

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1135 Session of
1997

INTRODUCED BY SERAFINI, APRIL 2, 1997

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 2, 1997

AN ACT

1 Providing for removal of open space land use restrictions on a
2 tract of land situate in the Township of Newton, Lackawanna
3 County.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Upon receipt of fair consideration, the
7 Department of General Services, with the approval of the
8 Governor and the Department of Agriculture, is authorized and
9 directed on behalf of the Commonwealth of Pennsylvania to
10 execute the appropriate instrument to terminate the open space
11 land use restrictions imposed by the Commonwealth in accordance
12 with the act of January 19, 1968 (1967 P.L.992, No.442) entitled
13 "An act authorizing the Commonwealth of Pennsylvania and the
14 local government units thereof to preserve, acquire or hold land
15 for open space uses," in its deed dated December 15, 1986, and
16 recorded in the Office of the Recorder of Deeds of Lackawanna
17 County, in Deed Book Volume 1198, Page 503.

18 INDENTURE

1 This indenture made and entered into this 15th day of
2 December, A.D., 1986 between the Commonwealth of Pennsylvania,
3 acting by and through Walter Baran, Secretary of the Department
4 of General Services, an administrative department of the
5 Commonwealth of Pennsylvania, with the approval of the Governor
6 of the Commonwealth of Pennsylvania, herein referred to as
7 grantor and Ernest D'Agata, Donald L. Sherwood, John F. Walsh
8 and George E. Clark, Jr., of Lackawanna County, Pennsylvania,
9 herein referred to as grantees:

10 WHEREAS, under authority of Act No.48, approved July 1, 1981,
11 the Department of General Services, with the approval of the
12 Governor, is authorized to grant and convey to the grantees, the
13 tract of land described herein.

14 WITNESSETH, that the said grantor, for and in consideration
15 of the sum of one hundred eleven thousand dollars and 00/100
16 (\$111,000.00), receipt of which is hereby acknowledged, has
17 granted and conveyed and by these presents does grant and convey
18 unto the said grantees, their heirs and assigns, a tract or
19 parcel of land situate in the Township of Newton, County of
20 Lackawanna, Pennsylvania, bounded and described as follows:

21 Beginning at a corner in the intersection of Legislative
22 Routes 365 and 35053; thence in the right of way of Legislative
23 Route No. 365 south 45 degrees 17 minutes 17 seconds east a
24 distance of 446.69 feet to a corner; thence along the line of
25 lands of Thomas Florey, George Esslinger and May O. Dorsheimer
26 the following three courses: (1) south 37 degrees 35 minutes
27 west a distance of 75 feet to a corner; (2) south 45 degrees 2
28 minutes east a distance of 680.70 feet to a corner; (3) south 39
29 degrees 16 minutes 51 seconds east a distance of 374.27 feet to
30 a corner; thence along the line of lands of Newton Township the

1 following two courses: (1) south 51 degrees 57 minutes 24
2 seconds west a distance of 582 feet to a corner; (2) south 75
3 degrees 12 minutes 25 seconds west a distance of 434 feet to a
4 corner; thence along the line of lands conveyed to the Abington
5 Area Line Officers Association the following two courses: (1)
6 north 83 degrees 35 minutes 33 seconds west a distance of 800
7 feet to a corner; (2) south 6 degrees 13 minutes 16 seconds west
8 a distance of 1440.20 feet to a corner in the center of
9 Legislative Route No. 440; thence along the center of
10 Legislative Route No. 440 the following two courses: (1) north
11 86 degrees 55 minutes 4 seconds west a distance of 145.97 feet
12 to a corner; (2) north 83 degrees 49 minutes 20 seconds west a
13 distance of 1235.18 feet to a corner; thence along the line of
14 lands of Earl Dunlap the following two courses: (1) north 10
15 degrees 59 minutes 40 seconds east a distance of 1896.75 feet to
16 a corner; (2) north 82 degrees 30 minutes west a distance of 769
17 feet to a corner; thence along the line of lands of Warren M.
18 Thompson and William D. Walsh north 50 degrees 35 minutes east a
19 distance of 2475 feet to a corner on the north side of
20 Legislative Route No. 365; thence along the line of lands of
21 Samuel Schiavi the following three courses: (1) north 71 degrees
22 9 minutes west a distance of 194.50 feet to a corner; (2) north
23 6 degrees 8 minutes west a distance of 511.50 feet to a corner;
24 (3) south 82 degrees 8 minutes east a distance of 807 feet to a
25 corner; thence along the line of lands of Frank Grippo and
26 Forrest Carr the following two courses: (1) south 39 degrees 25
27 minutes east a distance of 1306.40 feet to a corner; (2) south
28 40 degrees 37 minutes 12 seconds west a distance of 142.87 feet
29 to a corner in the right of way of Legislative Route No. 35053;
30 thence in the right of way of Legislative Route No. 35053 south

1 84 degrees 7 minutes 36 seconds west a distance of 600.18 feet
2 to a corner, said corner being in the intersection of
3 Legislative Route Nos. 365 and 35053; thence in the right-of-way
4 of Legislative Route 35053, the place of beginning.

5 Containing 171.22 acres of land more or less.

6 Being part of the premises which Lackawanna County
7 Institution District by its Deed dated December 10, 1948 and
8 recorded at Scranton in the County Recorder of Deeds Office in
9 Deed Book 478, Page 577, granted and conveyed to the
10 Commonwealth of Pennsylvania, in fee.

11 The grantor shall specially warrant the property herein
12 conveyed.

13 Reserving and excepting therein and thereout all the oil, gas
14 and minerals, including coal, unto the grantor herein, its
15 successors and assigns, and the right to enter upon, explore and
16 use equipment on the surface, subject to restoration of same to
17 its original condition, so as not to obstruct and so as to
18 minimize interference with, the use of the surface by grantees,
19 their heirs and assigns, together with the right to remove such
20 oil, gas and minerals in accordance with the law.

21 Under and subject to the restrictions, limitations and
22 conditions that the land herein described and any improvements
23 thereon shall be used, added and limited to agricultural,
24 horticultural, forestland, livestock or open space uses as
25 defined in section 2 of the act of January 19, 1968 (1967
26 P.L.992, No.442), entitled "An act authorizing the Commonwealth
27 of Pennsylvania and the local government units thereof to
28 preserve, acquire or hold land for open space uses."

29 Under and subject to all easements, servitudes and rights of
30 others, including but not confined to streets, roadways, and

1 rights of any telephone, telegraph, water, electric, gas or
2 pipeline companies, as well as under and subject to any estates
3 or tenancies vested in third persons, whether or not appearing
4 of record, for any portion of the land or improvements erected
5 thereon.

6 Section 2. The instrument removing the open space land use
7 restrictions shall be executed by the Secretary of General
8 Services in the name of the Commonwealth of Pennsylvania.

9 Section 3. Costs and fees incidental to the transaction
10 authorized by this act shall be borne by the property owners.

11 Section 4. This act shall take effect immediately.