

STATE OF MISSOURI)
) ss
COUNTY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

TPHARIS ISRAEL CHEVRA KADISHA
CONGREGATION,

 Plaintiff,

vs.

RICHARD E. CLIFT, et al,

 Defendants.

Cause No. 357356
Division 5

FILED
DIV DEC 22 1978 5

KAYMUND V. GLIFFUK
CIRCUIT CLERK, ST. LOUIS COUNTY

STIPULATION

WHEREAS, the Court entered an order on the 17th day of August, 1976, establishing and declaring a private way of necessity in favor of plaintiff as to real estate described in said order, and

WHEREAS, the Court directed the parties to meet with each other on the issue of damages, and

WHEREAS, the parties recognize that it is in the interests of the parties and all residents in the area involved in this litigation to settle all disputes, including the assessment of damages, and to provide for improvements to recreational facilities in the Common Lands referred to in this litigation, and

WHEREAS, the parties have agreed upon a settlement on the issue of damages, subject to the approval of the Court, and of all other issues between them, which settlement parties believe to be in the best interest of plaintiff, defendants and all residents of the area known as Green Trails.

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter contained and the disposition of all disputes between the parties hereto, and other good and valuable considerations, receipt of which is hereby acknowledged, parties stipulate and agree as follows:

1. So long as plaintiff owns the property known as 14550 Ladue Road, Chesterfield, Missouri (the synagogue property) and subject to the provisions of Paragraph 9 of this Stipulation plaintiff assumes responsibility for the integrity of the dam, roadway, sidewalk and slopes, and agrees to maintain the dam in such a manner as to comply with the general safety and security necessary for such a structure and with any present or future local, state or federal

laws involving such structures. Plaintiff will, at its expense, correct the present erosion problems below the storm or emergency overflow culvert, and will place sufficient riprap on the upstream face of the dam to control wave action erosion.

2. In addition to the costs incurred pursuant to Paragraph 1 above, plaintiff agrees to pay the sum of Six Thousand Dollars (\$6,000.00) to defendants, as Trustees, to be used by them and their successors, as they and/or their successors may deem appropriate, for payment of expenses connected with this litigation, and for recreational purposes and development in and around the lake.

3. Plaintiff agrees not to construct any structure or sign on the entire roadway and dam surface which has not been approved in advance by defendants or their successors, or if on property under the jurisdiction of the Trails West Subdivision Trustees, plaintiff agrees to comply with the restrictions of the applicable sub-indentures recorded in the Recorder of Deeds' Office, St. Louis County, Book 5599, Page 136.

4. Defendants agree that they and their successors shall continue to be responsible for maintenance of the dam's grass cover (including seeding, fertilizing, mowing and similar routine maintenance), as well as for trash and refuse removal from the dam and the area surrounding it, this portion of the agreement being only a continuation of defendants' present responsibilities relative to the lake and the surrounding area, except for maintenance of the dam and road which will hereafter be the responsibility of plaintiff as provided in Paragraph 1 above.

5. Plaintiff agrees not to drain any noxious substance or material into the lake.

6. Parties understand and agree that the roadway which is the subject of this litigation is essential to any recreational development of the lake area, such as may be provided by defendants pursuant to Paragraph 2 hereof and pursuant to their general rights and responsibilities as Trustees, and plaintiff agrees to allow residents of the Green Trails area to use the roadway for pedestrian or vehicular traffic and also to park automobiles on the northwest portion of plaintiff's parking lot while the residents are using the recreational facilities at the lake provided, however, that plaintiff shall not be responsible for any loss or damage to any such residents or their vehicles occasioned by theft,

vandalism or other damage, and provided further, that plaintiff reserves the right to restrict parking on its lot at such times as plaintiff anticipates a large attendance at a function being held on plaintiff's premises (e.g., certain religious holidays, weddings and other congregational activities).

7. Plaintiff agrees that it will not substantially alter, modify, erect or permit erection of structures on its property which would prevent the building of a roadway to Brayhill Court in the event of a breach of this agreement by plaintiff.

