IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT

RECEIVED
SEP 18 2014
Dav. Co. Chancery Court

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|---|---|
| THE KNOWN HEIRS OF J. CRAIG MCLANAHAN (Alexander King McLanahan, Craig Putnam Loomis, William S. Durfee, Elizabeth Durfee, Carol King Durfee Eason, John King McLanahan Stevens, Jr., Carol Brooks Stevens Stamm, William Bradford Stevens, and Anne Hawley Stevens), | ) |
| Plaintiffs, | ) |
| v. | ) |
| THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY | ) |
| and | ) |
| ANY UNKNOWN HEIRS OF J. CRAIG MCLANAHAN, | ) |
| Defendants. | ) |

Case No. 14-1151-III
Costs paid - DO

FILED
2014 SEP 24 PM 3:52
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C.&M.

## AGREED ORDER OF JUDGMENT

This matter is before the Court on the parties' joint request for entry of this agreed order of judgment. Based upon the signatures of counsel below and a review of the entire record in this matter, the Court determines that the relief set out below is appropriate, and it is hereby **ORDERED, ADJUDGED, and DECREED**, that judgment is hereby entered in favor of Plaintiffs, the heirs of J. Craig McLanahan named above (the "McLanahan Heirs"), and against The Metropolitan Government of Nashville and Davidson County, Tennessee ("Metro"). The Court further **FINDS and DECLARES** as follows:

1. This Court has jurisdiction of this proceeding and the above-named parties.

2. Plaintiffs filed a Complaint herein on August 1, 2014 in which they asserted that,

BILL GARRETT, Davidson County
Trans:T20140077855 ORDER
Recvd: 10/15/14 15:53 9 pgs
Fees:47.00 Taxes:0.00
20141015-0095396

despite Metro's status as record owner of certain real property located at 225 Polk Avenue in downtown Nashville commonly known as the Ben West Library Property, Plaintiffs are the rightful owners of a certain portion of that property.

3. Metro was served with a summons and a copy of the Complaint on August 6, 2014.

4. In lieu of having a trial of the issues presented by the Complaint, Metro is agreeable to the entry of this Agreed Order of Judgment and the findings by the Court set out below.

5. Plaintiffs are likewise agreeable to entering into this Agreed Order of Judgment in order to save the time and expense of a trial.

6. In view of the representations of the Plaintiffs and Metro, as evidenced by the signatures of their respective counsel affixed hereto, the Court is satisfied that sufficient grounds exists and good cause exists to enter this Agreed Order of Judgment.

**IT IS, THEREFORE, ORDERED and ADJUDGED** that, at the request of the Plaintiffs and Metro, the Court makes the following findings:

a. Metro is the record owner of a parcel of real property located at 225 Polk Avenue in downtown Nashville commonly known as the Ben West Library Property;

b. This action concerns the rightful ownership of certain real property ("the Property") that is one section, consisting of 11,409 square feet of land (or roughly 37%), of the Ben West Library Property, such Property being identified in the Littlejohn Survey (attached as Exhibit A);

c. Plaintiffs are collateral kindred and living heirs of J. Craig McLanahan (the "Grantor");

d. The Grantor conveyed the Property in the McLanahan-Carnegie Library Deed (attached as Exhibit B) to the Carnegie Library of Nashville, subject to a deed restriction requiring the owners of the Property to maintain perpetually upon the Property a free public library (the "Deed Restriction");

e. The McLanahan-Carnegie Library Deed, reserved a possibility of reverter (the "Reversionary Interest") in favor of the Grantor and his heirs.

f. Metro is the successor to the Carnegie Library and held the Property subject to the Deed Restriction;

g. On June 10, 2014, Metro enacted Ordinance No. BL 2014-752, declaring the Property to be surplus and directing Metro's Director of Public Property to dispose of the property, triggering the reversionary right that accompanied that restriction (the "Reversion Trigger");

h. The Grantor died before the Reversion Trigger;

i. At the time of the Reversion Trigger on June 10, 2014, the Reversionary Interest became a present, possessory interest, and ownership of the Property reverted to the then-living heirs of the Grantor;

j. As a result of the Reversion Trigger on June 10, 2014, Metro holds no ownership interest in the Property, is barred from making any future claim of interest in the Property, and is barred from taking any action inconsistent with Plaintiffs'[1] ownership interest and right to the use, benefit, and possession of the Property.

[1] To be clear, while Metro concedes that the Property reverted to the living heirs of the Grantor on June 10, 2014, Metro takes no position concerning Plaintiffs' allegations that they are the only living heirs, or the respective shares

k. The parties agree that Metro remains the owner of the remaining 19,653 square feet of land (a little over 63%) of the Ben West Library Property, as shown on the Littlejohn Survey (Exhibit A);

A certified copy of this Order, once entered, shall be filed with the Register of Deeds' Office for the purpose of recording the fact that the Reversion Trigger has occurred (on June 10, 2014) and that the Reversionary Interest became a present, possessory interest on that date, and that ownership of the Property reverted on that date to the then-living heirs of the Grantor, without the need for any further instrument or conveyance filed by the parties to perfect said ownership rights.

