

IN THE SUPREME COURT OF OHIO

STATE EX REL. GERALD O.E. NICKOLI AND :
ROBIN L.B. NICKOLI, :
12501 River Road, Milan, Ohio 44846, :

PATRICIA A. SIPP (FKA PATRICIA A :
CHARVILLE), TRUSTEE U/A PATRICIA A. :
CHARVILLE, DATED SEPTEMBER 28, 1994 :
AS TO AN UNDIVIDED ½ INTEREST AND :
PATRICIA A. SIPP (FKA PATRICIA A. :
CHARVILLE), MARK R. CHARVILLE AND :
DAVID A. CHARVILLE AS SUCCESSOR :
TRUSTEES U/A LEON R. CHARVILLE :
DATED SEPTEMBER 28, 1994 AS TO AN :
UNDIVIDED ½ INTEREST, :
11615 River Road, Milan, Ohio 44846 :

DOUGLAS HILDEBRAND, :
1610 Campbell Street, Sandusky, Ohio 44870, :

DALE A. HOHLER AND ELLEN H. HOHLER, :
10607 River Road, Huron, OH 44839, :

THERESA R. JOHNSTON, :
10501 River Road, Huron, Ohio 44839, :

JOHN F. LANDOLL AND/OR VIRGINIA A. :
LANDOLL U/A JOHN F. LANDOLL AND/OR :
VIRGINIA A. LANDOLL, CO-TRUSTEES :
LANDOLL FAMILY REVOCABLE LIVING :
TRUST DATED JULY 24, 1998, :
12515 River Road, Milan, Ohio 44846, :

MICHAEL P. MEYER AND CHERYL LYONS, :
9905 River Road, Huron, Ohio 44839, :

DONNA J. RASNICK, :
9903-D River Road, Huron, Ohio 44839, :

RICHARD RINELLA AND CAROL RINELLA, :
9903-F River Road, Huron, Ohio 44839, :

MARIA SPERLING, :
9903-E River Road, Huron, Ohio 44839, :

Original Action in Mandamus

Case No.: 09-0026

FILED
JAN 05 2009
CLERK OF COURT
SUPREME COURT OF OHIO

COMPLAINT FOR A WRIT OF MANDAMUS

1. More than nine years have passed since Respondents Erie MetroParks and Board of Park Commissioners, Erie MetroParks (collectively, "MetroParks") appropriated the Relators' property without paying just compensation to Relators. Relators, who are identified in detail below, bring this mandamus action pursuant the Fifth and Fourteenth Amendments to the United States Constitution, Article I, §19 of the Ohio Constitution and Ohio Revised Code Chapter 163, to compel Respondents to finally honor their obligations under the Ohio and United States Constitutions and commence appropriation proceedings, within which Relators may obtain just compensation for Respondents' unlawful taking of their property.

2. In *State ex rel. Coles v. Granville*, 2007-Ohio-6057 ("*Coles*"), this Court issued a writ of mandamus to compel the Respondents to commence appropriation proceedings to compensate other Ohio citizens embroiled in the same protracted conflict with Respondents as the Relators herein. On the same operative principles of the *Coles* decision, this Court should compel Respondents to fulfill their clear legal duty to initiate appropriation proceedings to satisfy Relators' rights to a jury assessment of compensation and damages owed to them for the taking of their property interests without just compensation.

JURISDICTION

3. This Court has jurisdiction over this original action pursuant to Ohio Const. Art. IV, § 2 and Ohio Revised Code § 2731.01 *et seq.*

PARTIES

4. Relators Gerald O.E. Nickoli and Robin L.B. Nickoli; Patricia A. Sipp (fka Patricia A. Charville), Trustee U/A Patricia A. Charville, Dated September 28, 1994 as to an undivided ½ interest and Patricia A. Sipp (fka Patricia A. Charville), Mark R. Charville and David A. Charville as Successor Trustees U/A Leon R. Charville Dated September 28, 1994 as to

an undivided ½ interest; Douglas Hildebrand; Dale A. Hohler and Ellen H. Hohler; Theresa R. Johnston; John F. Landoll and/or Virginia A. Landoll U/A John F. Landoll and/or Virginia A. Landoll Co-Trustees Landoll Family Revocable Living Trust Dated July 24, 1998; Michael P. Meyer and Cheryl Lyons; Donna J. Rasnick; Richard Rinella and Carol Rinella; Maria Sperling; Gary R. Steiner and Virginia M. Steiner; and Rita M. Beverick are landowners who reside or have their principal place of business in Erie County, Ohio.

