

ORIGINAL

IN THE SUPREME COURT OF OHIO

MATTHEW E. MOORE, et al.	:	Case No. 2010- 1363
	:	
Appellants	:	
v.	:	
	:	
CITY OF MIDDLETOWN, OHIO	:	
	:	
Appellee	:	

APPENDIX TO APPELLEE CITY OF MIDDLETOWN'S MERIT BRIEF

Jay C. Bennett (0009822)
 Oxford Professional Building
 5995 Fairfield Road, Suite #5
 Oxford, Ohio 45056
 Tel: 513/523-4104
 Fax: 513/523-1525
 Email: jcblaw24@yahoo.com
*Attorney for Plaintiffs-Appellants,
 Matthew E. Moore and Lori A. Moore*

Robert J. Gehring (0019329)
 Brian E. Hurley (0007827)
 Crabbe Brown & James LLP
 30 Garfield Place, Suite 740
 Cincinnati, Ohio 45202
 Tel: 513/784-1525
 Fax: 513/784-1250
 Email: RGehring@CBJLawyers.com
BHurley@CBJLawyers.com
*Attorneys for Defendant-Appellee,
 City of Middletown, Ohio*

Leslie S. Landen, Law Director (0017064)
 Sara E. Mills, Asst. Law Director (0073295)
 City of Middletown
 One Donham Plaza
 Middletown, Ohio 45042
 Tel: 513/425-7805
 Fax: 513/435-7780
 Email: lesl@cityofmiddletown.org
saram@cityofmiddlesettown.org
*Attorneys for Defendant-Appellee,
 City of Middletown, Ohio*

FILED
 APR 27 2011
 CLERK OF COURT
 SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

MATTHEW E. MOORE, et al. : Case No. 2010- 1363
:
Appellants :
v. :
:
CITY OF MIDDLETOWN, OHIO :
:
Appellee :

APPELLEE'S APPENDIX

	Page(s)
1. City of Middletown Ordinance No. 2008-64, (August 19, 2008)	1 - 8
2. City of Middletown Ordinance No. 2008-63, (August 19, 2008)	9 -14
3. Motion By The Defendant City of Middletown Requesting The Court To Take Judicial Notice Of Facts, (Ex. A, Attached), T.d.	15 - 17

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Appendix of Appellee City of Middletown was sent by ordinary U.S. mail, postage prepaid, to counsel for Appellants, Jay C. Bennett, Oxford Professional Building, 5995 Fairfield Road, Suite #5, Oxford, Ohio, on this 27th of April, 2011.


Robert J. Gehring

ORDINANCE NO. 02008-64

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION FOR A PARCEL OF LAND APPROXIMATELY 157 ACRES LOCATED ON THE EAST SIDE OF STATE ROUTE 4 APPROXIMATELY 1,500 FEET SOUTH OF OXFORD STATE ROAD TO I-2 (GENERAL INDUSTRIAL) DISTRICT, REPEALING ORDINANCE NO. 02008-39 AND DECLARING AN EMERGENCY.

WHEREAS, there is a parcel of property located adjacent to an existing I-2 zone on State Route 4, which is presently zoned D-1 (Low Density Dwelling); and,

WHEREAS, the City requested this reclassification to conform to the City Master Plan and permit uses consistent with the area east of the property, including but not limited to the construction and operation of a proposed coke-making facility; and,

WHEREAS, the City Planning Commission conducted a public hearing on July 9, 2008 after giving notice of the time and place of the hearing to all property owners within the same block and within two hundred feet of the boundaries of the subject property; and

WHEREAS, the City Planning Commission has recommended that the subject property be rezoned; and

WHEREAS, the City Council held a public hearing on August 19, 2008, notice of such public hearing having been given in the Middletown Journal at least thirty days prior to such hearing, and concurs in the recommendation of the City Planning Commission;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

City Council makes the following legislative findings: a) the proposed zoning classification amendment is consistent with the recommendations in the City's Master Plan; b) certain real property located in the City adjacent to the land proposed to be rezoned is currently zoned in part as I-2 (General Industrial); and, c) the proposed zoning classification amendment will increase the available land for industrial development in the City, and more specifically is consistent with the proposed development of a coke-making facility on the site.

