

RESOLUTION NO. 29-c8
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Beals ON THE 21st
DAY OF July, 2008.

**A RESOLUTION AUTHORIZING CITY MANAGER TO
ENTER INTO LICENSE AGREEMENT WITH RICHARD
L. WIEGAND AND DOLORES L. WIEGAND TO ALLOW
PROPERTY OWNERS TO CONTINUE TO LOCATE A
FENCE IN THE CITY RIGHT-OF-WAY.**

WHEREAS, the City holds a public right of way along the east boundary of the real property located at 1113 Green Tree Drive, Dayton, Ohio 45429; and

WHEREAS, the City of Centerville has negotiated a License Agreement for the sole purpose of allowing the owners, Richard L. Wiegand and Dolores L. Wiegand, to erect and maintain a fence along the east boundary of the tract commonly known as 1113 Green Tree Drive, Dayton, Ohio 45429, upon terms acceptable to the City; and

WHEREAS, Council has the power to enter into such Lease Agreement by virtue of its Charter and the provisions of **Article VIII, Section 16 and Article XVIII, Section 3** of the Ohio Constitution;

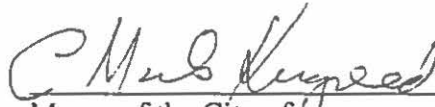
NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1: That the City Manager is hereby authorized and directed to enter into a License Agreement with Richard L. Wiegand and Dolores L. Wiegand, upon the terms and conditions set forth in the Agreement, a copy of which is attached hereto, marked Exhibit "A" and incorporated herein.

Section 2: That the City Manager is hereby authorized and directed to do any and everything necessary to carry out the terms of said Agreement.

Section 3: This Resolution shall become effective at the earliest date allowed by law.

PASSED THIS 21st day of July, 2008.



Mayor of the City of
Centerville, Ohio

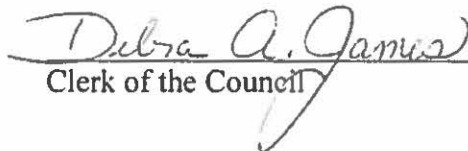
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 29-08, passed by the Council of the City of Centerville, Ohio on the 21st day of July, 2008.



Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

LICENSE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2008, by and between the City of Centerville, Ohio, 100 W. Spring Valley Road, Centerville, Ohio 45458, hereinafter referred to as "LICENSOR" and Richard L. Wiegand and Dolores L. Wiegand, husband and wife, 1113 Green Tree Drive, Dayton, Ohio 45429, hereinafter referred to a "LICENSEE".

WITNESSETH:

For and in consideration of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. The Licensor hereby licenses and authorizes the Licensee or its agents the right to enter upon and use certain City right-of-way which adjoins Licensee's east property boundary, as more particularly described in Exhibit "A" attached hereto and incorporated by reference herein for the sole purpose of erecting and maintaining a fence and for no other purpose.
2. Licensee specifically agrees that it shall defend, indemnify and hold harmless the Licensor and its officials, officers and employees from any and all damages, injuries or losses suffered by any person arising as a result of the fence's presence and location, including visibility obstructions.
3. Licensor further grants to Licensee the right to repair and maintain said fence at the sole cost of the Licensee. Upon the revocation or termination of this Agreement, Licensee at its sole expense shall promptly remove the fence from the City property. Licensor reserves the right to inspect said property at any and all reasonable times.
4. This Agreement shall be for an indefinite period of time; provided however, that either party hereto shall have the right to revoke and terminate this Agreement and the license granted herein for any reason or no reason by giving thirty (30) days written notice to the other party of its intention to do so.
5. LICENSEE ACKNOWLEDGES THAT THE PROPERTY WHICH IS THE SUBJECT OF THE LICENSE GRANTED HEREIN IS HELD BY THE CITY AS PUBLIC RIGHT OF WAY FOR PUBLIC TRAIL PURPOSES AND AS SUCH MAY BE USED FOR THAT PURPOSE

AT ANY TIME. LICENSEE ACKNOWLEDGES AND ASSUMES THE FINANCIAL RISK INCIDENT TO ITS PLACING A FENCE IN SAID RIGHT OF WAY UNDER THESE CIRCUMSTANCES.

6. This Agreement is a license in real estate and the rights created by it are personal to those named herein and non-assignable. This Agreement does not pass any interest in the property described above.

EXECUTED by the parties hereto on the day and year first above written.

LICENSOR:

CITY OF CENTERVILLE, OHIO

By: Greg Horn, City Manager

LICENSEE:

RICHARD L. WIEGAND

DOLORES L. WIEGAND

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2008 by Gregory B. Horn, City Manager.

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Richard L. Wiegand and Dolores L. Wiegand, husband and wife.

Notary Public

This Agreement prepared by:

Scott A. Liberman (0058432)
Altick & Corwin Co., L.P.A.
1700 One Dayton Centre
One South Main Street
Dayton, Ohio 45402

EXHIBIT A

A parcel of land located in the Village of Centerville, County of Montgomery, State of Ohio, and known as:

Being Lot Number 265 in Plat of Red Coach Farm, Section Ten, as shown in the recorded Plat/Map there of in Plat Book 82, Page 63 of Montgomery County Records.

Permanent Parcel Number: 068-00819-0007

Prior Instrument Reference: Microfiche 93-0358E01 of the Montgomery County Deed Records.