8. Plaintiff and defendants agree that in addition to the use of said dam and roadway for recreational development and utilization of the lake and its surrounding area, as provided for in Paragraph 6 herein, it may be used for ingress and egress to the synagogue property owned and controlled by plaintiff for the members, guests, agents and employees or other invitees of the plaintiff for the purpose of plaintiff's congregational activities and to the synagogue. Plaintiff further agrees that the dam and roadway shall have its use limited solely to ingress and egress to the synagogue and that no through vehicular traffic shall be permitted nor any access constructed or allowed to exist which would allow vehicular traffic between Ladue Road and Brayhill Court, any extension of Brayhill Court or any other subdivision street now existing or which in the future may be constructed.

9. The parties agree that in the event of a breach of any of the provisions of this Stipulation (which breach shall not have been cured as hereinafter provided) this entire Stipulation shall be null and void, in which case the parties hereto shall be bound by and comply with the terms of the injunction as handed down by Judge Harry J. Stussie on the 22nd day of May, 1974, in the case of Cozart, et al vs. Green Trails Management Company, et al, 501 S.W. 2d 184.

If defendants or their successors claim that a breach of this stipulation has occurred, defendants shall give plaintiff written notice of such breach by registered or certified mail, with return receipt requested, and plaintiff shall thereafter have a reasonable period of time within which to cure said breach.

10. Plaintiff does further agree to protect, indemnify and hold harmless the defendants and their successors as Trustees from any and all liability, either personal or in their official capacity, from any judgment or settlement,

for damages and expenses of litigation, or threat of litigation, which may arise out of this Stipulation, including the payment of any attorney's fees which said Trustees may incur as a result of such litigation or threat of litigation. If, within ten days after notice of any claim or such additional period of time as may be agreed to by plaintiff and defendants, plaintiff and a majority of the defendants or their successors are unable to agree upon an attorney to represent them, then the person then serving as president of the Metropolitan St. Louis Bar Association shall be authorized to designate such attorney.

11. This Stipulation shall be binding upon and inure to the benefit of the plaintiff and defendants and their respective successors and assigns, provided, however, that the parties agree that in the event plaintiff conveys the synagogue property to a transferee for religious, educational, or charitable purposes (including the use of the property by a not-for-profit corporation), all of the provisions of this Stipulation including those related to the use of the roadway and responsibility of maintenance of the dam and roadway shall be assigned to and assumed by such transferee; provided, further, that in the event the general character of the synagogue property and the surrounding neighborhood has changed significantly (for example, through rezoning instituted by parties unaffiliated with the plaintiff) the defendants, and their successors in office may agree, if requested by the plaintiff or transferee of the plaintiff, to permit a transferee which is not a religious, educational or charitable organization, to take title to the synagogue property subject to all of the provisions of this Stipulation including those related to the use of the roadway and responsibility of maintenance of the dam and roadway.

12. Parties agree that the St. Louis County Circuit Court shall retain jurisdiction of this cause for the purpose of enforcing any of the provisions of this stipulation.

13. This stipulation shall become effective when signed by the president and secretary of plaintiff (their signature hereto being evidence that they are authorized to do so by the appropriate governing body of the congregation) and by all defendants (their signatures hereto being evidence of their authority

to sign same in their respective capacities), and when approved by the Court.

14. All costs of these proceedings shall be taxed against plaintiff.

TPHERIS ISRAEL CHEVR. KADISHA CONGREGATION

ATTEST:

Roberta Ring
SECRETARY

BY: Sayid S. Khan
PRESIDENT

[Signature]
ATTORNEY FOR PLAINTIFF

Richard E. Clift
RICHARD E. CLIFT

Walter E. Colart
WALTER E. COLART

Ben D. Houlihan
BEN D. HOULIHAN

Delbert S. Jones
DELBERT S. JONES

Frank Rischer
FRANK RISCHER

Irvin Z. Liberman
IRVIN Z. LIBERMAN

Adrian A. [Signature]
ATTORNEY FOR DEFENDANTS

IN THE
CIRCUIT COURT

County of St. Louis, Missouri

FILED

DIV. DEC 22 1978 5

RAYMOND V. GLIFFORD
CIRCUIT CLERK, ST. LOUIS COUNTY

Sphere's Bond, Chemist Kadish
Congregation

DEC 22 19 78

vs.
Number 357356

Division 5

Clift et al.

Decree approved per stipulation
filed this date.

Cost taxed against
plaintiff.

Defendants acknowledge receipt
of \$6000 paid pursuant
to stipulation.

SO ORDERED

h-z.

Judge

Form No. 13

[Signature]

Attorney

phone 231-1312

[Signature]

Attorney

phone 231-7130