

5455 Detroit Road  
Sheffield Village, Ohio 44054  
Tel: 440.930.4001

# Stumphauzer ∴ O'Toole

Direct: 440.930.4001  
Email: [rmclaughlin@sheffieldlaw.com](mailto:rmclaughlin@sheffieldlaw.com)

August 1, 2013

Donald M. Zaleski, Esq.  
Lorain City Law Department  
200 West Erie Avenue, 7<sup>th</sup> Floor  
Lorain, Ohio 44052

Re: *City of Lorain v. Edwin R. Perkins, Trustee, et al.*  
Case No. 11 CV 171304, Lorain County Court of Common Pleas

Dear Mr. Zaleski:

Enclosed, please find the latest version of our Consent Decree/Judgment Entry.

My suggestion is to have the City of Lorain re-convey the three properties to the Port Authority containing the legend/deed restrictions contained on page 3.

I believe that it is now agreed by all that the requirement of a reverter that was contained in the two disposition agreements can be eliminated, due to the deed restrictions.

Please let me know if there are any other details to be addressed for the City of Lorain.

Sincerely,



Russell T. McLaughlin  
RTM/nrm  
Enclosures

cc: Robert Fowler, City of Lorain, Safety/Service Director  
Barb Piscopo, Black River Historical Society  
Honorable Ronald E. Cinniger

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**IN THE COURT OF COMMON PLEAS  
LORAIN COUNTY, OHIO**

CITY OF LORAIN

Plaintiff

vs.

EDWIN R. PERKINS, Trustee, et al

Defendants

) CASE NO.: 11 CV 171304

)

)

) JUDGE CHRISTOPHER R. ROTHGERY

)

)

)

)

)

)

**CONSENT DECREE**  
**JUDGMENT ENTRY**

**BACKGROUND**

The City of Lorain filed its Complaint to Quiet Title to real property bearing Permanent Parcel No. 02-01-004-115-001, further known as Streator Park, located between West 10<sup>th</sup> Street and West 11<sup>th</sup> Street, west of Reed Avenue in Lorain, OH. The action requested an order and decree that the title and interest of the Plaintiff, City of Lorain, be quieted against successors, assigns, etc. of Edwin R. Perkins, Trustee of a trust established by Worthy S. Streator. The restrictive covenants from which the City of Lorain is seeking relief are contained in a deed from Worthy S. Streator, Trustee to the then Village of Lorain dated March 15, 1895 and recorded April 12, 1895.

The 1895 Deed contained conditions that required the Parcel to be cleared, cleaned-up and graded within six (6) months, and further provides that the Parcel "shall be used for park

purposes only; no monuments shall be erected, but it may be used for the purpose of erecting therein a City or Town Hall.”

The original 1895 restrictions on the property were modified in 1902 to permit the construction of a Carnegie Library on the property.

By instrument titled “Grant of Easement,” dated September 22, 1902 (the “Easement Grant”), a conformed copy of which is on file with the Lorain County Recorder’s office at Miscellaneous Volume 5, Pages 46-47, Edward R. Perkins, the successor to Worthy S. Streator, as Trustee, granted to the City of Lorain the right to build a library building on the property.

The following appears in the Easement Grant (separation of points is ours, for clarity):

This Grant is made upon the following express conditions:

1<sup>st</sup>: Said library building shall be erected upon the north-east corner of said park at such place as the Board of Library Trustees may select.

2<sup>nd</sup>: Said building shall be so erected and maintained as to interfere with the use of said land for park purposes as little as possible, and shall be maintained in a neat, clean appearance, so as to beautify said park.

3<sup>rd</sup>: This grant shall be held to modify said deed so given by Worthy S. Streator, Trustee, to said City on the 15<sup>th</sup> day of March, 1895, only in the respect set out above; and shall in no wise interfere with, change or modify any of the other conditions or stipulations in said deed contained; nor shall it in any degree release said City from any liability to do and perform the matters and things by it to be done and performed as set forth in said deed.

