none	none	none	27,438	none	2,700	none	0.00	30,538	.70	217,920	5.00	
CHESTNUT PARK	1006	100	5,664	20,678	21,569	none	64	130,054	3.14	198,129	4.55	198,129	4.55	
CHESTNUT PARK	1316	none	none	none	none	none	none	none	none	none	none	none	none	
CHESTNUT PARK	1421	none	none	none	none	none	none	none	none	none	none	none	none	
CHESTNUT PARK	1421	none	none	none	none	none	none	none	none	none	none	none	none	

* TOTAL AREA - total unshaded areas to which not limited by property lines, for developed areas only.

Notes to Summary

PARK	Loc. No.	FLOWER BEDS sq. ft.	FOREST PLANTING BEDS	SHRUBBERY BEDS	GRAVEL PAVED	WATER	OTHER	LAWN sq. ft.	TOTAL PLANTED AREAS (acres)	DEVELOPED sq. ft.	acres	UNDEVELOPED sq. ft.	acres	TOTAL AREA sq. ft.	acres	
BOUCLIER	1108	336	4,161	10,093	37,345	none	2,895	77,694	2.12	139,804	3.05	none	none	132,804	3.05	Alamo 7C
HOUNTAIN VIEW	1407	1,335	1,215	3,346	92,660	none	none	1,056,723	24.24	1,154,280	26.50	none	none	1,154,280	26.50	Alamo 7C
OBSERVATORY	1707	none	none	23,166	31,147	none	384	177,733	4.08	232,530	5.34	none	none	232,530	5.34	Alamo 7C
OVERLAND GOLF COURSE	2103	none	none	none	427,500	21,780	6,098	2,848,824	65.40	3,304,222	75.74	2,993,194	-68.71	6,297,396	144.45	Obs
C. PARK AVE. BELMONT	1317	none	none	none	none	none	none	100,188	2.30	100,188	2.30	none	none	100,188	2.30	Overl
FREDERICKS (MATES)	1017	180	112	2,804	8,928	none	858	139,608	3.21	152,700	3.57	none	none	152,700	3.57	Perkins
PLANT	1708	75	487	6,638	30,254	none	1,996	150,402	3.45	189,852	4.36	none	none	189,852	4.36	Platt
ROCKY MOUNTAIN	1007	1,350	2,115	6,384	307,464	1,598,400	1,443	510,037	11.71	2,427,193	55.65	663,425	13.90	3,089,618	69.55	Rock H
ROSEDALE PINE	2206	228	2,596	3,589	6,384	none	1,328	98,924	1.55	73,049	1.68	none	none	73,049	1.68	Ross PL
ROSEDALE PINE	1018	none	none	630	86,530	10,000	7,748	none	.01	105,098	2.40	653,400	15.00	73,049	15.00	Ross PL
RUSSELL SQUARE	1206	none	4,265	5,150	8,088	none	none	109,845	2.52	127,343	2.92	390,629	8.06	485,697	10.46	Russ PL
ST. CHARLES PLACE	1207	716	none	154	37,360	none	4,412	31,338	0.72	74,180	1.70	none	none	127,343	2.92	Russ PL
SANDERSON GARDEN	1019	3,410	14,902	15,960	699,885	8,072,960	9,333	1,006,970	23.11	9,425,400	225.40	2,855,500	65.60	12,680,900	291.00	Russ PL
STANLEY LAKE	1307	none	3,890	none	3,702	none	none	24,367	0.56	31,963	.73	none	none	31,963	.73	Swansea
C. SPEER & COMPANY	1318	474	none	21,715	43,312	none	1,000	424,416	9.75	595,788	12.29	none	none	595,788	12.29	Swansea
C. SWANSEA	1210	none	3,020	none	44,550	none	1,080	272,830	6.26	321,480	7.38	none	none	321,480	7.38	Swansea
STRACOS & 7th	1443	none	5,470	none	4,960	none	none	164,580	3.77	179,010	4.02	none	none	179,010	4.02	Swansea
UNIVERSITY	1710	60	3,420	3,420	22,010	none	2,930	310,000	7.12	342,860	7.85	none	none	342,860	7.85	Swansea
WASHINGTON	1711	43,392	33,788	153,422	619,465	1,730,220	17,288	3,954,825	90.79	6,932,100	159.60	none	none	6,932,100	159.60	Swansea
C. VICTOR & 23rd	1208	none	none	none	130,467	none	3,667	none	0.00	134,394	3.08	none	none	134,394	3.08	Swansea
WELLSHIRE GOLF COURSE	2104	1,068	none	none	126,400	717,000	12,700	4,642,324	106.58	5,498,625	126.20	603,600	13.80	6,102,225	140.00	Swansea
* UNIVERSITY HILLS														871,300	20.00	Swansea

* UNIVERSITY HILLS

None to Early

PARTWAY	Loc. No.	FINDER BEDS	FOREST	SHRUBBERY	GRAVEL	WATER	OTHER	LAND	NOV. PLANTED	DEVELOPED	UNDEVELOPED	TOTAL AREA*	
		sq. ft.	PLANTING	BEDS	PAVED			sq. ft.	AREAS (acres)	sq. ft.	acres	sq. ft.	acres
C COLUMBIA STREET	1419	none	514	2,968	none	none	none	66,652	1.61	70,134	1.61	103,528	2.38
C COUNTRY CLUB (Franklin, High)	1306	204	7,534	8,354	none	none	none	102,254	2.35	120,153	2.76	120,153	2.76
C DOWNING STREET (No. of Cherry Cr.)	1305	none	6,438	5,972	none	none	none	94,690	2.17	107,100	2.46	107,100	2.46
C DORR STREET (No. of Cherry Cr.)	1704	440	3,883	17,452	2,960	none	none	280,160	6.43	302,537	6.96	302,537	6.96
C FOREST STREET	1406	401	22,679	45,494	none	none	none	454,935	10.44	523,509	12.04	523,509	12.04
C HAZEN STREET	1416	4,005	5,348	none	none	none	none	33,075	0.76	40,428	0.93	40,428	0.93
C HONOLULU (HONOLULU)	1409	7,201	16,878	8,383	3,375	none	none	237,569	5.45	273,206	6.27	273,206	6.27
C HONOLULU	1306	2,221	35,432	52,919	none	none	none	663,603	14.32	744,175	16.40	744,175	16.40
C SEVENTH AVE.	1411	2,334	21,607	64,105	none	none	none	791,631	18.80	819,677	18.80	819,677	18.80
C SIXTH AVE.	1307 / 1308	none	6,733	29,492	36,490	none	none	319,975	7.30	382,690	8.60	382,690	8.60
C SPER BLDG (Broadway to Lardner)	1307-1308	188	2,584	23,100	none	none	none	158,978	3.65	185,150	4.25	185,150	4.25
C WILLIAMS ST.	1309												