Section 2

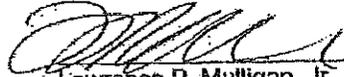
The zoning classification for a one-hundred fifty-seven (157) acre, more or less, parcel of land, presently zoned D-1 (Low Density Dwelling) which is located on the east side of State Route 4 approximately 1,500 feet south of Oxford State Road is hereby changed to I-2 (General Industrial). The area to be rezoned includes the following parcel numbers: Q6542-084-000-024 (part), Q6542-084-000-023, Q6542-113-000-001, and Q6542-113-000-010, and is more particularly shown in Exhibit "A" which is attached hereto.

Section 3

Ordinance No. 02008-39, adopted May 6, 2008, is hereby repealed in its entirety.

Section 4

This ordinance is declared to be an emergency measure to make immediately available additional developable industrial land in the City, and necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit the development of a proposed project on the property which would stabilize the security of over two-thousand jobs in the City and create new jobs in the City, thereby increasing the City's tax base, to move forward on the developer's schedule, the delay of which would seriously impact the viability, cost and timing of the project, and shall take effect and be in force from and after its adoption.


Lawrence P. Mulligan, Jr., Mayor

Adopted: August 19, 2008

Attest: Cathy Parr
Clerk of City Council

l/maw/leg/0 Rezone Rt 4



LEGAL NOTICE NO. 6921

Pursuant to Chapter 1284.02 of the Codified Ordinances of the City, notice is hereby given that the Middletown City Council has under consideration the matter of re-zoning multiple parcels, totaling 157 acres located generally northeast of Garden Manor Retirement Village between State Route 4 and Yankee Road, from D-1, Low Density Dwelling to I-2, General Industrial. City Planning Commission has referred this matter to the City Council for public hearing and confirmation of its recommendation pursuant to the Zoning Ordinance. City Council will conduct a public hearing on this matter in the 6:30 P.M. Council meeting on Tuesday, August 19, 2008 in the Council Chamber on the Lower Level of the City Building, One Donham Plaza. All papers pertaining to this request are on file in the office of the Planning Director.

Interested persons may appear and be heard at the stated time and place.

BETSY PARR
Clerk of Council

It is the policy of the City of Middletown to make all public hearings and meetings accessible to all persons, in accordance with state and/or federal laws. If you have a disability which requires accommodation in order for you to attend and/or participate in this meeting, please contact us at 425-7831 or 425-7705 (TDD) at least forty-eight hours prior to the time of the meeting to advise us of the need for accommodation, and reasonable efforts shall be made to provide the same.



July 14, 2008

PUBLIC HEARING

Dear Property Owner:

Pursuant to Chapter 1284.02 of the Codified Ordinances of the City, notice is hereby given that the Middletown City Council has under consideration the matter of re-zoning multiple parcels, totaling 157 acres, from D-1 – Low Density Dwelling, to I-2 – General Industrial. City Planning Commission has referred this matter to the City Council for public hearing and confirmation of its recommendation pursuant to the Zoning Ordinance. City Council will conduct a public hearing on this matter in the 6:30 P.M. Council meeting on Tuesday, August 19, 2008 in the Council Chamber on the Lower Level of the City Building, One Donham Plaza.

You may wish to be present at the hearing since this proposal may affect your property. Interested persons may appear and be heard at the public hearing.

Papers and detailed zoning descriptions pertaining to this matter are on file for public inspection in the Planning Department on the 4th floor of the City Building.

For disability accommodations, call 425-7831 or 425-7705 (TDD).

Betsy Parr
Clerk of the City Council



MEMORANDUM

Planning Director's Office

Ref: C-2054

TO: Betsy Parr, Clerk of Council

FROM: Marty Kohler, Planning Director

DATE: July 10, 2008

RE: Zone Map Amendment Case 5-08
Bake/Martin Properties
(Area located generally northeast of Garden Manor Retirement Village between State Route 4 and Yankee Road in Middletown's Second Ward)

This is a request by the City of Middletown to re-zone multiple parcels, totaling 157 acres, from D-1, Low Density Dwelling to I-2, General Industrial. The purpose of the zone change is to bring the zoning of this area into conformity with Middletown's Master Plan and prevent further incompatible development from occurring on this site.

I hereby certify that in its regular session on Wednesday, July 10, 2008, the Middletown City Planning Commission met and recommended approval of the application for the above zone map amendment request.