By this Quiet Title Action, Plaintiff, City of Lorain, has requested an order and decree that it is the owner of the described parcel of land as an indefeasible fee simple, entitled to exclusive possession and control of the parcel, and that the Edwin R. Perkins, Trustee, his successors and assigns be restrained from interfering with Plaintiff’s exclusive possession and control of the parcel.

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) CASE NO.: 11 CV 171304

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) JUDGE CHRISTOPHER R. ROTHGERY

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**JUDGMENT ENTRY**

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**IN THE COURT OF COMMON PLEAS  
LORAIN COUNTY, OHIO**

CITY OF LORAIN	)	CASE NO.: 11 CV 171304
	)	
Plaintiff	)	
	)	JUDGE CHRISTOPHER R. ROTHGERY
vs.	)	
	)	
EDWIN R. PERKINS, Trustee, et al	)	<b><u>CONSENT DECREE</u></b>
	)	<b><u>JUDGMENT ENTRY</u></b>
Defendants	)	
	)	

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The City of Lorain filed its Complaint to Quiet Title to real property bearing Permanent Parcel No. 02-01-004-115-001, further known as Streator Park, located between West 10<sup>th</sup> Street and West 11<sup>th</sup> Street, west of Reed Avenue in Lorain, OH. The action requested an order and decree that the title and interest of the Plaintiff, City of Lorain, be quieted against successors, assigns, etc. of Edwin R. Perkins, Trustee of a trust established by Worthy S. Streator. The restrictive covenants from which the City of Lorain is seeking relief are contained in a deed from Worthy S. Streator, Trustee to the then Village of Lorain dated March 15, 1895 and recorded April 12, 1895.

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By this Quiet Title Action, Plaintiff, City of Lorain, has requested an order and decree that it is the owner of the described parcel of land as an indefeasible fee simple, entitled to exclusive possession and control of the parcel, and that the Edwin R. Perkins, Trustee, his successors and assigns be restrained from interfering with Plaintiff’s exclusive possession and control of the parcel.

### SETTLEMENT AND CONSENT DECREE

The parties have resolved this matter, and are jointly submitting this Consent Decree. In anticipation of resolution of this matter, the City of Lorain has split the original property into three (3) separate parcels, and has conveyed the following properties to the Lorain Port Authority. The document Identification Numbers show the location of the three (3) Limited Warranty Deeds from the City of Lorain to the Port Authority. A copy of the survey map prepared by Douglas A. Hasel, Professional Surveyor, is attached hereto as "Exhibit 1". The separate parcels are as follows:

Parcel A consisting of 1.51 acres of land containing the Carnegie Library bearing Permanent Parcel No. 02-01-004-115-003, Document ID Number 2013-0465012, is fully described in the attached "Exhibit 1-A";

Parcel B consisting of .55 acre of land bearing Permanent Parcel No. 02-01-004-115-004, Document ID Number 2013-0465013, is fully described in the attached "Exhibit 1-B"; and

Parcel C consisting of 1.38 acres of land bearing Permanent Parcel No. 02-01-004-115-005, Document ID Number 2013-0465014, is fully described in the attached "Exhibit 1-C".

The City of Lorain, through Lorain Port Authority, will convey Parcel A to the Black River Historical Society, which shall also have the option to become the owner of Parcel B, at its request.

By agreement of the parties and by order of this Court, the relief sought by Plaintiff, City of Lorain is granted, in part. The deed restrictions contained in the original deed from Worthy S. Streator, Trustee dated March 15, 1895, modified on September 22, 1902 are hereby modified for the properties described in "Exhibits 1-A, 1-B and 1-C" to read as follows:

The property may be used for any municipal purposes, including, but not limited to use as a park or recreation area, for arts organizations, historical societies, sports organizations, educational institutions or organizations, medical clinics, community centers, veteran's organizations, or such other organizations or

institutions that are established to provide a benefit to the community and its inhabitants.

