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Fee: $ 27.00 Doc: $ 0.00
Peggy Armstrong - Rogers County Clerk
State of Oklahoma

IN THE DISTRICT COURT OF ROGERS COUNTY
STATE OF OKLAHOMA

APR - 3 2008

COURT CLERK

DEPUTY

LAFARGE BUILDING MATERIALS, INC, an Alabama corporation; JAMES EDWARD VIERHELLER REVOCABLE TRUST; RAY STINCHCOMB and ULELE STINCHCOMB, husband and wife, MILL CREEK LUMBER & SUPPLY COMPANY, an Oklahoma corporation, BILL M. VICTORY; CLIFTON W. DREILING; WILLIAM P. FARRIS; DOUGLAS LUNDY; JOE A. GRIDER; JIM HINDS; WILLIAM JERRY JOHNSON; LEVOY ELLSWORTH; GRACE LAW; BOB DeMARCO; FLOYD PORTER; JUDY WISE; and ORLIE KENDALL; C. B. FISHER; BEN ZIMM; M. R. WHITETREE; STANLEY HAY; CLYDE JONES; CAROLYN SHARP; PENNY DOWNEY; JIM CIRDLE; WANDA CONNER; JERRY ROWE; JERRY STIERWALT and JOHN F. CLAMPITT, JR.,	Case No. CJ-2004-600
Plaintiffs,	
vs.	
CITY OF CATOOSA, OKLAHOMA, a municipal corporation; CURTIS CONLEY, Mayor, and GEORGE PARKER, AUSTIN FARLEY, BILL HOWARD, JERRY CAYWOOD, LON GODWIN and MIKE APPEL, as members of the CITY COUNCIL OF CATOOSA, OKLAHOMA,	
Defendants.	

ORDER MODIFYING TEMPORARY INJUNCTION

THIS MATTER COMES on for hearing on this 13th day of November, 2007, on Defendants' Motion to Determine Plaintiffs and Modify Temporary Injunction. Appearing for the Plaintiffs is Toney D. Foster. Appearing for the Defendants is Timothy P. Studebaker. Also appearing is Beauchamp Patterson on behalf of a potential additional party plaintiff, DMI Industries.

(4)

IMAGED

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The parties in conference with the Court agree to modify the Order Amending Temporary Injunction filed herein on December 7, 2005 to include only those parties who object to the annexation ordinance No. 311-A and limit the Temporary Injunction to those properties owned by the named plaintiffs.

The Court finds that the parties who object to the annexation ordinance No. 311-A are those individuals and corporations who appear as named plaintiffs herein, and that the properties owned by the named plaintiffs are more particularly described on Exhibit "A" attached hereto and made apart hereof by reference.

The Court further finds that the property described in Exhibit "A" hereto represents all of the property which is to be included in the Temporary Injunction of December 21, 2004, and that all other property not described in Exhibit "A" hereto should be excluded from the said Temporary Injunction.

The Court further finds that upon conformation by counsel for the Plaintiffs and Defendants, that the request to amend the Petition to include DMI Industries as an additional party Plaintiff has been withdrawn and Plaintiffs no longer seek to add DMI Industries as an additional party Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the parties who object to the annexation ordinance No. 311-A are those individuals and corporations who appear as named plaintiffs herein, and that the properties owned by the named plaintiffs are more particularly described on Exhibit "A" attached hereto and made apart hereof by reference and that such properties described in Exhibit "A" hereto represents all of the property which is to be included in the Temporary Injunction of December 21, 2004, and that all other property not described in Exhibit "A" hereto should be excluded from the said Temporary Injunction.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that Plaintiff's Motion to

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Amend it Petition to add DMI Industries as additional party Plaintiff has been withdrawn and is no longer before this Court.

Dated this 3rd day of April, 2008.