5. Relators own certain real property, which Respondents have since 1999 unlawfully occupied, used, and possessed and over which Respondents have otherwise exercised dominion and control.

6. Relators also own certain personal property, which Respondents have confiscated, damaged and destroyed in connection with the unlawful taking of Relators' land.

7. Respondents MetroParks are a park district organized and duly created under R.C. § 1545.01 *et seq.* on May 31, 1968 as an independent Park District in Erie County, Ohio. Erie MetroParks' Board of Commissioners consists of three (3) appointed commissioners. Respondents have authority to appropriate property in the State of Ohio for public use pursuant to R.C. Chapter 1545.

BACKGROUND FACTS

8. Portions of Relators' property encompasses land beneath or adjacent to a former canal corridor of the Milan Canal Company ("Canal Company").

9. The Canal Company acquired certain portions of the canal corridor from Ebeneser Merry and Kneeland Townsend (the "Merry and Townsend Tracts").

10. In 1881, the Canal Company leased a 150-foot-wide right of way through the canal corridor (the "Railroad Lease") to the Wheeling and Lake Erie Railway Company, which

the Norfolk and Western Rail Company absorbed. The Norfolk and Western Rail Company later merged with Norfolk Southern Company (“Norfolk”).

11. The Railroad Lease was for 99 years. In 1980, the Railroad Lease was renewed from another 99 years.

12. In 1904, the Canal Company was dissolved and Stephen Lockwood purchased its assets. Steven Lockwood’s interest in the property eventually devolved to the testamentary trust of Verna Lockwood Williams and its trustee, Key Trust Company of Ohio (“Key Trust”).

13. In 1988, Norfolk filed an application with the Interstate Commerce Commission to abandon the rail service along the canal corridor. Between 1985 and 1992 all salvageable material was removed from the rail and the rail corridor was abandoned.

14. In 1995, Norfolk quitclaimed its interests in the Railroad Lease to Respondent MetroParks for using the railroad right of way as a trail.

15. Based on the aforementioned quitclaim deed, Respondent MetroParks attempted to take possession over the entire former railroad corridor.

16. In 1999, MetroParks filed a declaratory judgment action against Key Trust in the Court of Common Pleas of Erie County, *Board of Park Commissioners, Erie MetroParks v. Key Trust Company of Ohio* (the “Key Trust Litigation”).

17. In 2000, Key Trust deeded its interests in the Canal Company property to Buffalo Prairie, Ltd., reserving no interest in the Railway or Norfolk or any other party. In turn, Buffalo Prairie, Ltd. immediately conveyed portions of the land by quitclaim deed to adjacent property owners, including 11 of the 12 Relators herein. In February, 2000, Relators Richard and Carol Rinella acquired an interest in the Canal Company lands directly from Key Trust.

18. In 2000, MetroParks added the Relators as defendants in the *Key Trust* Litigation.

19. The trial court conclusively determined that the property subject to MetroParks' interests under the Railroad Lease lay within the boundaries of the Merry and Townsend Tracts.

20. The trial court conclusively determined that the Metroparks had no property interest through the Railroad Lease in the canal corridor other than as to the Merry and Townsend Tracts.

21. The Sixth District Court of Appeals affirmed both the aforementioned holdings of the trial court in the *Key Trust* litigation.

22. The canal corridor lands were the subject of a prior mandamus action in this Court. In *State ex rel. Coles v. Granville*, 2007-Ohio-6057, this Court issued a writ of mandamus ordering the respondents in that action, who are also Respondents in this action, to commence appropriation proceedings for property which they had taken to construct a recreational trail.

23. Just like Relators in this matter, the relators in the *Coles* case (the "*Coles* relators") acquired their interest in the land in question either directly from Key Trust or from Buffalo Prairie, Ltd.