Plaintiff, City of Lorain, shall cause the above legend to be contained in corrective deeds conveying the above-described parcels to the Lorain Port Authority, and any further conveyances by the Lorain Port Authority shall bear these deed restrictions.

Costs to Plaintiff, City of Lorain.

---

Christopher R. Rothgery, Judge

Submitted by:

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Russell T. McLaughlin  
Attorney for Defendants

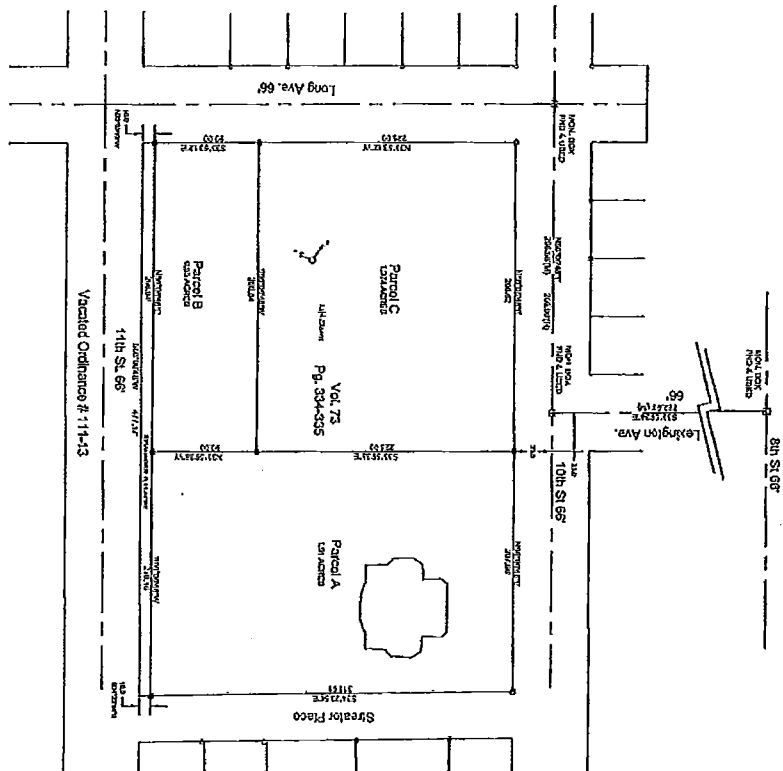
---

Donald M. Zaleski  
Attorney for Plaintiff City of Lorain, OH



References:  
 Selah Chamberlain Trustee Subdivision V. 2, Pg. 14  
 Liberty easement Deed File #212, as recorded  
 at the Lorain City Auditor's office.  
 Streater Park Deed Vol. 72, Pg. 334, 335 recorded  
 at the Lorain County Recorder's office.  
 Survey of parcel 0201004144014 by Schloter,  
 Peter and Associates, 2004, kept on electronic  
 file at the Lorain County Engineers office.  
 Survey of parcel 0201004111003, thru 009,  
 kept on electronic file at the Lorain County  
 Engineers office.  
 Survey of Parcel 0201003110001 and  
 0201003125013 by Pat McGarran kept on  
 electronic file at Lorain County Engineers office.

Field surveyed January 28 & 29, 2013  
 by Douglas Hagan, P.S. 8412  
 Basis of bearing is grid north,  
 Ohio North Zone NAD 83



Note: Only copies signed in red ink shall  
 be considered valid.


