

CITY OF HIGHLAND HEIGHTS  
RESOLUTION NO. 17 -2017

INTRODUCED BY: Mayor Scott E. Coleman and Council as a Whole

MOTION BY: Council Representative Ann M. D'Amico

SECONDED BY: Council Representative Chuck Brunello, Jr.

**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT  
OF PENDING LITIGATION AND DECLARING AN EMERGENCY.**

WHEREAS, there is currently pending in the Court of Common Pleas, Cuyahoga County Probate Division, a case styled The City of Highland Heights v. Mary Louise Monaco et al., the same being Case No. 2010ADV0164078; and

WHEREAS, the parties to the foregoing action have been able to resolve the issues constituting the subject matter thereof; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HIGHLAND HEIGHTS,  
OHIO, THAT:**

Section 1. The Director of Law is hereby authorized and directed to enter into a settlement agreement related to the case entitled The City of Highland Heights v. Mary Louise Monaco et al., Case No: 2010ADV0164078 with contesting parties and to settle the differences between the respective parties, said settlement to be in accordance with the terms and conditions of the attached Judgment Entry Settlement (Exhibit A).

Section 2. The Council of the City of Highland Heights, Ohio further authorizes and directs the Mayor to execute, on behalf of the City, a Settlement Agreement in the above-referenced pending litigation.

Section 3. The Council finds and determines that all formal actions of this Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Highland Heights for the reason that the settlement authorized herein must be effected immediately in order for it to maintain its viability and to save the City further litigation expenses. It shall therefore take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

First Reading: 04/25/2017

  
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President of Council


Second Reading: Suspended

Filed with Mayor: 04/25/2017

Third Reading: Suspended

APPROVED: 04/25/2017

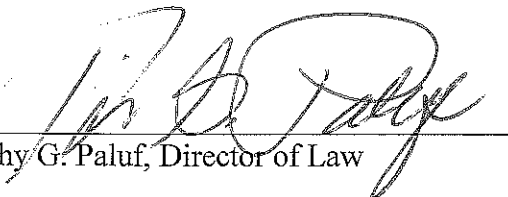
PASSED: April 25, 2017

  
\_\_\_\_\_  
Mayor

ATTEST:   
Clerk of Council

EFFECTIVE: 04/26/2017

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Timothy G. Paluf, Director of Law

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
CUYAHOGA COUNTY, OHIO**

THE CITY OF HIGHLAND HEIGHTS,	)	CASE NO. 2010 ADV 0164078
	)	
Plaintiff	)	
	)	JUDGE: ANTHONY J RUSSO
vs.	)	
	)	
MARY LOUISE MONACO	)	
et al	)	<b><u>JUDGEMENT ENTRY SETTLEMENT</u></b>
	)	
	)	
Defendant	)	

RE: AUDITOR'S PERMANENT PARCEL NUMBER 822-01-066.

It appears to the Court that the Landowner, O HIGHLAND ROAD LLC, Defendant herein (hereinafter sometimes referred to as the "Landowner"), have agreed with the Plaintiff, City of Highland Heights, upon the amount of compensation due said Landowner by reason of the appropriation of the property as described more fully herein. The parties have agreed to Thirty Five Thousand Dollars (\$35,000.00), without interest, which shall be full payment of the just compensation for said appropriation of the appropriated property interests.

The Landowner, in consideration of the foregoing agreed compensation, does hereby release and waive all claims for further compensation, costs, attorneys' fees, including interest, related to the just compensation owed Landowner as a result of the appropriation of said property defined herein.

In conformity with said agreement, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, City of Highland Heights did not deposit with the Clerk of this Court an original deposit herein and will deposit thirty five thousand dollars (\$35,000.00), which is the total amount of the agreed settlement, and which will be distributed as the interests of the interested party hereto may appear upon filing of a Motion for Final Distribution.

The Court Further Finds that all necessary and named parties have been properly served with a copy of the Petition for Appropriation.

Interest in Fee Simple for Drainage Purposes

Further, in conformity with these proceedings, IT IS FURTHER ORDERED, ADJUDGED AND DECREED that an interest in fee simple for drainage and related purposes in, on, over and upon the premises described as Permanent Parcel No. 822-01-066 and as more fully described in Exhibit 1 attached hereto and incorporated herein by reference, and in the ~~Ordinance~~<sup>Resolution</sup> adopted by the City of Highland Heights (Exhibit 2) and in the Petition for Appropriation filed with this Court, being more fully described in *City of Highland Heights v. Mary Louise Monaco* Cuyahoga County Court of Common Pleas, Probate Division, Case No. 2010 ADV 0164078 and incorporated herein by this reference, the same is hereby duly vested in the City of Highland Heights, free and clear of the claims of all owners of said land and any person having an interest herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of Courts withhold from the amount deposited herein any tax that is required to be paid pursuant to law as directed by the County Fiscal Officer, and further that the Clerk shall receive from the Fiscal Officer of the County a Statement of such accrued taxes as related to the premises known as Parcel No. 822-01-066.

After payment of such accrued taxes the balance of the monies deposited herein by the City of Highland Heights shall be paid by the Clerk of this Court to said Landowner named herein and to any other interested party hereto as their interest may appear upon proper Motion for Distribution.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the date of the appropriation is fixed as date of filing complaint.

It is further ORDERED that a certified copy of this entry be transmitted by the Clerk of Courts to the Cuyahoga County Fiscal Office for the purpose of making the proper notations to transfer the easement or title, if any and for making changes in tax valuation and liability therefore, if any; that the County Fiscal Officer may cause Parcel No. 822-01-066, to be removed from the Real Estate Tax Records of this County, if pertinent, pursuant to Ohio Revised Code 319.201 subject to the approval of the Tax Commissioner as required by Ohio Revised Code 5713.08, or to the extent that the City of Highland Heights is duly vested with the title thereof, free and clear of any real estate tax consequences therefore; that all transfer fees of the County Fiscal Officer and the recordation fees, if any shall be charged as part of the court costs

herein, pursuant to Ohio Revised Code 163.15 and 163.16, by submitting their statement of cost to the Clerk of this Court; that City of Highland Heights pay all court costs herein accrued; and that a record be made of these proceedings according to law.

IT IS SO ORDERED.

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JUDGE ANTHONY J. RUSSO

APPROVED:

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EXHIBIT 1

Situated in the City of Highland Heights, County of Cuyahoga, and State of Ohio and known as Block "A" in the Glen Eden Subdivision as shown in Plat Volume 248, Page 72 of Cuyahoga County Records.

Permanent Parcel No. 822-01-066 Prior Instrument Reference: 201011240222 in the Deed Records of Cuyahoga County, Ohio.

Exhibit 2  
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