

IN THE COMMON PLEAS COURT
CRAWFORD COUNTY, OHIO

CITY OF GALION, OHIO
301 Harding Way East
Galion, Ohio 44833

Plaintiff,

-vs.-

LIEBEN GROUP LP
6834 County Road 672
Millersburg, Ohio 44654-8349

and

CINDY EDWARDS,
Crawford County Treasurer
112 East Mansfield Street
Bucyrus, Ohio 44820

and

JOAN M. WOLFE,
Crawford County Auditor
112 East Mansfield Street
Bucyrus, Ohio 44820

and

LIVE OAK BANKING COMPANY
1741 Tiburon Drive
Wilmington, NC 28403

Defendants

CASE NO. 21-CV-0023

JUDGE SEAN E. LEUTHOLD

**SECOND AMENDED PETITION FOR APPROPRIATION
OF REAL PROPERTY FOR A MUNICIPAL ROAD
IMPROVEMENT PROJECT WITH DECLARATION
OF INTENT TO TAKE IMMEDIATE POSSESSION AND
RIGHT TO ENTER UPON THE PROPERTY
AND TO FIX COMPENSATION**

Now comes Plaintiff the City of Galion, Ohio (“City”), by and through undersigned counsel, and files this Second Amended Petition for the appropriation of property located as detailed in Paragraph 5 below. Plaintiff states that the following is true and correct to the best of its knowledge and belief.

1. Plaintiff City is a municipality organized under the laws of the State of Ohio and, pursuant to Article 1, Section 19 of the Constitution of the State of Ohio and Sections 719.01 and 719.02 of the Ohio Revised Code, can appropriate real property in accordance with Chapter 163 of the Ohio Revised Code.

2. Pursuant to said power, Galion City Council enacted Resolution No. 2020-13 on September 22, 2020, declaring the necessity and intention to appropriate a fee simple interest and temporary easement identified herein as Parcels 52-WD and 52-T from property located on 6698 East Brandt Road, Galion, Auditor’s Parcel No. 49-0006423.001, in connection with improvements of State Route 598 (Portland Way North) by widening, a copy of which Resolution is attached hereto as Exhibit A.

3. Notice of the same was given and returned in accordance with the law.

4. Galion City Council further adopted Ordinance 2021-3 on January 12, 2021, appropriating the fee simple interest and temporary easement described herein on or from the property on Brandt Road, and directing that a petition be filed to assess compensation to be paid for said property interest. A copy of said Ordinance is attached hereto as Exhibit B.

5. The property interest to be appropriated is a temporary easement and fee simple interest as described in Exhibit C (“the Property”), which is attached hereto and incorporated herein by reference.

6. The names and addresses of owners or persons who have or claim to have an interest in the Property to be appropriated include the following:

LIEBEN GROUP LP
6834 County Road 672
Millersburg, Ohio 44654-8349

Cindy Edwards
Crawford County Treasurer
112 East Mansfield Street
Bucyrus, Ohio 44820

Joan M. Wolfe
Crawford County Auditor
112 East Mansfield Street
Bucyrus, Ohio 44820

Live Oak Banking Company
1741 Tiburon Drive
Wilmington, NC 28403

7. City seeks to appropriate the Property for a public use, the widening and improvement of Ohio State Route 598, a roadway open to the public without charge.

8. All work to be performed is in accordance with construction and rights of way plans on file with the Crawford County Engineer’s Office

9. Galion City Council via Ordinance 2021-3 determined a total value of Ten Thousand Six Hundred and No/100 Dollars (\$10,600.00) for both parcels for compensation and damages, if any, to the residue for the Property. City has deposited the total sum for the use and benefit of the owner(s) in accordance with law.

10. Under Sections 163.04 and 163.041, City provided the owner with a Good Faith offer to purchase and Notice of Intent to Acquire on or about June 11, 2020.

11. City has complied in aspects with Section 163.04 of the Ohio Revised Code.

12. City intends to take immediate possession and to enter upon the fee simple area in accordance with Section 163.06 of the Ohio Revised Code and otherwise under law.

WHEREFORE, Plaintiff City respectfully asks and prays for the following:

A. A finding that the City has complied with Section 163.01 *et seq.* of the Ohio Revised Code, including but not limited to Sections 163.04, 163.041, 163.05, and 163.07, and is entitled to appropriate said property.

B. A finding that the City be permitted to appropriate property as a quick take, with a right of immediate possession.

C. Enter a judgment ordering appropriation and possession and for the conveyance of the fee simple interest and temporary easement to the City.

D. Upon failure, under Section 163.09 of the Ohio Revised Code, declare the value of the property interest appropriated herein and of damages, if any, to the residue to be the amount stated in the Ordinance attached as Exhibit B, namely \$10,600.00, and order the vesting of title of the temporary easement in the City of Galion, Ohio.

E. Cause a jury to be impaneled to assess the compensation to be paid to owners for the interests appropriated herein and damages, if any, to the residue.

F. Cause any new parties to be added and direct such further notice to be given to parties in interest as the Court deems proper.

G. Any and all other relief to which Plaintiff City may be entitled.

Respectfully submitted by

Attorney Thomas N. Palmer, #0059378
for the City of Galion, Ohio
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