

**CITY OF HIGHLAND HEIGHTS  
RESOLUTION NO. 18 – 2017**

INTRODUCED BY: Mayor Scott E. Coleman

MOTION BY: Council Representative Robert Mastrangelo

SECONDED BY: Council Representative Leo R. Lombardo

**A RESOLUTION ACCEPTING AN EASEMENT FROM K. HOVNANIAN ABERDEEN, LLC FOR THE INSTALLATION AND MAINTENANCE OF A WATER MAIN ONLY OVER AND ACROSS SAID AREA AND DECLARING AN EMERGENCY.**

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

Section 1. The City of Highland Heights, Ohio hereby accepts the grant of an easement from K. Hovnanian Aberdeen, LLC over a portion of its premises located in the City of Highland Heights, County of Cuyahoga and State of Ohio, said easement is to be used for the sole purpose of installing and maintaining a water main. A copy of said easement is attached hereto and marked Exhibit "A" and incorporated herein as if fully rewritten.

Section 2 That 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 3 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 easement granted herein is necessary to make an essential governmental improvement and the work is to begin on the water main immediately improving the water connections for the citizens of Highland Heights. It shall therefore take place 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

Second Reading: Suspended

Third Reading: Suspended

PASSED: April 25, 2017

ATTEST: *Regina Cahill*  
Clerk of Council

EFFECTIVE: 04/25/2017

APPROVED AS TO FORM: *Timothy G. Paluf*  
Timothy G. Paluf, Director of Law

*Carol Smutz*  
President of Council

Filed with Mayor: 04/25/2017

APPROVED: 04/25/2017

*Scott Chen*  
Mayor

STANDARD EASEMENT  
FOR THE  
INSTALLATION AND MAINTENANCE OF A WATER MAIN  
FOR CIRCULATION PURPOSES ONLY

We K. Hovnanian Aberdeen, LLC, the Grantor herein, for valuable consideration received and to be received to our full satisfaction, do hereby grant and convey to the City of Highland Heights, and to the City of Cleveland, political subdivision of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in the City of Highland Heights, County of Cuyahoga , State of Ohio, known as being part of the Original Mayfield Township Lot No.3, and bounded and described as follows:

---

A copy of the legal Description is  
attached hereto as Exhibit "A" and  
made a part hereof as If fully written  
herein.

---

Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assignees.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantees the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises, The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantees, become and remain the property of the Grantee (City, Village, Township, District) of HIGHLAND HEIGHTS, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, the City of Cleveland, now or hereafter in effect.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 - ½) feet above or one and one-half (1- ½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the dept of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than thirty (30) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become the property of Grantee, the (City, Village, Township, District) of HIGHLAND HEIGHTS.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from

any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor further agrees that since the water main to be installed on the premises is for circulation purposes only, no service connections or hydrants shall be connected to it at any time, and that divisional valves of the same size as the water main shall be installed at each longitudinal end of the premises.

The Grantor and the Grantees mutually agree that neither the recording of this instrument nor its acceptance by the Grantees shall be construed as a dedication of the premises or an agreement by the Grantees to accept the premises for dedication for public use as a street.

The Grantor covenants with the Grantees that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantees against all lawful claims and demands whatsoever for the purposes described herein.


TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at

LORAIN, OHIO this 31<sup>ST</sup> day of

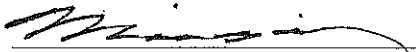
MARCH, 2017.

Signed in the Presence of:

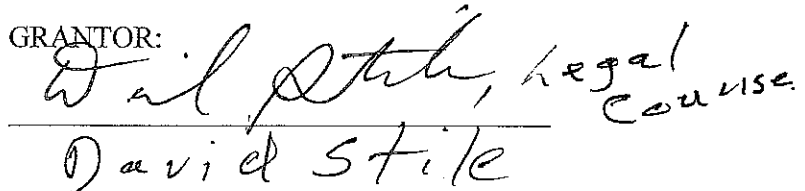


CHRIS W. BROWN

(print or type name)



GRANTOR:

 legal  
counsel.

David Stile

(print or type name)

Michael D. Mercier  
(print or type name)

This Instrument Prepared By:

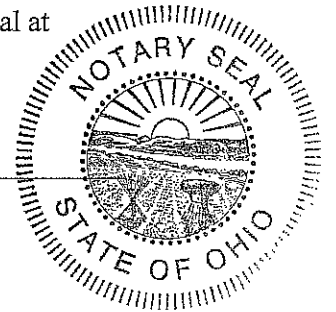
\_\_\_\_\_

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

Before me, a Notary Public in and for said County and State, personally appeared the above-named David Stile, who acknowledged that (he, they) did sign the foregoing instrument and that the same is (his, their) free act and deed, personally and as such officer(s) and the free act and deed of said (corporation, partnership).

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Lorain, OH, this 31<sup>st</sup> day of March, 2017.