Client
Co. Club
Dorm No
Forest St
" Dr
Plant
Houses
Kiosk
Market
7/E
17 C
2 C
3
4
5
10/E

Attachment 2 to Exhibit A

PUBLIC LANDS INVENTORY. PARK SITE INDEX

DENVER PLANNING OFFICE

PLAT NO.	NAME OF PARK	LOCATION BY STREETS	DATE OF ACQUISITION AND DEDICATION	STATUS	FILE CODE & DRAWING NO.	LOCATION CODE	IBM ADDRESS
1	Curtis Park	10th to 30th Champa to Arapahoe	1868		M-15-2	1203	7-38
2	Park Avenue Triangles	Park Ave. & Franklin to 20th & Clarkson	1874		M-18-1	1317	2-3
3	Palmer Park	28th to 29th Graham to Williams	1879		M-17-1	1205	2-3
4	City Park	17th to 23rd York to 16th Blvd.	1881		J-37-1	1201	3163
5	Incoln Park	14th to 15th Machione to Osage	1885		J-31-1	1315	11-55
6	Monteclin Park	12th to Fairbairn Pl. Osgood to Vermont	1886		F-10-2	1108	2-58
7	Congress Park	8th to Water St. Prop. Josephine to Detroit	1890		J-37-2	1314	17-7
8	Chester Park	8th to 15th Franklin to Pace	1890		J-36-1	1312	80-12
9	McCary Park	9th to 11th Race to Josephine	1890		J-36-1	1316	11-10
10	Turner Park	14th to 15th Clayton to Thompson Ct.	1892		M-51-1	1209	2-11
11	Cheriffe Park	13rd to 14th Teton to Shoshone	1892		A-3-5	1003	1-10
12	James H. Platt Park	Grant to Florida Downing to Franklin	1894		F-20-3	1708	3-27
13	Washington Park	Virginia to Louisiana 22nd to 23rd	1898		F-27-1	1711	15-26
14	Jackson Park	Osby to Elliot 32nd to Fairview Pl.	1899		B-7-1	1116	6-78
15	Highland Park	Federal to Grove 11th to Evans	1899		B-6-1	1013	7-83
16	Observatory Park	Fillmore to Milwaukee 38th to 39th	1904		G-22-1	1707	18-13
17	Columbus Park	Navajo to Osage 16th to 18th	1906		A-3-2	1004	2-3
18	Bentley Park	Termyson to Sheridan 11st to 12nd	1906		A-4-2	1002	9-15
19	McDonough Park	Federal to Green Ct. 3rd to 6th	1906		A-3-1	1006	3-66
20	Barnum Park	Federal to Julian Colfax, Broadway, Cheyenne Pl.	1906		C-12-1	1109	5-4-9
21	Pioneer Monument	Colfax to 17th	1906		I-32-4	1213	0-136
22	City Park Esplanade	Columbia to Elizabeth Mende to Sheridan	1906		J-37-3	1202	8-0
23	Sloan Lake Park	17th to 25th 16th to 18th	1906		D-8-1	1119	290-83
24	Rocky Mountain Lake Pk.	Grove to Lowell	1906		A-4-1	1007	67-0

PUBLIC LANDS INVENTORY. PARK SITE INDEX

DENVER PLANNING OFFICE

PLAT NO.	NAME OF PARK	LOCATION BY STREETS	DATE OF ACQUISITION AND DEDICATION	STATUS	FILE CODE & DRAWING NO.	LOCATION CODE-IBM	ACRES
25	Argo Park	17th to 18th Tegen to Benn.	1906		0-51-5	1001	7.91
26	Inspiration Point Park	19th to 50th Sheridan to Gray	1907		A-1-1	1005	21.07
27	Dailey Park	Archer to Ellsworth Klati to Cherokee	1907		I-30-1	1703	2.17
28	Jerome Park	10th to 12th Walling to Wyandot	1907		I-31-2	✓	3.2
29	Sunken Gardens	8th to 11th Kitch to Speer Blvd.	1907		I-32-2	1318	11.0
30	Mountain View Park	1st to 3rd Holliston to Cherry	1907		F-39-1	1407	22.87
31	Clayton Park	32nd to 34th March to Cherry	1908		I-44-1	1417	5.07
32	No Name	Osgood, 33rd Ave. and 20th St.	1908		B-6-3		.13
33	No Name	Sherman to Grant Harwood to Vassar	1908		F-19-3	1726	3.57
34	No Name	Platte River Harwood to Jewell	1910		F-20-1		12.02
35	Flyria Park	18th to 19th High to Face	1911		0-53-1	1204	2.10
36	Russell Square Park	36th to 37th Vine to Gaylord	1911		M-16-2	1206	2.29
37	St. Charles Place Park and Lafayette	38th, Marion 23rd to 24th	1911		M-16-1	1207	1.4
38	23rd St. Playground	Walton to California 35th to 36th	1911		M-15-1	1208	2.47
39	No Name	Cook to Madison 7th to 8th	1911		M-50-2	1422	2.29
40	Cheesman Park Esplanade	Williams to High Broadway to Banook	1911		J-35-1	1313	3.51
41	Civic Center	Colfax to 14th Ave. Emerson to Ogden	1911		I-32-1	1213	11.76
42	Alamo Plaza Park	Speer to 14th Hollen to Morrison	1911		J-34-1	1301	4.64
43	Rude Park	Federal to Decatur Clarkson, Speer and 1st	1912		C-10-1	1118	10.16
44	Arlington Park	4 Islands on Broadway Champa to Walnut	1913		I-29-1	1302	3.7
45	No Name	11 Islands on Speer Blvd	1913		M-45-5	1311	0.12
46	No Name	Colfax to Downing	1913		J-32-2	1307	10.73
47	City Park Golf Course	23rd to 26th York to Colo. Blvd.	1914		J-32-3	1323	
48	Hallack Park	19th to 20th Irving to Julian	1916		M-49-1	2102	131.58
					B-8-2	✓	2.99