JUDGE OF THE DISTRICT COURT

Approved:

Toney D. Foster, OBA No. 16063
TAYLOR, BURRAGE, FOSTER, MALLETT, DOWNS & RAMSEY
Professional Corporation
400 West Fourth Street P.O. Box 309
Claremore, OK 74018
918/343-4100 918/343-4900 facsimile
Attorneys for Plaintiffs

A

Tim Studebaker, OBA # 19950
Studebaker Law Firm, PC
1640 S Boston Ave.
Tulsa, OK 74119
918-582-5880 918-585-5758 - facsimile
Attorney for Defendants

I, Candi Czapansky, Court Clerk for Rogers County Oklahoma hereby certify that the foregoing is a true and correct and full copy of the instrument herewith set out as appears of record in the Court Clerk's Office of Rogers County Oklahoma this 21 day of 2008

By Deputy Candi Czapansky COURT CLERK
DEPUTY

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EXHIBIT "A" TO
ORDER MODIFYING TEMPORARY INJUNCTION

Legal Descriptions of properties included in Temporary Injunction

Parcel No. 1

LAFARGE BUILDING MATERIALS, INC, an Alabama corporation;

All of Section 22, Township 20 North, Range 14 East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government Survey thereof, and that portion of Section 27, lying North of the St. Louis and San Francisco Railroad Right-of-Way, in Township 20 North, Range 14 East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government Survey thereof.

Parcel No. 2

BILL M. VICTORY

The North Half of the Northeast Quarter of the Northeast Quarter (N/2 NE/4 NE/4) and the West Half of the Northeast Quarter (W/2 NE/4) and the East Half of the Southwest Quarter (E/2 SW/4) and the Southeast Quarter (SE/4) and the Northwest Quarter of the Northeast Quarter of the Northwest Quarter (NW/4 NE/4 NW/4) and the South Half of the Northeast Quarter of the Northwest Quarter (S/2 NE/4 NW/4) and the Southeast Quarter of the Northwest Quarter (SE/4 NW/4) and the East Half of the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (E/2 SE/4 NW4 NW/4)and the South Half of the Southwest Quarter of the Northwest Quarter (S/2 SW/4 NW/4) and the South Half of the North Half of the Southwest Quarter of the Northwest Quarter (S/2 N/2 SW/4 NW/4) and the South Half of the Northeast Quarter of the Northeast Quarter (S/2 NE/4 NE/4) and the Southeast Quarter of the Northeast Quarter (SE/4 NE/4) in Section Twenty-three (23); and the Northwest Quarter of the Southwest Quarter of the Northwest Quarter (NW/4 SW/4 NW/4) and the South Half of the Southwest Quarter of the Northwest Quarter (S/2 SW/4 NW/4) and the West Half of the Southeast Quarter of the Southwest Quarter (W/2 SE/4 SW/4) and the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE/4 SE/4 SW/4) and the West Half of the Southwest Quarter (W/2 SW/4)of Section Twenty-four (24) and the West Half of the Northwest Quarter of the Northwest Quarter (W/2 NE/4 NW/4) and the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE/4 NW/4 NW/4) and the North Half of the Northeast Quarter of the Northwest Quarter (N/2 NE/4 NW/4) of Section Twenty-five(25); and the East Half of the Northeast Quarter of the Northeast Quarter (E/2 NE/4 NE/4) and the Northwest Quarter of the Northeast Quarter (NW/4 NE/4) and the West Half of the Northeast Quarter of the Northeast Quarter (W/2 NE/4 NE/4) and the Northeast Quarter of the Southwest Quarter of the Northeast Quarter (NE/4 SW/4 NE/4) lying North of the Railway, and the North Half of the Southeast Quarter of the Northeast Quarter (N/2 SE/4 NE/4) of Section Twenty-Six (26), all in Township Twenty (20) North, Range Fourteen (14) East, containing 744.93 acres, more or less;

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Parcel No. 2-A

BILL M. VICTORY

All that part of the South Half of the Southeast Quarter of the Northeast Quarter (S/2 SE/4 NE/4) and all that part of the Northeast Quarter of the Northeast quarter of the Southeast Quarter (NE/4 NE/4 SE/4) of Section 26, Township 20 North, Range 14 East of the I. B. & M., lying North of the Right-of-Way of the St. Louis and San Francisco Railroad, Rogers County, Oklahoma.