Theresa Dominiak  
NOTARY



The legal form and correctness of the within instrument is hereby approved:

THERESA A. DOMINIAK  
Notary Public • State of Ohio  
My Commission Expires 11-25-17

[Signature]  
Director of Law

Highland Hts.  
(City, Village, Township, District)

4/25/17  
(Date)

Accepted by the Council of Highland Heights by

(Resolution/Ordinance) No. 18-2017

Passed April 25, 20 17.

Regina Cahill

Clerk or Assistant

4-25-2017  
(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within easement and all the terms and conditions thereof this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as authorized by Section 129.20 of the Codified Ordinances of Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of:

CITY OF CLEVELAND

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Director of Public Utilities

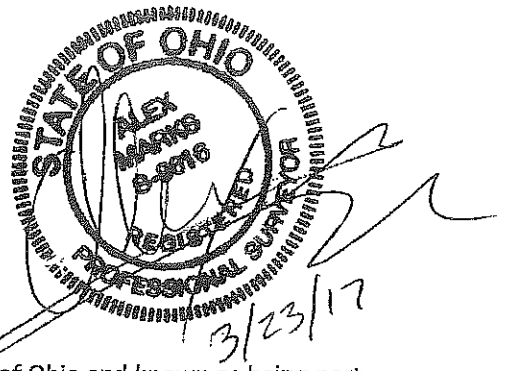
The legal form and correctness  
of the within instrument is  
hereby approved:

\_\_\_\_\_  
Director of Law

By: \_\_\_\_\_  
Assistant Director of Law

Date: \_\_\_\_\_

20' Water Easement  
14001041DE-01b  
March 23, 2017  
0.1114 acres



Situated in the City of Highland Heights, County of Cuyahoga, and State of Ohio and known as being part of Original Mayfield Township Lot 3, Tract No. 1 and being more fully bounded and described as follows:

Commencing at an Easterly corner of S/L 6 of North Legend Court at Aberdeen Subdivision Plat Vol.\_\_\_\_, PG.\_\_\_\_, said point also being the Place of Beginning of the easement herein described;

Course No. 1: thence South 34°14'16" West along the southeasterly line of said lot 6, a distance of 15.08 feet to a point;

Course No. 2: thence South 0°23'17" East, a distance of 17.60 feet to a point;

Course No. 3: thence South 34°14'16" West, a distance of 101.48 feet to a point on the northerly line of S/L 80 of the Legends at Aberdeen Subdivision Phase 6 as recorded in Plat Vol. 370, PG. 09 of the Cuyahoga County Records;

Course No. 4: thence North 77°02'19" West along the said northerly line of S/L 80, a distance of 1.14 feet to an iron pin at the northeasterly corner of S/L 81 of said subdivision;

Course No. 5: thence South 89°36'47" West along the northerly line of said S/L 81, a distance of 102.47 feet to an iron pin at the northwesterly corner thereof and being on the easterly line of a parcel of land now or formerly owned by City of Highland Heights as recorded in Volume 95-01950, Page 17 of the Cuyahoga County Records;

Course No. 6: thence North 0°23'13" West along the said easterly line of City property, a distance of 20.00 feet to a point thereon;

Course No. 7: thence North 89°36'47" East, a distance of 93.26 feet to a point;