PUBLIC LANDS INVENTORY. PARK SITE INDEX

DENVER PLANNING OFFICE

PLAT NO.	NAME OF PARK	LOCATION BY STREETS	DATE OF ACQUISITION AND DEDICATION STATUS	FILE CODE B DRAWING NO.	LOCATION CODE IBM	ACRES
49	Overland Park & Dairy Co.	Santa Fe to Idaho Exp. Station, Jewell	1919	F-20-2	2109 1750 1727 2206	111.51 16.67
50	Rosedale Park & Nursery	Harvard to Blair	1921	F-19-2		26.
51	No Name	Exposition to Tennessee Harbor to Cherokee	1922	E-16-2		31
52	Bennington	20th to 22nd and Seward to Lake	1924	M-45-1	1310	1.67
53	Bonnie Springs Park	Bonnie Springs Blvd. and Kentucky Avenue	1925	H-25-1	1702	0.39
54	No Name	27 Islands on Pelcano Dr. Adams and Madison	1931	H-26-2		125.6
55	W. N. Case	18th to 19th	1935	K-1-2	2101	121.76
56	Carleton	Stephens to Tompison Alameda & Kalamath	1935	H-26-1	1724	35.52
57	No Name	Cherry Creek 64th Blvd. to Garfield	1936	C-23-1	2204	139.32
58	McIntosh	60th Blvd. Hale Park to Hamden	1936	K-40-1	1401	5.72
59	(Bellevue Park)	60th Blvd. to 12th Hale Park to Pelliss	1937	I-31-3	1716	13.08
60	No Name	8th Valley Road & Jones	1938	K-39-3	1408	6.95
61	D.C. Penn	Alameda & Se. 60th Blvd to Leavensdale Drive	1940	O-53-2	1215	2.4
62	Robinson	2nd to 3rd Wesley to Glencoe	1941	E-17-3	1132	5.6
63	No Name	10th to 14th Vine to Gaylord	1942	C-11-3	1712	14.8
64	No Name	Arkansas to Florida 2nd to Valley	1944	K-39-4	1402	31.4
65	Valverde Park	Cedar to Alley S. of Bay Navesjo to Platte River	1944	P-6-2	1014	2.2
66	No Name	7 Islands in Crestmoor Subdivision	1946	A-2-1		0.172
67	Crestmoor Park	Southmoor Dr. McMace and Cedar	1946	C-11-2		0.53
68	Fairborn Park	16th to 17th Tejon to Erie	1946	H-27-2	1719	7.0
69	"Burlington" Park	W. Burlington Pl. & W. Berkeley Pl.	1946	P-16-1	1115	31.0
70	No Name	Bryant Street near Ellsworth Ave.	1946			
71	No Name	Race to Gaylord Iowa to Valley Highway	1946			
72	Huston Lake Park	Kentucky to Iowa Vallejo to Clay	1946			

PUBLIC LANDS INVENTORY. PARK SITE INDEX

DENVER PLANNING OFFICE

FLAT NO.	NAME OF PARK	LOCATION BY STREETS	DATE OF ACQUISITION AND DEDICATION STATUS	FILE CODE & DRAWING NO.	LOCATION CODE & IBM	ACRES
73	Staussee Park	19th to 50th, Alley W. of Clifton to B. R. Steeds to Madison Bayaud to Cherry Creek	1947	O-52-1	1210	7.51
74	No Name	26th, Ordien & Tremont	1947	I-38-1	1723	14.38
75	No Name	17th to 18th	1948	M-45-4	1220	.40
76	No Name	Mayfield to Osage	1948	A-3-4		3.9
77	No Name	40th to 41st, Lipan to Alley W. of Mariposa	1948	A-5-3	1027	5.0
78	No Name	16th to 17th Peas to Osage	1948	A-3-6	1025	3.14
79	No Name	37th to 38th Josephine to Clayton	1948	N-50-1	1423	9.13
80	No Name	5th to 6th Federal to Decatur	1948	G-14-1	1111	14.82
81	Pendestiller Park	Montclair to 35rd Fair to Holly	1948	B-5-1	1017	2.27
82	No Name	Dorothy, Elvaine Canal	1949	G-24-1	1722	20.9
83	Garfield Lake Park	Louisiana to Mississippi Osceola to Knox Ct. West Drive	1949	D-14-1	1112	12.76
84	No Name	Utica to Holly	1950	C-12-2	1133	2.24
85	No Name	17th to 19th Syracuse to Rosemary	1950	K-11-1	1413	4.0
86	No Name	Tennison to Java W. Mexico to Colorado	1951	D-14-2	1131	16.3
87	Skyland Park	33rd to 35th Holly to Ivy	1952	I-14-2	1429	8.14
88	Roby Hill	Florida to Jewell Lipan to Osage	1954	E-17-1	1721	88.3
89	No Name	Warren to Evans Tennison to Patton	1954	D-15-1	1130	27.7
90	No Name	Florida to Mexico Monaco to Osage	1954	O-61-2	1427	32.
91	No Name	Monaco to Holly Tenn. to Miss.	1955	P-58-1	1428	54.16
92	West-Barkval-Mood	Bayaud to Cedar Teton to Yuma	1955	C-11-4	1135	13.61
93	No Name	Harvard to Vassar York to Vine	1956	F-21-1	1725	5.74
94	No Name	Holly and Baddy Canyon Road	1956			18.0
95	No Name	Exposition to Gill Lipan to Osage	1956	E-16-3		3.7
96	No Name	Bear Creek, Hampden to Sheridan	1956	D-15-2	1139	8.78

Exhibit B, Affidavit of Ronald T. Ellis, City Surveyor

DISTRICT COURT, CITY AND COUNTY OF
DENVER, STATE OF COLORADO
City and County Building
1437 Bannock Street, Room 256
Denver, Colorado 80202

Plaintiff: : FRIENDS OF DENVER PARKS, INC., a
Colorado non-profit corporation; and STEVE
WALDSTEIN, an individual; ZELDA HAWKINS, an
individual; MEMBERS OF THE PETITIONERS
COMMITTEE TO REPEAL DENVER ORDINANCE
170, consisting of JOHN CASE, JUDITH M. CASE,
RENEE LEWIS, DAVID HILL, AND SHAWN SMITH, ,
v.

Defendant: CITY AND COUNTY OF DENVER, a
municipal corporation; and SCHOOL DISTRICT NO. 1 IN
THE CITY AND COUNTY OF DENVER.