24. This Court in *Coles* took judicial notice of the proceedings in the *Key Trust* Litigation.

25. This Court applied the principles of res judicata and held the *Key Trust* Litigation "conclusively determined that that the property subject to the board's interest under the railroad lease lay within the boundaries of the Merry and Townsend Tracts."

26. Rejecting the contention of MetroParks that the trial court in the Key Trust Litigation determined that its interest in the railroad lease extended *outside* the Merry and Townsend Tracts, this Court stated that such a reading of the trial court's judgment, would

“ignore both the ultimate emphasis in that litigation at both the trial and appellate courts on the interests of the board *being limited to the Merry and Townsend parcels.*”

27. The Court in *Coles* held that, pursuant to the principles of res judicata, the *Key Trust* litigation had a preclusive effect on the issue of whether the MetroParks had any interest in the property of the defendants to the *Key Trust* Litigation. Consequently, this Court held that, based on the holdings in the *Key Trust* litigation, MetroParks had no interest in any of the *Coles* relators’ property on which they had constructed a recreational path.

28. Because none of the *Coles* relators’ properties were within either of the Merry and Townsend parcels, this Court concluded that MetroParks’ construction and use of a recreational trail over their property resulted in a physical invasion of the *Coles* relators’ property and constituted an involuntary taking entitling the *Coles* relators to the requested appropriation proceeding.

29. As of the filing of this complaint, MetroParks has not instituted an appropriation proceeding against any of the relators in the *Coles* mandamus action, despite the fact that it was ordered over one year ago by this Court to do so.

30. One of the relators in *Coles* was Buffalo Prairie, Ltd., a corporation established to acquire title to land acquired from Key Trust of Ohio.

31. This Court in *Coles* recognized that in 1999, Key Trust transferred property formerly owned by the Canal Company to Buffalo Prairie, Ltd.

32. This Court in *Coles* recognized that the property conveyed by Key Trust to Buffalo Prairie, Ltd. consisted of property lying outside the boundaries of the Merry and Townsend Tracts.

33. Relators in this action all received their interest in the property in question from Key Trust itself or from Buffalo Prairie, Ltd.

34. Relators, each respectively, still own property that was at issue in the *Key Trust* Litigation and for which the Sixth District Court of Appeals reached a conclusive determination about the MetroParks' lack of any interest in the property.

35. Each of Relators own property that lies outside the boundaries of the Merry and Townsend Tracts.

36. Nonetheless, Respondents have occupied the property of each of the Relators and have used that property for the construction of a recreational trail without the consent of Relators.

37. Relators have tried to get MetroParks to recognize that the *Key Trust* Litigation established that MetroParks had involuntarily taken their property, but to no avail.

38. MetroParks, acting in bad faith, refuses to acknowledge the Relators' right to just compensation as established by the *Key Trust* Litigation.

39. Respondents presently exercise dominion and control over Relators' lands over which the recreational trail is built, and deny Relators just compensation for Respondents' involuntary taking of their property that both the Ohio Constitution and the United States Constitution ensure them.

40. Respondents have threatened certain of the Relators with arrest for interfering with MetroParks' illegal activities on their property.

CLAIM FOR RELIEF

41. Respondents' confiscation, destruction, seizure, use and possession of Relators' property constitute unconstitutional takings. As a result, Respondents have violated Relators'

fundamental property rights and caused Relators to suffer substantial property damages and incur attorneys' fees and other costs in response to Respondents' wrongful actions.

42. Pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, Article I, §19 of the Ohio Constitution and Ohio Revised Code Chapter 163, MetroParks has a clear legal duty to compensate Relators for property rights taken from them.

43. Respondents have failed and refused to fulfill their statutory duty to commence an appropriation proceeding and to pay just compensation for their continuing trespass on Relators' properties.

44. Relators have no plain and adequate remedy in the ordinary course of the law to obtain a jury assessment of compensation and damages for its property taken by MetroParks without just compensation.

45. Pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, Article I, §19 of the Ohio Constitution and Ohio Revised Code Chapter 163, MetroParks is liable to Relators for the fair market value from the date of the taking of these interests in 1999 with interest thereon.