Douglas A. Hagan, P.S. 8412

- -ADJUNCTIVE DOX FOUND
  - -SPT REBAR SET
  - -IP FOUND
- Graphic Scale 1" = 50'

Lorain County, Ohio  
 Lorain City  
 Original Block River Trwp.  
 Part of Original Lot #4  
 Selah Chamberlain Trustee Subdivision  
 P.P. 02-01-004-11-001

**DEFENDANT'S  
 EXHIBIT**

**1**

	CITY OF LORAIN ENGINEERING DEPARTMENT 200 W. ERE AVE. 4TH FLOOR LORAIN, OHIO 44052 PH (440) 204-2003 FAX (440) 204-2522	Date: Drawn By: CH'D BY:	DATE 02/21/2013	DESCRIPTION Section of W. 11th Street	BY DM
			REVISIONS		

LOT SPLIT CITY OF LORAIN  
 STREATOR PARK  
 BETWEEN 10TH AND 11TH STREET  
 SELAH CHAMBERLAIN SUBDIVISION  
 VOLUME 2 PAGE 11  
 CITY OF LORAIN  
 COUNTY OF LORAIN, STATE OF OHIO



1096



Doc ID: 017618730002 Type: OFF  
Kind: DEEDS  
Recorded: 06/10/2013 at 03:09:22 PM  
Fee Amt: \$28.00 Page 1 of 2  
Lorain County, Ohio  
Judith M Nedwick County Recorder

LIMITED WARRANTY DEED

#11e **2013-0465012**

**KNOW ALL MEN BY THESE PRESENTS:**

That the City of Lorain, Ohio for Ten Dollars and 00/100 (\$10.00) and other valuable consideration paid, and pursuant to authority of Lorain City Ordinance No 66-13, grants, with limited warranty covenants to the Lorain Port Authority, whose tax mailing address is 611 Broadway, Lorain, Ohio 44052, the following described Real Property:

See Exhibit "A" attached hereto.

*0.4 73 P. 324*

IN WITNESS WHEREOF, the Grantors hereunto set their hands this 5 day of June, 2013.

Signed and acknowledged in the presence of:

*[Signature]*  
Witness

*[Signature]*  
Robert Fowler  
Safety/Service Director  
City of Lorain, Ohio

STATE OF OHIO     )  
                                  SS  
COUNTY OF LORAIN )

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Robert Fowler, Safety/Service Director of the City of Lorain, who acknowledged that he did sign the foregoing instrument and that same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio this 5<sup>th</sup> day of June, 2013.

*[Signature]*  
NOTARY PUBLIC

Janice J. Miller  
Notary Public  
State Of Ohio  
My Commission Expires: 8-22-14

This instrument was prepared by:  
The City of Lorain, Ohio  
Office of the Director of Law  
200 West Erie Avenue  
City Hall, 7<sup>th</sup> floor  
Lorain, OH 44052

**TRANSFERRED**

IN COMPLIANCE WITH SEC. 319-202  
OHIO REV. CODE

JUN 10 2013

J. CRAIG SNODGRASS, CPA, CGFM  
LORAIN COUNTY AUDITOR

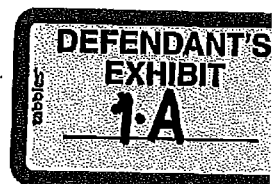


Exhibit A  
Parcel A

Situated in the City of Lorain, County of Lorain, and the State of Ohio and being part of Original Lot 4 of Black River Township, Tract 1 and part of Selah Chamberlain Trustee Allotment subdivision as recorded in Volume 2 Page 11 of the Lorain County Recorders office, Lorain County Ohio, known as the unallotted portion of blocks 12 & 13, bounded and described as follows:

Beginning at an iron pin found in a monument box at the intersection of W. 10<sup>th</sup> Street (66' wide) and Lexington Ave. (66' wide);

Thence N56°06'48"E, 33.0' along the centerline of 10<sup>th</sup> St.;

Thence S33°56'38"E, 33.0' to the south right of way of 10<sup>th</sup> St, and a 5/8" rebar set at the principal point of beginning;

Thence N56°06'48"E, 207.66' along the south right of way of 10<sup>th</sup> St. to a 5/8" rebar set and the south west corner of the right of way of W. 10<sup>th</sup> St and Streator Place;

Thence S34°23'54"E, 315.01' along the west right of way line of Streator Place to 5/8' rebar set;

