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SAN FRANCISCO ASSESSOR-RECORDER

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ORDER GRANTING PREJUDGMENT POSSESSION AND AUTHORIZING
WITHDRAWAL OF DEPOSIT OF PROBABLE COMPENSATION

RE: Assessor's Block Number 0130, Lot Number 001

1455 Stockton Street



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FILED
 San Francisco County Superior Court

JUL 01 2011

CLERK OF THE COURT
 BY *[Signature]*
 Deputy Clerk

8 Attorneys for Plaintiff
 CITY AND COUNTY OF SAN FRANCISCO

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 COUNTY OF SAN FRANCISCO

12 CITY AND COUNTY OF SAN
 13 FRANCISCO, a Municipal corporation,

14 Plaintiff,
 15 vs.

16 ALFRED E. SASSUS, JR. AND BEVERLY
 C. SASSUS, as Trustees of Alfred E. Sassus,
 17 Jr. and Beverly C. Sassus 1993 Revocable
 Trust, MARIE TROUILLET, FIDELITY
 18 NATIONAL TITLE INSURANCE
 COMPANY (f/k/a Western Title Insurance
 19 Company), and DOES 1 through 100,
 inclusive,

20 Defendants.

Case No. CGC-11-507441

**[PROPOSED] ORDER GRANTING
 PREJUDGMENT POSSESSION AND
 AUTHORIZING WITHDRAWAL OF
 DEPOSIT OF PROBABLE COMPENSATION**

[Block 0130, Lot 001; 1455 Stockton Street]

Hearing Date: July 1, 2011
 Hearing Judge: Hon. Peter J. Busch
 Time: 9:30 a.m.
 Place: Department 301
 Date Action Filed: January 19, 2011
 Trial Date: N/A

Attached Documents: Exhibits A & B

25 The motion of Plaintiff, the City and County of San Francisco ("Plaintiff" or "the City"), under
 26 Code of Civil Procedure sections 1255.410 et seq., for prejudgment possession and use of a subsurface
 27 easement in the real property commonly known as 1455 Stockton Street, San Francisco, California,
 28 Block No. 0130, Lot 001, (the "Property"), which subsurface easement is more particularly described

1 in Exhibit A ("Subsurface Easement") and shown in Exhibit B (the "Project Alignment") hereto,
2 having come on regularly for hearing on June 16, 2011, upon notice duly and properly given, and the
3 parties appearing through counsel, the Court finds and determines that:

4 1. The City is, and at all times mentioned herein has been, a chartered municipal
5 corporation authorized, pursuant to Government Code sections 25350.5, 37350.5 and 40404 to
6 exercise the power of eminent domain to acquire property necessary to carry out its duties and
7 functions. The City is further vested by law with the authority to exercise the power of eminent
8 domain under Code of Civil Procedure sections 1240.010 – 1240.050, 1240.120, 1240.510 and
9 1240.610. *to BEVERLY C. SASSUS, as Trustee of the Beverly C. Sassus*
Revocable Trust, the owner and sole occupant of the Property,

10 2. The City has deposited the probable just compensation to be awarded in the State
11 Treasury in accordance with Code of Civil Procedure section 1255.010. *PSB*

12 3. The City has an overriding need to possess and use the Subsurface Easement prior to
13 the issuance of final judgment in this proceeding and the City will suffer substantial hardship if the
14 application for prejudgment possession is denied or limited. Without an order granting prejudgment
15 possession and use of the Subsurface Easement, the City will experience delays in the construction of
16 the tunnels for the Central Subway Project and possibly incur substantial additional costs.

17 4. The hardship the City will suffer if prejudgment possession and use is denied or limited
18 outweighs any hardship the Defendants or occupants might experience. The City seeks the Subsurface
19 Easement, which will not effect the surface of the Property or the use of the remainder of the Property.

20 5. BEVERLY C. SASSUS, as Trustee of the Beverly C. Sassus Revocable Trust utd April
21 7, 1993, as amended and restated, the fee simple owner *and only occupant* of the Property, has stipulated to the City *PSB*
22 taking possession of the Subsurface Easement on 12:01 a.m., on Tuesday, July 5, 2011.

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1 6. BEVERLY C. SASSUS, as Trustee of the Beverly C. Sassus Revocable Trust utd April
2 7, 1993, as amended and restated, has waived the service requirement of Code of Civil Procedure
3 section 1255.450.

