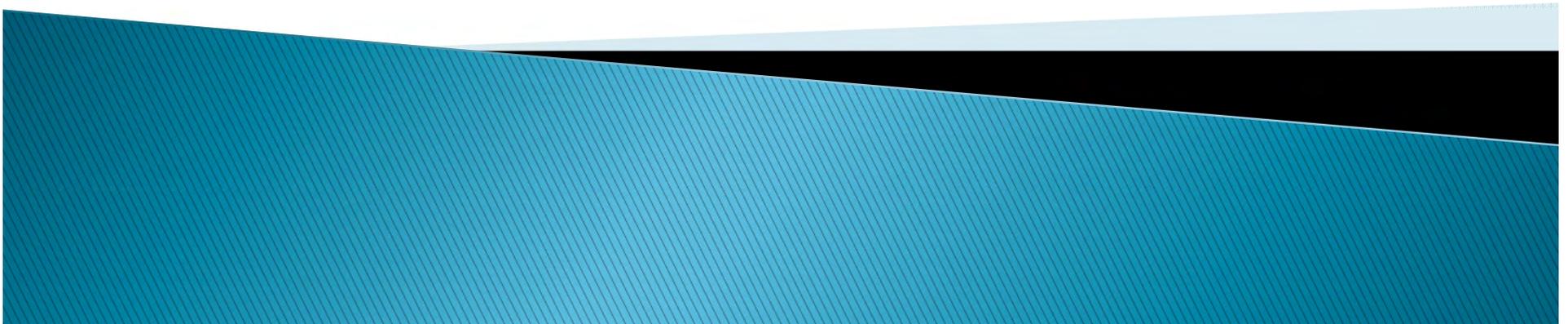


2015 Land Records Modernization Conference

Road Rights

Easements, Establishments,
Abandonments and Vacations



Highway Easements



Standard ODOT Easements

Highway Easements: Where there is a right to construct and maintain a highway facility

- ▶ SH – Standard Highway easement
- ▶ LA – Limited Access Easement



Non-Highway easements: convey rights associated with the highway facility.

- ▶ T Temporary
- ▶ SL Slope Easement
- ▶ S Sewer Easement
- ▶ CH Channel Easement
- ▶ FL Flowage Easement
- ▶ U Railroad or Public Utility
- ▶ A Aerial Easement
- ▶ PRE Property Right
- ▶ SC Scenic