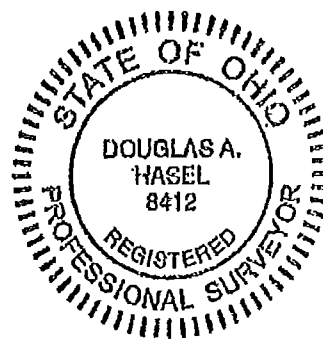
Thence S56°06'48"W, 210.23' thru said parcel to a 5/8" rebar set;

Thence N33°56'38"W, 315.0' thru said parcel to be split to a 5/8" rebar set along the south right of way of W 10<sup>th</sup> St. and the principal point of beginning and containing within said bounds 1.51 acres of land, be the same more or less but being subject to all legal highways, as surveyed by Douglas Hasel, registered surveyor #8412, January, 2013.

Basis of bearing is the Ohio State Planes Grid System, Zone North

LORAIN COUNTY TAX MAP DEPT.  
P. P. No. 02-01-004-115-003

LORAIN CITY OF  
200 WEST ERIE AVE  
LORAIN, OH 44052



*Douglas A Hasel P.S. 6/3/2013*

APPROVED BY THE LORAIN CITY PLANNING  
COMMISSION..... NO PLAT REQUIRED

*[Signature]*  
SECRETARY LORAIN CITY PLANNING COMMISSION

Legal description reviewed by TB  
on 6/10/13 per ORC, Section 5713.00

revised 5/31/2013



Doc ID: 017518740002 Type: OFF  
Kind: DEEDS  
Recorded: 06/10/2013 at 03:09:44 PM  
Fee Amt: \$28.00 Page 1 of 2  
Lorain County, Ohio  
Judith M Hedwick County Recorder  
File 2013-0465013

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That the City of Lorain, Ohio for (\$0.00) and other valuable consideration, grants, with limited warranty covenants to the City of Lorain, Ohio whose tax mailing address is 200 West Erie Avenue, Lorain, Ohio 44052, the following described Real Property:

See Exhibit "A" attached hereto.  
DV 73 334

IN WITNESS WHEREOF, the Grantors hereunto set their hands this 5 day of June, 2013.

Signed and acknowledged in the presence of:

Leon Masz  
Witness

Robert Fowler  
Robert Fowler  
Safety/Service Director  
City of Lorain, Ohio

STATE OF OHIO     )  
                                  SS  
COUNTY OF LORAIN     )

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Robert Fowler, Safety/Service Director of the City of Lorain, who acknowledged that he did sign the foregoing instrument and that same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio this 5<sup>th</sup> day of JUNE, 2013.

Janica J. Miller  
NOTARY PUBLIC  
Janica J. Miller  
Notary Public  
State Of Ohio  
My Commission Expires:  
8-22-15

This instrument was prepared by:  
The City of Lorain, Ohio  
Office of the Director of Law  
200 West Erie Avenue  
City Hall, 7<sup>th</sup> floor  
Lorain, OH 44052

**TRANSFERRED**  
IN COMPLIANCE WITH SEC. 319-202  
OHIO REV. CODE  
JUN 10 2013  
J. CRAIG SNODGRASS, CPA, CGFM  
LORAIN COUNTY AUDITOR

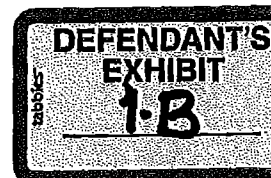


Exhibit ~~B~~ A  
Parcel B

Situated in the City of Lorain, County of Lorain, and the State of Ohio and being part of Original Lot 4 of Black River Township, Tract 1 and part of Selah Chamberlain Trustee Allotment subdivision as recorded in Volume 2 Page 11 of the Lorain County Recorders office, Lorain County Ohio, known as the unallotted portion of blocks 12 & 13, bounded and described as follows:

Beginning at an iron pin found in a monument box at the intersection of W. 10<sup>th</sup> Street (66' wide) and Lexington Ave. (66' wide)

Thence N56°06'48"E, 33.0' along the centerline of 10<sup>th</sup> St.:

