

FILED  
DISTRICT COURT OF  
OTERO COUNTY, N.M.

2011 DEC -2 PM 4: 31

JAN PERRY

CLERK BY *[Signature]* DOCKETED

**STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT**

CITY OF ALAMOGORDO,  
Petitioner,

v.

Cause No.: CV-2011-00615  
Division I

YUEH CHEUNG and KWAN F. ("NANCY") CHEUNG, husband and wife; C. MICHAEL SHYNE, a married man dealing with his sole and separate property; MGS REFRIGERATION HEATING AND COOLING, INC.; PIONEER ABSTRACT AND TITLE COMPANY; the OTERO COUNTY BOARD OF COMMISSIONERS, and all unknown owners or claimants of the property involved.

Respondents.

**STIPULATED PARTIAL FINAL JUDGMENT**

**THIS MATTER**, having come before the Court for entry of Final Judgment, and Court being fully advised in the premises, **FINDS:**

1. That it has jurisdiction over all the parties and the subject matter of this action.
2. That the laws of the State of New Mexico have been fully complied with herein by Petitioner.
3. That the Petitioner and the Respondents Yueh Cheung and Kwan F. Cheung, husband and wife, have agreed to the fair market value and just compensation for the Petitioner's taking of fee simple to a 0.664 acre tract in Lot 1B, Replat B, Pennsylvania Avenue Subdivision, Alamogordo, Otero County, New Mexico, having been stipulated to be Two-hundred sixty-six thousand, seven hundred ninety-six dollars and 98/100 (\$266,796.98) without interest.
4. That appearing from the records herein the Petitioner has deposited with the Clerk of this Court for the use of the Respondents Yueh Cheung and Kwan F. Cheung, husband and wife, the amount of Two-hundred fifty-one thousand, nine hundred fifty dollars (\$251,950.00).

5. The Court finds that the Respondents named herein under the style of "ALL UNKNOWN OWNERS AND CLAIMANTS OF THE PROPERTY INVOLVED" have no interest in the premises condemned here and thus are not entitled to any portion of the award granted herein.

6. That the remaining Respondents, except as set forth herein, are in default and have no right, title or interest in and to the property described herein or to any part of the proceeds set forth in this Judgment.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:**

1. Judgment be, and hereby is, entered in favor of the Respondents Yueh Cheung and Kwan F. Cheung, husband and wife, in the sum of Two-hundred sixty-six thousand, seven hundred ninety-six dollars and 98/100 (\$266,796.98), plus any interest accrued on that account while in the District Court Clerk's interest-bearing account. The amount of this Judgment entered here on behalf of property as hereinafter described, is in full, just and complete compensation for the interests of such Respondents in a 0.664 acre tract in Lot 1B, Replat B, Pennsylvania Avenue Subdivision, Alamogordo, Otero County, New Mexico, and for the property rights impaired and damaged; and including also, all damage of every kind to any and all remaining lands and property rights of the Respondents from acts or failures to action of the part of the Petitioner in connection with the condemnation of said 0.664 acre tract.

2. The property belonging to the above-named Respondents, is more particularly described as follows: See attached Exhibit "A";  
  
is hereby condemned and appropriated by Petitioner for the uses and purposes set forth in the Petition on file in this cause, and the Petitioner is hereby adjudged to be the owner in fee simple

in said tract, the title of which is conveyed to and confirmed in the Petitioner hereby free of all claims of the Respondents.

3. The Respondents named herein under the style of "ALL UNKNOWN OWNERS AND CLAIMANTS OF THE PROPERTY INVOLVED" have no interest in the premises condemned herein and thus are not entitled to any portion of the award granted herein; and each of the Respondents are barred and estopped forever from claiming any portion of the award granted herein or any portion of the property or property rights set forth in this Judgment other than as specifically designated in this Judgment.

4. No other respondent, or any successor or assign of any respondent, shall have any easement or right other than as a member of the general public, of access, light, air or view over, from or to the lands condemned.