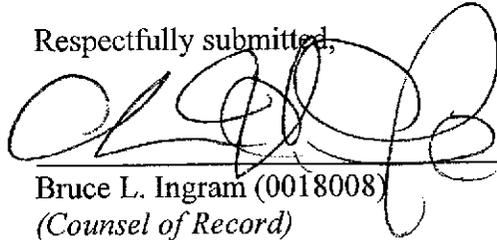
46. Pursuant to S.Ct. Prac. R. X, Section 4(B), affidavits of Relators are attached hereto as Exhibit A.

WHEREFORE, Relators request relief from this Court as follows:

- A. Issue a Peremptory Writ of Mandamus compelling Respondents to initiate, within sixty (60) days of the issuance of the Writ, appropriation proceedings pursuant to Ohio Revised Code Chapter 163; or

- B. Issue an Alternative Writ pursuant to S. Ct. Prac. R. X, Section 6, to show cause why MetroParks should not be compelled to initiate appropriation proceedings pursuant to Ohio Revised Code Chapter 163;
- C. Award Relators their reasonable attorneys' fees; and
- D. Issue such other and further relief as may be available either at law or in equity.

Respectfully submitted,



Bruce L. Ingram (0018008)

(Counsel of Record)

Joseph R. Miller (0068463)

Thomas H. Fusonie (0074201)

Anne Ralph (0078277)

Vorys, Sater, Seymour & Pease LLP

52 East Gay Street

P.O. Box 1008

Columbus, OH 43216-1008

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thfusonie@vorys.com

aralph@vorys.com

Attorneys for Relators

EXHIBIT A

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

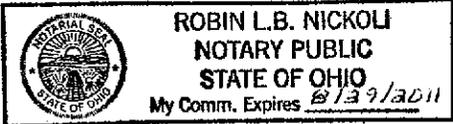
The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Rita M. Beverick, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Rita M. Beverick
Rita M. Beverick

Sworn to before me and subscribed in my presence this 28th day of December, 2008.

Robin L.B. Nickoli
**ROBIN L.B. NICKOLI
NOTARY PUBLIC
STATE OF OHIO
My Comm. Expires 8/31/2011**

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Douglas Hildebrand, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

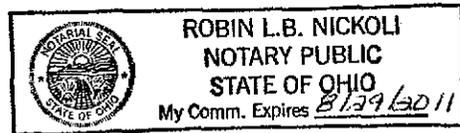
FURTHER AFFIANT SAYETH NAUGHT.



Douglas Hildebrand

Sworn to before me and subscribed in my presence this 28th day of November

2008



AFFIDAVIT

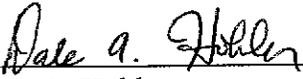
STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Dale A. Hohler, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

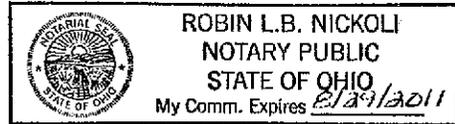


Dale A. Hohler

Sworn to before me and subscribed in my presence this 28th day of December,

2008.





AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Ellen H. Hohler, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

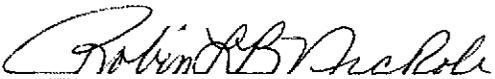
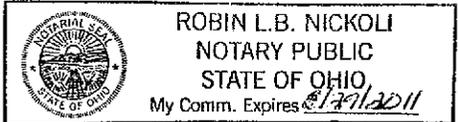
FURTHER AFFIANT SAYETH NAUGHT.



Ellen H. Hohler

Sworn to before me and subscribed in my presence this 28th day of December

2008

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Theresa R. Johnston, and I am the owner of the real estate described in the within Complaint.

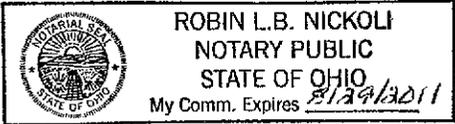
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.



Theresa R. Johnston

Sworn to before me and subscribed in my presence this 28th day of December,
2008

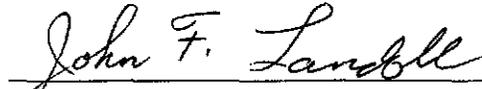
AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is John F. Landoll, Co-Trustee of Landoll Family Revocable Living Trust dated July 24, 1998, which is an owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to the Landoll Family Revocable Living Trust's real estate and swear that those facts are true and accurate, based on personal knowledge.

