



CITY of NOVI CITY COUNCIL

Agenda Item G
July 7, 2014

SUBJECT: Approval of an extension of time, from February 2, 2014 to June 30, 2015, to secure a full certificate of occupancy for a new building now under construction, pursuant to the terms of the Consent Judgment entered into between the City of Novi and Collex Collision on February 2, 2012, relating to the property at 25100 Novi Road, between Grand River Avenue and Ten Mile Road, in order to allow an existing sign to remain in its current location pending completion of the new building.

SUBMITTING DEPARTMENT: Community Development

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION: In 2011 Collex Collision appealed to the Oakland County Circuit Court a decision of the Zoning Board of Appeals denying a sign variance for a larger free standing sign at its property located on the east side of Novi Road between Ten Mile Road and Grand River Avenue. The City and Collex settled the case by way of Consent Judgment dated February 2, 2012, that generally allowed a larger sign than would otherwise be permitted, but with certain conditions.

One of the stated reasons for allowing the larger sign is that Collex had just begun the process of site plan approval to build a second building on its property, to the south of its existing facility, in a previously un-developed area. While that second building would have been permitted to have a second ground or monument sign along Novi Road, the City was not sure that the second building would in fact come to fruition--i.e., it was still possible, at the time of entry into the Consent Judgment that the second building might not get site plan approval, or Collex would abandon the project, etc., and Collex would then have the benefit of a larger sign with still only one building on the site.

The parties dealt with that possibility by (1) only allowing the Collex use to occupy half of the larger sign (the other half to remain blank until the second use came into being); and (2) putting a time frame into the Consent Judgment of 2 years:

"...if the second building does not receive a full Certificate of Occupancy within two (2) years of the date of this Consent Judgment, then the Petitioner shall either remove the sign and install a sign consistent with (i.e., no larger than) that approved by the Zoning Board of Appeals on July 2, 2011 and reaffirmed on October 11, 2011, or seek an extension of time to retain the sign from the City Council."

The two years expired on February 2, 2014. However, while Collex did not have a "full" certificate of occupancy (C. of O.) by then, the building has in fact now received all of its site plan and building permit approvals and is at this time substantially complete and nearing readiness for occupancy.

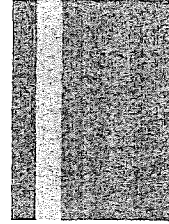
Collex is requesting for the extension described in the above language to allow the sign to remain as it now is. The Community Development Department does not object to such extension. At this point it looks as though it may be Spring, 2015, by the time the **full** C. of O. is secured, although, due to the progress made to date, a temporary will likely be issued by the end of this year. The motion below therefore proposes that the date for securing full C. of O. in order to retain the sign be extended until June 30, 2015.

RECOMMENDED ACTION: Approval of an extension of time, from February 2, 2014 to June 30, 2015, to secure a full certificate of occupancy for a new building now under construction, pursuant to the terms of the Consent Judgment entered into between the City of Novi and Collex Collision on February 2, 2012, relating to the property at 25100 Novi Road, between Grand River Avenue and Ten Mile Road, in order to allow an existing sign to remain in its current location pending completion of the new building..

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

Gagliano Enterprises LLC
John Gagliano
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586-615-4081
25100 Novi Rd
Novi, MI 48375



June 18, 2014

VIA EMAIL

To the City of Novi in care of:
Sara White
Charles Boulard
Barb McBeth

Dear Officials,

On behalf of Collex Collision Experts the tenant, and Gagliano Enterprises LLC the property owners, I would like to formally request an extension to the consent judgment for signage in reference to case number 11-121402-AA between the City of Novi and Collex Collision Experts and Gagliano Enterprises LLC. The new building should be completed around the end of August 2014 and at that time we should be able to complete the consent request compliance.

Warm regards,


John Gagliano



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

COLLEX COLLISION EXPERTS, INC.,
a Michigan Corporation, and
GAGLIANO ENTERPRISES, LLC,
a Michigan Limited Liability Company,
Petitioners/Appellants,

Case No. 11-121402-AA

-v-

THE CITY OF NOVI AND
CITY OF NOVI ZONING BOARD OF APPEALS

Respondents/Appellees.

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CONSENT JUDGMENT

At a session of said Court,
held at the 6th Judicial Circuit Court
Pontiac, Michigan, on January 31, 2012.

