

LORAIN COUNTY



COMMISSIONERS

Commissioners

*Herbert J. Jacoby
Mary Jo Vasi
E.C. (Betty) Blair*

April 14, 1995

Mr. Jack Lesnick
Clerk of Council
Elyria City Hall
328 Broad Street
Elyria, Ohio 44035

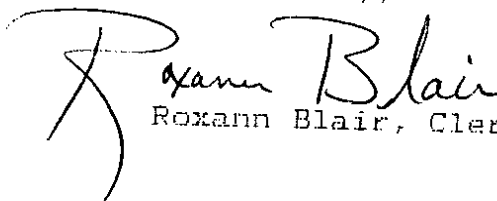
Dear Mr. Lesnick:

We are enclosing the transcript of proceedings granting the annexation of 0.699 acres of land in Carlisle Township to the City of Elyria.

The Board of Commissioners adopted Resolution No. 95-198 on March 9, 1995 granting the annexation.

This is being forwarded for your information and files.

Yours truly,


Roxann Blair, Clerk

RB/dw
Enclosure
cc:

Attorney Garrett Murray
Carlisle Township Clerk
Appraisal Department
Attorney Al Schrader
Lorain County Auditor
Lorain County Engineer
Lorain County Recorder
Tax Map — *6 (HERE IS THAT)?*
Board of Elections
9-1-1

In the matter of granting)
 Annexation of property in)
 Carlisle Township to the City)
 of Elyria, Ohio. Attorney) March 9, 1995
 Garrett Murray acting on be-)
 half of Joseph Rotuno, Agent)

WHEREAS, petition was submitted to this office on July 26, 1994 for the proposed annexation of approximately 1.48 acres in Carlisle Township to the City of Elyria; and

WHEREAS, after due and legal notice, a public hearing was held on October 19, 1994. The meeting was opened and by Resolution No. 94-779-A, the hearing was continued until November 10, 1994 at 9:30 A.M.; and

WHEREAS, Attorney Al Schrader, Legal Counsel for Carlisle Township, stated that Mr. Rotuno has agreed to amend his petition to withdraw the current Convenient Food Mart property; and

WHEREAS, a deed restriction must be provided that indicates that land will not be annexed from Carlisle Township to the City of Elyria without prior approval of the Township which would not be unreasonably withheld; and

WHEREAS, if these conditions are met, the Commissioners would not require an additional hearing. If the conditions are not met, the hearing will go forward; and

WHEREAS, Attorney Murray advised this office that the Township Trustees, the City of Elyria and the Petitioners have reached an agreement and presented same to this Board for approval; and

WHEREAS, Attorney Murray submitted the Agreement to the Commissioners and is requesting a reduction in acreage from 1.48 acres to 0.699 acres, an amended legal description and map indicating the reduction in acreage was submitted for the Commissioners approval.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of Lorain County, Ohio, that based upon an Agreement which has been approved by the Carlisle Township Trustees, the City of Elyria and Petitioners, we do and hereby grant annexation for 0.699 acres in Carlisle Township to the City of Elyria which Contract reads as follows:

CONTRACT

THIS CONTRACT, entered into by and between JOSEPH AND DONNA ROTUNO, hereinafter "property owners", the CITY OF ELYRIA, hereinafter "Elyria", and the CARLISLE TOWNSHIP BOARD OF TRUSTEES, hereinafter "Carlisle", on the 20th, day of February 1995;

WHEREAS, Joseph and Donna Rotuno have petitioned the Board of Commissioners of Lorain County, Ohio, for annexation of 0.699 acres of real estate, as more fully described in Exhibit "A"; and

WHEREAS, the City of Elyria has, by Ordinance 94-284, authorized the Mayor to enter into a settlement agreement with Carlisle Township for the annexation of 0.699 acres of real estate in Carlisle Township to the City of Elyria; and

WHEREAS, the Board of Trustees of Carlisle Township have by resolution authorized the terms of this Agreement; and

WHEREAS, the consideration for this Agreement is to resolve outstanding legal issues between the parties regarding the annexation; and

WHEREAS, the legal authority for this Agreement is generally found in 709.19 of the Ohio Revised Code and in the general corporate powers of Elyria and Carlisle Township.

WHEREAS, this Agreement is in the best interest of all parties and the residents of both City and Township;

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. The Township will withdraw any objection to the annexation of 0.699 acres in Carlisle Township to the City of Elyria, as described in Exhibit "A".
2. That this annexation is a portion of a larger proposed annexation of 1.48 acres of land, which has been reduced in size by the agreement of all parties to the current 0.699 acres of real estate.
3. Attached hereto and incorporated herein by reference; and marked Exhibit "B", is a deed restriction indicating that the Convenient Food Mart property, representing the difference in acreage between the larger parcel and the current annexation parcel described in the Paragraph above, will not be annexed from Carlisle Township to the City of Elyria without prior approval of the Carlisle Township Board of Trustees, which approval the Township Trustees hereby agree will not be unreasonably withheld.

Resolution No. 95-198 con't.

4. The Township, for a period of 20 years from the effective date of the annexation of 0.699 acres of land, will invoice the City for an amount equal to the real estate tax the Township would have obtained at current tax rates and tax valuations, from those parcels had the land remained in Carlisle Township. This amount shall be known as the base rate and represents the land in its current undeveloped state.