The parties will bear their own fees and costs associated with this action, and no party will be entitled to an award of discretionary costs. The Plaintiffs will pay any balance of court costs due upon entry of this order.

**IT IS SO ORDERED** this the _____ day of _____, 2014.

Ellen Hobbs Lyle
CHANCELLOR ELLEN HOBBS LYLE

*Approved for Entry*:

HARWELL HOWARD HYNE
GABBERT & MANNER, P.C.

J. David McDowell (BPR #24588)
333 Commerce Street, Suite 1500
Nashville, Tennessee 37238
Telephone: 615-256-0500
Facsimile: 615-251-1059

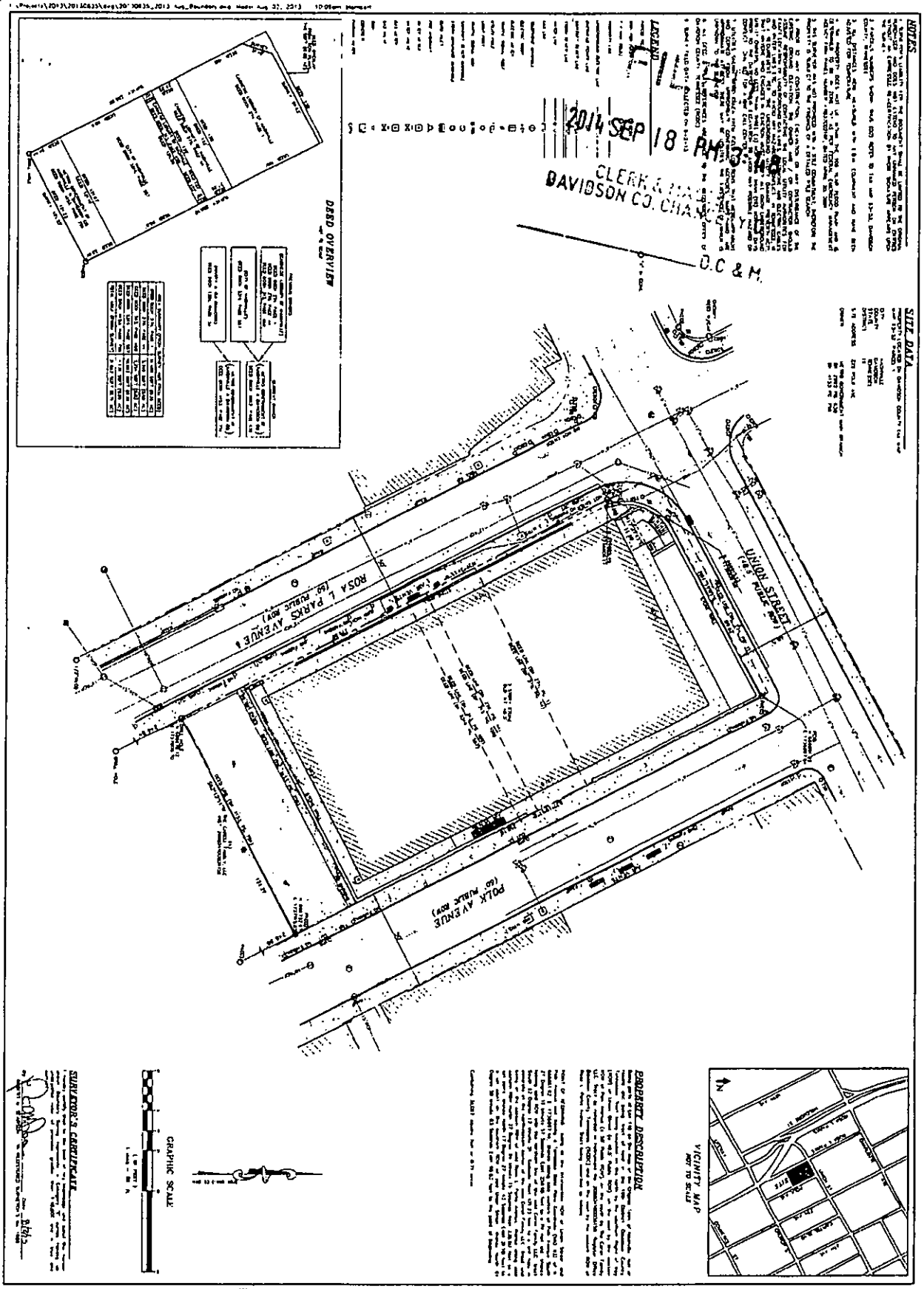
I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE. THIS 17TH DAY OF OCT 2014
CRISTI SCOTT, CLERK & M.
BY _____ DEPUTY

of the Property held by each heir; Metro and the Plaintiffs submit that such allegations are directed not at Metro but at any "unknown heirs" (such unknown heirs being co-defendants in this action who are being served by publication, with such publication taking place between August 15, 2014 and September 5, 2014).