Attorneys for the Defendant School District No. 1
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Molly H. Ferrer, reg. no. 37857
Michael Hickman, reg. no. 30610
Denver Public Schools
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Attorneys for the Defendant City and County of Denver
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Mitchel Behr, Esq., Atty. No. 38452
Patrick Wheeler, Esq., Atty. No. 14358
Assistant Denver City Attorneys
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Denver, CO 80202
Telephone: 720-865-8600
Facsimile: 720-865-8796

▲ COURT USE ONLY ▲

Case Number: 2013CV32444
Courtroom: 376

AFFIDAVIT OF RONALD T. ELLIS, LAND SURVEYOR SUPERVISOR

I, Ronald T. Ellis, state as follows:

1. I hereby swear that I am above the age of eighteen and am otherwise fully competent to testify as to the statements made in this affidavit.
2. I am employed by the City and County of Denver in the Department of Public Works with the title of Land Surveyor Supervisor.
3. As a Land Surveyor Supervisor, my duties include maintaining and preserving the horizontal and vertical survey control, performing land surveys, and preparing and reviewing legal descriptions. I also collect and maintain historic public works documents such as maps, plats, deeds and ordinances related to property under the jurisdiction of the Department of Public Works.
4. I am familiar with the location of Parcel 31, the land that was acquired by the City and County of Denver in 1936 in unincorporated Arapahoe County. This land was not annexed into the City and County of Denver until 1965. I am also aware that the land which is the subject of this lawsuit, the School Site, is a remnant of Parcel 31.
5. The City acquired Parcel 31 by deed in 1936 as one of a series of parcels acquired by the City along Cheery Creek in approximately the same time period. The deed whereby the City acquired Parcel 31 is attached hereto as **Attachment 1**. The deed does not on its face dedicate or reserve Parcel 31 for any particular purpose.
6. Based upon my knowledge of records in the Department of Public Works and the location of Parcel 31 in relation to other properties acquired by the City and County of Denver at or about the same time, I have concluded that the City and County of Denver acquired Parcel 31 to mitigate and manage flood hazards along Cherry Creek.
7. In 1955 the City and County of Denver deeded to the Colorado Department of Highways a portion of Parcel 31 for the construction of Havana Street. The ordinance approving this conveyance and the right-of-way deed itself are attached hereto as **Attachment 2** and **Attachment 3** respectively.
8. To the best of my knowledge and information, the City and County of Denver did not at any time designate as a park by ordinance the portion of Parcel 31 which has now been conveyed to Denver Public Schools for the School Site.
9. No portion of Parcel 31 has been platted by any recorded subdivision plat of the City or other jurisdiction and, consequently, no park dedication by plat has occurred.

10. Upon my own personal inspection of an aerial photograph taken of Parcel 31 and the surrounding area in 1955 as well as contemporaneous maps, it is my belief that as of December 31, 1955, Parcel 31 had not been improved in any way as a City park.
11. I have no personal knowledge regarding statements or actions of any City and County of Denver official or employee related to Parcel 31 as of December 31, 1955, other than my knowledge of the records maintained by the City.
12. Further, I do not know of any individual who currently works for the City and County of Denver who has personal knowledge regarding the statements or actions of any other official or employee of the City and County of Denver related to Parcel 31 as of December 31, 1955, other than knowledge of the records maintained by the City.

Ronald T. Ellis

Ronald T. Ellis
Land Surveyor Supervisor
Department of Public Works
City and County of Denver

Subscribed and sworn before me this 18th day of February, 2014, in the City and County of Denver, State of Colorado.

Stan Lechman Jr.

Notary Public

My Commission Expires:

4/7/17

STANLEY A. LECHMAN JR.
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054009059
MY COMMISSION EXPIRES APRIL 7, 2017

Attachment 1 to Exhibit B

This Deed Made this sixth day of October in the year of our Lord one thousand nine hundred and thirty-six

JAMES D. CANARY of the City and County of Denver and State of Colorado, of the first part, and CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, of the second part;

Witnesseth, That the said parties of the first part, for and in consideration of the sum of Sixteen Hundred Fifty-eight (\$1658.00) DOLLARS, to the said parties of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm, unto the said party of the second part, its successors and assigns forever, all the following described parcel of land, situate, lying and being in the City and County of Denver and State of Colorado, to-wit:

Parcel No. 31

That part of the East half (1/2) of the East half (1/2) of Section Thirty-four (34), Township Four (4) South, Range Sixty-seven (67) West of the 6th P.M., described as follows:

Commencing at the Southeast corner of the Northeast quarter (1/4) of the Southeast quarter of said Section Thirty-four (34); thence South along the East line of said Section Thirty-four (34) a distance of Four Hundred Twenty (420) feet to a point; thence northwesterly along a straight line to the northwest corner of the South half (1/2) of the Southeast quarter (1/4) of the Northeast quarter (1/4) of said Section; thence East along the North line of said South half (1/2) of the Southeast quarter (1/4) of the Northeast quarter (1/4) to the Northeast corner thereof; thence South along the East line of said Section to place of beginning, containing 36.45 acres more or less.

Together with all and singular the hereditaments and appurtenances therunto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and to Hold the said premises above bargained and described, with the appurtenances, unto the said party of the second part, its successors and assigns forever. And the said parties of the first part, for themselves, their heirs, executors, and administrators, do covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the enrolling and delivery of these presents, they are well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and, have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature aforesaid.

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part shall and will WARRANT AND FOREVER DEFEND.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of [Signatures] (SEAL) [Signatures] (SEAL) [Signatures] (SEAL)

COLORADO, County of Denver, I, Geo. J. Crane, Notary Public, do hereby certify that the foregoing instrument was acknowledged before me this 7th day of October, 1937, by James D. Canary, and official seal. Jan. 5, 1937. Geo. J. Crane, Notary Public.

Attachment 2 to Exhibit B

BY AUTHORITY

ORDINANCE NO. 296
SERIES OF 1955

COUNCILMAN'S BILL NO. 319
INTRODUCED BY COUNCILMEN
Harland
Washington
Blair

A B I L L

FOR AN ORDINANCE AUTHORIZING THE MANAGER OF IMPROVEMENTS AND PARKS, WITH THE APPROVAL OF THE MAYOR, TO GRANT AND CONVEY TO THE DEPARTMENT OF HIGHWAYS OF THE STATE OF COLORADO CERTAIN RIGHTS OF WAY AND EASEMENTS OVER TRACTS OR PARCELS OF LAND IN ARAPAHOE COUNTY, COLORADO, IN CONNECTION WITH DEPARTMENT OF HIGHWAYS PROJECT NO. S 0055(2).

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That to improve, and aid in the construction and maintenance of, public roads outside the limits of the City and County of Denver, for the purpose of establishing and improving the system of roads connecting the City and County of Denver and its parks and parkways outside such limits, the Manager of Improvements and Parks, with the approval of the Mayor, shall have power and he is hereby authorized to grant and convey to the Department of Highways of the State of Colorado, for the location, relocation, construction, reconstruction, improvement and maintenance of a portion of State Highway No. 70 rights of way over, along, upon, and across the following described portions, tracts, or parcels of real property:

A. A tract or parcel of land No. 2 Rev. 2 of Department of Highways' Project No. S 0055(2) containing 3.829 acres, more or less, in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 27, Township 4 S., Range 67 W., of the 6th Principal Meridian, in Arapahoe County, Colorado said tract or parcel being more particularly described as follows:

Beginning at the SE corner of Section 27, T. 4S., R. 67W.;

1. Thence N. $0^{\circ} 16' 30''$ W., along the east line of Sec. 27, a distance of 1196.5 feet to the centerline of Parker Road, State Highway #83;

2. Thence N. $43^{\circ} 41'$ W., along the center line of Parker Road State Highway #83, a distance of 172.1 feet, to the north line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 27;

3. Thence west along the north line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 27 a distance of 37.5 feet;

4. Thence S. $41^{\circ} 35'$ W., along the northwest property line, a distance of 104.1 feet;

5. Thence S. $23^{\circ} 38' 30''$ E., a distance of 287.7 feet;

6. Thence S. $01^{\circ} 12'$ W., a distance of 700.0 feet;

7. Thence S. $10^{\circ} 06' 30''$ E., a distance of 102.0 feet;

8. Thence S. $01^{\circ} 12'$ W. a distance of 176.1 feet to the south line of Sec. 27;

9. Thence S. $88^{\circ} 25'$ E., along the south line of Sec. 27, a distance of 116.2 feet more or less, to the point of beginning.