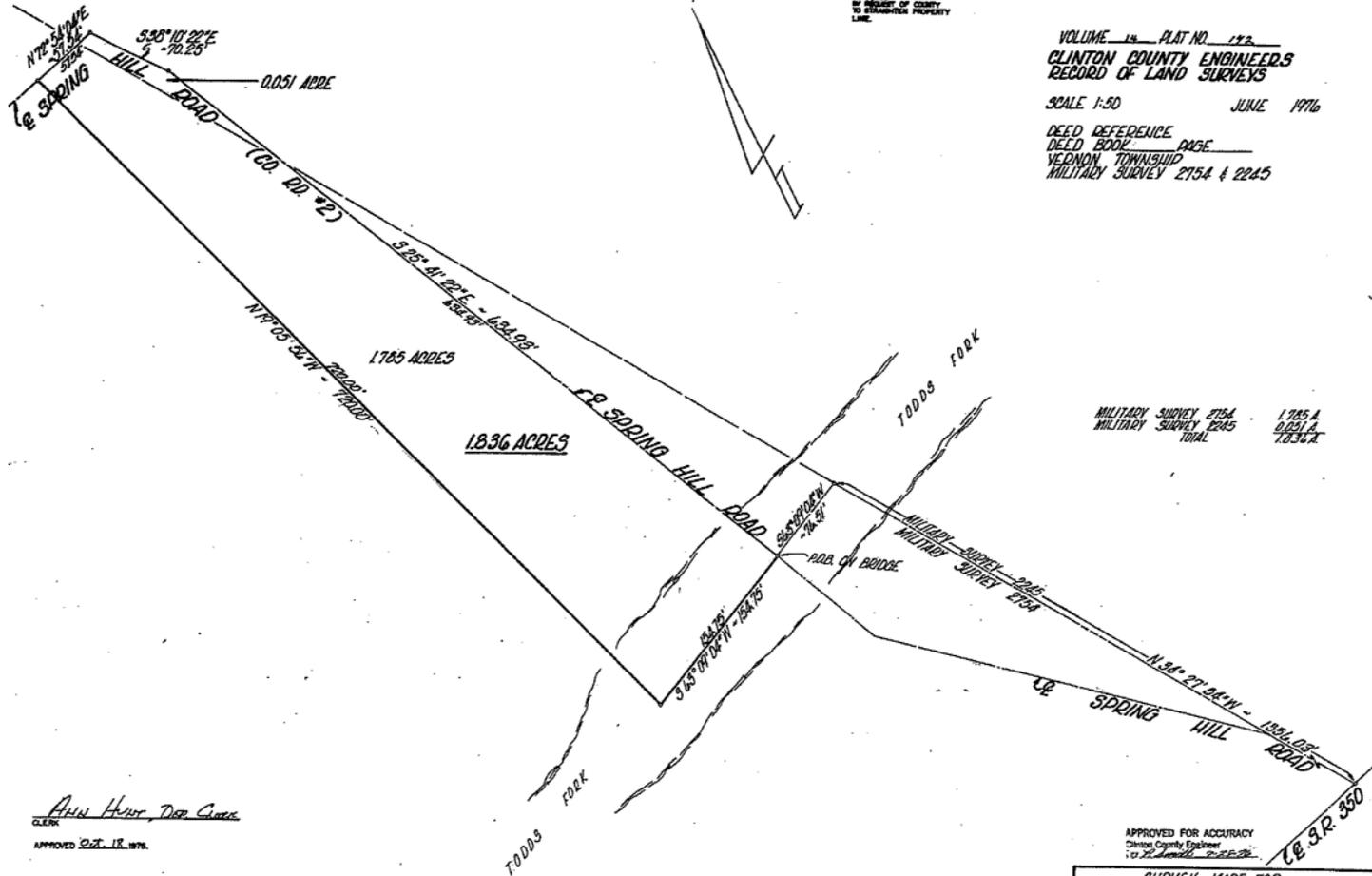
Clinton County Example

- ▶ How do you find if there are existing road easements?
- ▶ Which type of road easements should we be keeping track of?
- ▶ How do we show or track these easements in the future?



Spring Hill Road





BY ORDER OF COUNTY ENGINEER PROPERTY LINE

VOLUME 14 PLAT NO. 112
 CLINTON COUNTY ENGINEERS
 RECORD OF LAND SURVEYS
 SCALE 1:50 JUNE 1976
 DEED REFERENCE
 DEED BOOK PAGE
 YEDNON TOWNSHIP
 MILITARY SURVEY 2754 & 2245

MILITARY SURVEY 2754 1.785 A
 MILITARY SURVEY 2245 0.051 A
 TOTAL 1.836 A

Alan Hunt, Dist. Comm.
 CLERK
 APPROVED 2/21/76

Charles C. Ambler
 D.W.F.P.
 David E. Bailey
 COMMISSIONERS OF CLINTON COUNTY

John H. Judge
 REG. SURVEYOR # 2211

APPROVED FOR ACCURACY
 Clinton County Engineer
 J. H. JUDGE, P.E.
 SURVEY MADE FOR
 THE WINTERS NATIONAL BANK & TRUST CO.
 OF DAYTON, OHIO AS TRUSTEE
 PREPARED BY:
 JOHN H. JUDGE ENGINEERING COMPANY
 1201 EAST DAVID ROAD
 KETTERING, OHIO 45429

Sheet ___ of ___ sheets.

EASEMENT FOR HIGHWAY PURPOSES

KNOW ALL MEN BY THESE PRESENTS:

That Village of Clarksville



Doc ID: 002484870002 Type: OFF
Kind: EASEMENT
Recorded: 05/11/2018 at 02:28:00 PM
Fee Amt: \$28.00 Page 1 of 2
Clinton County, Ohio
Brenda J. Huff Recorder
Files 2018-00001879

BK 920 PG 201-202

the grantor, for and in consideration of the sum of

One Dollars (\$ 1.00) and for other good and valuable con-

siderations to _____ paid by the Commissioners of Clinton County, Ohio, the Grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, convey and release to the said Grantee, its successors and assigns forever, a perpetual easement and right of way for public highway and road purposes, in, upon and over the lands hereinafter described,

situated in Clinton County, Ohio, Vernon Township, M.S. No. 2245 and being bounded and described as follows:

Parcel 2

Commencing at the intersection of the center line of SR 350 and the center line of Spring Hill Road (CR 2); thence along said center line of Spring Hill Road N33°11'05"W., 726.19 feet to the real Point of Beginning for the lands herein described; thence along grantor's westerly property line N33°11'05"W., 208.02 feet to a northwesterly property corner of the grantor's; thence along grantor's property line N56°28'55"E., 22.83 feet to a point in the proposed easterly right of way line for Spring Hill Road; thence along said proposed right of way line the following 3 courses and distances S37°33'06"E., 133.39 feet to a point; thence S23°57'42"E., 49.79 feet to a point; thence S33°11'05"E., 26.00 feet to a point; thence S56°48'55"W., 25.00 feet to the real Point of Beginning.