*Attorneys for Plaintiffs*

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Nashville, TN 37219-6300
Telephone: (615) 862-6341
Facsimile: (615) 862-6352

*Attorneys for the Metropolitan Government of Nashville and Davidson County*




BOUNDARY SURVEY

| DATE | BY |
|---|---|
| 8-12-13 | |

h3gm

# BEN WEST LIBRARY

225 POLK AVENUE

TAX MAP 93-52 PARCEL 1

NASHVILLE, DAVIDSON COUNTY, TENNESSEE

LITTLEJOHN ENGINEERING ASSOCIATES

Exhibit A to Agreed Order

WARRANTY

D 225

Registered July 9th 1902. 274

J. C. McLanahan
To
Pub. Lib.
Carnegie Library of
Nashville

Whereas, Andrew Carnegie of Allegheny, Pennsylvania, has offered to the people of Nashville, Tennessee, the sum of One hundred thousand dollars, for the purpose of erecting a building to be used as a free public library in said City; and whereas, in order to make said gift effectual, the people of Nashville are required first to furnish a suitable site or location for said building; and whereas, the property hereinafter described is deemed suitable and proper for the purpose, and as such has been tendered by us as a gift to the people of Nashville therefor; and whereas, a corporation known as the Carnegie Library of Nashville has with the approval of the City authorities of Nashville been formed for the purpose of effecting the proposed library and whereas, said Carnegie Library of Nashville has signified its acceptance of the property offered by us; Now Therefore, In consideration of the premises, and of the sum of Ten dollars and Cash in hand down paid the receipt of which is hereby acknowledged, we J. Craig McLanahan and wife Katherine A. McLanahan, Have bargained and sold, and by these presents do transfer and convey to the Carnegie Library of Nashville (a corporation chartered under the laws of the State of Tennessee), subject to the limitations and reservations hereinafter recited, the following described lot or tract of land in Nashville, Davidson County, State of Tennessee, to wit: Bounded on the East by Park Avenue; on the North by Union Street; and on the West by Spruce Street, extending on Union Street from Park Avenue to Spruce Street, a distance of One hundred and Sixty (160) feet; thence back between parallel lines on a Southerly direction along Park Avenue and Spruce Street, superficially One hundred and fifty feet to Davidson Alley forming the East and West boundaries of said property the Southern boundary being a straight line connecting said two points, a distance of One hundred and sixty feet, said lot is the Northwest portion of the property known as the Vine Place in Nashville, Tennessee, which was heretofore conveyed to W. M. Dickinson and wife by deed of trust to Chas. B. Bell, J. Craig McLanahan, by deed dated April 8th 1902, and recorded in Trustee's Book 289, page 245, Register's Office of Davidson County, Tennessee, Five Thousand Dollars, thereafter conveyed the interest therein by the said J. Craig McLanahan, by deed dated June 4th, 1902, and recorded in Trustee's Book 289, page 245, Register's Office of Davidson County, Tennessee, to the said Katherine A. McLanahan, said lot or tract of land to the said City of Nashville, and its successors and assigns

Exhibit B to Agreed Order

free public Library in Nashville. But this conveyance is made subject to the express reservation that the right and title of the said Carnegie Library of Nashville in and to said property shall cease and determine and the property shall at once revert to the said J. Craig McLanahan or his heirs, in the event (1) that the said Carnegie Library of Nashville shall fail to begin within six months from the date of this deed, and thereafter to prosecute diligently to completion the erection on said property of the library building hereinabove referred to; or (2) that this said Carnegie Library of Nashville, or its successors in the ownership or control of said property, shall thereafter fail to maintain perpetually upon said property a free public library for the use of the people of Nashville. Witness our hands, this 3rd day of January 1902.

J Craig McLanahan

Katherine B McLanahan

State of Pennsylvania } Personally appeared before me, the
Philadelphia County } undersigned M Hawley McLanahan, a Notary Public in and for said State and County, the within named J Craig McLanahan, the bargainor, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained. Witness my hand and official seal, at Philadelphia Pa. this 6th day of January 1902.

(Seal) M Hawley McLanahan Notary Public

My commission expires January 15, 1905.

State of New York } Personally appeared before me, R.H. McIntyre
County of Franklin } a Notary Public in and for said State and County, the within named Katherine B McLanahan, the bargainor, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained. And the said Katherine B McLanahan wife of the said J Craig McLanahan, having appeared before me privately and apart from her husband, the said Katherine B McLanahan acknowledged the execution of the said instrument to be her own free and voluntary act and deed, and declared that she had signed the same freely, voluntarily, and understandingly without compulsion or constraint from her said husband and for the purposes therein expressed. Witness my hand and official seal, at Duane Lake, State of New York, this 2nd day of January 1902.

(Seal) R.H. McIntyre
Notary Public

Rec'd July 7th 1902 at 3:20 PM } My commission expires March 30, 1903

Registered Aug. 6, 1902.

Tennessee Central Ry Co. } This indenture made this first day of May, 1902, by and between the Tennessee Central Railway Company, a corpo-

I hereby certify that this is a true copy of the original Instrument filed in my office
In Book 274 Page 1
This 1st day of July 20 14
BILL GARRETT, Register of Deeds
By Tonya Barnes
Deputy Register