Planning Commission is referring this matter to City Council for a public hearing and confirmation of its recommendation in accordance with the provisions of Section 1284.02(g) of the Zoning Ordinance. Planning Commission's recommendation will be presented at the hearing for Council's consideration.

Respectfully submitted,

Martin D. Kohler,
Secretary to Planning Commission

Cc: Judy Gilleland, City Manager
Les Landen, Law Director
File (2)

Attachment: Location Map

MAILING LIST FOR PROPERTY OWNERS WITHIN 200 FEET OF BAKE-MARTIN FARM INCLUDING OTHERS WHO REQUESTED NOTIFICATION 6-9-08

Amanda Baptist Church Inc
1430 Oxford State Rd
Middletown, OH 45044

Walter L. Bake
3353 Yankee Road
Middletown, OH 45044

Middletown City Schools
Superintendent, Dr. Steve Price
1515 Girard Avenue
Middletown, OH 45044

Clarence Bowman
2407 Pine Hill W Road
London, KY 40744

William J. Lewis
1408 Oxford State Road
Middletown, OH 45044

Edward L. McConnell
4714 Riviera Drive
Middletown, OH 45042

Bette Ann Metzgar
6032 Niederlander Ln
Middletown, OH 45044

Matthew E. Moore
6032 Niederlander Ln
Middletown, OH 45044

P. S. Properties
4161 Bonita Drive
Middletown, OH 45044

Raymond S. Palmer
4816 Holly Avenue
Middletown, OH 45044

Fred Baker
6151 Hankins Road
Middletown, OH 45044

Theodore B. Martin
P.O. Box 425
Walloon Lake, MI 49796

Robert Cowman
6960 Hamilton-Middletown Road
Middletown, OH 45044

Pilot Chemical Co
11756 Burke Street
Santa Fe Springs, CA 90670

Porter Advertising LLC
P.O. Box 1152
Richmond, IN 47375

Frank Schiavone
6978 Hamilton-Middletown Road
Middletown, OH 45044

David A. Shaffer
7000 Hamilton-Middletown Road
Middletown, OH 45044

Walter E. Stampfer
3615 S. Main. Street
Middletown, OH 45044

Martha Jane Zecher TR
6099 Niederlander Lane
Middletown, OH 45044

Andy Waldner
3642 S. Main Street
Middletown, OH 45055

Garden Manor Retirement Village
6898 Hamilton Middletown Rd.
Middletown, OH 45044

Lee Anne & Jerry Craft
3333 Carol Ann Lane
Middletown, OH 45044

Jay Hamilton, P.E.
District 8 Traffic Planning Engineer
Ohio Department of Transportation
505 S. St. Rt. 741
Lebanon, OH 45036

**Property Owners within 200 feet of
proposed zoning case**

Armanda Baptist Church Inc
1430 Oxford State Rd
Middletown, OH 45044

Walter L. Bake
3353 Yankee Road
Middletown, OH 45044

Board of Education
Attn: Frank Chapman
1515 Girard Avenue
Middletown, OH 45044

Amelia Becker
Yankee Road
Middletown, OH 45044

Clarence Bowman
2407 Pine Hill W Road
London, KY 40744

William J. Lewis
1408 Oxford State Road
Middletown, OH 45044

Edward L. McConnell
4714 Riviera Drive
Middletown, OH 45042

Bette Ann Metzcar
6032 Niederlander Ln
Middletown, OH 45044

Matthew E. Moore
6032 Niederlander Ln
Middletown, OH 45044

P.S. Properties
4161 Bonita Drive
Middletown, OH 45044

Raymond S. Palmer
4816 Holly Avenue
Middletown, OH 45044

Fred Baker
6151 Hankins Road
Middletown, OH 45044

Theodore B. Martin
P.O. Box 425
Walloon Lake, MI 49796

Robert Cowman
6960 Hamilton-Middletown Road
Middletown, OH 45044

Pilot Chemical Co
11756 Burke Street
Santa Fe Springs, CA 90670

Porter Advertising LLC
P.O. Box 1152
Richmond, IN 47375

Frank Schiavone
6978 Hamilton-Middletown Road
Middletown, OH 45044

David A Shaffer
7000 Hamilton-Middletown Road
Middletown, OH 45044

Walter E. Stamper
3615 S. Main. Street
Middletown, OH 45044

Martha Jane Zecher TR
6099 Niederlander Lane
Middletown, OH 45044

Andy Waldner
3642 S. Main Street
Middletown, OH 45055

ORDINANCE NO. 02008-63

AN ORDINANCE AMENDING THE CITY ZONING CODE, SPECIFICALLY CHAPTER 1258 OF THE CITY CODIFIED ORDINANCES REGARDING I-2 GENERAL INDUSTRIAL DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Middletown filed an application to amend the text of Chapter 1258 of the Codified Ordinances to clarify its application to certain industrial operations; and

