

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

TRANSFERRED

City of Gahanna

Case No. 10 CVH -3-4173

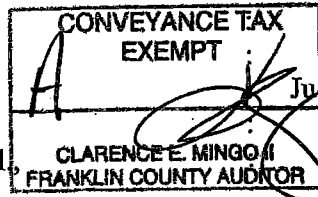
JUN 02 2011

Plaintiff,

v.

Donatos Pizzeria, LLC, et al,

Defendants.



Judge P. Sheeran

CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

FINAL JUDGMENT ENTRY

The City of Gahanna ("Gahanna") on the one hand, and Donatos Pizzeria, LLC ("Donatos Pizzeria"), as well as the Franklin County Treasurer, Columbus Southern Power Company, Ohio Bell Telephone Company, and The Huntington National Bank, on the other, submit this Final Judgment Entry whereby issues of the appropriation of property and the price to be paid are agreed upon and settled.

The Court, having examined the proceedings and finding them regular and in accordance with law, hereby ORDERS as follows:

1. The Huntington National Bank ("Huntington") has released its lien on Parcel 3-WD (Instrument Number 200405030099764 of the Official Records of Franklin County, Ohio) by recording a Partial Release of Real Estate from Lien of Mortgage (Instrument Number 201007230093967 of the Official Records of Franklin County, Ohio) (the "Partial Release") on July 23, 2010. A copy of Huntington's Partial Release is attached hereto as Exhibit A;
2. All right, title, interest, and estate in Parcel 3-WD described in the Complaint, a description of which is attached hereto as Exhibit B, subject to any easements of record, shall immediately vest in the City of Gahanna, an Ohio municipal corporation, free and clear of all claims of the owner of the subject property; the City of Gahanna shall also receive the immediate



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Daphne Hawk
Franklin County Recorder

EXHIBIT A

right to a temporary construction easement described as Parcel 3-T in the Complaint as reflected on Exhibit C hereto, all for the purpose of widening the intersection of Hamilton Road and Granville Street in Gahanna, Ohio;

3. Gahanna is liable for all real property taxes (if any) prorated to the date of this Final Judgment Entry, assessed against the real property appropriated to the extent they are not exempted or excepted from taxation;

4. Gahanna shall pay all costs accrued;

5. Upon the filing of this Final Judgment Entry with the Clerk of this Court, the Clerk shall immediately disburse the \$32,290.00 currently on deposit with the Court in this action to Donatos Pizzeria;

6. The Clerk of this Court shall furnish Gahanna with a certified copy of this Final Judgment Entry, and upon presentation of the same to the Recorder of Franklin County, the same shall be filed of record in the Recorder's Office;

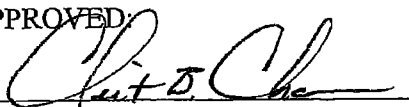
7. Pursuant to Ohio Revised Code 163.02(D), Donatos Pizzeria shall retain the right to repurchase these parcels should Gahanna decide to use them for any purpose other than those set forth in paragraph 1 of this Entry;

IT IS SO ORDERED.

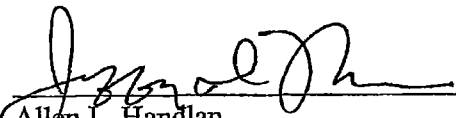
JUDGE PATRICK SHEERAN


THE STATE OF OHIO Franklin County, ss	I, MARYELLEN O'SHAUGHNESSY, Clerk OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY,
I HEREBY CERTIFY THAT THE ABOVE AND FORE- GOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>ENTRY</u>	
NOW ON FILE IN MY OFFICE	
TESTES MY HAND AND SEAL OF SAID COUNTY THIS <u>23rd</u> DAY OF <u>MAY</u> , A.D. 2011	
MARYELLEN O'SHAUGHNESSY, Clerk	
By <u>[Signature]</u>	Deputy


APPROVED:

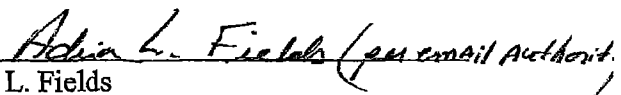

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Columbus, Ohio 43215
Counsel for Franklin County Treasurer