5. For a period of 15 years, the City shall, based on the records of the Lorain County Auditor's Office, pay to the Township an amount equal to 25% of the real estate tax on the increased tax value of the real estate, due to development that the Township would have received had the property remained within Carlisle Township. These payments shall be made within thirty (30) days of receipt by the City of an invoice from the Township which shall be based on the records of the Lorain County Auditor's Office. The Township shall calculate the then current tax dollars generated by the property described in Exhibit "A". They shall deduct the amount of the base rate as described in the immediately preceding paragraph, and the balance will equal the increased taxes on the real estate due to development that the Township would have received had the land remained in Carlisle Township. Twenty-five Percent (25%) of the increased taxes shall be billed to the City and, within thirty (30) days of receipt, the City will pay that dollar amount to the Township each year for a period of 15 years.

6. That the specifics of how these invoices are sent for payments may be modified by further agreement of the City and Township Trustees.

IN WITNESS WHEREOF, we have set our hands this 20th, day of February 1995.

S/Joseph M. Rotuno, Property Owner
S/Donna L. Rotuno, Property Owner
S/Michael B. Keys, Mayor, City of Elyria
Pursuant to Ordinance 94-284 ✓
S/David P. Street, Trustee, Carlisle Township
S/Eleanor M. Pryce, Trustee, Carlisle Township
S/Kenneth C. Prechtel, Trustee, Carlisle Township

APPROVED AS TO FORM:
S/Terry S. Shilling, Solicitor
S/Alfred E. Schrader,
Annexation Counsel for Carlisle Twsp.
SD/Garrett J. Murray,
Attorney for Joseph and Donna Rotuno"

BE IT FURTHER RESOLVED, we do and hereby approve the declaration of covenants, conditions and restrictions as follows:

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration of Restrictions made this 20th day of February, 1995, by JOSEPH M. ROTUNO and DONNA L. ROTUNO, hereinafter referred to as the "Declarants".

WHEREAS, Declarants are the owners of 1.478 acres in Carlisle Township, which property was proposed to be annexed to the City of Elyria.

WHEREAS, Carlisle Township will withdraw any objection to the annexation of 0.699 acre of said 1.478 acre parcel from Carlisle Township to the City of Elyria.

WHEREAS, the hereinafter described real property, consisting of .779 acre, the difference in acreage between the larger parcel of 1.478 acres and the above 0.699 acre parcel, will not be annexed to the City of Elyria without prior approval of the Carlisle Township Board of Trustees, which approval the Township Trustees will not unreasonably withhold.

WHEREAS, a certain contract dated February 20, 1995 has been entered between the Declarants, the City of Elyria, and the Carlisle Township Board of Trustees, regarding the annexation of 0.699 acre to the City of Elyria without objection by the Trustees of Carlisle Township which contract is incorporated herein by reference.

WHEREAS, the Declarants have agreed to place a deed restriction on said .779 acre parcel to the effect that said parcel will not be annexed from Carlisle Township to the City of Elyria without prior approval of the Carlisle Township Board of Trustees, which approval the Township Trustees hereby agree will not be unreasonably withheld.

NOW, THEREFORE, in consideration for the withdrawal of the objection by Carlisle Township Board of Trustees to the annexation of 0.699 acre to the City of Elyria and other valid consideration, the Declarants for themselves, their heirs, executors, administrators and assigns covenant and agree as follows:

That the hereinafter described premises shall be subject to a covenant running with the land and shall be binding upon the Declarants, their heirs, executors, administrators and assigns; that said parcel will not be annexed from Carlisle Township to the City of Elyria without prior approval of the Carlisle Township Board of Trustees, which approval the Township Trustees agree will not be unreasonably withheld; to wit:

Resolution No. 95-198 con't.

Situated in the Township of Carlisle, County of Lorain, State of Ohio, being known as Sublot Nos. 6,7 and 8, and part of vacated Nelson Street, as shown in the John Kelley Plat, recorded in Volume 3, Page 2 of Lorain County Plat Records, and more definitely described as follows: Beginning in the southwesterly sideline of the Medina-Elyria Road at the most southerly corner of Sublot No. 6 in the John Kelley plat, recorded as aforesaid; Thence northwesterly in the southeasterly line of Sublot No. 6, a distance of about 165 feet to the westerly most corner of said subplot; said point also being in the existing corporation line of the City of Elyria; Thence northwesterly in the existing corporation line of the City of Elyria and in the southwesterly line of Sublot Nos. 6,7 and 8 inclusive in the John Kelley Plat recorded as aforesaid, a distance of about 205.62 feet to a point; Thence northeasterly, a distance of about 165 feet to a point in the southwesterly sideline of Medina-Elyria Road; Thence southeasterly in the southwesterly sideline of Medina-Elyria Road, a distance of about 205.62 feet to the place of beginning; Enclosing a parcel containing about 0.779 acres, but subject to all legal highways.

IN WITNESS WHEREOF, Declarants have executed this Declaration of Restrictions on the day and year first written above.

Signed and acknowledged
in the presence of:

DECLARANTS:

S/Lois A. Radabaugh
S/Garrett J. Murray

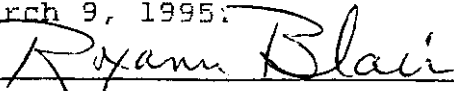
S/Joseph M. Rotuno
S/Donna L. Rotuno

A certified copy of the final transcript of this Board of County Commissioners relating to the findings and orders of this Board, together with the accompanying map and petition and all other papers pertaining thereto shall be delivered to the City of Elyria, Ohio.

The foregoing resolution was introduced upon a motion by Commissioner Elizabeth C. Blair, seconded by Commissioner Herbert J. Jacoby, and upon roll call, the vote taken thereon resulted as follows: both voted in favor of the motion. Commissioner Mary Jo Vasi, absent due to illness.

Motion carried.

I, Roxann Blair, Clerk to the Board of Commissioners of Lorain County, Ohio, hereby certify that this is a true copy of Resolution No. 95-198 as it appears in Journal No. 95 on the date of March 9, 1995.



Roxann Blair