Parcel No. 3

JAMES EDWARD VIERHELLER REVOCABLE TRUST

The E/2 of the NE/4 of the SE/4, LESS the North 66 feet thereof, in Section 29, Township 20 North, Range 15 East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government Survey thereof; and,

A tract of land in the SE/4 of Section 29, Township 20 North, Range 15 East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government Survey thereof, more particularly described as follows: BEGINNING at the Southeast corner of the SE/4; thence S.88°39'42"W. along the South line of said SE/4 a distance of 557.81 feet; thence N.01°20'18"W. a distance of 85.00 feet; thence S.88°39'42"W. a distance of 492.45 feet; thence N.46°09'25"W. a distance of 42.29 feet; thence N.01°04'39"W. a distance of 559.72 feet; thence N.02°53'36"E. a distance of 443.92 feet; thence N.31°14'26"W. a distance 446.38 feet; thence N.11°25'31"W. a distance of 424.87 feet; thence N.15°03'12"E. a distance of 636.39 feet; thence N.32°45'52"E. a distance of 135.54 feet to a point on the North line of said SE/4; thence N.88°39'05"E. along said North line a distance of 420.78 feet to the Northwest corner of the E/2 NE/4 SE/4 of said Section 29; thence S.01°24'14"E. a distance of 1322.76 feet to the Southwest corner of said E/2 NE/4 SE/4; thence N.88°39'23"E. a distance of 662.03 feet to a point on the East line of said SE/4; thence S.01°24'58"E. along said East Line a distance of 1322.82 feet to the Point of Beginning.

Parcel No. 4

RAY STINCHCOMB and ULELE STINCHCOMB, husband and wife

The North 66 feet of the E/2 of NE/4 of SE/4 of Section 29, Township 20 North, Range 15 East of the I. B. & M., Rogers County, Oklahoma; and,

A tract of land in the SE/4 of the NE/4 of Section 29, Township 20 North, Range 15 East of the I. B. & M., Rogers County, Oklahoma, more particularly described as follows: BEGINNING at a point 1985.6 feet South of the NE corner of said Section 29, thence S.89°46'W. a distance of 542.2 feet, thence S.44°55'W. a distance of 953.08 feet, thence N.88°34'E. a distance of 859.45 feet, thence N.89°15'E. a distance of 356.0 feet to a point on the East line of said Section 29, thence North along said East line a distance of 650.83 feet to the Point of Beginning.

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Parcel No. 5

MILL CREEK LUMBER & SUPPLY COMPANY, an Oklahoma corporation,

All that part of the W/2 NE/4 SE/4 and the NW/4 SE/4 and the S/2 SE/4 and the SE/4 SW/4 of Section 29, Township 20 North, Range 15 East of the I. B. &M., ;lying South and East of the Oklahoma Turnpike Authority as described in Book 301, Page 316 and in Book 299, Page 380 of the records of the County Clerk of Rogers County, Oklahoma, according to the U. S. Government Survey thereof, Rogers County, Oklahoma.

Parcel No. 6

CLIFTON W. DREILING

The Easterly 190 feet of the NW/4 NE/4 SE/4; and the Easterly 190 feet of all that portion of the SW/4 SE/4 NE/4 that lies southerly of the Southwesterly right-of-way line of the St. Louis and San Francisco Railway (now known as Burlington-Northern Railway); and all of the NE/4 NE/4 SE/4 that lies Southerly of the Southwesterly right-of-way line of the St. Louis and San Francisco Railway (now known as Burlington-Northern Railway, Less & Except the Easterly 556 feet thereof; and the Westerly 244.09 feet of the Easterly 434.09 feet of the NW/4 NE/4 SE/4; and the Westerly 244.09 feet of the Easterly 434.09 feet of all that portion of the SW/4 SE/4 NE/4 that lies Southerly of the Southwesterly right-of-way line of the St. Louis and San Francisco Railway (now known as Burlington Northern Railway) all in Section Twenty-Six (26), Township Twenty (20) North, Range Fourteen (14) East of the Indian Meridian, Rogers County, Oklahoma, according to the U. S. Government Survey thereof