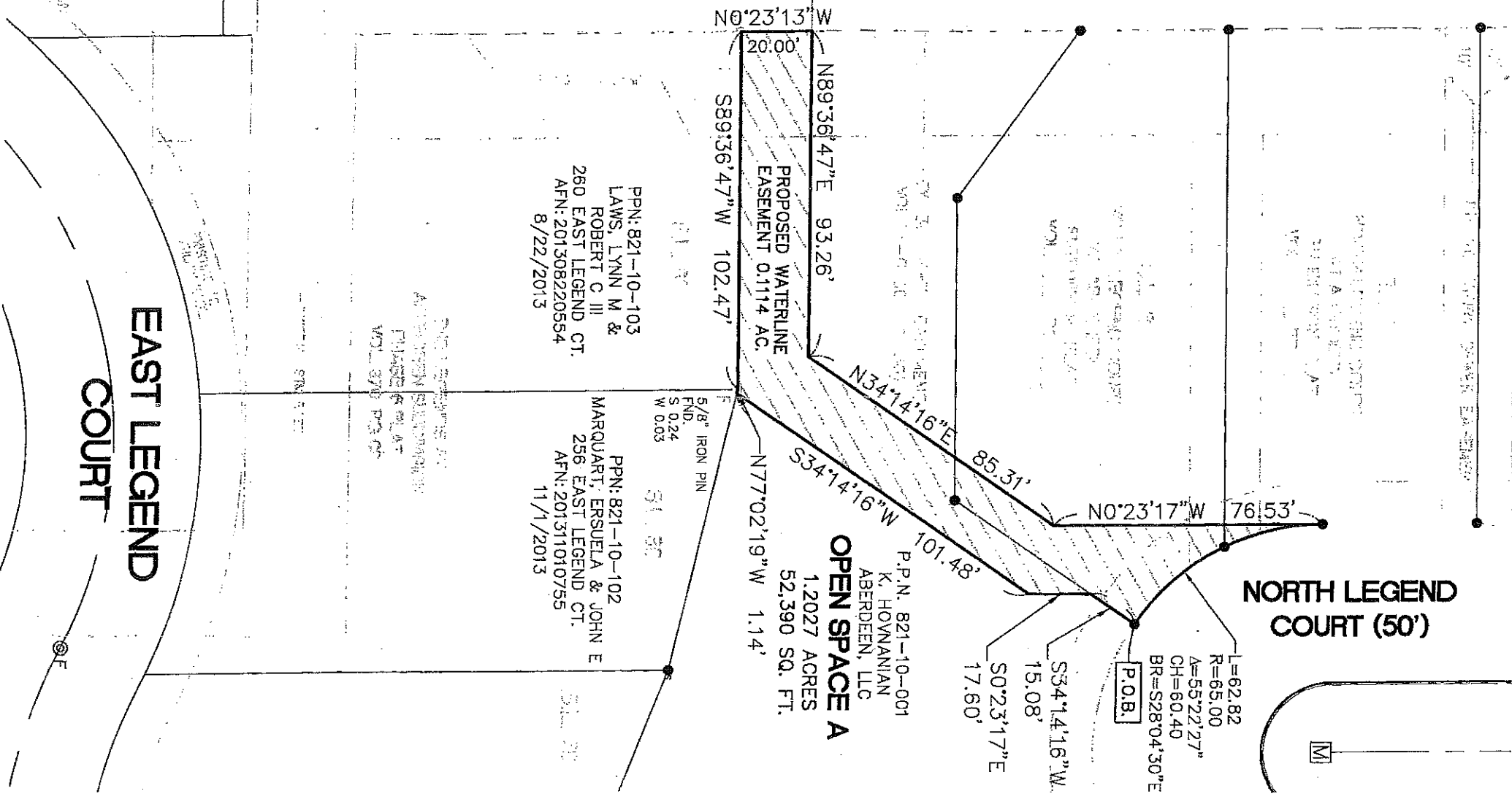
Course No. 8: thence North 34°14'16" East, a distance of 85.31 feet to a point;

Course No. 9: thence North 0°23'17" West, a distance of 76.53 feet to a point on the curved southwesterly line of North Legend Court;

Course No. 10: thence southeasterly along the said southwesterly line of North Legend Court and along an arc of a curve deflecting to the left, a distance of 62.82 feet, said curve having a radius of 65.00 feet, a delta of 55°22'27", and a chord distance of 60.40 feet bearing South 28°04'30" East to the place of beginning of the easement herein described, containing 0.1114 acres of land according to a survey by Atwell, LLC dated March 2017 and being the same more or less and being subject to all legal highways and easements.



PPN: 821-10-011  
 CITY OF HIGHLAND HEIGHTS  
 VOL: 95-01950, PG. 17  
 (STORM WATER MANAGEMENT AREA)



PPN: 821-10-103  
 LAWS, LYNN M &  
 ROBERT C III  
 260 EAST LEGEND CT.  
 AFN: 201308220554  
 8/22/2013

PPN: 821-10-102  
 MARQUART, ERSUELA & JOHN E  
 256 EAST LEGEND CT.  
 AFN: 2013101010755  
 11/1/2013

P.P.N. 821-10-001  
 K. HOVNANIAN  
 ABERDEEN, LLC  
**OPEN SPACE A**  
 1.2027 ACRES  
 52,390 SQ. FT.

PPN: 821-10-003  
 EMILY T WALLENS &  
 THOMAS W. HECKMAN  
 AFN: 201308130749  
 8/13/2013

THE LEGENDS AT  
 ABERDEEN  
 54400 ALBANY AVE  
 WILSON, OH 44095

CLIENT  
**K. HOVNANIAN**  
 20' WATERMAIN  
 EASEMENT

CITY OF HIGHLAND HEIGHTS,  
 COUNTY OF CUYAHOGA  
 STATE OF OHIO  
 PART OF ORIGINAL MAYFIELD  
 TOWNSHIP LOT 3

SCALE:  
 1 INCH : 40 FEET



JOB: 14001041	CAD: EX-01d
DR: MS	GH: AM
BOOK: X	PG: X
SHEET: 1 OF 1	DATE: 03/23/2017
FILE CODE: 14001041EX-01d	

**ATTWELL**  
 866.850.4200 | www.attwell-group.com  
 7100 E. PLEASANT VALLEY RD., SUITE 220  
 INDEPENDENCE, OH 44131  
 440.385.2000