

ORDINANCE NO. 04, 2023

AN ORDINANCE DIRECTING THE MAYOR TO EXECUTE A VACATION OF PARKING EASEMENT ACROSS PRIVATE PROPERTY AND DECLARING AN EMERGENCY

WHEREAS, on July 28, 1980, Meiners Tavern Inc. ("Meiners Tavern"), granted the Village of St. Bernard, Ohio, a perpetual parking easement across a portion of the parking lot at the southwest corner of Martin Street and Vine Street owned by Meiners Tavern in exchange for the Village's removal of an underground storage tank from the property; and

WHEREAS, that parking lot is currently owned by MRM Real Estate Investments, LLC. ("MRM"), which entity would like to exert greater control over the use of the parking lot for the convenience of MRM's patrons and vendors and the enhancement of its business, and to effect repairs to the parking lot MRM believes are needed; and

WHEREAS, in recent years the Village has expanded areas of municipal parking along the Vine Street business corridor, including the northwest corner of Martin Street and Vine Street; and

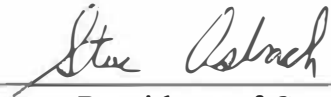
WHEREAS, the Village and MRM have come to an agreement regarding the disposition of the parking lot easement; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO, NOT LESS THAN FOUR MEMBERS CONCURRING:

Section 1. That the Mayor is hereby authorized to execute the Vacation of Easement and Release of All Claims as set forth in the attached "Exhibit 1."

Section 2. This Ordinance is hereby declared to be an emergency measure necessary to the immediate preservation of the public peace, health, and safety. The reason for the emergency is that, given the increase in the amount of municipal parking in that area, it is Council's desire to vacate the parking easement and return the use and control of the parking lot to the owner of the property to enable the owner to effect the repairs it believes are needed to maintain the lot in good repair, at owner's sole cost and expense, and enhance the owner's business. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than the majority of the members of Council and in that event the emergency provisions herein are set at naught.

Passed this 23rd day of February, 2023.



President of Council

ATTEST:

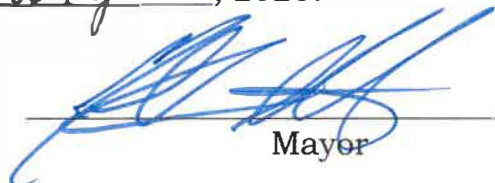


Clerk of Council



ORIGINAL

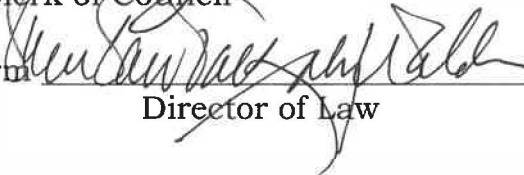
Approved this 23rd day of February, 2023.



Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 04, 2023, was made by posting true copies of the same in the most public places designated by Council: City Hall, Vine Street and Washington Avenue; for a period of fifteen (15) days or more commencing February 23rd 2023, 2023.

ATTEST:  DATE 2/23/2023
Clerk of Council

Approved as to form  Date 2.23.23
Director of Law



ORIGINAL

**VACATION OF PARKING EASEMENT
AND RELEASE OF CLAIMS**

This Vacation of Parking Easement ("Vacation") is made by the **VILLAGE OF ST. BERNARD, OHIO** ("Grantor") as of the date signed below. Grantor was granted an easement for parking purposes ("Easement") across the property owned by MRM Real Estate Investments, LLC, an Ohio limited liability company ("Grantee"), and described in Exhibit "A" ("Property"), which Easement was filed in the Office of the Hamilton County, Ohio, Recorder in Deed Book 4169, Page 60 on October 8, 1980. The purpose of this Vacation is to permanently terminate the Easement as to the Property described in Exhibit "A".

For and in consideration execution of a Release of Claims by the Grantee (a specimen attached as Exhibit "B"), Grantor has determined it is in the interest of the general public to vacate the Easement over the Property described in Exhibit "A".

Grantor does hereby **ABANDON, CANCEL, NULLIFY, RELEASE, TERMINATE** and **VACATE** the Easement in, on, through, under and over the Property described in Exhibit "A." Grantor authorizes the Recorder of Hamilton County, Ohio, to record this Vacation and upon recording such Easement shall be **NULL** and **VOID** and **HELD FOR NAUGHT**.

GRANTOR:

Village of St. Bernard, Ohio

By: _____
Name: _____
Title: _____

STATE OF OHIO
COUNTY OF HAMILTON

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____, the _____ of the Village of St. Bernard, Ohio, on its behalf.

NOTARY PUBLIC

This Instrument Prepared By: Christopher H. Hurlburt, Esq., Graydon Law, 312 Walnut Street, Suite 1800, Cincinnati, Ohio 45202 | (513) 621-6464 | churlburt@graydon.law

EXHIBIT "B"

Effective immediately upon execution, this Release is made by **MRM Real Estate Investments, LLC** ("MRM"), in favor of the **Village of St. Bernard, Ohio** ("Village").

RECITALS

WHEREAS, the Village of St. Bernard, Ohio, holds a perpetual parking easement across a portion of the parking lot at the southwest corner of Martin Street and Vine Street presently owned by MRM; and

WHEREAS, years of use of said parking lot by the patrons of MRM, its predecessors in interest, as well as residents and visitors to the Village, have caused expected wear and tear and the parking lot, including the area of the easement, and MRM believes repairs are needed to keep the parking lot in good condition; and

WHEREAS, usage of the parking easement by persons other than MRM's patrons has increased and MRM would like to exert greater control over the ingress, egress, and use of the entire parking lot, for the convenience of its patrons and vendors and enhancement of its business; and

WHEREAS, the Village and MRM have come to an agreement regarding the disposition of the parking lot easement, with the Village agreeing to vacate its interest the parking lot easement (Exhibit "A"); and

WHEREAS, with the execution of the Vacation of Easement (Exhibit "A"), MRM has the ability to control use of the entire parking lot for the convenience of its patrons and vendors and enhancement of its business and to effect, at its cost, the repairs and maintenance it believes are necessary.

NOW, THEREFORE, in consideration of the foregoing and for others good and valuable consideration, MRM agrees as follows:

RELEASE

MRM hereby releases and discharges the Village, its employees, officers, elected officials, administrators, principals, agents, insurers, attorneys, successors and assigns, from and all liability for payment of maintenance and repairs to the parking lot needed now or future, and any and all other loss, damage, and claim of very kind and nature, know or unknown, occurring on or after the effective date of this Release by MRM as a result of the Village's holding the parking lot easement. Furthermore, this Release shall be binding upon the MRM's principals, agents, employees, representative, affiliates, successors, and assigns.

This Release has been carefully read and understood by the Undersigned, who has had access to counsel in the negotiation thereof. The terms have been explained to me and I am freely, knowingly, and voluntarily executing this Release.

EXECUTED this ____ day of _____, 2023.

MRM Real Estate Investments, LLC

By: _____
Name: _____
Title: _____