

Repealed 6-19-12 Ord. 2012-8

map
Int.

6-20-12
Dt.

Survey Map now attached
to Ord. 2012-8

**VILLAGE OF CHAUNCEY
ORDINANCE NO. 2012-7**

**AN ORDINANCE GRANTING A LIFETIME LICENSE
TO USE VILLAGE RIGHT OF WAY TO THE BAGGS FAMILY**

WHEREAS, as part of a Settlement Agreement in the litigation filed at Case No. 09 CI 0394 State ex rel. Thomas Baggs v. Village of Chauncey, Court of Common Pleas of Athens County, (copy attached as Exhibit A) the Village agreed to grant a lifetime license to use Village Right of Way to the current occupants of the Thomas Baggs residence; and

WHEREAS, Pursuant to a survey completed on October 11, 2011, by Gerald Bayha, P.S. No S-6139, it was determined that adjacent property owner of 9 Elm Street, Thomas F. Baggs Jr. (OR 317 p. 254) (Exhibit B) has encroached a portion of a mobile home, a shed and a workshop onto Village right of way at Fourth Street (FKA as Kanawha Ave) as more particularly shown on said survey which is attached hereto as Exhibit C.

THEREFORE, BE IT ORDAINED by the Council of the Village of Chauncey, State of Ohio, as follows:

Section One: The Village hereby grants to Thomas F. Baggs, Jr., Dorothy Baggs, his spouse and Donna Baggs, his mother, a license to use the right of way of Fourth Street in the manner currently in place as shown on the survey attached as Exhibit C.

Section Two: Neither Thomas F. Baggs, Jr., Dorothy Baggs or Donna Baggs will place or cause to be placed or erected any additional permanent structures including stone walls and fences on the said right of way nor will take any actions which may interfere with utility easements within the said right of way.

Section Three: This license shall be personal to each of the said Baggs family members for his or her life while in occupancy at the home. Upon the death of the last survivor of said Baggs family members, this license shall terminate absolutely.

Section Four: If at any time, the residence at 9 Elm Street shall cease to be the domicile of the Baggs family members or the last survivor of them, this license shall automatically terminate and become null and void.

Section Five: Upon the sale or any other transfer whether by descent, devise or operation of law or otherwise, of the property known as 9 Elm Street to any person or entity other than Thomas F. Baggs, Jr., Dorothy Baggs or Donna Baggs, this license shall automatically terminate and become null and void.

Section Six: This license is not transferable in whole or part by any of the said Baggs Family members.

Section Seven: Any change in circumstances regarding each of the said Baggs Family members, such as death, removal from the residence, change of domicile or which may affect this license shall be promptly communicated by the said Baggs Family members to Village Council.

Section Eight: Any violation of any terms and conditions of this license set forth herein shall automatically terminate this license and render it null and void.

Section Nine: The consideration for the grant of this license is the settlement of and dismissal with prejudice of the litigation State ex rel. Thomas Baggs v. Village of Chauncey, Case No. 09CI0394, Court of Common Pleas of Athens County.

Section Ten: A memorandum of the herein grant of license shall be recorded by the Village in the official records of the Athens County Recorder of Deeds and the Solicitor is authorized to do so.

Section Eleven:

This ORDINANCE is declared to be an emergency necessary to promptly effectuate the Settlement Agreement, insulate the Village from liability for damages, preserve the fiscal health of the Village and protect the safety and welfare of the residents of the Village and therefore this ORDINANCE shall take effect upon passage.

PASSED this 5th day of June, 2012.

ATTEST:

Joe Canter
Joe Canter
Council President

ATTEST:

Maria Mirza
Maria Mirza
Fiscal Officer

APPROVED AS TO FORM:

Robert J. Shostak
Robert J. Shostak, Esq.
Solicitor

APPROVED:

Robert Matthey
Robert Matthey
Mayor

First Reading: 5 June 2012

Second Reading: on suspension of rules

Third Reading: _____

**IN THE COURT OF COMMON PLEAS OF
ATHENS COUNTY, OHIO**

**STATE EX REL:
THOMAS BAGGS**

Case No. 09-CI-0394

Relator,

Judge Ward

v.

VILLAGE OF CHAUNCEY

Respondent.