It is understood that the land above described contains 0.133 acres, more or less, including the present road which occupies 0.121 acres, more or less.

Grantor claims title by instrument of record in Deed Book No. 237 Page 445, County Recorder's Office.

IN WITNESS WHEREOF, Mr. Harry J. Bayford, mayor and
Mrs. Evelyn Kiphart, clerk of the Village of Clarksville

_____ pursuant to an ordinance passed
by a majority of Council March 21 19 17,

have set hereunto set their hand(s) this 3/21/17 day of
March, in the year of our Lord one thousand nine
hundred 1917.

Village of Clarksville
by Harry J. Bayford Mayor
Evelyn Kiphart Clerk

Standard Highway Easement

The grantor....for consideration paid by the
the grantee, do hereby grant, bargain, sell,
convey and release to said Grantee, its
successors and assigns forever, a perpetual
easement and right-of-way for public
highway and road purposes, in, upon and
over the lands hereinafter described....

Easement Rights

Is an easement still legal if it is not recorded?

YES

Can you record an old easement?

YES

What would happen if another easement got recorded before we recorded our easement?

First one recorded takes precedence

What happens if the land has transferred before you record your easement?

Your easement may be void?

Tax Map Records

Do you currently show any highway easements on your tax maps?

How do you show where easements are on existing maps or do you have a separate layer just for easements?

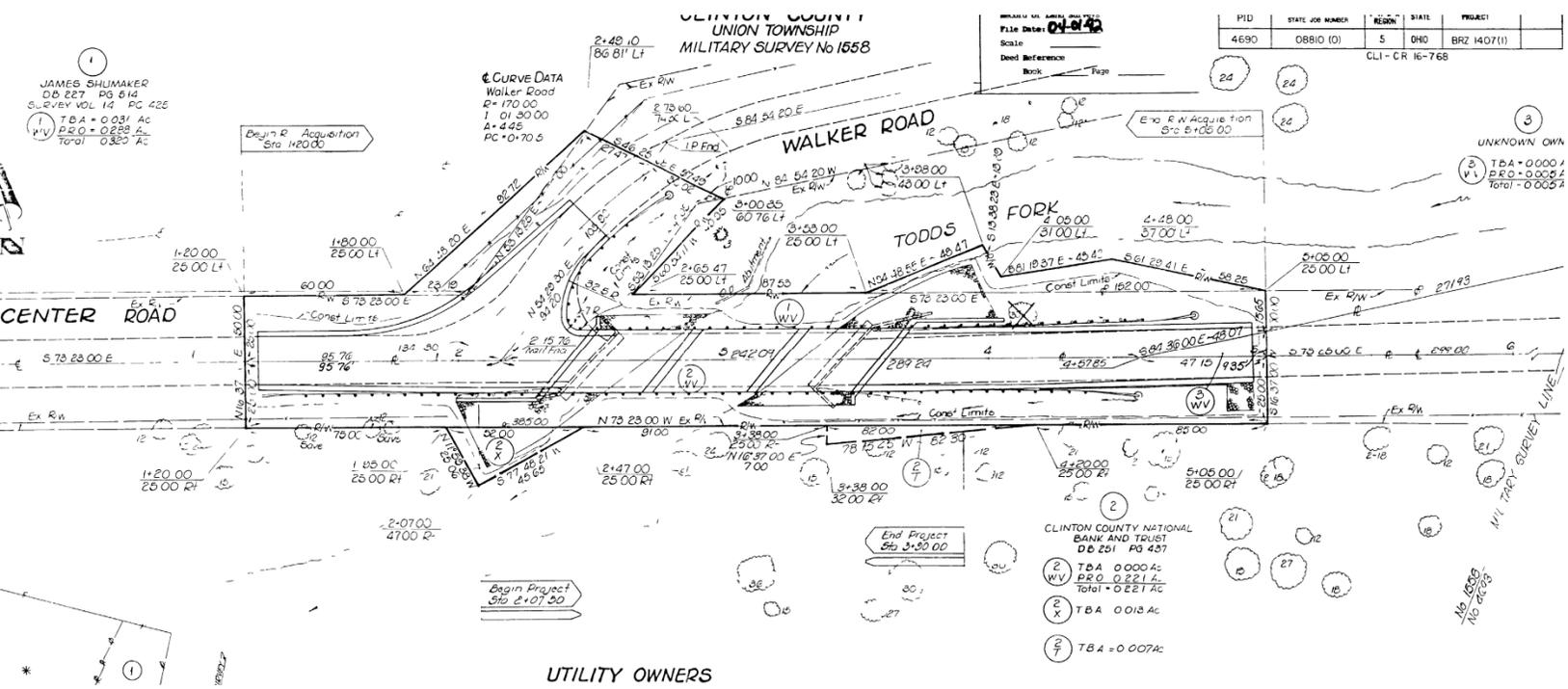
How do we make sure that we pick up easements in the future?