PRESENT: THE HONORABLE LEO BOWMAN
Circuit Court Judge

A Consent Judgment has been reached by and between Collex Collision Experts, Inc. and Gagliano Enterprises, LLC (the "Petitioner") and the City of Novi and City of Novi Zoning Board of Appeals (the "Respondent") and is hereby entered upon the following terms and conditions;

THE COURT being fully apprised in the premises therein;

IT IS HEREBY ORDERED that the Petitioner may install an internally (only) illuminated monument sign, with the sign structure, measured to include any base or pedestal (but not to include any build up of the existing grade), not to exceed the height 9 feet (9') and width of 8 feet (8'), at its property located at 25100 Novi Rd., Novi, Michigan, as depicted in Exhibit A. The sign shall be placed in a location not less than three feet (3') from the right-of-way/highway easement line, south of the existing driveway and otherwise in accordance with City ordinances. The entire sign structure, including any base or pedestal, shall be at or below the grade of the existing adjacent sidewalk. The sign shall not be an animated or changeable copy sign and shall comply in all other respects with the City's sign ordinance. In accordance with the prior ZBA relief of July 12, 2011 (reaffirmed October 11, 2012), Petitioner shall additionally be allowed to install one (1) 30 square foot wall sign on the north side of the building the installation height of which shall not exceed that of the parapet;

IT IS FURTHER ORDERED that Petitioner shall secure all necessary permits from the City before installation, and shall secure all required inspections.

IT IS FURTHER ORDERED that the additional area (height and width) of the monument sign is being approved by the City in recognition that a substantial portion of the additional area of the sign is of the sign is intended to be used for identification of a second building proposed to be constructed on the site. Petitioner may install the

monument sign as described herein **before** the proposed second building has been constructed; provided, however, that:

- (a) only the top panel of the monument (as generally depicted on Exhibit A) shall be used to identify the tenant of the existing building (e.g., Collex Collision), with the bottom panel left blank, with an appropriate color and material to be determined by the City); and
- (b) if the second building does not receive a full Certificate of Occupancy within two (2) years of the date of this Consent Judgment, then the Petitioner shall either remove the sign and install a sign consistent with (e.g., no larger than) that approved by the Zoning Board of Appeals on July 12, 2011 and reaffirmed on October 11, 2011, 2011, or seek an extension of time to retain the sign from the City Council.

IT IS FURTHER ORDERED that Petitioner shall provide and maintain, so long as the sign is in place, substantial landscaping to include appropriate plant material about the base of the monument sign, as approved by the City's Community Development Department before installation of the sign;

IT IS FURTHER ORDERED that, because the Petitioner is currently in the process of submitting plans for a second building on site, during such process, and not to exceed 120 days from execution of this Consent Judgment, the Petitioner may use its existing sign or may construct a new "temporary sign" whose dimensions shall not exceed the size approved by the Zoning Board of Appeals on July 12, 2011 and reaffirmed on October 11, 2011. In the event that Petitioner determines to install a new temporary sign, the Petitioner and City shall consult and agree on the materials and structure for the temporary sign, and approval of such temporary sign shall not be unreasonably withheld by the City;

IT IS FURTHER ORDERED that any additional sign(s), except for directional signs, for sale/rental signs, business signs displayed through glass, or other temporary signs otherwise allowed herein or by ordinance, to be installed at Petitioner's property located at 25100 Novi Rd., Novi, Michigan, (Parcel No. 22-23-152-004) will require further approval from the City of Novi City Council; and

IT IS FINALLY ORDERED that the instant case and appeal is dismissed with prejudice and without costs or fees to either party.

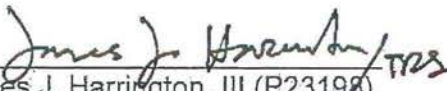
THIS JUDGMENT RESOLVES ALL PENDING CLAIMS AND CLOSES THIS CASE.

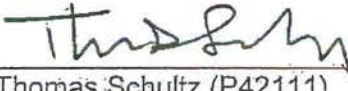
IT IS SO ORDERED.

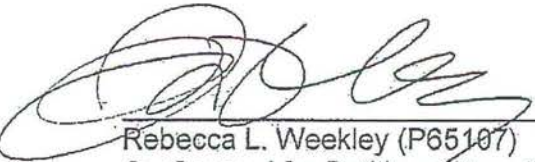
JAN 31 2012

/s/Leo Bowman
CIRCUIT COURT JUDGE

The parties hereto hereby consent to the terms and conditions set forth in the above Judgment.