4 7. On January 27, 2011, the City deposited the sum of Eight Thousand Seven Hundred
5 Dollars (\$8,700), as the probable just compensation to be awarded in the State Treasury in accordance
6 with Code of Civil Procedure section 1255.010.

7 8. Pursuant to Code of Civil Procedure section 1255.210, BEVERLY C. SASSUS, as
8 Trustee of the Beverly C. Sassus Revocable Trust utd April 7, 1993, as amended and restated, seeks to
9 withdraw the deposit of Eight Thousand Seven Hundred Dollars (\$8,700), from the State Treasurer.

10 9. The City does not object to BEVERLY C. SASSUS, as Trustee of the Beverly C.
11 Sassus Revocable Trust utd April 7, 1993, as amended and restated, withdrawing the sum of Eight
12 Thousand Seven Hundred Dollars (\$8,700), from the State Treasurer.

13 10. The Parties agree that the sum of Eight Thousand Seven Hundred Dollars (\$8,700) may
14 be withdrawn as herein provided and shall be credited on the judgment to be entered in this action and
15 that no interest shall be payable on the amount after the date of its withdrawal.

16
17 IT IS ORDERED that, pursuant to Code of Civil Procedure section 1255.410 *et seq.*, the City
18 is authorized and empowered to take possession and use the Subsurface Easement, which is more
19 particularly described in Exhibit A, and to remove from it all persons, obstacles, improvements, or
20 structures as of 12:01 a.m., on Tuesday, July 5, 2011.

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1 IT IS FURTHER ORDERED that the State Treasurer shall cause a warrant to be drawn on the
2 Condemnation Deposit Fund in the amount of Eight Thousand Seven Hundred Dollars (\$8,700),
3 payable to BEVERLY C. SASSUS, as Trustee of the Beverly C. Sassus Revocable Trust utd April 7,
4 1993, as amended and restated, and said warrant shall be mailed to counsel of record for BEVERLY
5 C. SASSUS, as Trustee of the Beverly C. Sassus Revocable Trust utd April 7, 1993. Pursuant to Code
6 of Civil Procedure section 1255.260, this payment shall constitute a waiver by operation of law to all
7 defenses, except a claim for greater compensation.

8 IT IS FURTHER ORDERED that the sum of Eight Thousand Seven Hundred Dollars (\$8,700)
9 shall be withdrawn as herein provided, shall be credited on the judgment to be entered in this action
10 and shall be considered payment on such judgment as of the date the withdrawal was made, and no
11 interest shall be payable upon the amounts so withdrawn after the date of withdrawal.

12
13 IT IS SO ORDERED.

14 Dated: 7/1/11

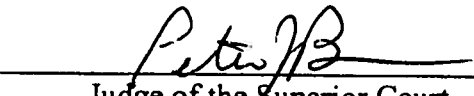
15 
16 _____
17 Judge of the Superior Court
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EXHIBIT "A"

LEGAL DESCRIPTION

For a portion of 1455 Stockton Street, Assessor's Block 0130, Lot 001

All that certain real property situate in the City and County of San Francisco, State of California, being a vertical portion of a parcel of land, said parcel being a portion of the land described as Parcel Four in that deed recorded on April 16, 1993 in Reel F859 at Image 0371, Official Records of the Assessor-Recorder of the City and County of San Francisco, the upper elevation being defined by a plane of 52.20 feet, City of San Francisco Datum (intended to be 30.00 feet below existing ground surface) and the lower elevation defined by the center of the earth, said property more particularly described as follows:

Beginning at the intersection of the westerly line of Stockton Street with the southerly line of Green Street; thence westerly 20.41 feet along last said southerly line; thence southeasterly 73.86 feet to the most southeasterly corner of said Parcel Four, also being a point on said westerly line of Stockton Street; thence northerly 70.98 feet along last said westerly line to the point of beginning.

Containing 724 square feet, more or less.

Being a portion of 50 Vara Block No. 130
APN: 0130-001



EXH. A

GREEN STREET (68' WIDE)

POB



59.59'

20.41'

724±
SQ. FEET

ASSESSOR'S
BLOCK
0130

LANDS OF SASSUS

LOT 1
F859 OR 0371
(PARCEL FOUR)

LOT 40
F859 OR 0371
(PARCEL ONE)

70.96'

73.82'

70.94'

STOCKTON STREET (67.96' WIDE)

80.00'

LOT 40
F859 OR 0371
(PARCEL TWO)

LOT 2

CARD ALLEY

LEGEND

-  BOUNDARY LINE
-  ROW
-  POB POINT OF BEGINNING

NOTE

THIS PLAT FOR APPRAISAL
PURPOSES ONLY - NOT
FOR CONVEYANCE.