5. The above-referenced Stipulation is hereby adopted and approved.

6. The Disclaimer by Respondent MGS Refrigeration Heating and Cooling, Inc., was filed on October 17, 2011.

7. That the Clerk of the District Court shall issue checks from the deposits into the Registry of the Court by the Petitioner payable to the Respondents as follows:

Otero County Treasurer (Parcel ID No. 01-1355) 1104 White Sands Blvd., Suite A Alamogordo, New Mexico 88310	\$19,202.52
Pioneer Abstract and Title Company Escrow 909 Delaware Ave, POB 249 Alamogordo, New Mexico 88310 Escrow Account # 23059	\$85,000.00
Yueh Cheung and Kwan F. Cheung c/o William Cheung, attorney-in-fact P.O. Box 64846 Tuscon, AZ 85728	\$144,747.48

8. That the award remaining to be paid herein in the amount of Fourteen thousand, eight hundred forty-six dollars and 98/100 (\$14,846.98), shall be paid outside of these court proceedings and shall be paid as follows:

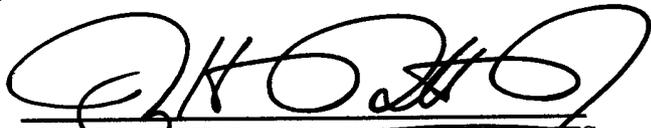
Yueh Cheung and Kwan F. Cheung \$11,145.73  
c/o William Cheung, attorney-in-fact

Tuscon, AZ 85741

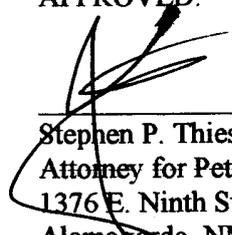
Basin Pipe and Supply \$3,701.25  
13 Pennsylvania Ave  
Alamogordo, NM 88310

8. Upon payment of the sums set forth herein, the Clerk of the District Court is hereby directed to certify ~~on this Judgment~~ that it has been paid in accordance with NMSA 1978, § 42-2-16.

(R)

  
~~HONORABLE JAMES WAYLON COUNTS~~  
DISTRICT COURT JUDGE

APPROVED:

  
\_\_\_\_\_  
Stephen P. Thies, Esq.  
Attorney for Petitioner  
1376 E. Ninth Street  
Alamogordo, NM 88310  
(575) 439-4310  
(575) 439-4396 - Fax

*Yueh Cheung and Kwan F. Cheung by William Cheung P.O.A*

William Cheung  
Attorney in fact for  
Yueh Cheung and Kwan F. Cheung  
P.O. Box 64846  
Tucson, AZ 85728  
(575) 491-3760

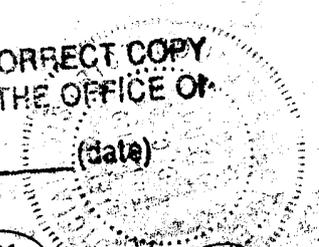
ATTEST: CERTIFIED AS A TRUE AND CORRECT COPY  
OF THE ORIGINAL FILED IN THE OFFICE OF

12-2-11 (date)

DISTRICT COURT CLERK

Dated 3-4-13

By: 



C. Michael Shyne 10/18/2011

C. Michael Shyne  
PO Box 1705  
500 Tenth Street, Ste. 301  
Alamogordo, NM 88311  
(575) 437-0220  
(575) 437-0042 - Fax

Pioneer Abstract and Title Company Escrow  
909 Delaware Ave, POB 249  
Alamogordo, New Mexico 88310  
(575) 437-5810  
(575) 437-5949 - Fax

telephonically approved

Daniel A. Bryant  
Otero County Attorney  
P.O. Box 2300  
159 Mescalero Tr., Ste. 8  
Ruidoso, New Mexico 88355  
(575) 258-2202  
(575) 258-2206 - Fax

**CLERK'S CERTIFICATE**

I, \_\_\_\_\_, Clerk of the District Court of Otero County, New Mexico, do hereby certify, in compliance with NMSA 1978, § 42-2-16 that payment of all monies due by the terms of this Judgment has been made by Petitioner City of Alamogordo to the Clerk of the District Court.