James J. Harrington, III (P23198)
Co-Counsel for Petitioner/Appellant


Thomas Schultz (P42111)
Attorney for Respondent/Appellee


Rebecca L. Weekley (P65107)
Co-Counsel for Petitioner/Appellant

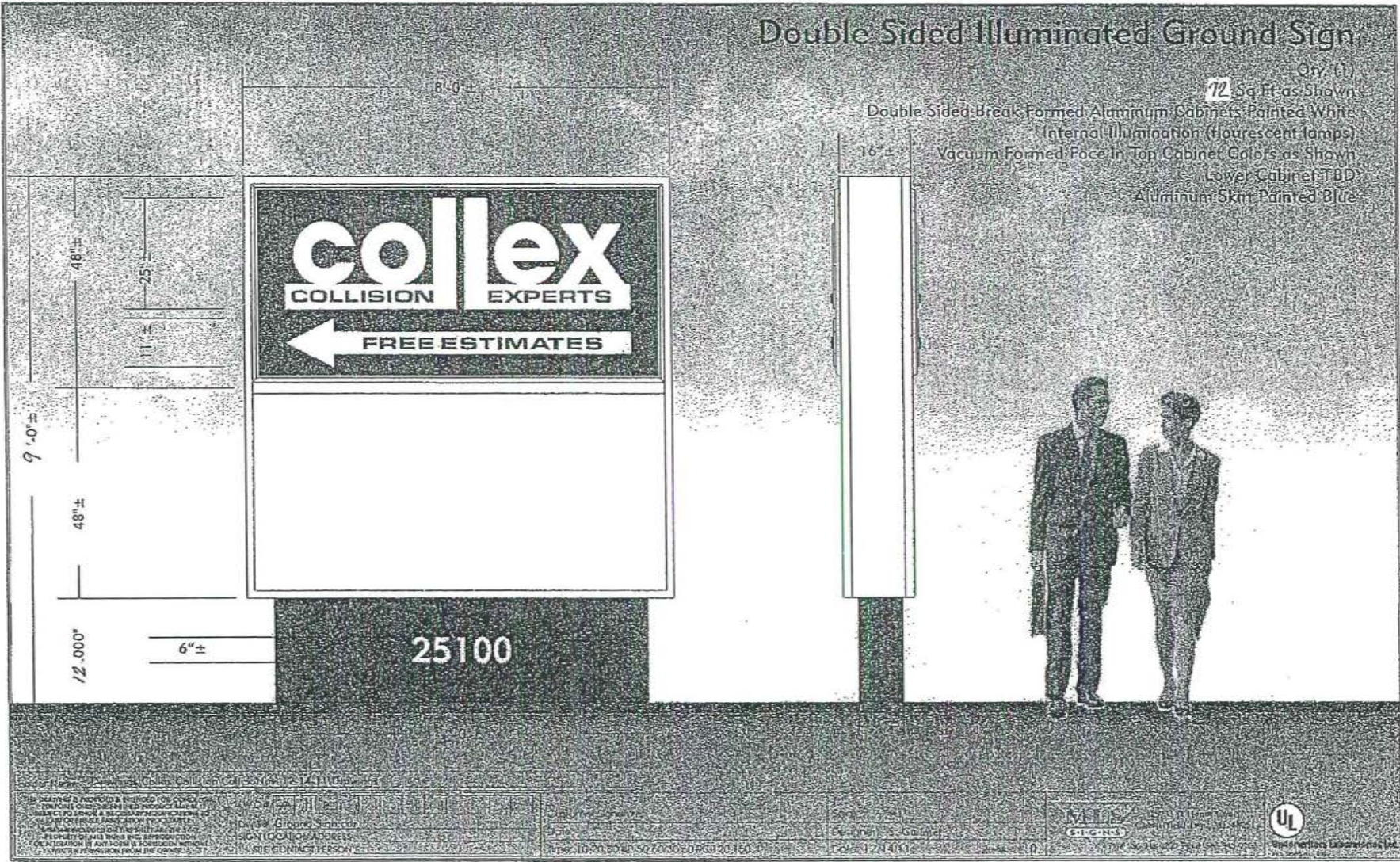


EXHIBIT A

collex
COLLISION EXPERTS

25100