1:20



SCALE



CITY AND COUNTY OF SAN FRANCISCO,
STATE OF CALIFORNIA

DEPARTMENT OF PUBLIC WORKS
BUREAU OF STREET USE AND MAPPING
DIVISION OF SURVEYS
PHONE: 415.554.5827
FAX: 415.554.5324



MUNICIPAL TRANSPORTATION AUTH
CENTRAL SUBWAY TAKE PARCEL
AB 0130 LOT 001

MAY 2009

Connecting people. Connecting communities.

Central T subway

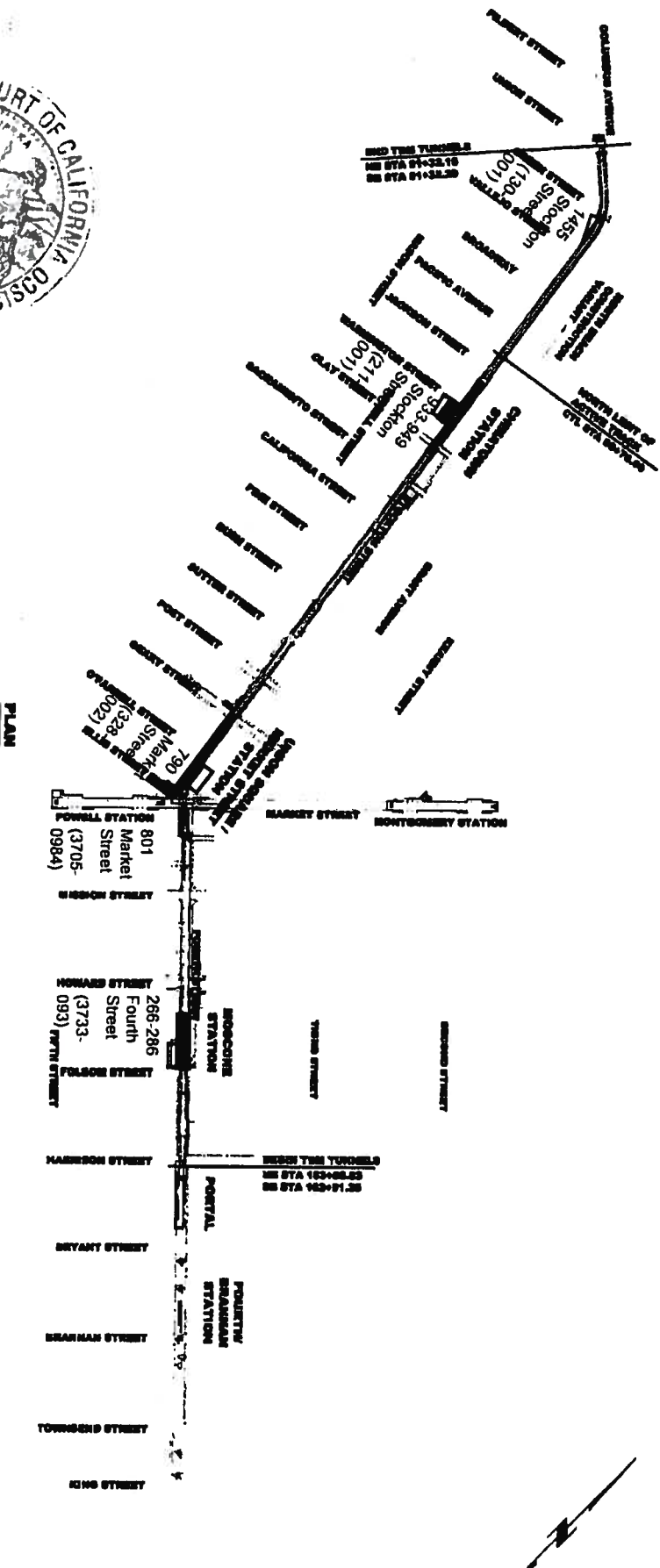


EXHIBIT B

SFMTA

Municipal Transportation Agency