

AN ORDINANCE VACATING THE ALLEY SOUTH OF WEST 21ST STREET FROM THE EASTLINE OF REID AVENUE EASTERLY 162.00 FEET AND AUTHORIZING THE SERVICE DIRECTOR OF THE CITY OF LORAIN, OHIO, TO ENTER INTO A LICENSE AGREEMENT AND DECLARING AN EMERGENCY.

WHEREAS, a petition signed on June 20, 1983, by 100% of the owners of property abutting the frontage and that portion of the alley south of West 21st Street from the eastline of Reid Avenue easterly 162.00 was clearly presented to City Council praying that said part of the alley be vacated; and

WHEREAS, on the 25th day of July, 1983, the Buildings and Lands Committee referred said matter for public hearing; and

WHEREAS, on the 6th day of September, 1983, a public hearing was held to consider the matter of vacating the subject alley; and

WHEREAS, after deliberation and following the public hearing held on September 6, 1983, the Buildings and Lands Committee of Lorain City Council approved said vacation; and

WHEREAS, City Council, upon hearing is satisfied that there is good cause for such vacation as prayed for, that it will not be detrimental to the general interest and ought to be made; and

WHEREAS, under the provisions of Section 723.06, ORC notice of pendency and prayer of said petition is not required.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LORAIN, STATE OF OHIO:

SECTION I. That the alley south of West 21st Street from the eastline of Reid Avenue easterly 162.00 feet, be the same is hereby vacated, subject however to the reservations that the City of Lorain, Ohio does and shall continue to have a License to permit the vehicular general public to pass over and across the premises held by the St. Joseph Hospital of Lorain Foundation, Inc., within the limits and at the location set forth in Exhibit "A" attached hereto and made a part hereof.

SECTION II. That the Service Director is hereby authorized and empowered to enter into on behalf of the City of Lorain, the License Agreement appended hereto marked as Exhibit "B" and made a part hereof.

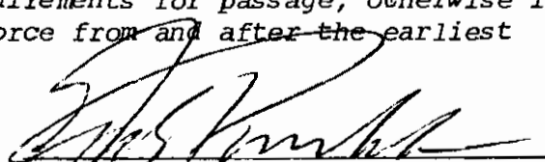
SECTION III. That the part of the alley vacated herein shall become and the title thereto shall vest in the St. Joseph Hospital of Lorain Foundation, Inc.

SECTION IV. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public and in compliance with all legal requirements, including Section 121,22, Ohio Revised Code.

SECTION V. That this ordinance is hereby declared to be an emergency, the nature of the emergency being the immediate need to vacate the alley south of West 21st Street from the eastline of Reid Avenue easterly 162.00 feet. Therefore, this ordinance shall take effect immediately upon its passage and approval by the Mayor providing it receives the statutory requirements for passage, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

LEGAL DEPARTMENT  
CITY OF LORAIN, OHIO  
EDWARD M. ZALESKI  
LAW DIRECTOR  
CITY HALL - 7TH FLOOR  
LORAIN, OHIO 44082-1683  
PHONE: (318) 244-5663

PASSED: 6 September, 1983



ATTEST: Arlene K. Kokinda CLERK

APPROVED: 7 September, 1983



MAYOR

I, ARLENE K. KOKINDA, CLERK OF COUNCIL OF THE CITY OF LORAIN, OHIO, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE COPY OF ORDINANCE/RESOLUTION NO. 123-83 PASSED ON THE 6th DAY OF September, 1983 BY SAID COUNCIL AND TAKEN FROM THE RECORDS ON FILE IN THE OFFICE OF THE CLERK OF COUNCIL.

8-20-85 Arlene K. Kokinda  
DATE CLERK OF COUNCIL

RECORDED

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LICENSE AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 1983, by and between COOK AND BATISTA CO., L.P.A., TRUSTEE FOR ST. JOSEPH HOSPITAL OF LORAIN FOUNDATION, INC., (hereinafter referred to as "Trustee"), and THE CITY OF LORAIN, OHIO, (hereinafter referred to as "City"),

WITNESSETH:

WHEREAS, Trustee holds title to a parcel of real estate located at the intersection of Reid Avenue and West 21st Street in the City of Lorain, Ohio; and

WHEREAS, said parcel of real estate is bisected by a city alley; and

WHEREAS, Trustee has petitioned the City to vacate that alley so that the vacated portion of the alley may be used by Trustee in the construction of a medical office facility; and

WHEREAS, the vacation of the alley would result in a dead-end to the alley without means for ingress and egress; and

WHEREAS, the parties desire to provide for a means by which the vehicular public may have ingress and egress to the alley over the premises owned by the Trustee;

NOW THEREFORE, this Agreement WITNESSETH:

Upon vacation of that portion of the public alley over and across the Trustee's premises located at the intersection of Reid Avenue and West 21st Street, the Hospital agrees to permit and does hereby license the vehicular general public to pass over and across the Trustee's premises within the limits and at the locations set forth on the sketch attached hereto, marked "Exhibit A", and made a part hereof, as a means of ingress and egress from West 22nd Street and Reid Avenue to the remainder of the public alley not vacated and

lying easterly of the Trustee's premises.

It is further understood and agreed that such permissive use shall in no way create any liability or obligation by the Hospital to either the City or the general public, and is extended as an accomodation to the City, and shall not give rise to any property right in the Trustee's premises in favor of either the City or the general public, and shall remain a license terminable at will, with the understanding that said license and use shall not be terminated by the Trustee or by the Trustee's successors and assigns, unless the use by the general public materially interferes with the use of the premises by the Trustee or the Trustee's successors and assigns. Whether the use of the property pursuant to this license results in a material interference justifying the termination of the license shall be determined, unless the parties otherwise agree, by a three (3) member arbitration panel, one member chosen by the hospital, one member chosen by the City, and the third member chosen by mutual agreement of the two appointed arbitrators.

This Agreement shall bind and inure to the benefit of the Trustee's and the City's successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their signatures on the day and year first above written.

COOK AND BATISTA CO., L.P.A.,  
TRUSTEE FOR ST. JOSEPH HOSPITAL  
OF LORAIN FOUNDATION, INC.

by: \_\_\_\_\_

THE CITY OF LORAIN, OHIO

by: \_\_\_\_\_

CERTIFICATE OF FILING

State of Ohio }  
Lorain County } SS

I, JULIAN A. PIJOR, the duly elected, qualified and acting Auditor in and for the County and State aforesaid, do hereby certify that Arlene K. Kokinda

the duly elected, qualified and acting Clerk of Council  
in and for said City of Lorain, Ohio County of Lorain, Ohio,

and ex-officio Fiscal Officer for said District, has this day officially filed in the office of the Auditor of Lorain County a certified copy of ORDINANCE NO. 123-83

providing for an ordinance vacating the alley south of WEST 21ST ST. from  
~~in the name of~~ the eastline of REID AVE. easterly 162.00' & authorizing  
the Service Director of City of Lorain, Ohio, to enter  
into a license agreement & declaring an emergency.

WITNESS my hand and Official Seal at Elyria, Ohio this 21st day of August 1985.

*Julian A. Pajor*  
County Auditor in and for  
Lorain County, Ohio

(SEAL)

#16210

APPROVED  
LORAIN CO.  
MAP DEPT.

DATE 8.28.85

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BY T. McMain

VOID  
IF TFA