The above described tract contains 3.859 acres, more or less, of which 0.239 acres are in the right of way of the present road;

B. A tract or parcel of land No. 5 of Department of Highways' Project No. S 0055(2) containing 10.718 acres, more or less, in the E $\frac{1}{2}$ of NE $\frac{1}{4}$ and E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 34, Township 4 South, Range 67 West of the Sixth Principal Meridian, in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the east line of Section 34, T. 4S., R. 67W., from which point the SE corner of said Section 34 bears S. $00^{\circ} 25' 30''$ W., a distance of 1358.9 feet;

1. Thence N. $00^{\circ} 25' 30''$ E. along the east line of Section 34 a distance of 2602.9 feet to the north property line;

2. Thence N. $88^{\circ} 46' 30''$ W. along the north property line a distance of 149.0 feet;

3. Thence S. $01^{\circ} 12'$ W. a distance of 2602.7 feet;

4. Thence S. $7^{\circ} 20'$ E. a distance of 101.1 feet;

5. Thence S. $01^{\circ} 12'$ W. a distance of 46.1 feet to the south property line;

6. Thence S. $28^{\circ} 07' 30''$ E. along the south property line a distance of 234.0 feet;

7. Thence along the arc of a curve to the left with a radius of 1206.0 feet a distance of 114.4 feet (the chord of which arc bears N. $03^{\circ} 55'$ E a distance of 114.3 feet);

8. Thence N. $01^{\circ} 12'$ E. a distance of 135.9 feet;

9. Thence N. $27^{\circ} 22'$ E. a distance of 111.4 feet, more or less, to the point of beginning.

The above described tract contains 10,718 acres, more or less;

C. A tract or parcel of land No. 7 of Department of Highways' Project No. S 0055(2) containing 3.056 acres, more or less, in the E $\frac{1}{2}$ and NW $\frac{1}{4}$ of Section 3, Township 5 South, Range 67 West, of the Sixth Principal Meridian, in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the north line of Section 3, T. 5S., R. 67W., from which point the NE corner of said Section 3 bears S. $89^{\circ} 51'$ E. a distance of 877.0 feet;

1. Thence N. $89^{\circ} 51'$ W. along the north line of Section 3 a distance of 2365.1 feet to the west property line;

2. Thence S. $36^{\circ} 57'$ E. along the west property line a distance of 75.2 feet;

3. Thence S. $89^{\circ} 51'$ E. a distance of 1944.1 feet;

4. Thence along the arc of a curve to the left with a radius of 1206.0 feet a distance of 382.0 feet (the chord of which arc bears N. $81^{\circ} 04' 30''$ E. a distance of 380.4 feet), more or less, to the point of beginning.

The above described tract contains 3,056 acres, more or less, of which 0.115 acres are in the right of way of the present road;

and

D. A tract or parcel of land No. 6-A of Department of Highways' Project No. S 0055(2), containing 6.907 acres, more or less, in the SE corner of the SE $\frac{1}{4}$ of Sec. 34, T. 4S., R. 67W., of the 6th P.M., in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at the SE corner of Sec. 34, T. 4S., R. 67W.;

1. Thence N. $0^{\circ} 25' 30''$ E., along the east line of Sec. 34, a distance of 900.6 feet, to the NE property line;

2. Thence N. 28° 07' 30" W., along the NE property line, a distance of 124.0 feet;

3. Thence along the arc of a curve to the right with a radius of 1206.0 feet a distance of 1375.9 feet (the chord of which arc bears S. 39° 19' W., a distance of 1302.5 feet) to the south line of Sec. 34;

4. Thence S. 89° 51' E., along the south line of Sec. 34, a distance of 877.0 feet, more or less, to the point of beginning.

The above described tract contains 6.907 acres, more or less;

Section 2. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety, and determines that it shall take effect immediately upon its final passage and publication.

PASSED by the Council September 6 1955

[Signature] - President

APPROVED: Will Fluhorn - Mayor 7/Sept 1955

ATTEST: PAUL V. HODGES, JR. - Clerk and Recorder,
Ex-Officio Clerk of the
City and County of Denver

By: George Maudsins - Deputy City Clerk

PUBLISHED IN The Daily Journal Sept 3 1955 and Sept 10 1955

APPROVED: John C. Banks - City Attorney

APPROVED: [Signature] - Manager of Improvements
and Parks



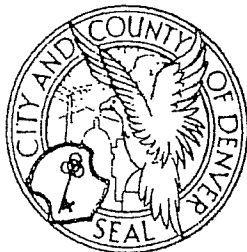
CITY AND COUNTY OF DENVER
STATE OF COLORADO

Certification

I, **Debra Johnson**, Clerk and Recorder,
Ex-Officio Clerk of the City and County of Denver,
do hereby certify that the attached is a true and correct copy of

Ordinance No. 296, Series of 1955

I hereunto have set my hand
and affixed the Seal of the
City and County of Denver,
State of Colorado.
This 10th day of June,
A.D. 2013



Clerk and Recorder, Ex-Officio
Clerk of the City and County of Denver

A handwritten signature in black ink, appearing to read "Catherine J. DeSmet", is written over a horizontal line.