Bridge Project with Warranty Deeds



Warranty Deed with Temporary Easements





Requirements for Surveys

Can you require highway easements to be shown on a new survey to be filed in your office?

Do they need to show reference to where it is dedicated?

How do you carry acreage?

Do you provide easement acreage to your Auditor for taxing purpose?

OAC Requirements

4733-37-05 Plat of survey.

- (A) The surveyor shall prepare a scale drawing of every individual survey, or drawings comprising all of the surveys when they are contiguous, in which the surveyor retraces previously established property lines or establishes new boundaries.
- (B) A copy of this drawing shall be given to the client. When required, another copy shall be filed with the appropriate public agencies.
- (C) The surveyor shall include the following details:
- (1) A title such that the general location of the survey can be identified. The title shall include, but not be limited to: state, county, civil township or municipality, and original land subdivision description.
 - (2) A north arrow with a clear statement as to the basis of the reference direction used.
 - (3) The control station(s) or line cited in the description and the relationship of the property to this control must be referenced to an established monumented point of beginning such as, but not limited to: centerline intersection of streets or highways record, section or quarter section corners, Virginia military survey corners or lines, or platted lot corners. The type of monuments set or found at the control stations shall be noted.
 - (4) A notation at each corner of the property stating that the boundary monument specified in the deed description was found, or that a boundary monument was set, or a legend of the symbols used to identify monumentation. In addition, there shall be a statement describing the material and size of every monument found or set.
 - (5) A general notation describing the evidence of occupation that may be found along every boundary line or occupation line.
 - (6) The length and direction of each line as specified in the description of the property or as determined in the actual survey if this differs from what is stated in the deed description by more than the tolerance specified in paragraph (B) of rule 4733-37-04 of the Administrative Code. The length and direction shall be stated as follows:
 - (a) Bearings expressed in degrees, minutes and seconds and distances expressed in feet and decimal parts thereof on each course. If a metric equivalent distance is stated, it shall be stated to the third decimal place.
 - (b) All curved lines shall indicate the radius, central angle, curve length, chord bearing and chord distance.
 - (c) Each course shall show other common lines such as centerline of roads, rivers, streams, section lines, quarter section lines, half section lines or other pertinent common lines of record.
 - (7) A citation of pertinent documents and sources of data used as a basis for carrying out the work. The citation shall include, but not be limited to: current deeds as of the date of the survey, prior deeds or other documents of record, and available deeds of record for adjoining parcels along each boundary line of the survey. If the adjoining parcel is a recorded subdivision, only the subdivision name, recording information and lot numbers need to be shown.
 - (8) The written and graphical scale of the drawing.
 - (9) The date of the survey.
 - (10) The surveyor's printed name and Ohio registration number, signature and seal (in a form which may clearly reproduce on any copies which may be made of the original drawing).
 - (11) The area contained within the perimeter of the surveyed parcel.
 - (12) All references to roads or railroads contiguous to the surveyed parcel shall use current names or names of record and applicable right of way widths, if available.
 - (13) All references to rivers or streams shall use current names of record, if available.

R.C. 119.032 review dates: 05/09/2014 and 05/09/2019

LTA Survey Requirements

Evidence of any easements or servitudes burdening the surveyed property, disclosed in the Record Documents provided to the surveyor and observed in the process of conducting the survey

Evidence of any easements or servitudes not disclosed in the Record Documents but observed in the process of conducting the survey: R/W roads, Utilities on or across the property if they affect the property

LTA Survey Requirements

Surface indications of underground easements or servitudes on or across the surveyed property observed in the process of conducting the survey

Evidence of use of the surveyed property by other than the apparent occupants observed in the process of conducting the survey.

ROUTE 68
(R/W VARIES
PER CLI-1-3.41)

PHEN D. RIDGEON
AND
ANDRA C. RIDGEON
D.B. 271, PAGE 558
58.920 Ac.