(SEAL)

\_\_\_\_\_  
CLERK OF THE DISTRICT COURT

By: \_\_\_\_\_

Deputy

C. Michael Shyne 10/18/2011

C. Michael Shyne  
PO Box 1705  
500 Tenth Street, Ste. 301  
Alamogordo, NM 88311  
(575) 437-0220  
(575) 437-0042 - Fax

[Signature] 10-26-2011

Pioneer Abstract and Title Company Escrow  
909 Delaware Ave, POB 249  
Alamogordo, New Mexico 88310  
(575) 437-5810  
(575) 437-5949 - Fax

\_\_\_\_\_  
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(SEAL)

\_\_\_\_\_  
CLERK OF THE DISTRICT COURT

By: \_\_\_\_\_  
Deputy

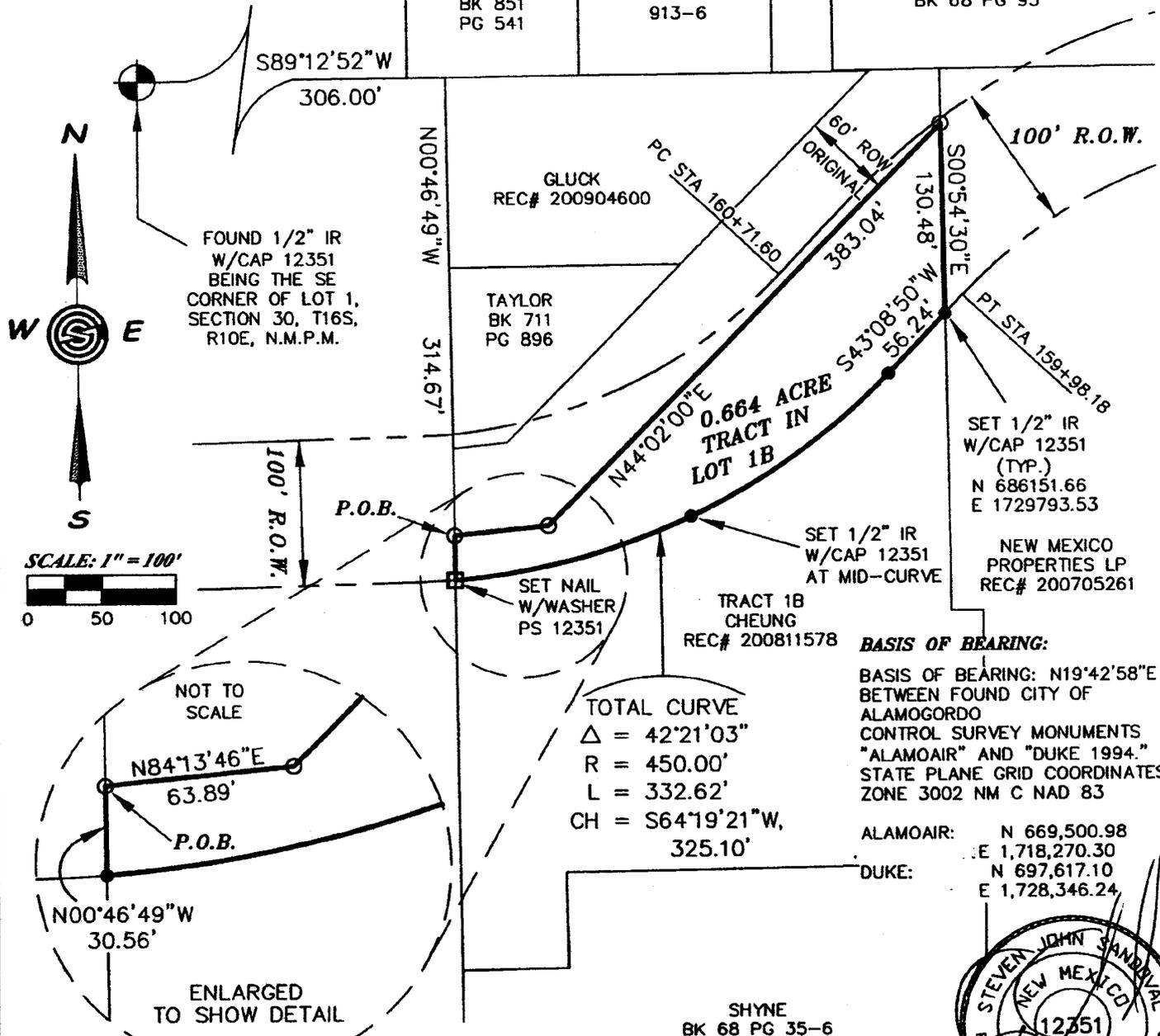


**Construction Surveying Services**  
 1015 Oregon Alamogordo, NM 88310 REPLAT B, PENNSYLVANIA AVENUE SUBDIVISION  
 (575) 443-6202 FAX (575) 443-1151 ALAMOGORDO, OTERO COUNTY, NEW MEXICO