Deputy

CATHERINE J. DESMET

Attachment 3 to Exhibit B

DEED OF EASEMENT

EXECUTED BY AUTHORITY OF ORDINANCE No. 296, SERIES OF 1965

KNOW ALL MEN BY THESE PRESENTS:

THAT THE CITY AND COUNTY OF DENVER, A MUNICIPAL CORPORATION, DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE CONSTITUTION OF THE STATE OF COLORADO, HEREINAFTER CALLED THE "CITY"; FOR AND IN CONSIDERATION OF ONE (\$1.00) DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATIONS IN HAND PAID, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, DOES HEREBY GRANT AND CONVEY TO THE DEPARTMENT OF HIGHWAYS OF THE STATE OF COLORADO, ITS SUCCESSORS AND ASSIGNS, AN EASEMENT AND RIGHT-OF-WAY FOR THE LOCATION, RELOCATION, CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT AND MAINTENANCE OF A PORTION OF STATE HIGHWAY No. 70 AND EXTENSION OF HAVANA STREET SOUTH, RIGHTS OF WAY OVER, ALONG, UPON, AND ACROSS THE FOLLOWING DESCRIBED PORTIONS, TRACTS, OR PARCELS OF REAL PROPERTY:

#169 (A) A TRACT OR PARCEL OF LAND No. 2 REV. 2 OF DEPARTMENT OF HIGHWAYS PROJECT No. S 0055 (2) CONTAINING 3.829 ACRES, MORE OR LESS, IN THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN ARAPAHOE COUNTY, COLORADO, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

1. BEGINNING AT THE SE CORNER OF SECTION 27, T.4S., R.67W.; THENCE N. 0° 16' 30" W., ALONG THE EAST LINE OF SEC. 27, A DISTANCE OF 1196.5 FEET TO THE CENTERLINE OF PARKER ROAD, STATE HIGHWAY #83;
2. THENCE N. 43° 41' W., ALONG THE CENTER LINE OF PARKER ROAD STATE HIGHWAY #83, A DISTANCE OF 172.1 FEET, TO THE NORTH LINE OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SEC. 27;
3. THENCE WEST ALONG THE NORTH LINE OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SEC. 27, A DISTANCE OF 37.5 FEET;
4. THENCE S. 41° 35' W., ALONG THE NORTHWEST PROPERTY LINE, A DISTANCE OF 104.1 FEET;
5. THENCE S. 23° 38' 30" E., A DISTANCE OF 287.7 FEET;
6. THENCE S. 01° 12' W., A DISTANCE OF 700.0 FEET;
7. THENCE S. 10° 06' 30" E., A DISTANCE OF 102.0 FEET;
8. THENCE S. 01° 12' W. A DISTANCE OF 176.1 FEET TO THE SOUTH LINE OF SEC. 27;
9. THENCE S. 88° 25' E., ALONG THE SOUTH LINE OF SEC. 27, A DISTANCE OF 116.2 FEET MORE OR LESS, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 3.859 ACRES, MORE OR LESS, OF WHICH 0.239 ACRES ARE IN THE RIGHT OF WAY OF THE PRESENT ROAD.

(B) A TRACT OR PARCEL OF LAND No. 5 OF DEPARTMENT OF HIGHWAYS' PROJECT No. S 0055 (2) CONTAINING 10.718 ACRES, MORE OR LESS, IN THE E $\frac{1}{4}$ OF NE $\frac{1}{4}$ AND E $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN ARAPAHOE COUNTY, COLORADO, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

7747 564

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 34, T.48,
R.67W., FROM WHICH POINT THE SE CORNER OF SAID SECTION 34
BEARS S 00° 25' 30" W A DISTANCE OF 1358.9 FEET;

1. THENCE N 00° 25' 30" E ALONG THE EAST LINE OF SECTION
34 A DISTANCE OF 2602.9 FEET TO THE NORTH PROPERTY LINE;
2. THENCE N 88° 46' 30" W ALONG THE NORTH PROPERTY LINE A
DISTANCE OF 149.0 FEET;
3. THENCE S 01° 12' W A DISTANCE OF 2602.7 FEET;
4. THENCE S 7° 20' E A DISTANCE OF 101.1 FEET;
5. THENCE S 01° 12' W A DISTANCE OF 46.1 FEET TO THE
SOUTH PROPERTY LINE;
6. THENCE S 28° 07' 30" E ALONG THE SOUTH PROPERTY LINE A
DISTANCE OF 234.0 FEET;
7. THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS
OF 1206.0 FEET A DISTANCE OF 114.4 FEET (THE CHORD OF WHICH
ARC BEARS N 03° 55' E A DISTANCE OF 114.3 FEET);
8. THENCE N 01° 12' E A DISTANCE OF 135.9 FEET;
9. THENCE N 27° 22' E A DISTANCE OF 111.4 FEET, MORE OR LESS,
TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 10.718 ACRES, MORE OR LESS;

(C) A TRACT OR PARCEL OF LAND No. 7 OF DEPARTMENT OF HIGHWAYS
PROJECT No. S 0055(2) CONTAINING 3.056 ACRES, MORE OR LESS, IN
THE E½ AND NW¼ OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 67 WEST,
OF THE SIXTH PRINCIPAL MERIDIAN, IN ARAPAHOE COUNTY, COLORADO,
SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SECTION 3, T.5S.,
R.67W., FROM WHICH POINT THE NE CORNER OF SAID SECTION 3 BEARS
S 89° 51' E A DISTANCE OF 877.0 FEET;

1. THENCE N 89° 51' W ALONG THE NORTH LINE OF SECTION 3 A
DISTANCE OF 2365.1 FEET TO THE WEST PROPERTY LINE;
2. THENCE S 36° 57' E ALONG THE WEST PROPERTY LINE A DISTANCE
OF 75.2 FEET;
3. THENCE S 89° 51' E A DISTANCE OF 1944.1 FEET;
4. THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS
OF 1206.0 FEET A DISTANCE OF 382.0 FEET (THE CHORD OF WHICH
ARC BEARS N 81° 04' 30" E A DISTANCE OF 380.4 FEET), MORE OR
LESS, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 3.056 ACRES, MORE OR LESS,
OF WHICH 0.115 ACRES ARE IN THE RIGHT OF WAY OF THE PRESENT ROAD;

7747 565

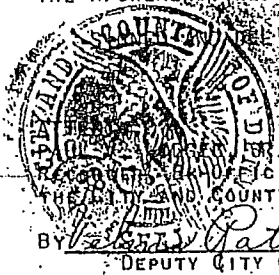
(D) A TRACT OR PARCEL OF LAND No. 6-A OF DEPARTMENT OF HIGHWAYS' PROJECT No. S 0055(2), CONTAINING 6.907 ACRES, MORE OR LESS, IN THE SE CORNER OF THE SE 1/4 OF SEC. 34, T.4S., R.67W., OF THE 6TH P.M., IN ARAPAHOE COUNTY, COLORADO, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- BEGINNING AT THE SE CORNER OF SEC. 34, T.4S., R.67W.;
1. THENCE N 00° 25' 30" E., ALONG THE EAST LINE OF SEC. 34, A DISTANCE OF 900.6 FEET, TO THE NE PROPERTY LINE;
 2. THENCE N 28° 07' 30" W, ALONG THE NE PROPERTY LINE, A DISTANCE OF 124.0 FEET;
 3. THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 1206.0 FEET, A DISTANCE OF 1375.9 FEET (THE CHORD OF WHICH ARC BEARS S. 39° 19' W., A DISTANCE OF 1302.5 FEET) TO THE SOUTH LINE OF SEC. 34;
 4. THENCE S. 89° 51' E, ALONG THE SOUTH LINE OF SEC. 34, A DISTANCE OF 877.0 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 6.907 ACRES, MORE OR LESS.