201007230093967
Pg: 4 \$49.00 T20100041262
07/23/2010 1:14PM BXKGLER-BROW
Robert G. Montgomery
Franklin County Recorder

Donatos Store #186
155 Granville Street
Gahanna, Ohio

83

PARTIAL RELEASE OF REAL ESTATE
FROM LIEN OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration received, the undersigned The Huntington National Bank does hereby release from the lien and operation of a certain Mortgage, Assignment of Rents and Security Agreement from Donatos Pizzeria, LLC, a Delaware limited liability company to The Huntington National Bank and recorded as Instrument Number 200405030099764 of the Official Records of Franklin County, Ohio its lien pertaining only to the property described herein as is known and described as follows:

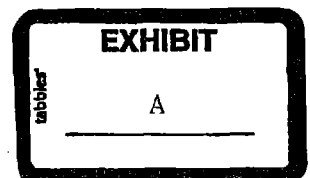
Situated in the State of Ohio, County of Franklin and City of Gahanna being 0.0375 acres, more or less, out of Parcel Number 025-000306-00 more accurately described in Exhibit "A" attached hereto and incorporated herein.

WITHOUT, however invalidating or affecting in any way, legal or equitable, the lien of said Mortgage(s) upon the remainder of the properties, real and personal, subject to said Mortgage(s), Assignments of Rents and Security Agreements.

IN WITNESS WHEREOF, the undersigned has set its hand this 31st day of March, 2010.

The Huntington National Bank, a
national banking association

By: William R. Remias
William R. Remias, Senior Vice President



STATE OF OHIO :
COUNTY OF FRANKLIN : ss:

The foregoing instrument was acknowledged before me this 31 day of March, 2010 by William P. Remias, Senior Vice President of The Huntington National Bank.



ANNETTE TUBAUGH
Notary Public, State of Ohio
My Commission Expires 02-27-11

Annette Tubaug

Notary Public

This Instrument Prepared by: Edward T. McClellan, Esq., Edward T. McClellan, LLC, 880 Mendes Court, Columbus, Ohio 43235; (614) 442-7611.

EXHIBIT A

PID
PARCEL
CTY-RTE-SEC
Version Date

Page 1 of 2
80811
3-WD
FRA-317-18.11
03/02/09

**PARCEL 3-WD
FRA-317-18.11
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF GAHANNA, FRANKLIN COUNTY, OHIO**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Franklin, City of Gahanna, being in the northeast quarter of Quarter Township 4, Township 1 North, Range 17 West, United States Military Lands, being part of a 0.7932 acre parcel conveyed to Donatos Pizzeria, LLC, a Delaware Limited Liability Company, by Instrument 200405030099763, Franklin County Records office, and also being on the left side of the centerline of right of way of State Route 317 (Granville Street) as shown on a centerline survey plat made in 2008, for the City of Gahanna titled "FRA-317-18.11" and bounded and described as follows:

Commencing at an aluminum disk in a monument box (FCGS 5019) found at the northeast corner of said Quarter Township 4, also being the intersection of the centerline of right of ways of Hamilton Road and Granville Street, being Hamilton Road Station 92+20.72 and Granville Street Station 10+09.40;

1. thence North 86 degrees 54 minutes 57 seconds West a distance of 288.50 feet, along the centerline of right of way of said State Route 317 (Granville Street), to a point on the easterly property line of the Grantor extended northerly, being centerline of right of way of Granville Street Station 12+97.90;
2. thence South 03 degrees 33 minutes 03 seconds West a distance of 45.00 feet, along said extension of the easterly property line of the Grantor, being the easterly line of right of way Parcel 53WV acquired by the City of Gahanna by Official Record 23530116 and the westerly line of right of way parcel 52WV acquired by the City of Gahanna by Official Record 25905G10, Franklin County Records office, to the northeast property corner of the Grantor on the existing southerly right of way line of said Granville Street, said point being the TRUE POINT OF BEGINNING and being 45.00 feet left of Station 12+98.27;
3. thence South 03 degrees 33 minutes 03 seconds West a distance of 10.00 feet, along said easterly property line of the Grantor, also being the westerly property line of a parcel conveyed to BP Exploration & Oil, Inc., an Ohio Corporation, by Instruments 199712220173114 and 199712220173212, Franklin County Records office, to a 3/4 inch diameter capped iron pin set 55.00 feet left of Station 12+98.35;
4. thence North 86 degrees 54 minutes 57 seconds West a distance of 145.65 feet to a PK nail set 55.00 feet left of Station 14+44.00;