WHEREAS, The City Planning Commission conducted a public hearing on July 9, 2008 and recommended approval of a text amendment, which was slightly different from the text amendment proposed by the City in its application; and

WHEREAS, City Council held a public hearing on August 19, 2008 and wishes to amend the text amendment as recommended by Planning Commission to conform to the language submitted in the original application of the City, which such action has the concurrence of six members of City Council;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

Chapter 1258 of the Codified Ordinances of the City is hereby amended to read, in full, as set forth in Exhibit "A", attached hereto and made a part hereof.

Section 2

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health safety and general welfare, to wit: to permit prompt application of the clarification of Chapter 1258 to imminent developments in I-2 Districts in the city without delay in the schedules of such imminent developments or the possibility of an inconsistent application of Chapter 1258 to future industrial development, and shall take effect and be in force from and after its adoption.



Lawrence P. Malligan, Jr., Mayor

Adopted: August 19, 2008

Attest: Betty Parr
Clerk of City Council

EXHIBIT A

CHAPTER 1258
I-2 General Industrial District

1258.01	Intent.	1258.06	Height regulations.
1258.02	Principal uses permitted.	1258.07	Off-street parking and loading regulations.
1258.03	Accessory uses permitted.	1258.08	Lot area and yard requirements.
1258.04	Prohibited uses.		
1258.05	Required conditions.		

CROSS REFERENCES

- I-1 Industrial Park District- see P. & Z. Ch. 1256
- IPO Industrial Park Office District - see P. & Z. 1257
- Factors of annoyance- see P. & Z. 1274.02

1258.01 INTENT.

The I-2 District is intended to accommodate those industrial uses which cannot entirely eliminate certain objectionable features and influences, but which must, nevertheless, be accommodated within the urban area. (Ord. 4886. Passed 12-27-68.)

1258.02 PRINCIPAL USES PERMITTED.

No structure or land shall be used for any other than one or more of the following purposes:

- (a) I-1 Uses. Any use permitted and as regulated in an I-1 District except as hereinafter modified;
- (b) Manufacturing; or Processing. The manufacturing, compounding, processing, packaging or assembling of the following products:
 - (1) Appliances. Electric and gas appliances, fixtures and products;
 - (2) Basic metals production. The refining, smelting or reduction of raw materials for the production of metals, provided that any such uses are located at least 600 feet from any P or D District and at least 200 feet from any C District;
 - (3) Chemicals. The manufacturing of acid, asphalt, bleach, fertilizer, dye, helium, hydrogen, disinfectant, insecticide, lye, oxygen, plastics, poison of any kind, potash, radium, soda ash or caustic soda or similar chemical products, provided that any such uses are located at least 600 feet from any P or D District and at least 200 feet from any C District;
 - (4) Concrete products. The mixing, casting and curing of concrete, clay or terra cotta products;