Parcel No. 7

WILLIAM P. FERRIS – YUBA HEAT TRANSFER, LLC

The SW/4 NW/4 and all that part of the S/2 NW/4 NW/4, lying South of Railroad, LESS AND EXCEPT a strip of land 33 feet wide, and all that part of the West 1222.28 feet of the SE/4 NW/4 lying South of Railroad, and the SE/4 NW/4, all in Section 26, Township 20 North, Range 14 East of the I. B & M., Rogers County, State of Oklahoma, according to the U. S. Government Survey thereof.

Parcel No. 8

DOUGLAS LUNDY – T & C TRUCKING, INC.

Lot 1, Block 1 of the North 161st East Industrial Park, a Subdivision in the NW/4 Section 35, Township 20 North, Range 14 East of the I. B. & M., Rogers County, Oklahoma.

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Parcel No. 9

WILLIAM JERRY JOHNSON

The South 371 feet of the E/2 W/2 SE/4 SE/4 SE/4; and the North 263.72 feet of the W/2 of SE/4 SE/4 SE/4; and the South 371 feet of the W/2 W/2 SE/4 SE/4 SE/4; all in Section 27, Township 20, Range 14 East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government survey thereof

Parcel No. 10

GRACE LAW

Lot Two (2) in Block Two (2) of Eastpark First Addition, a subdivision in Section Twenty-six (26), Township Twenty (20) North, Range Fourteen (14) East of the I. B. & M., Rogers County, Oklahoma, according to the recorded Plat thereof; and

The NW/4 SE/4 SW/4 NE/4 and all that part of the NE/4 SW/4 NE/4 lying South of the St. Louis & San Francisco Railroad, all in Section Twenty-Six (26), Township Twenty (20) North, Range Fourteen (14) East of the I. B. & M., Rogers County, Oklahoma, according to the U. S. Government Survey thereof

Parcel No. 11

ORLIE KENDALL

The South half of Lot 3 and all of Lot 4, in Block 2 of Ponderosa Estates

Parcel No. 12

C.B. FISHER

Lot 17, in Block 1, of Clampett Acres II

Parcel No. 13

STANLEY HAY

Lot 11 Block 1 Clampett Acres II

Parcel No. 14

CLYDE JONES

Lot 12 Block 1 Clampett Acres

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Parcel No. 15

CAROLYN SHARP

Lot 5 Block 2 Clampett Acres II

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The Court being advised that the parties have reached an agreement to suspend the enforcement of said Ordinance No. 311-A until such time as the validity of the Ordinance can be judicially determined.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that Ordinance No. 311-A as approved by the City Counsel of Catoosa, Oklahoma on October 21, 2004, shall be and is hereby suspended until further order of this Court and that the City of Catoosa, Oklahoma, its City Counsel Board, Officers, employees and agents are hereby enjoined and restrained from enforcing the provisions of said Ordinance until further order of this Court.