**PLAT OF SURVEY**  
 OF A 0.664 ACRE TRACT IN LOT 1B,  
 PENNSYLVANIA AVENUE SUBDIVISION  
 AUGUST 2011

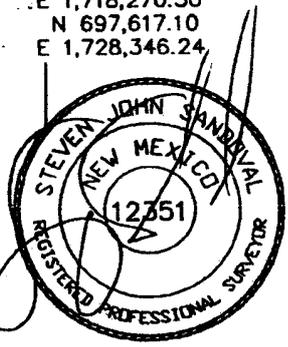
- NOTES**  
 1) THE 0.664 ACRE TRACT IS ENTIRELY WITHIN PARCEL ID 01-13555.  
 2) SHEET 2 OF 2 IS THE LEGAL DESCRIPTION FOR THE 0.664 ACRE TRACT.

BENNETT BK 851 PG 541	ROSWELL REALTY LLC BK 1140 PG 913-6	WAL-MART STORES EAST LP BK 68 PG 95
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**SURVEYOR'S CERTIFICATE**

I, STEVEN J. SANDOVAL, NEW MEXICO PROFESSIONAL SURVEYOR NO. 12351, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.



STEVEN J. SANDOVAL

PS NO. 12351

DATE:

*8/15/11*

CSS Proj. No. 11-249  
**Sheet 1 of 2**

EXHIBIT "A"



**LEGAL DESCRIPTION**  
**A 0.664 ACRE TRACT IN LOT 1B**

A 0.664 acre tract in the NE1/4 Section 30, T.16S., R.10E., N.M.P.M., within the corporate limits of the City of Alamogordo, Otero County, New Mexico, being a part of Tract 1B of Replat B, Pennsylvania Avenue Subdivision, filed in the records of the County Clerk on January 08, 2004, in plat book 60, pages 26-27, and being more particularly described as follows, to wit:

BEGINNING at the northwest corner of said Tract 1B, for the northwest corner of this tract, WHENCE, the southeast corner of Lot 1, Section 30, T.16S., R.10E., a found 1/2 inch iron rod with CSS cap number 12351, bears the following two (2) courses and distances: North 00°46'49" West, a distance of 314.67 feet, and, South 89°12'52" West, a distance of 306.00 feet to said 1/2 inch iron rod with cap;

THENCE, from the point of beginning, along the original north line of Tract 1B, North 84°13'46" East, a distance of 63.89 feet;

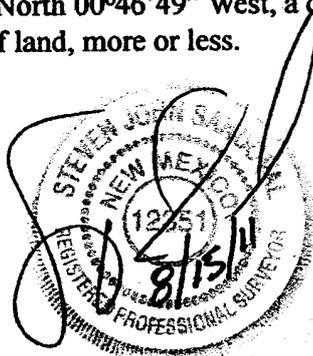
THENCE, North 44°02'00" East, a distance of 383.04 feet to the northeast corner of Tract 1B for the northeast corner of this tract;

THENCE, along the east line of Tract 1B, South 00°54'30" East, a distance of 130.48 feet to a set 1/2 inch iron rod with cap number 12351 for the southeast corner of this tract;

THENCE, leaving the east line of Tract 1B, South 43°08'50" West, a distance of 56.24 feet to a set 1/2 inch iron rod with cap number 12351;

THENCE, along the arc of a curve to the right having a radius of 450.00 feet, through a central angle of 42°21'03", an arc length of 332.62 feet, and having a long chord that bears South 64°19'21" West, a distance of 325.10 feet to a set nail with a washer marked PS 12351 on the west line of Tract 1B for the southwest corner of this tract;

THENCE, along the west line of Tract 1B, North 00°46'49" West, a distance of 30.56 feet to the point and place of beginning, enclosing 0.664 acres of land, more or less.



**CSS Project No. 11-249**

*Sheet 2 of 2*

Phone: (575) 443-6202  
 Field Mobile: (575) 491-2371

Fax: (575) 443-1151  
[www.constructionsurveyingservices.com](http://www.constructionsurveyingservices.com)

1015 Oregon Avenue, Alamogordo, NM 88310  
 email: CSSAlamo@aol.com