EXHIBIT A

5. thence North 74 degrees 23 minutes 13 seconds West a distance of 24.90 feet to a ¼ inch diameter capped iron pin set on the westerly property line of the Grantor, 49.60 feet left of Station 14+68.30;
6. thence North 03 degrees 33 minutes 03 seconds East a distance of 4.60 feet, along said westerly property line of the Grantor, also being the easterly property line of a parcel conveyed to Daniel J. Morgenstern and Stephanie R. Morgenstern by Instruments 199904090089251 and 199904090089252, Franklin County Recorders office, to the northwest property corner of said Grantor on the existing southerly right of way line of said State Route 317 being 45.00 feet left of Station 14+68.27;
7. thence South 86 degrees 54 minutes 57 seconds East a distance of 170.00 feet, along said existing southerly right of way line of State Route 317, being the southerly line of Parcel 54WV acquired by the City of Gahanna by Official Record 23175A12 and the before mentioned Parcel 53WV, to the TRUE POINT OF BEGINNING.

The above described area is contained within Franklin County Auditor's Permanent Parcel Number 025-000306-00 and contains a gross take of 0.0375 acres more or less. This description was prepared by Jon D. Bruner, Professional Surveyor Number 7098 of The Mannik & Smith Group, on November 4, 2008.

This description is based on a survey made in 2006 by the W. E. Stilson Consulting Group under the direction and supervision of John Jeffrey Raab, Professional Surveyor Number 7863.

Grantor claims title by Instrument 200405030099763, Franklin County Recorders office.

The basis of bearings is North 03 degrees 48 minutes 37 seconds East used for Hamilton Road north of Granville Street and was provided by the Franklin County Engineer's Survey Department. The bearings are based on the Ohio State Plane Coordinate System, South Zone, and North American datum of 1983 (1986 Adjustment) as established from a GPS survey performed by the Franklin County Engineer's Survey Department in 1995, occupying monuments FCGS 8815 and FCGS 5019. Iron pins referred to as "set" are ¼ inch diameter, 30 inch long iron pipes with a yellow plastic cap stamped "W. E. Stilson".

Jon D. Bruner
Professional Surveyor #7098
The Mannik and Smith Group, Inc.
1800 Indian Wood Circle
Maumee, Ohio 43537

Date

EXHIBIT A

LPA RX 851 WD

Page 1 of 3

Rev. 06/09

Ver. Date 03/02/09

PID 80811

**PARCEL 3-WD
FRA-317-18.11
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF GAHANNA, FRANKLIN COUNTY, OHIO**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Franklin, City of Gahanna, being in the northeast quarter of Quarter Township 4, Township 1 North, Range 17 West, United States Military Lands, being part of a 0.7932 acre parcel conveyed to Donatos Pizzeria, LLC, a Delaware Limited Liability Company, by Instrument 200405030099763, Franklin County Recorders office, and also being on the left side of the centerline of right of way of State Route 317 (Granville Street) as shown on a centerline survey plat made in 2008, for the City of Gahanna titled "FRA-317-18.11" and bounded and described as follows:

Commencing at an aluminum disk in a monument box (FCGS 5019) found at the northeast corner of said Quarter Township 4, also being the intersection of the centerline of right of ways of Hamilton Road and Granville Street, being Hamilton Road Station 92+20.72 and Granville Street Station 10+09.40;

1. thence North 86 degrees 54 minutes 57 seconds West a distance of 288.50 feet, along the centerline of right of way of said State Route 317 (Granville Street), to a point on the easterly property line of the Grantor extended northerly, being centerline of right of way of Granville Street Station 12+97.90;
2. thence South 03 degrees 33 minutes 03 seconds West a distance of 45.00 feet, along said extension of the easterly property line of the Grantor, being the easterly line of right of way Parcel 53WV acquired by the City of Gahanna by Official Record 23530I16 and the westerly line of right of way parcel 52WV acquired by the City of Gahanna by Official Record 25905G10, Franklin County Recorders office, to the northeast property corner of the Grantor on the existing southerly right of way line of said Granville Street, said point being the TRUE POINT OF BEGINNING and being 45.00 feet left of Station 12+98.27;