- (5) Foundries. Including the casting, forging, annealing or plating of metals or metal products, provided that any such uses are located at least 600 feet from any P or D District and at least 200 feet from any C District;
 - (6) Ice. The manufacturing and storage of ice;
 - (7) Machinery. The assembly or production of machinery of a size exceeding normal home shop power tools;
 - (8) Metal product fabrication. The fabrication and assembly of products made from metal sheet or plate, wire, rolled shapes or extrusions;
 - (9) Paper production. The production of paper and paper products;
 - (10) Production from raw materials. Production of the following products from raw materials: asphalt, cement, charcoal and fuel briquettes, coal, coke and tar products, including gas manufacturing, fertilizers, gelatin, animal glue, turpentine, rubber and soaps, provided that any such uses are located at least 600 feet from any P or D District and at least 200 feet from any C District;
 - (11) Scrap metal processing. The pressing, reduction, baling or processing of scrap metals, but not including junk yards and auto wrecking or salvage operations, provided that any area used for materials storage or processing be enclosed by a solid wall or screened fence at least eight feet in height, and further provided that such use be located at least 300 feet distant from any P or D District; and
 - (12) Other uses. Other uses not specifically mentioned in this subsection when, in the opinion of the Planning Commission, such uses are of the same nature and intensity and not first permitted or prohibited in any other district.
- (c) Non-manufacturing. The following non-manufacturing uses shall be permitted:
- (1) Contractor's and equipment storage yards. Building materials storage, storage of rental equipment customarily used by contractors, lumber yards and similar establishments, provided that such uses are conducted either wholly within a completely enclosed building or buildings, except for the storage of vehicles or equipment, or within an area completely enclosed by a solid wall or screened fence not less than eight feet high;
 - (2) Coal and fuel. The storage and dispensing of coal and other fuel, provided that any area used for storage be enclosed by a solid wall or screened fence at least eight feet in height and properly maintained and kept in an acceptable condition;
 - (3) Exposed fuel storage tanks. The exposed tank storage of inflammable liquids, not to exceed 100,000 gallons per storage unit provided such storage units shall be at least 1,000 feet from any D District, and in compliance with existing safety regulations;
 - (4) Power generating station. Facilities for the generation and transmission of electrical power;
 - (5) Outdoor advertising. Advertising and signs as specified in Chapter 1272;
 - (6) Automobile wrecking and junk yards. The dismantling, wrecking and storage of motor vehicles and parts, and obsolete metal products, provided that open area in such use be enclosed by a solid fence or wall at least eight feet in height, properly maintained and kept in an acceptable condition, and further provided that any such use shall be located at least 300 feet from any P or D District; and

- (7) Other uses. Other uses not specifically mentioned in this subsection when, in the opinion of the Planning Commission, such uses are of the same nature and intensity and not first permitted or prohibited in any other district. (Ord. 4886. Passed 12-27-68.)

(d) Setbacks for manufacturing and processing uses.

Notwithstanding any of the other provisions of this section 1258.02, all setbacks required in subsections (b)(2), (b)(3), (b)(5) and (b)(10) of this section 1258.02 shall not apply to the location of any equipment, facilities, structures, fixtures or improvements incidental or ancillary to the manufacturing, compounding, packaging, assembling or processing of the products referenced in such subsections, and shall apply only to equipment, facilities, structures, fixtures or improvements that are utilized for the purpose of directly manufacturing, compounding, packaging, assembling or processing the products referenced in such subsections. Without limiting the foregoing, equipment, facilities, structures, fixtures or improvements that are deemed to be incidental or ancillary to the manufacturing, compounding, packaging, assembling or processing of the products referenced in such subsections include any (i) road, (ii) storm water retention or detention pond, (iii) rail trackage, (iv) rail equipment (including, without limitation, any rail track turnaround, or rail loading and unloading equipment in respect of any of the products referenced in such subsections), (v) storage facility in respect of the products referenced in such subsections (including, without limitation, any storage silo or product piles), (vi) dispensing facility in respect of the products referenced in such subsections, (vii) conveyor system in respect of the products referenced in such subsections, (viii) crushing or pulverizing facilities or equipment in respect of the products referenced in such subsections, (ix) fencing, (x) berm, (xi) screen, (xii) buffer, or (xiii) parking areas.

1258.03 ACCESSORY USES PERMITTED.

Structures and uses customarily incidental to any of the permitted uses provided in this chapter, and occupying the same lot or tract shall be permitted including:

- (a) Retail Uses. Minor retail uses accessory to a principal permitted use, wholly enclosed in the structure housing such use, with no exterior advertising or public entrance; and
- (b) Administrative Offices. Offices for the administration and operation of the uses permitted in this chapter. (Ord. 4886. Passed 12-27-68.)

1258.04 PROHIBITED USES.

The following uses shall be prohibited:

- (a) Dwellings. Dwellings and residences of any kind including mobile homes, schools, hospitals and other institutions for human care, except where they are incidental or accessory to a principal permitted use; and

- (b) Retail Commercial. Retail business and commercial uses, personal services and professional offices, except as provided in Section 1258.03.
(Ord. 4886. Passed 12-27-68.)