SUBJECT, HOWEVER, TO EACH OF THE FOLLOWING PROVISIONS:

1. UPON THE ABANDONMENT OR NON-USE OF SAID EASEMENT AND RIGHT-OF-WAY BY THE GRANTEE, ALL RIGHT, TITLE AND INTEREST HEREIN GRANTED SHALL IMMEDIATELY REVERT TO AND VEST IN THE CITY.
2. THE CITY EXPRESSLY MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE OWNERSHIP OR STATUS OF THE PROPERTY HEREINABOVE DESCRIBED.
3. THE CITY RESERVES THE RIGHT TO UTILIZE AND ENJOY THE ABOVE DESCRIBED PREMISES FOR ANY PURPOSE, PROVIDING THAT THE SAID UTILIZATION AND ENJOYMENT IS NOT INCONSISTENT AND DOES NOT INTERFERE WITH THE AFOREMENTIONED PURPOSES OF THIS EASEMENT.



RECEIVED THIS 15 DAY OF SEPTEMBER, 1955.

CITY AND COUNTY OF DENVER

By Will F. Nicholson MAYOR

By Velma Batterton MANAGER, IMPROVEMENTS AND PARKS

BY Velma Batterton DEPUTY CITY CLERK

STATE OF COLORADO }
CITY AND } ss.
COUNTY OF DENVER }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 15TH DAY OF SEPTEMBER, 1955, BY WILL F. NICHOLSON AS MAYOR, AND BY R. BATTERTON AS MANAGER OF IMPROVEMENTS AND PARKS, AND BY VELMA BATTERTON AS DEPUTY CITY CLERK OF THE CITY AND COUNTY OF DENVER, A MUNICIPAL CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL.

Marion S. Gault
NOTARY PUBLIC

My Commission Expires:

September 7, 1955

7747 566

*John
187*

RECEIVED
SEP 19 1955
NEW YORK
FALL N. HODGES, JR.
BOOK PAGE
7747 563

26302

SEP-19 55 8 27 1 8 p LST - HIS 0.00

*Please return to
Room 481 - etc*

Exhibit C, aerial photo taken in 1955

(Entered into evidence during the June 2013 hearing)



Photo Date: 5-11-55
©2013 Colorado Aerial Photo Service

Ex. D, Plaintiffs' Requests for Production

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street Denver, CO 80202	
Plaintiffs: FRIENDS OF DENVER PARKS, INC., a Colorado non-profit corporation; and STEVE WALDSTEIN, an individual; ZELDA HAWKINS, an individual; MEMBERS OF THE PETITIONERS COMMITTEE TO REPEAL DENVER ORDINANCE 170, consisting of JOHN CASE, JUDITH M. CASE, RENEE LEWIS, DAVID HILL, AND SHAWN SMITH.	▲ COURT USE ONLY ▲
Defendants: CITY & COUNTY OF DENVER, a municipal corporation; and SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER, a public entity; and DEBRA JOHNSON, in her capacity as clerk and recorder of the City and County of Denver.	
Plaintiff's Attorneys: John Case, Esq. Atty reg. # 2431 Jessica Schultz, Atty reg. #46292 Benson & Case, LLP 1660 So. Albion Street, Suite 1100 Denver, Colorado 80222 Phone Number: (303) 757-8300 FAX Number: (303) 753-0444 E-mail: case@bensoncase.com	
PLAINTIFF FRIENDS OF DENVER PARKS FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CITY AND COUNTY OF DENVER	

Plaintiff Friends of Denver Parks, Inc., through counsel BENSON & CASE LLP, requests that the Defendant City and County of Denver produce the documents requested below for inspection and copying at the offices of Plaintiff's attorneys, within 35 days, pursuant to Rule 34 Colorado Rules of Civil Procedure.

1. All documents, whether in electronic or print form, including but not limited to emails, text messages, voice messages, letters, notes, memoranda, related to the land swap between the Defendants.

2. All surveys of the land known as "Parcel 31" and "Hampden Heights North Park" or any portion thereof from 1956 to present.

3. All appraisals of the land known as "Parcel 31" and "Hampden Heights North Park" or any portion thereof from January 1, 2010 to present.

4. All appraisals of the real property known as 1330 Fox St., Denver, CO 80202 from January 1, 2010 to present.

5. All Denver ordinances and charter provisions relating to land use, designation, and zoning of the land known as "Parcel 31" and "Hampden Heights North Park" from 1936 to present. This request specifically includes zoning ordinances that include the parcel or any portion thereof.

6. All city maps that include the land known as "Parcel 31" and "Hampden Heights North Park" from 1936 to present. This request specifically includes zoning maps adopted by ordinance.

7. All real estate records, including deeds, dedications, plats, and leases that include any portion of "Parcel 31" and "Hampden Heights North Park" from 1936 to present. This request specifically includes the dedications to Havana St., Girard Ave., and the lease of the parking lot to Oppenheimer.

8. All documents related to the adoption of City Charter Section 2.4.5.

9. All lists of Denver park lands created or maintained by Denver Department of Parks and Recreation ("DPR") from 1935 to present.

10. All minutes, recordings, and records of proceedings of the Denver Parks and Recreation Advisory Board ("PRAB").

Respectfully submitted January 2, 2014.

BENSON & CASE, LLP

s/John Case

John Case, #2431

Jessica Schultz, #46292

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2014 a true and correct copy of the foregoing **PLAINTIFF FRIENDS OF DENVER PARKS FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CITY AND COUNTY OF DENVER** was served on the following:

David W. Broadwell, Esq. **VIA ICCES (SERVE ONLY)**
Patrick Wheeler, Esq.
Mitchel Behr, Esq.
Assistant City Attorneys
1437 Bannock St. R#353
Denver CO 80202
Attorneys for Defendants City and County of Denver and Debra Johnson

Michael J. Hickman, Esq. **VIA ICCES (SERVE ONLY)**
Jerome A. Deherrera, Esq.
Office of General Counsel
Denver Public Schools
900 Grant St. #401
Denver CO 80203-2996
Attorneys for Defendant Denver Public School District Number 1

s/Karen Corner

Karen Corner

DISTRICT COURT, DENVER COUNTY, COLORADO
Court Address: 1437 Bannock Street
Denver, CO 80202

Plaintiffs: FRIENDS OF DENVER PARKS, INC., a Colorado non-profit corporation; and STEVE WALDSTEIN, an individual; ZELDA HAWKINS, an individual; MEMBERS OF THE PETITIONERS COMMITTEE TO REPEAL DENVER ORDINANCE 170, consisting of JOHN CASE, JUDITH M. CASE, RENEE LEWIS, DAVID HILL, AND SHAWN SMITH.