Thence S33°56'38"E, 258.0' thru said parcel to be split to a 5/8" rebar set and thru a 5/8" rebar set at 33.0' on the south right of way of W 10<sup>th</sup> St. (66' wide) and the principal point of beginning:

Thence continuing S33°56'38"E, 90.0' to a 5/8" rebar set ;

Thence S56°06'48"W, 266.94' thru said parcel to a 5/8" rebar set on the east right of way of Long Ave. (66' wide);

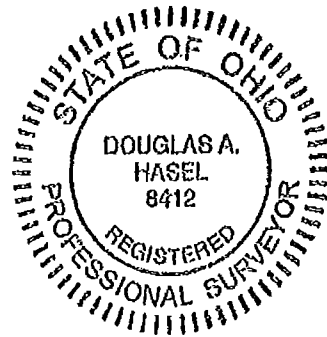
Thence N33°53'12"W, 90.0' along the east right of way of Long Ave. to a 5/8" rebar set;

Thence N56°06'48"E, 266.84' thru said parcel to be split to a 5/8" rebar set and the principal point of beginning and containing within said bounds 0.55 acres of land, be the same more or less but being subject to all legal highways, as surveyed by Douglas Hasel, registered surveyor #8412, January, 2013.

Basis of bearing is the Ohio State Planes Grid System, Zone North

LORAIN COUNTY TAX MAP DEPT.  
P.P. No. 02-01-004-115-004

LORAIN CITY OF  
200 WEST ERIE AVE  
LORAIN, OH 44052



Legal description reviewed by TS  
on 6/10/13 per ORC, Section 5713.09

APPROVED BY THE LORAIN CITY PLANNING  
COMMISSION..... NO PLAT REQUIRED

  
SECRETARY LORAIN CITY PLANNING COMMISSION

*Douglas A. Hasel 125 6/3/2013*

revised 05/31/2013



1098



Doc ID: 017518750002 Type: OFF  
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Recorded: 06/10/2013 at 03:09:58 PM  
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Judith M Nedwlok County Recorder  
File **2013-0465014**

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See Exhibit "A" attached hereto. *D.V. 23 P. 334*

IN WITNESS WHEREOF, the Grantors hereunto set their hands this *5<sup>th</sup>* day of *JUNE*, 2013.

Signed and acknowledged in the presence of:

*Leon Mason*  
\_\_\_\_\_  
Witness

*[Signature]*  
\_\_\_\_\_  
Robert Fowler  
Safety/Service Director  
City of Lorain, Ohio

STATE OF OHIO        )  
                                  SS  
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BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Robert Fowler, Safety/Service Director of the City of Lorain, who acknowledged that he did sign the foregoing instrument and that same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio this *5<sup>th</sup>* day of *JUNE*, 2013.

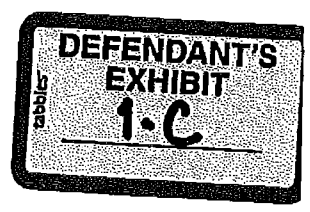
*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

Janice J. Miller  
Notary Public  
State Of Ohio  
My Commission Expires:  
*8-22-16*

This instrument was prepared by:  
The City of Lorain, Ohio  
Office of the Director of Law  
200 West Erie Avenue  
City Hall, 7<sup>th</sup> floor  
Lorain, OH 44052

**TRANSFERRED**  
IN COMPLIANCE WITH SEC. 319-202  
OHIO REV. CODE  
JUN 10 2013  
*Feet 20*

J. CRAIG SNODGRASS, CPA, CGFM  
LORAIN COUNTY AUDITOR



5455 Detroit Road  
Sheffield Village, Ohio 44054  
Tel: 440.930.4001

# Stumphauzer ∴ O'Toole

Direct: 440.930.4001  
Email: [rmclaughlin@sheffieldlaw.com](mailto:rmclaughlin@sheffieldlaw.com)

August 1, 2013

Donald M. Zaleski, Esq.  
Lorain City Law Department  
200 West Erie Avenue, 7<sup>th</sup> Floor  
Lorain, Ohio 44052

Re: *City of Lorain v. Edwin R. Perkins, Trustee, et al.*  
Case No. 11 CV 171304, Lorain County Court of Common Pleas

Dear Mr. Zaleski:

Enclosed, please find the latest version of our Consent Decree/Judgment Entry.

