

City of Willoughby Hills

ORDINANCE NO. 2008-79

AN ORDINANCE FOR THE VACATION OF EXISTING EASEMENTS AND THE ASSOCIATED WATERLINE AND ALL APPURTENANCES ON CERTAIN LANDS, IN THE CITY OF WILLOUGHBY HILLS.

WHEREAS, the City of Willoughby Hills and the City of Cleveland, municipal corporations of the State of Ohio were granted and conveyed perpetual right-of way and easement for the installation and maintenance of a water main for the purpose of supplying water service to certain lands more fully described in Exhibit "A" attached hereto; and

WHEREAS, on July 22, 2004, Council of the City of Willoughby Hills adopted Ordinance No. 2004-37, to authorize and direct the Mayor to enter into an Agreement with the Board of Commissioners of Lake County, Ohio and Pine Ridge Apartments Co. Limited Partnership; Parlane Co., LLC; Pine Ridge Valley Apartment Building H, LLC; Pine Ridge Apartments Co. II and Pine Ridge Valley Apartments-East, LLC in order to permit Pine Ridge II to install the new water mains and to relocate an existing water main on the New Apartment Parcels; and

WHEREAS, under the terms of said Agreement, within twelve (12) months after the date of the agreement, but not thereafter, the City of Willoughby Hills and the Board may file a Declaratory Judgment action in the Court of Common Pleas of Lake County to determine ownership, maintenance, all rights, rules, obligations, duties and relations among the parties hereto related to the existing easements, including but not limited to the following: title to the real property; the extent to which or whether the City of Willoughby Hills and/or the Board have duty to continue maintenance, repair or replacement of the existing water mains; the extent to which or whether the City of Willoughby Hills and/or the Board have a duty to retain ownership of the existing water mains and any and all other rights, duties or relationships among or between the parties that arise or may arise out of the existing easements; and

WHEREAS, on April 16, 2007, by Order of the Court of Common Pleas of Lake County, Ohio (Case No. 05CV001075), a copy of which has been recorded in Document No. 2007R015903 of the Lake County Records, accordingly, the Court found and declared the following:

1. The Court has jurisdiction over this civil action.
2. Willoughby Hills does not own and is not required to maintain: (a) the Old Waterlines located outside of the Easements, (b) the Relocated Waterlines, or (c) the New Waterlines.
3. Willoughby Hills owns and shall maintain the Old Waterlines Within Easements.
4. Pine Ridge Entitles owns and shall maintain: (a) the Old Waterlines located outside of the Easements, (b) the Relocated Waterlines, and (c) the New Waterlines.
5. Pine Ridge Entities does not own and is not required to maintain the Old Waterlines Within Easements.

6. Pine Ridge Entities shall permit Willoughby Hills rights of ingress and egress and to be upon the Property at any time or place and in any reasonable manner for purposes of operating and maintaining (including but not limited to inspection, testing, removal, construction, and reinstallation) the water mains and appurtenances which are its responsibility, and such secondary easement of necessity for access is hereby declared.
7. Easement Exhibit C is hereby vacated.
8. Willoughby Hills may not discontinue the water service to the Property.
9. County does not own and is not required to maintain any of the waterlines in controversy in this civil action, but is required to supply water to the waterlines on the Property in the same manner as it supplies water to other on the public streets and highways surrounding the Property.
10. A certified copy of this Judgment Entry shall be filed in the Office of the Recorder of Lake County and the Municipal Offices of the City of Willoughby Hills.
11. The Court retains jurisdiction over this matter implement or effectuate the orders set forth herein; and

WHEREAS, due to the age of the waterlines, along with the liability and cost associated with the same, i.e. repair and replacement of said waterlines, the City of Willoughby Hills wishes to divest itself of the ownership of the old waterlines within the easement areas and at the same time extinguish its rights and obligations set forth within the terms and conditions contained within the recorded instruments creating said easements; and

WHEREAS, authorized representatives of the Pine Ridge Apartments Co., Limited Partnership; the Pine Ridge Valley Apartments-East, LLC; the Parlane Co., LLC; and the Pine Ridge Valley Apartments, Building H, LLC have executed and agreed to the release of ownership for the easements, waterlines and its appurtenances as described more fully in Exhibit "A"; and

WHEREAS, the Council of the City of Willoughby Hills is of the opinion that such vacation will not be detrimental to the general interest of the citizens and residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. The Council of the City of Willoughby Hills finds and determines that vacating the easements and all waterlines and appurtenances to all parcels described in "Exhibit A" consisting of thirty-four (34) pages and incorporated herein by reference, is not detrimental to the general interest of the citizens and residents of the City.

SECTION 2. The Council of the City of Willoughby Hills finds and determines that there is no requirement to maintain the easements and waterlines for public use.

SECTION 3. The easements, waterlines and all appurtenances as described in Exhibit "A" be, and the same hereby are, vacated.

SECTION 4. The Mayor is hereby authorized to endorse upon such Release Document the action of this Council in vacating the easements and waterlines; and, to cause said document to be recorded in the Office of the Recorder of Lake, County, Ohio.

SECTION 5. The Clerk of Council is hereby directed to notify the Auditor of Lake County, Ohio, of the aforesaid vacation by certifying to him a copy of this Ordinance.

SECTION 6. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 7. This Ordinance shall be in full force and effect at the earliest time permitted by law.

PASSED: November 13, 2008



David A. Reichelt
President of Council Pro-tem

Submitted to the Mayor for his approval
on this 13 day of November, 2008

Approved by the Mayor

November 14, 2008

ATTEST:


Victoria Ann Savage, CMC
Clerk of Council


Robert M. Weger
Mayor

ORDINANCE NO. 2008-79

I, Victoria Ann Savage, Clerk of Council for the City of Willoughby Hills, Lake County, Ohio do hereby certify that the foregoing **Ordinance No. 2008-79** was duly and regularly passed by the Council of the City of Willoughby Hills, Lake County, Ohio at a meeting held on **November 13, 2008**.

That this legislation was posted according to law and duly advertised pursuant to Ordinance No.2003-19 in the **Lake County News-Herald** on **November 19, 2008**. Effective date of Legislation: **December 14, 2008**.

Victoria Ann Savage, CMC
Clerk of Council