Defendants: CITY & COUNTY OF DENVER, a municipal corporation; and SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER, a public entity; and DEBRA JOHNSON, in her capacity as clerk and recorder of the City and County of Denver.

Plaintiff's Attorneys:

John Case, Esq. Atty reg. # 2431
Jessica Schultz, Atty reg. #46292
Benson & Case, LLP
1660 So. Albion Street, Suite 1100
Denver, Colorado 80222

Phone Number: (303) 757-8300

FAX Number: (303) 753-0444

E-mail: case@bensoncase.com

SERVED ONLY: January 2, 2014 12:23 PM
FILING ID: 2171FF814ADCD
CASE NUMBER: 2013CV32444

▲ COURT USE ONLY ▲

Case No.:
2013CV032444

Courtroom 376

**PLAINTIFF FRIENDS OF DENVER PARKS FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT
SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER**

Plaintiff Friends of Denver Parks, Inc., through counsel BENSON & CASE LLP, requests that the Defendant **SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER** produce the documents requested below for inspection and copying at the offices of Plaintiff's attorneys, within 35 days, pursuant to Rule 34 Colorado Rules of Civil Procedure.

1. All documents, whether in electronic or print form, including but not limited to emails, text messages, voice messages, letters, notes, memoranda, related to the land swap between the Defendants.

2. All appraisals of the real property known as 1330 Fox St., Denver, CO 80202 from January 1, 1995 to present.

Respectfully submitted January 2, 2014.

BENSON & CASE, LLP

s/John Case

John Case, #2431
Jessica Schultz, #46292

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2014 a true and correct copy of the foregoing **PLAINTIFF FRIENDS OF DENVER PARKS FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER** was served on the following:

David W. Broadwell, Esq.
Patrick Wheeler, Esq.
Mitchel Behr, Esq.
Assistant City Attorneys
1437 Bannock St. R#353
Denver CO 80202

VIA ICCES (SERVE ONLY)

Attorneys for Defendants City and County of Denver and Debra Johnson

Michael J. Hickman, Esq.
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VIA ICCES (SERVE ONLY)

Attorneys for Defendant Denver Public School District Number 1

s/Karen Corner

Karen Corner

DISTRICT COURT, DENVER COUNTY, COLORADO
Court Address: 1437 Bannock Street
Denver, CO 80202

Plaintiffs: FRIENDS OF DENVER PARKS, INC., a Colorado non-profit corporation; and STEVE WALDSTEIN, an individual; ZELDA HAWKINS, an individual; MEMBERS OF THE PETITIONERS COMMITTEE TO REPEAL DENVER ORDINANCE 170, consisting of JOHN CASE, JUDITH M. CASE, RENEE LEWIS, DAVID HILL, AND SHAWN SMITH.

Defendants: CITY & COUNTY OF DENVER, a municipal corporation; and SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER, a public entity; and DEBRA JOHNSON, in her capacity as clerk and recorder of the City and County of Denver.

Plaintiff's Attorneys:

John Case, Esq. Atty reg. # 2431
Jessica Schultz, Atty reg. #46292
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SERVED ONLY: January 27, 2014 5:42 PM
FILING ID: FEDF8180C13A2
CASE NUMBER: 2013CV32444

▲ COURT USE ONLY ▲

Case No.:
2013CV032444

Courtroom 376

**PLAINTIFF FRIENDS OF DENVER PARKS SECOND REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT CITY AND COUNTY
OF DENVER**

Plaintiff Friends of Denver Parks, Inc., through counsel BENSON & CASE LLP, requests that the Defendant City and County of Denver produce the documents requested below for inspection and copying at the offices of Plaintiff's attorneys, within 35 days, pursuant to Rule 34 Colorado Rules of Civil Procedure.

1. The city's annual large scale composite aerial and/or satellite photograph of the Cherry Creek corridor (extending from 1 mile north of the Cherry Creek stream channel to 1 mile south of the Cherry Creek stream channel), bordered by Colorado Boulevard at the northwest end, and bordered by Cherry Creek Dam on the southeast end, taken annually from 1955 to present. If possible, please provide the large scale composite photograph for each year in electronic jpg format, not print copy. If the cost

of production of documents will exceed \$100, please contact counsel immediately to discuss.

2. All documents related to the annexation of HHNP and Section 34 in 1965. This request includes all maps and plats of land included in the annexation.

Respectfully submitted January 27, 2014.

BENSON & CASE, LLP

s/John Case

John Case, #2431
Jessica Schultz, #46292

CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2014 a true and correct copy of the foregoing **PLAINTIFF FRIENDS OF DENVER PARKS SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CITY AND COUNTY OF DENVER** was served on the following:

David W. Broadwell, Esq.
Patrick Wheeler, Esq.
Mitchel Behr, Esq.
Assistant City Attorneys
1437 Bannock St. R#353
Denver CO 80202

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Attorneys for Defendant Denver Public School District Number 1

s/Karen Corner

Karen Corner

Karen E. Corner

From: ICCES Courtesy Notices <DoNotReply@judicial.state.co.us>
Sent: Tuesday, February 18, 2014 1:46 PM
To: Karen E. Corner
Subject: E-Service: 2013CV032444 - Friends Of Denver Parks Inc Et Al V. C And C Of Denver Et Al

Alert For: John Case
Served By: Molly Ferrer

Court: Denver County - District
Case Caption: Friends Of Denver Parks Inc Et Al V. C And C Of Denver Et Al
Case Number: 2013CV032444
Division: Division 376
Filing ID: 910D9F824DF98
Date Served: February 18, 2014

You have been served the following document(s):

Document ID: 7FAB1899C6265
Document Type: Motion for Summary Judgment
Document Title: Defendants' Joint Motion for Summary Judgment

Document ID: 8BAE6E119DB9D
Document Type: Exhibits Filed
Document Title: Exhibit A

Document ID: B5F0CD5216CA8
Document Type: Exhibits Filed
Document Title: Exhibit B

Document ID: FCB5E51EAFAA0
Document Type: Exhibits Filed
Document Title: Exhibit C

Document ID: 3C11C436B4F33
Document Type: Exhibits Filed
Document Title: Exhibit D

View details online at
<https://www.jbits.courts.state.co.us/icces/web/filingInformation/filingInfo.htm?fid=910D9F824DF98>.

For questions about this case, please contact the court. For assistance with ICCES, call the ICCES Customer Support Center at 1-855-CO-ICCES or e-mail iccessupport@judicial.state.co.us.

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