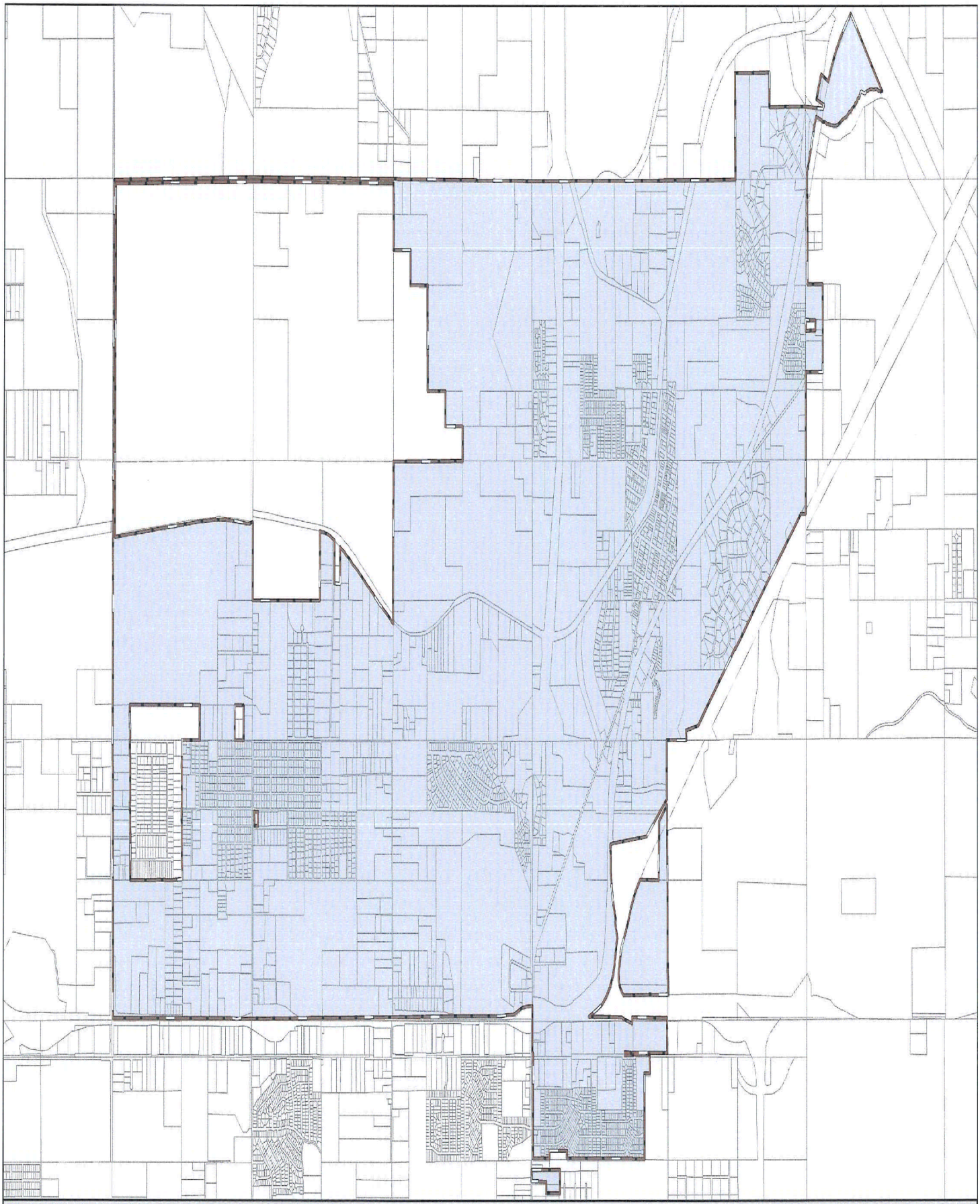
JUDGE OF THE DISTRICT COURT

Approved:

TONEY D. FOSTER, OBA # 16063
400 West Fourth Street
P.O. Box 309
Claremore, OK 74018
918/343-4100
918/343-4900 facsimile
Attorney for Plaintiffs

RONALD BERRY, OBA# 759
Attorney at Law
P.O. Drawer 490
Catoosa OK 74015
918/266-4242
918/266-6546
Attorney for Defendants

21 Dec 04
Deborah Medlock
DEPUTY COURT



INCOG
201 W. 5th Street, Suite 600
Tulsa, OK 74103

Note: The County Assessor parcel boundary lines may not match the aerial photography physical features since these boundary lines were digitized using the County Assessor land record maps.

Catoosa Corporate Limits

Feet
2,250 1,125 0 2,250