

ORDINANCE NO. 35-87

BY: Albert Myers

An Ordinance to authorize the execution of a Deed of Easement and Quit-Claim Deed.

WHEREAS, the City of Bexley was named as a Defendant in litigation styled Goldberger vs. City of Bexley, Case No. 84CV-12-7006, in the Court of Common Pleas of Franklin County, Ohio;

WHEREAS, pursuant to Ordinance No. 34-86 the City of Bexley agreed to settle the litigation in accordance with a Settlement Agreement attached to said Ordinance No. 34-86;

WHEREAS, the Settlement Agreement required, among other things, the City of Bexley to grant to Bexley Properties, an Ohio general partnership, and to William M. Goldberger and Marcia Goldberger an Easement over a piece of former Park Drive (vacated by Ordinance No. 58-40) being more particularly described in the Settlement Agreement;

WHEREAS, the Settlement Agreement also required the City of Bexley to grant to William M. Goldberger and Marcia Goldberger all of its right, title and interest, if any, that the City may have in certain property more particularly described in the Settlement Agreement, now, therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY,
OHIO:

Section 1. That the Deed of Easement and Quit-Claim Deed attached hereto as Exhibit A, be and it hereby is, approved.

Section 2. That the Mayor and Auditor be, and each of them hereby are, authorized and directed to execute the Deed of Easement and Quit-Claim Deed on behalf of the City.

Section 3. That this Ordinance is an emergency ordinance necessary for the immediate preservation of the public peace, health and safety and shall go into effect upon its passage and approval by the Mayor.

Passed: May 26, 1987

William W. Bellon
President of Council Pro Tem.

Attest: J. W. Hagan
Clerk of Council

APPROVED: May 26, 1987

David H. Madison
David H. Madison, Mayor

April 28, 1987 - 1st reading
May 12, 1987 - 2nd reading
May 26, 1987 - 3rd reading
Adopted

DEED OF EASEMENT AND QUIT-CLAIM DEED

For valuable consideration paid, the receipt of which is hereby acknowledged, The City of Bexley, Ohio, does hereby grant unto Bexley Properties, an Ohio General Partnership, its successors and assigns, and to William M. Goldberger and Marcia Goldberger, (for the said Goldbergers' joint lives, remainder to the survivor of them), a perpetual, non-exclusive easement and right-of-way in, over and upon the following described real estate: Being situated in the State of Ohio, County of Franklin and City of Bexley and bounded and described as follows:

Being a part of Vacated Park Drive (50 feet wide and vacated by City of Bexley Ordinance #58-40), as said Park Drive is delineated upon the recorded plat of Park Drive Addition, of record in Plat Book 20, page 36, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at a found P.K. nail at the intersection of the centerline of said Park Drive with the south line of East Main Street (20 feet wide); thence, along the centerline of said Vacated Park Drive and along the arc of a curve to the right having a radius of 1.525 feet, a sub-delta of $6^{\circ} 28' 18''$, a tangent of 86.22 feet, a chord bearing and distance of South $8^{\circ} 51' 24''$ East, 172.16 feet to a found spike at the intersection of the said centerline of Vacated Park Drive with the westerly prolongation of the centerline of a 20 foot vacated alley (vacated by said Ordinance #58-40); thence, along said westerly prolongation of said alley centerline, North $88^{\circ} 07'$ West, 25.21 feet to a point at the intersection of said alley centerline prolonged with the westerly right-of-way line of said vacated Park Drive (passing a set nail at 11.57 feet); thence along the westerly right-of-way line of said vacated Park Drive and along the arc of a curve to the left having a radius of 1500.00 feet a sub-delta of $6^{\circ} 35' 01''$, a tangent of 86.27 feet, a chord bearing and distance of North $09^{\circ} 02' 18''$ West, 172.26 feet to a point in the northerly line of said vacated Park Drive (southerly line of said East Main Street); thence along the northerly line of said Vacated Park Drive (the southerly line of said East Main Street), South $88^{\circ} 07'$ East, 25.78 feet to the place of beginning, containing 0.099 Acres (4039.00 square feet), subject to all legal highways, easements, restrictions, leases and agreements of record and of records in the respective utility offices. This description was prepared from a survey of the premises in July, 1986. Basis of bearings is from said plat of record in Plat Book 20, page 36.

This right-of-way and easement shall run to the benefit and use of the grantees, their successors, heirs, assigns, agents, servants, tenants, visitors, licensees and all other persons for the benefit of the grantees, their successors, heirs and assigns, at all times to freely pass and repass on foot or with animals and vehicles of every description to and from East Main Street to the lands of the grantees more fully described on the attached EXHIBITS "A" and "B" hereof.

The grantor does hereby agree to maintain that portion of the right-of-way, concrete curb and lane of travel which lies within the confines of the above described premises.