ON M. HENRY
TRUSTEE
L.R. 731, PAGE 61
8.973 Ac.
S.R. 18, P. 52

4 Ac.
L.P. 84

TRACT 1
72.42 Ac.

P.O.C.
STA. 20+00 U.S. ROUTE 68
STA. 817+43.00 INTERSTATE 71

P.O.B.
STA. 10+90.00

4.317 Ac.

O.R. 841, PAGE 704
ORG. 6.009 Ac.

74.199 Ac.

D.B. 271, PAGE 559
TRACT II
ORG. 100 Ac.

0.685 Ac.*

R.L.R. INVESTMENTS, L.L.C.

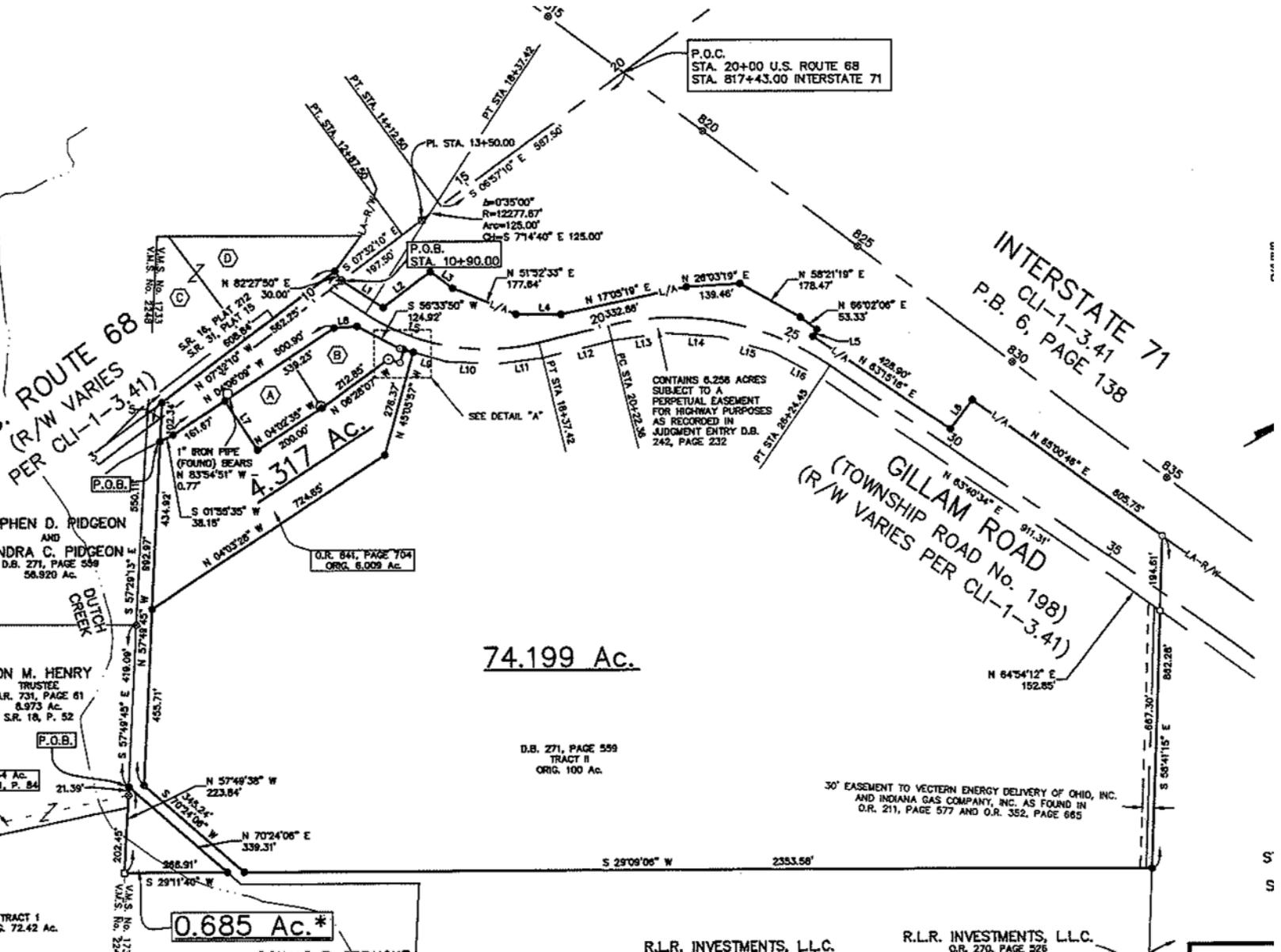
R.L.R. INVESTMENTS, L.L.C.
O.R. 220, PAGE 325