EXHIBIT

B

EXHIBIT A

LPA RX 851 WD

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Rev. 06/09

3. thence South 03 degrees 33 minutes 03 seconds West a distance of 10.00 feet, along said easterly property line of the Grantor, also being the westerly property line of a parcel conveyed to BP Exploration & Oil, Inc., an Ohio Corporation, by Instruments 199712220173114 and 199712220173212, Franklin County Records office, to a ¾ inch diameter capped iron pin set 55.00 feet left of Station 12+98.35;
4. thence North 86 degrees 54 minutes 57 seconds West a distance of 145.65 feet to a PK nail set 55.00 feet left of Station 14+44.00;
5. thence North 74 degrees 23 minutes 13 seconds West a distance of 24.90 feet to a ¾ inch diameter capped iron pin set on the westerly property line of the Grantor, 49.60 feet left of Station 14+68.30;
6. thence North 03 degrees 33 minutes 03 seconds East a distance of 4.60 feet, along said westerly property line of the Grantor, also being the easterly property line of a parcel conveyed to Daniel J. Morgenstern and Stephanie R. Morgenstern by Instruments 199904090089251 and 199904090089252, Franklin County Records office, to the northwest property corner of said Grantor on the existing southerly right of way line of said State Route 317 being 45.00 feet left of Station 14+68.27;
7. thence South 86 degrees 54 minutes 57 seconds East a distance of 170.00 feet, along said existing southerly right of way line of State Route 317, being the southerly line of Parcel 54WV acquired by the City of Gahanna by Official Record 23175A12 and the before mentioned Parcel 53WV, to the TRUE POINT OF BEGINNING.

The above described area is contained within Franklin County Auditor's Permanent Parcel Number 025-000306-00 and contains a gross take of 0.0375 acres more or less.

This description was prepared by Jon D. Bruner, Professional Surveyor Number 7098 of The Mannik & Smith Group, on November 4, 2008.

This description is based on a survey made in 2006 by the W. E. Stilson Consulting Group under the direction and supervision of John Jeffrey Raab, Professional Surveyor Number 7863.

Grantor claims title by Instrument 200405030099763, Franklin County Records office.

EXHIBIT A

LPA RX 851 WD

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The basis of bearings is North 03 degrees 48 minutes 37 seconds East used for Hamilton Road north of Granville Street and was provided by the Franklin County Engineer's Survey Department. The bearings are based on the Ohio State Plane Coordinate System, South Zone, and North American datum of 1983 (1986 Adjustment) as established from a GPS survey performed by the Franklin County Engineer's Survey Department in 1995, occupying monuments FCGS 8815 and FCGS 5019. Iron pins referred to as "set" are ¾ inch diameter, 30 inch long iron pipes with a yellow plastic cap stamped "W. E. Stilson".

N-39-C

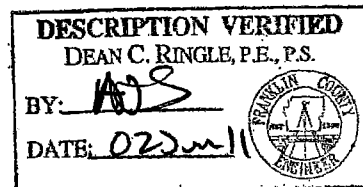
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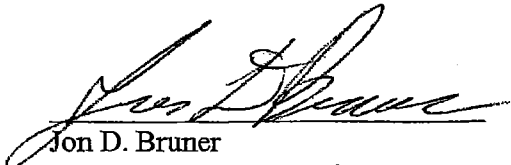
0.0375 Acres

out of

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Jon D. Bruner

Professional Surveyor #7098
The Mannik and Smith Group, Inc.
1800 Indian Wood Circle
Maumee, Ohio 43537