And for valuable consideration paid, The City of Bexley, Ohio, does hereby grant to William M. Goldberger and Marcia Goldberger, for their joint lives, remainder to the survivor of them, all of its right, title or interest, if any, that the said grantor may have in the following described real estate: Situated in the County of Franklin, in the State of Ohio, and in the City of Bexley and bounded and described as follows:

Being a strip of land fifty (50) feet in width, formerly Park Drive, adjoining Reserve "A" of Park Drive Addition on the west and adjoining the South 1/2 of a certain vacated alley, said alley being the first alley south of East Main Street in the City of Bexley, Franklin County, Ohio, as the said Reserve "A" and said alley are designated and delineated upon the recorded plat of said Addition, of record in Plat Book 20, page 36, Recorder's Office, Franklin County, Ohio, the said 50 foot strip of land and alley having been vacated by City Ordinance #58-40 of the City of Bexley on the 3rd day of August, 1940;

EXCEPTING THEREFROM any existing utility line easement recorded with the Franklin County Recorder's Office.

To the extent that the terms of this instrument are inconsistent with the terms and conditions of a certain Agreement dated August 3, 1940, and recorded in Miscellaneous Records Vol. 43, page 339, Recorder's Office, Franklin County, Ohio, the terms of this instrument shall control.

This document is given in compliance with a certain Agreement between the parties hereto, dated June 4, 1986, which Agreement shall survive the execution of this document.

IN WITNESS WHEREOF, the City of Bexley, Ohio, has caused this instrument to be executed by its duly elected and authorized Mayor and Auditor this day of April, 1987.

Signed and Acknowledged in the Presence of:

Robert C. Foulk

Stanley H. Shubert

CITY OF BEXLEY, OHIO

By: David H. Madison
David H. Madison
Its Mayor

By: John W. Hornberger
John W. Hornberger
Its Auditor

And for valuable consideration paid, The City of Bexley, Ohio, does hereby grant to William M. Goldberger and Marcia Goldberger, for their joint lives, remainder to the survivor of them, all of its right, title or interest, if any, that the said grantor may have in the following described real estate: Situated in the County of Franklin, in the State of Ohio, and in the City of Bexley and bounded and described as follows:

Being a strip of land fifty (50) feet in width, formerly Park Drive, adjoining Reserve "A" of Park Drive Addition on the west and adjoining the South 1/2 of a certain vacated alley, said alley being the first alley south of East Main Street in the City of Bexley, Franklin County, Ohio, as the said Reserve "A" and said alley are designated and delineated upon the recorded plat of said Addition, of Record in Plat Book 20, page 36, Recorder's Office, Franklin County, Ohio, the said 50 foot strip of land and alley having been vacated by City Ordinance #58-40 of the City of Bexley on the 3rd day of August, 1940;

EXCEPTING THEREFROM any existing utility line easement recorded with the Franklin County Recorder's Office.

To the extent that the terms of this instrument are inconsistent with the terms and conditions of a certain Agreement dated August 3, 1940, and recorded in Miscellaneous Records Vol. 43, page 339, Recorder's Office, Franklin County, Ohio, the terms of this instrument shall control.

This document is given in compliance with a certain Agreement between the parties hereto, dated June 4, 1986, which Agreement shall survive the execution of this document.

IN WITNESS WHEREOF, the City of Bexley, Ohio, has caused this instrument to be executed by its duly elected and authorized Mayor and Auditor this day of April, 1987.

Signed and Acknowledged in the Presence of:

Deborah C. Foulk

Stanley H. Shukun

CITY OF BEXLEY, OHIO

By: David H. Madison

David H. Madison
Its Mayor

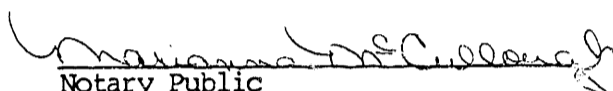
By: John W. Hornberger

John W. Hornberger
Its Auditor

STATE OF OHIO)
)SS:
COUNTY OF FRANKLIN)

BE IT REMEMBERED that on this ^{May} 21 day of ~~April~~, 1987, before me, the subscriber, a Notary Public, in and for said County and State, personally appeared the above named CITY OF BEXLEY, OHIO, by David H. Madison, the Mayor of the City of Bexley, Ohio, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said CITY OF BEXLEY, OHIO, and his free act and deed, personally and as such officer, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.


Notary Public

MARIANNA McCULLOUGH
Notary Public-State of Ohio
My Commission Expires 6-6-90

STATE OF OHIO)
)SS:
COUNTY OF FRANKLIN)

BE IT REMEMBERED that on this ^{May} 27 day of ~~April~~, 1987, before me, the subscriber, a Notary Public, in and for said County and State, personally appeared the above named CITY OF BEXLEY, OHIO, by John W. Hornberger, the Auditor of the City of Bexley, Ohio, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said CITY OF BEXLEY, OHIO, and his free act and deed, personally and as such officer, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.


Notary Public

MARIANNA McCULLOUGH
Notary Public-State of Ohio
My Commission Expires 6-6-90

THIS INSTRUMENT PREPARED BY:
HOWARD J. HADDOW, ESQ.
FOLKERTH, O'BRIEN, HADDOW & DAVIS
230 East Town Street
Columbus, Ohio 43215