INTERSTATE 71
P.B. 6, PAGE 138

GILLAM ROAD
(TOWNSHIP ROAD No. 198)
(R/W VARIES PER CLI-1-3.41)

CONTAINS 6.256 ACRES
SUBJECT TO A
PERPETUAL EASEMENT
FOR HIGHWAY PURPOSES
AS RECORDED IN
JUDGMENT ENTRY D.B.
242, PAGE 232

30' EASEMENT TO VECTERN ENERGY DELIVERY OF OHIO, INC.
AND INDIANA GAS COMPANY, INC. AS FOUND IN
O.R. 211, PAGE 577 AND O.R. 352, PAGE 665



Resulting Issues...

The problem with this easement was that it went to court and there was a judgement entry, but it was never recorded.

Auditor will still carry the total acreage, but now has idea of easement area for appraisal purposes

County Guidelines

We require that any new survey of property that has “roadway easements” be shown on the survey.

They are required to reference the plat where it was dedicated or provide Book and Page where it is recorded.

We will set up separate layer in our GIS to track highway easements.

We will never be able to capture all easements with our mapping.

Vacating Roads and Alleys



Ohio Revised Code 5553.02

The board of county commissioners may locate, establish, alter, widen, straighten, vacate, or change the direction of roads as provided in sections [5553.03](#) to [5553.16](#) of the Revised Code.

Ways to Vacate Roads and Alleys

Petition by Landowners

Petition by Township Trustees

Petition by the Director of Transportation

Township losing rights to abandoned, unused road.

Sample Petition and Survey

PETITION TO VACATE PORTION OF AIRPORT ROAD

Now comes **Wilmington Air Park, Inc.**, by and through counsel and represents as follows:

Whereas Wilmington Air Park, Inc., is the sole fee owner of the real property on either side of that portion of Airport Road between the southwestern boundary of one of its tracts adjacent to the Great Oaks Joint Vocational School District tract and the southern right of way of the intersection of Ruane Drive with Airport Road as shown on the drawing, description and location map attached hereto as Exhibit A;

Whereas upon the dedication of the new Airborne Road together with new portions of Ruane Drive and Weill Way, the new roads will provide improved access to the area known as Wilmington Air Park; and

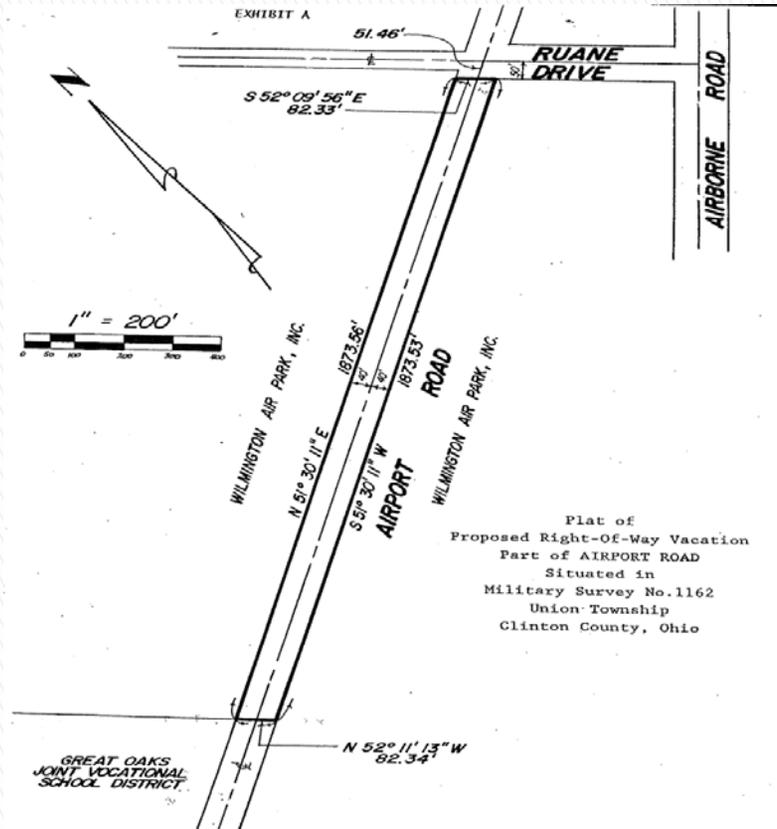
Whereas by agreement of the owners of the subject property and Clinton County, the access to the new Airport Road, Ruane Drive and Weill Way is to be limited to lessen traffic and safety hazards to the public use of the road; and

Whereas no particular public convenience or welfare will be served by keeping open the designated portion of Airport Road;

NOW, THEREFORE, Wilmington Air Park, Inc., hereby respectfully requests that the designated portion of Airport Road lying and being between the southwestern property line of the designated Wilmington Air Park tract and the southern right of way line of the intersection with Ruane Drive be vacated by the County Commissioners of Clinton County as serving no further public convenience or purpose, the said vacation to take effect upon the dedication and acceptance of Airborne Road, and portions of Ruane Drive and Weill Way.