My suggestion is to have the City of Lorain re-convey the three properties to the Port Authority containing the legend/deed restrictions contained on page 3.

I believe that it is now agreed by all that the requirement of a reverter that was contained in the two disposition agreements can be eliminated, due to the deed restrictions.

Please let me know if there are any other details to be addressed for the City of Lorain.

Sincerely,



Russell T. McLaughlin  
RTM/nrm  
Enclosures

cc: Robert Fowler, City of Lorain, Safety/Service Director  
Barb Piscopo, Black River Historical Society  
Honorable Ronald E. Cinniger

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**IN THE COURT OF COMMON PLEAS  
LORAIN COUNTY, OHIO**

CITY OF LORAIN	)	CASE NO.: 11 CV 171304
	)	
Plaintiff	)	
	)	JUDGE CHRISTOPHER R. ROTHGERY
vs.	)	
	)	
EDWIN R. PERKINS, Trustee, et al	)	<u>CONSENT DECREE</u>
	)	<u>JUDGMENT ENTRY</u>
Defendants	)	
	)	

**BACKGROUND**

The City of Lorain filed its Complaint to Quiet Title to real property bearing Permanent Parcel No. 02-01-004-115-001, further known as Streator Park, located between West 10<sup>th</sup> Street and West 11<sup>th</sup> Street, west of Reed Avenue in Lorain, OH. The action requested an order and decree that the title and interest of the Plaintiff, City of Lorain, be quieted against successors, assigns, etc. of Edwin R. Perkins, Trustee of a trust established by Worthy S. Streator. The restrictive covenants from which the City of Lorain is seeking relief are contained in a deed from Worthy S. Streator, Trustee to the then Village of Lorain dated March 15, 1895 and recorded April 12, 1895.

The 1895 Deed contained conditions that required the Parcel to be cleared, cleaned-up and graded within six (6) months, and further provides that the Parcel "shall be used for park

purposes only; no monuments shall be erected, but it may be used for the purpose of erecting therein a City or Town Hall.”

The original 1895 restrictions on the property were modified in 1902 to permit the construction of a Carnegie Library on the property.

By instrument titled “Grant of Easement,” dated September 22, 1902 (the “Easement Grant”), a conformed copy of which is on file with the Lorain County Recorder’s office at Miscellaneous Volume 5, Pages 46-47, Edward R. Perkins, the successor to Worthy S. Streater, as Trustee, granted to the City of Lorain the right to build a library building on the property.

The following appears in the Easement Grant (separation of points is ours, for clarity):

This Grant is made upon the following express conditions:

1<sup>st</sup>: Said library building shall be erected upon the north-east corner of said park at such place as the Board of Library Trustees may select.

2<sup>nd</sup>: Said building shall be so erected and maintained as to interfere with the use of said land for park purposes as little as possible, and shall be maintained in a neat, clean appearance, so as to beautify said park.

3<sup>rd</sup>: This grant shall be held to modify said deed so given by Worthy S. Streater, Trustee, to said City on the 15<sup>th</sup> day of March, 1895, only in the respect set out above; and shall in no wise interfere with, change or modify any of the other conditions or stipulations in said deed contained; nor shall it in any degree release said City from any liability to do and perform the matters and things by it to be done and performed as set forth in said deed.

By this Quiet Title Action, Plaintiff, City of Lorain, has requested an order and decree that it is the owner of the described parcel of land as an indefeasible fee simple, entitled to exclusive possession and control of the parcel, and that the Edwin R. Perkins, Trustee, his successors and assigns be restrained from interfering with Plaintiff’s exclusive possession and control of the parcel.