5-24-11
Date

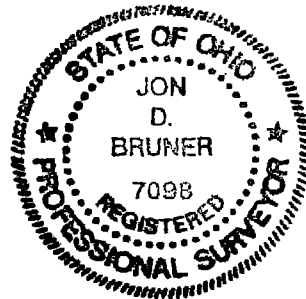


EXHIBIT A

LPA RX 887 T

Page 1 of 2

Rev. 07/30

Ver. Date 03/02/09

PID 80811

**PARCEL 3-T
FRA-317-18.11
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
CONSTRUCT DRIVES AND COMPLETE GRADING
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
CITY OF GAHANNA, FRANKLIN COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Franklin, City of Gahanna, being in the northeast quarter of Quarter Township 4, Township 1 North, Range 17 West, United States Military Lands, being part of a 0.7932 acre parcel conveyed to Donatos Pizzeria, LLC, a Delaware Limited Liability Company, by Instrument 20040503-0099763, Franklin County Records office, and also being on the left side of the centerline of right of way of State Route 317 (Granville Street) as shown on a centerline survey plat made in 2008, for the City of Gahanna titled "FRA-317-18.11" and bounded and described as follows:

BEGINNING at a ¾ inch diameter capped iron pin set on the southerly right of way line of State Route 317 (Granville Street) at its intersection with the easterly property line of the Grantor, 55.00 feet left of Granville Street Station 12+98.35;

1. thence South 03 degrees 33 minutes 03 seconds West a distance of 15.00 feet, along the easterly property line of the Grantor, to a point 70.00 feet left of Station 12+98.47;
2. thence North 86 degrees 54 minutes 57 seconds West a distance of 170.00 feet to a point on the westerly property line of the Grantor, 70.00 feet left of Station 14+68.47;
3. thence North 03 degrees 33 minutes 03 seconds East a distance of 20.40 feet, along said westerly property line of the Grantor, to a ¾ inch diameter capped iron pin set on the southerly right of way line of said State Route 317 being 49.60 feet left of Station 14+68.30;
4. thence South 74 degrees 23 minutes 13 seconds East a distance of 24.90 feet, along said southerly right of way line, acquired as parcel 3-WD of said right of way plan FRA-317-18.11 to a PK nail set 55.00 feet left of Station 14+44.00;
5. thence South 86 degrees 54 minutes 57 seconds East a distance of 145.65 feet, continuing along said southerly right of way line to the TRUE POINT OF BEGINNING.

The above described area is contained within Franklin County Auditor's Permanent Parcel Number 025-000306-00 and contains a gross take of 0.0600 acres more or less.

This description was prepared by Jon D. Bruner, Professional Surveyor Number 7098 of The Mannik & Smith Group, on November 4, 2008.

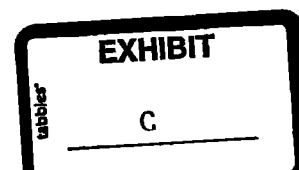


EXHIBIT A

LPA RX 887 T

Page 2 of 2

Rev. 07/30

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The basis of bearings is North 03 degrees 48 minutes 37 seconds East used for Hamilton Road north of Granville Street and was provided by the Franklin County Engineer's Survey Department. The bearings are based on the Ohio State Plane Coordinate System, South Zone, and North American datum of 1983 (1986 Adjustment) as established from a GPS survey performed by the Franklin County Engineer's Survey Department in 1995, occupying monuments FCGS 8815 and FCGS 5019. Iron pins referred to as "set" are 3/4 inch diameter, 30 inch long iron pipe with a yellow plastic cap stamped "W. E. Stilson".

N-39-C

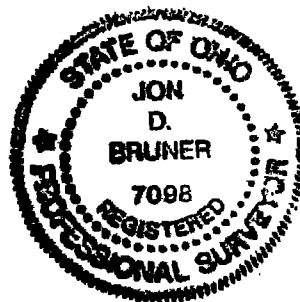
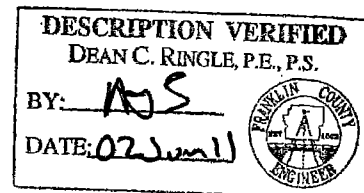
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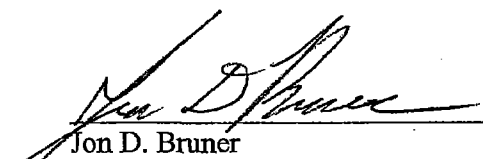
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Jon D. Bruner
Professional Surveyor #7098
The Mannik and Smith Group, Inc.
1800 Indian Wood Circle
Maumee, Ohio 43537

5-24-11
Date