Karen Buckley
 Karen Buckley, Attorney for
 Wilmington Air Park, Inc.

RECEIVED
 JUN 28 PM 2:30
 CLINTON COUNTY
 COMMISSIONERS



Petition by Owner(s)

Plat Submitted

Petition by Township Trustees (553.045)

A board of township trustees may petition the board of county commissioners to vacate a township road or a portion of a township road by passing a resolution that requests the vacation of the road or portion and includes a description of the general route and termini of the road or portion.

Example of Township Request

RESOLUTION NO. 2010-14

The Board of Trustees for Wilson Township, Clinton County, Ohio (hereinafter the Trustees) met in regular session on the 13th day of July, 2010 at the Township meeting hall with the following members present: Paul Whittington, Andrew Kenney, Ron Kendall

Mr. Kenney moved the adoption of the following:

WHEREAS, there currently exists within Wilson Township, Clinton County, Ohio, a township road further bound and described as follows: in the Bloomington Subdivision beginning at a point in the northwest corner of Lot #5 and the west line of a 1.00 acre tract belonging to Herbert Noes; said alley then running in a southerly direction along the west line of said 1.00 acre lot and the west line of lot #10 and the east line of Lots #5, 4, 3, 2, and 1 and ending upon its intersection with Washington Street in the Village of Bloomington, (hereinafter the "Alley"); and,

WHEREAS, said Alley has been abandoned and has otherwise not been in use for a period of 21 years; and

WHEREAS, the Trustees have authority petition the Board of Commissioners for Clinton County, Ohio pursuant to Ohio Revised Code Sections 5553.042 and 5553.045 to vacate said Alley; and

WHEREAS, the Trustees find vacating the Alley to otherwise be in public interest.

NOWTHEREFORE, the Trustees hereby Resolve and Petition the Clinton County Board of Commissioners to take such necessary action to vacate the above described Alley pursuant Ohio Revised Code.

Mr. Kendall seconded the motion. Upon a call the roll was taken and resulted as follows:

Mr. Kenney	<u>Yea</u>
Mr. Whittington	<u>Yea</u>
Mr. Kendall	<u>Yea</u>

Approved this 13th day of July, 2010

What Happens Next...

Once the certified copies of the resolution declaring a road or portion of a road vacated are filed, the board of township trustees, by resolution, shall order the road or portion of the road vacated. The vacated road or portion of the road shall pass, in fee, to the abutting landowners subject to all of the following:

- (1) A permanent easement as provided in section [5553.043](#) of the Revised Code in, over, or under the road for the service facilities, as defined in section [5553.042](#) of the Revised Code, of a public utility or electric cooperative as defined in section [4928.01](#) of the Revised Code;
- (2) The right of ingress or egress to service and maintain those service facilities;
- (3) The right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those service facilities.

FAQ's

Can the engineer/ map office require a map and legal description?

May the commissioners ask the engineer/map office to write a description?

What research does the map office do?

Does map office attend site visit/ hearing?

What research does the auditor do?

Should auditor also attend site visit?

Who provides adjacent landowners addresses – auditor or map office? mailing or tax bill address?

What happens when research shows encroachments, buildings, etc. on the alley?

Issues

- How should vacated Alley/Road be split?
- How do you show it on your parcel map?
- How do you tie it to the Commissioners records?
- How does the auditor tax it?
- How do you make sure it shows up in the Auditors database?

Supreme Court Case 75-635

Upon vacation of an alley by a city, abutting lot owners, as to that portion of the alley abutting their properties, are vested with a fee simple interest in one-half of the width of the strip of land which formerly comprised the alley, irrespective of the fact that the original owner and dedicator of the land was not the predecessor in title to all such abutting lot owners; subject, however, to those rights which other owners may have in the alley as a necessary means of access to their properties.