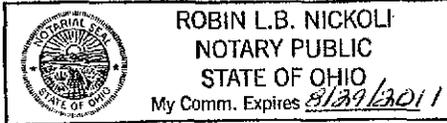
FURTHER AFFIANT SAYETH NAUGHT.



John F. Landoll

Sworn to before me and subscribed in my presence this 28th day of DEC,

2008

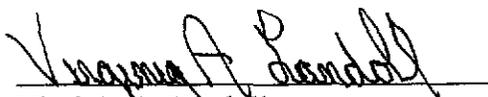
AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Virginia A. Landoll, Co-Trustee of Landoll Family Revocable Living Trust dated July 24, 1998, which is an owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to the Landoll Family Revocable Living Trust's real estate and swear that those facts are true and accurate, based on personal knowledge.

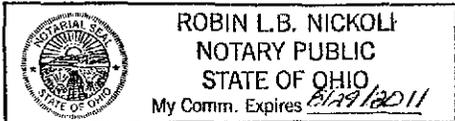
FURTHER AFFIANT SAYETH NAUGHT.



Virginia A. Landoll

Sworn to before me and subscribed in my presence this 28th day of December,

2008

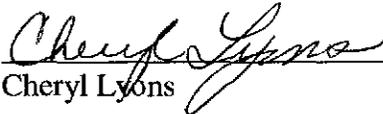
AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Cheryl Lyons, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.


Cheryl Lyons

Sworn to before me and subscribed in my presence this 28th day of December.

2008



 ROBIN L.B. NICKOLI
NOTARY PUBLIC
STATE OF OHIO
My Comm. Expires 8/29/2011

AFFIDAVIT

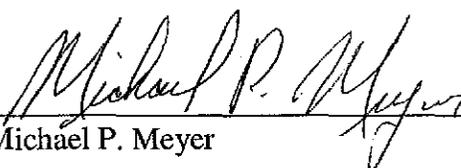
STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Michael P. Meyer, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

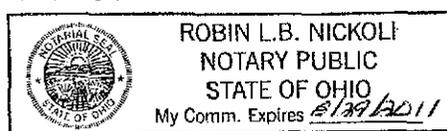
FURTHER AFFIANT SAYETH NAUGHT.



Michael P. Meyer

Sworn to before me and subscribed in my presence this 28th day of December

2008

AFFIDAVIT

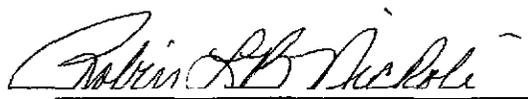
STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Robin L.B. Nickoli, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

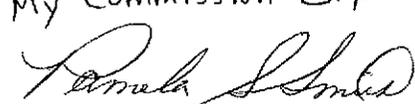
FURTHER AFFIANT SAYETH NAUGHT.



Robin L.B. Nickoli

Sworn to before me and subscribed in my presence this 23rd day of December

2008

Pamela S. Smith
Notary Public, State of Ohio
My Commission Expires 7-14-2013


AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Gerald O. E. Nickoli, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.


Gerald O.E. Nickoli

Sworn to before me and subscribed in my presence this 23rd day of December

2008.

Pamela S. Smith
Notary Public, State of Ohio
My Commission Expires 7-14-2013


AFFIDAVIT

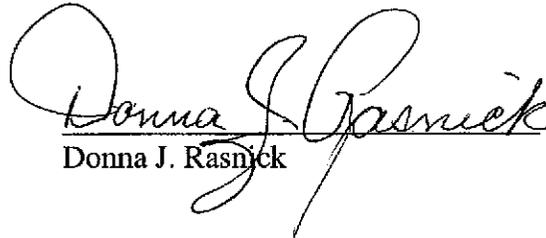
STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Donna J. Rasnick, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

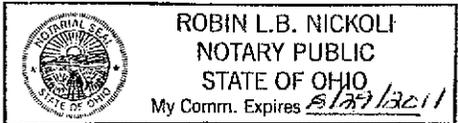
FURTHER AFFIANT SAYETH NAUGHT.



