

DISTRICT COURT, COUNTY OF LARIMER, STATE OF COLORADO Court Address: 201 LaPorte Avenue Fort Collins, CO 80521-2761 Phone Number: (970) 494-3500	
CITY OF LOVELAND, a Colorado Municipal Corporation, Plaintiff. v. ROGER GOMEZ; JP MORGAN CHASE BANK, N.A., and FIRST NATIONAL BANK OF OMAHA, Defendants.	<p style="text-align: center;">▲ FOR COURT USE ONLY ▲</p>
Attorneys for Defendant City of Loveland, a Municipal Corporation: Alicia R. Calderón, #32296 Assistant City Attorney II Derek Turner, #44091 Assistant City Attorney II Loveland City Attorney's Office 500 E. Third Street, Suite 330 Loveland, CO 80537 (970) 962-2540 Alicia.Calderon@cityofloveland.org Derek.Turner@cityofloveland.org	Case Number: 16CV 30703 Courtroom: 4A
<p style="text-align: center;">PLAINTIFF'S MOTION TO AMEND COMPLAINT</p>	

COMES NOW the City of Loveland, a municipal home rule corporation, (the "City") by and through undersigned counsel, and requests leave of the Court to amend its Complaint pursuant to C.R.C.P. 15(a), and in support states the following:

C.R.C.P. 121 § 1-15(8) CERTIFICATION

The undersigned certify that they have discussed the substance of the City's proposed amendment with opposing counsel and have been advised that Mr. Gomez does not oppose this motion.

1. The City commenced this litigation claiming ownership of "a utility easement along the southern portion of the property at 3510 W. Eisenhower Boulevard." Complaint, ¶7.

2. The City's Complaint noted the scope of the claimed utility easement was for buried water lines and visible power lines that run through the Defendant's property at 3510 W. Eisenhower Boulevard. Complaint, ¶¶ 9-12.
3. Paragraph 8 of City's Complaint provided a legal description for the City's claimed utility easement.
4. The scope and the City's use of the claimed easement is defined by the purposes for which the easement is claimed, namely, buried water lines and above ground electric transmission power lines.
5. Through discovery and detailed information needed for the settlement conferences, the City contracted with professional surveyors for a separate legal description for each easement area, one for the power lines and one for the water lines.
6. The City locator staff and contracted surveyors discovered that the easement area for the water mains extended outside the legal description included in the City's Complaint to the north. The survey also established that the power line easement does not extend as far to the south as was included in the legal description previously submitted.
7. The City hereby requests leave of this Court to amend its Complaint primarily to revise the legal descriptions of the easements claimed by the City, as described in the attached Amended Complaint.

WHEREFORE, the City of Loveland respectfully requests that the Court enter an Order granting leave to amend the City's Complaint and accepting Plaintiff City of Loveland's Amended Complaint. A proposed order and the Amended Complaint is submitted herewith.

Dated this 26th day of January, 2018.

CITY OF LOVELAND

Original signature on file

By: /s/ Alicia R. Calderón

Alicia R. Calderón, #32296

Assistant City Attorney

By: /s/ Derek Turner

Derek Turner, #44091

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **Plaintiff's Motion to Amend Complaint** was served by Colorado Courts e-Service on this 26th day of January, 2018 to the following:

Kathie Troudt Riley
Kathie Troudt Riley, P.C.
2903 Aspen Drive, Unit D
Loveland, CO 80538
Attorney for Defendant Roger Gomez

/s/ Kayla Demmler
Original signature on file