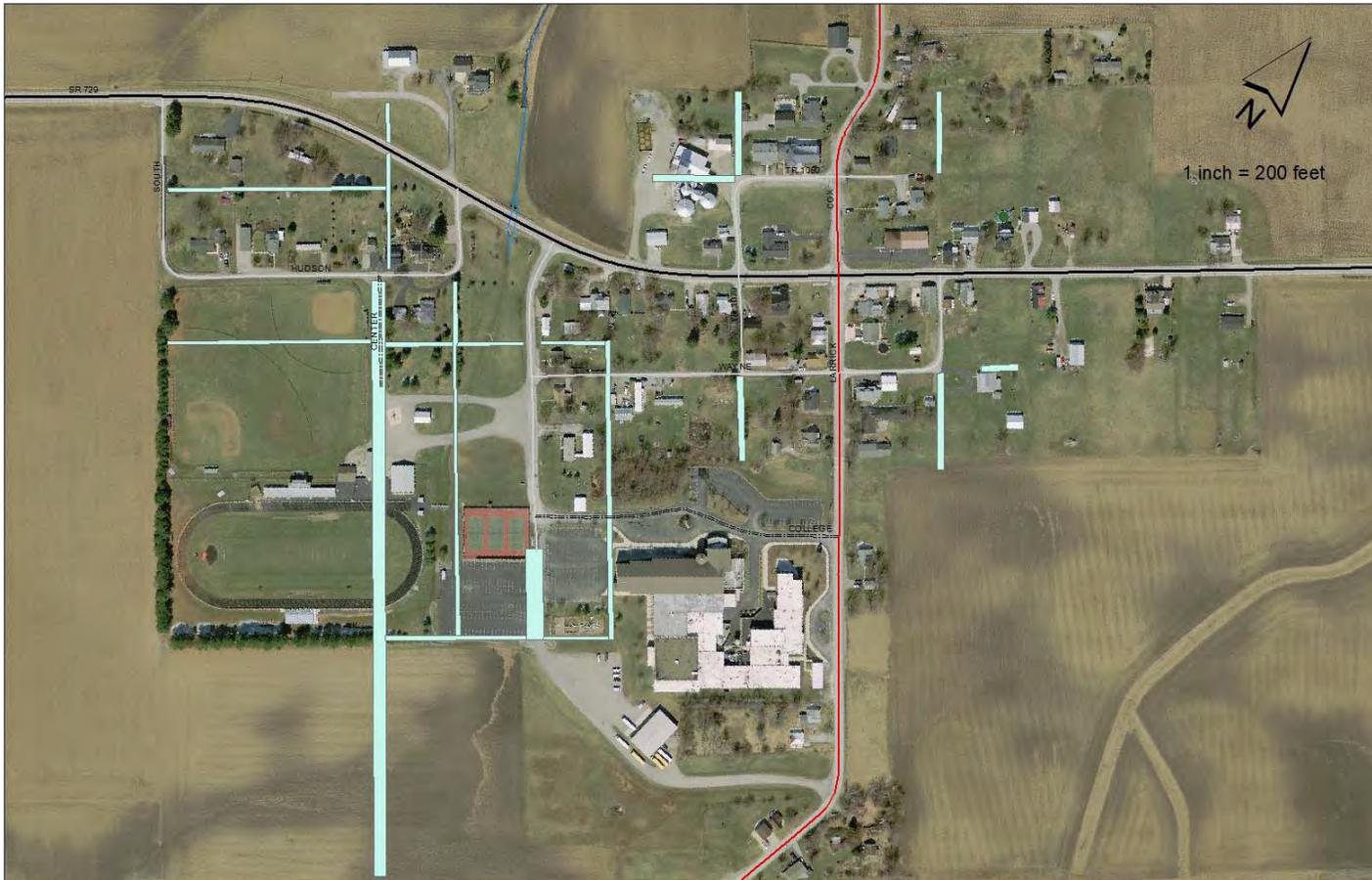
How is the alley/road split?

When a public alley is vacated, the fee vests in the abutting owners

ORC 5553.045: Title to pass to the abutting landowners

Our County Prosecutor has given us the opinion based on the Supreme Court case that we use the same process for vacations outside the municipal corporation as well.

GIS Vacation Layer



Detail of Vacated Alleys/Roads



Vacation Layer

Our vacation layer has the following attributes:

Resolution Number

ID Number

Municipality

Hot link to PDF file containing all documents

Auditor Records

The existing parcel is given a new designation of VA on the end of the parcel number

Auditors office knows not to transfer unless the parcel has been re-surveyed

Contact

Jeff Linkous

Clinton County Engineer

937-382-2078

jlinkous@clintoncountyengineer.org