Donna J. Rasnick

Sworn to before me and subscribed in my presence this 28th day of December

2008

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Carol Rinella, and I am the owner of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Carol Rinella
Carol Rinella

Sworn to before me and subscribed in my presence this 28th day of December

2008

Robin L.B. Nickoli
 ROBIN L.B. NICKOLI
NOTARY PUBLIC
STATE OF OHIO
My Comm. Expires 3/29/2011

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

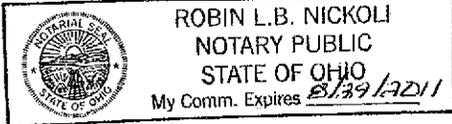
1. My name is Richard Rinella, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.



Richard Rinella

Sworn to before me and subscribed in my presence this 28th day of December
2008.

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Maria Sperling, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Maria Sperling
Maria Sperling

Sworn to before me and subscribed in my presence this 12. 28 day of 2008,

2008.

Robin L.B. Nickoli

	ROBIN L.B. NICKOLI
	NOTARY PUBLIC
	STATE OF OHIO
	My Comm. Expires <u>01/29/2011</u>

AFFIDAVIT

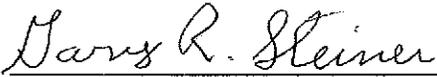
STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Gary R. Steiner, and I am the owner of the real estate described in the within Complaint.

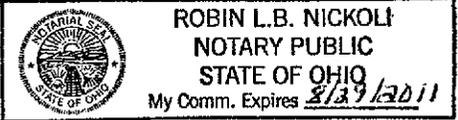
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.



Gary R. Steiner

Sworn to before me and subscribed in my presence this 28th day of December, 2008.

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Virginia M. Steiner, and I am the owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to my real estate and swear that those facts are true and accurate, based on personal knowledge.

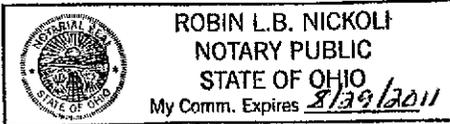
FURTHER AFFIANT SAYETH NAUGHT.

Virginia M. Steiner

Virginia M. Steiner

Sworn to before me and subscribed in my presence this 28th day of December, 2008.

Robin L.B. Nickoli



AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Patricia Sipp, Trustee U/A Patricia Charville dated September 28, 1994 and Successor Trustee U/A Leon R. Charville Dated September 28, 1994, which are owners of the real estate described in the within Complaint.

2. I have reviewed the Complaint and the facts relating to the U/A Patricia Charville dated September 28, 1994 and U/A Leon R. Charville Dated September 28, 1994's real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Patricia Sipp
Patricia Sipp

Sworn to before me and subscribed in my presence this 24th day of December, 2008

Tanya Marie Cornelius

TANYA MARIE CORNELIUS
Notary Public, State of Ohio
My Commission Expires Feb. 26, 2012

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is David A. Charville, Successor Trustee U/A Leon R. Charville Dated September 28, 1994, which is an owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to the U/A Leon R. Charville Dated September 28, 1994's real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

David A. Charville

David A. Charville

Sworn to before me and subscribed in my presence this 24th day of Dec,

2009

Nancy L. Beck



NANCY L. BECK
Notary Public, State of Ohio
My Commission Expires
July 20, 2011

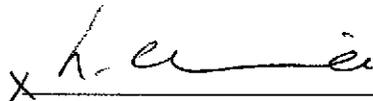
AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF ERIE)

The undersigned, being first duly sworn, testifies based on personal knowledge as follows:

1. My name is Mark R. Charville, Successor Trustee U/A Leon R. Charville Dated September 28, 1994, which is an owner of the real estate described in the within Complaint.
2. I have reviewed the Complaint and the facts relating to the U/A Leon R. Charville Dated September 28, 1994's real estate and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.



Mark R. Charville

Sworn to before me and subscribed in my presence this 24th day of Dec.,

2008.





NANCY L. BECK
Notary Public, State of Ohio
My Commission Expires
July 20, 2011