1258.05 REQUIRED CONDITIONS.

All operations in this district shall meet the following requirements:

- (a) Plant Vehicle Storage. There shall be sufficient storage space on each plant site to accommodate all plant vehicles with no parking on-street or in any required front yard.
- (b) Enclosure. All business, service, repair, processing or display, if not conducted wholly within a completely enclosed building, shall be enclosed by a solid fence or wall at least eight feet in height where such use is adjacent to any D or P District.
- (c) Night Operation. No building customarily used for night operation shall have any opening other than stationary windows and required exits nearer than 200 feet to any D or P District.
- (d) Performance Standards. See the requirements of Chapter 1274.
(Ord. 4886. Passed 12-27-68.)

1258.06 HEIGHT REGULATIONS.

Within 200 feet of any D or P District, no structure shall exceed fifty feet in height. No structure otherwise shall exceed in height the distance measured to the nearest street or public right of way, except as modified in Section 1276.02.
(Ord. 4886. Passed 12-27-68.)

1258.06

I-2 General Industrial District

101

1258.07 OFF-STREET PARKING AND LOADING REGULATIONS.

Off-street parking and loading shall be provided as required in Chapter 1270.

(Ord. 4886. Passed 12-27-68.)

1258.08 LOT AREA AND YARD REQUIREMENTS.

The following minimum requirements shall apply:

1-2 General Industrial District

- (a) Lot area 5,000 sq ft.
- (b) Frontage 50 ft.
- (c) Front yard 20 ft. on primary thoroughfares; 10 ft. elsewhere.
- (d) Rear yard 25 ft. if adjacent to any D or P District; 15 ft. otherwise for utility easement.
- (e) Side yard 20 ft. if adjacent to any D or P District; 10 ft. otherwise for utility easement.

(Ord. 4886. Passed 12-27-68.)

Filed in Common Pleas Court
BUTLER COUNTY, OHIO

APR 01 2009

CINDY CARPENTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

MATTHEW E. MOORE, et al.

Plaintiffs,

vs.

CITY OF MIDDLETOWN, OHIO

Defendant.

CASE NO. CV-2008-09-4191

(Judge Michael J. Sage)

**MOTION BY THE DEFENDANT
CITY OF MIDDLETOWN
REQUESTING THE COURT TO TAKE
JUDICIAL NOTICE OF FACTS
(EX. A - ATTACHED)**

Now comes the City of Middletown and requests that the Court take judicial notice of property boundaries, City boundaries and zoning related to the matter currently pending before the Court.

In this action, the Plaintiffs generally challenge the City of Middletown's zoning of certain property. In order to assist the Court, Defendant City of Middletown has prepared a map, which shows the parcels owned by the Plaintiffs and those properties' relationships to the property that was rezoned by the City of Middletown. In addition, the map provides the relevant municipal boundaries and surrounding zoning (Ex. A).

The Court is requested to take judicial notice of the map and its contents. It is the intention of the Defendant City of Middletown to provide a large version of the map at the hearing on the Defendant's Motion to Dismiss scheduled for April 3, 2009.

This request is made pursuant to Evidence Rule 201. Clearly, this type of information is subject to judicial notice as the property boundaries of the Plaintiffs' properties are well known as are the political subdivision boundaries and the zoning in those political subdivisions.

Respectfully submitted,

CRABBE, BROWN & JAMES, LLP

Robert J. Gehring

Robert J. Gehring (#0019329)

Brian E. Hurley (#0007327)

30 Garfield Place, Suite 740

Cincinnati, OH 45202

(513) 784-1525

(513) 784-1250 (Fax)

rgehring@cbjlawyers.com

bhurley@cbjlawyers.com

Attorneys for Defendant City of Middletown

Leslie S. Landen by R.J. Gehring

Leslie S. Landen (#0017064)

Law Director, City of Middletown

One Donham Plaza

Middletown, OH 45042

(513) 425-7805

Attorney for Defendant City of Middletown

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was mailed, via regular U.S. Mail, postage prepaid, on this 15th day of April, 2009 to the following counsel of record:

Michael P. Masana
222 South Monument Avenue
Hamilton, OH 45011
*Attorney for Robert W. Cowman
and Carol Ann Cowman*

Thomas Kidd
1001 W. Main Street, Suite F
Lebanon, OH 45036
Attorney for Plaintiffs

Jay C. Bennett
Oxford Professional Building
5995 Fairfield Road, Suite #5
Oxford, OH 45056
Attorney for Plaintiffs

Ohio Attorney General
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, OH 43215-2428

Robert J. Gehring

Robert J. Gehring (#0019329)