SETTLEMENT AGREEMENT

THE PARTIES AGREE TO SETTLE ALL ISSUES IN THE CASE PENDING IN
ATHENS COUNTY COURT OF COMMON PLEAS Case NO. 09-CI-0394 under the following
terms:

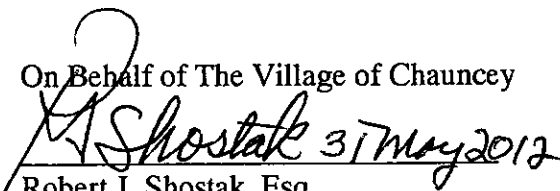
1. The Village's Insurance Fund will pay to Thomas Baggs and his attorney, Michael L. Barr, \$19,000.00 as reimbursement of attorney fees.
2. The Village will grant to Thomas Baggs, Dorothy Baggs and Donna Baggs a license for life to use the village's property that is located adjacent to the Baggs' property, located on the western side, known as Fourth Street. The property will still be subject to an easement for utilities that exist on the property and any easements or rights of way of record. Neither Thomas Baggs, Dorothy Baggs or Donna Baggs will be permitted to place any additional permanent structures on the subject property or take any action which could interfere with the utility easements. Upon the

death of the last survivor of Thomas Baggs, Dorothy Baggs and Donna Baggs. The Licensure shall end upon the Village formally vacating the property.

3. This Settlement is subject to the Village Council approving the Licensure.
4. Thomas Baggs agrees to release the Village of Chauncey and its officials and representatives from any claims for damages and/or attorney fees regarding any public records request made by him prior to this date of this agreement.
5. The parties hereby stipulate and agree this is a complete settlement of all matters arising from this litigation.

Approved by the undersigned on behalf of their parties on May 31, 2012.

On Behalf of The Village of Chauncey


Robert J. Shostak, Esq.

Village Solicitor and Co-counsel for Respondent


Randall Lambert, Esq.
Attorney for Respondent

On Behalf of Plaintiff /Baggs



Mike Barr, Esq.
Attorney for Relator

PROBATE COURT OF ATHENS COUNTY, OHIO

ESTATE OF RALPH E. SMITH, DECEASED

CASE NO. 011158

CERTIFICATE OF TRANSFER

NO. 1

[Check one of the following]

Decedent died intestate.

Decedent died testate.

FILED
ATHENS COUNTY OHIO

SEP 13 2001

Decedent died on June 19, 2001 owning the real property described in this certificate. The persons to whom such real property passed by devise, descent or election are as follows:

Name	Residence Address	Transferee's share of decedent's interest
Thomas F. Baggs, Jr.	9 Elm Street Chauncey, Ohio 45719	Entire

This Conveyance has been examined and the Grantor has complied with Section 319.202 of the Revised Code.

No. EX Transfer Fee Paid \$ 14.00
Jill A. Thompson, Athens County Auditor

By LR Deputy Auditor

L.D. Transferred
9-18-01

200100008039
Filed for Record in
ATHENS COUNTY, OHIO
JULIA MICHAEL SCOTT
09-19-2001 03:37 PM.
CERT TRANS 14.00
OR Book 317 Page 254 - 255

200100008039
WILLIAM A LAVELLE
PO BOX 899
SMITH
ATHENS, OH 45701

[Complete if applicable] The real property described in this certificate is subject to a charge of \$ N/A in favor of decedent's surviving spouse, N/A in respect of the unpaid balance of the specific monetary share which is part of the surviving spouse's total intestate share.

The legal description of decedent's interest in the real property subject to this certificate is: [use extra sheets, if necessary].

Situated in the Village of Chauncey, Township of Dover, County of Athens, State of Ohio, and bounded and described as follows:

Being all of LOTS NO. SIX HUNDRED SIXTY ONE (661) and SIX HUNDRED SIXTY TWO (662) in the Slater-Poston Addition to said Village as shown on the Plat of said Addition which appears of record in Athens County Plat Book 4, Page 19.

Excepting from the above described premises, all coal, oil, gas, salt water and othe minerals, together with the right in perpetuity to mine and remove the same, and to haul through entries under said premises coal and other minerals from other land or lands.

Being a part of the premises to the Grantor herein by Deed from Ohio Collieries Company, dated, August 12, 1918 and recorded in Athens County Deed Book 127, Page 138.

Prior Instrument Reference: Reference Volume 208, Page 290, Athens County Deed Records and Deed Records Volume 375, Page 47 of the Deed Records Parcel No: of Athens County, Ohio

PARCEL NO: G02-00400081-00 and G02-00400080-00

ISSUANCE

This Certificate of Transfer is issued this 13th day of September, 2001.

FILED ATHENS COUNTY OHIO

SEP 13 2001

Edward Dobe Judge, Court of Common Pleas Probate Division SEAL

Edward Dobe Probate Judge

CERTIFICATION

I certify that this document is a true copy of the original Certificate of Transfer No. 1 issued on September 13, 2001 and kept by me as custodian of the official records of this Court.

Date 9/13/01

Edward Dobe Probate Judge

By Emily Swast Deputy Clerk

2001000000039

CERTIFICATION OF VILLAGE CLERK
AS TO POSTING OF ORDINANCE

The foregoing is a true copy of the original Ordinance No. 2012-7

Publication of this Ordinance was made by posting a copy of the same in the following five locations within the Village, beginning on June 11, 2012, and concluding on June 26, 2012 (at least 15 days later):

Location	Date Posted
<u>Town Hall</u>	<u>6-11-12</u>
<u>Post Office</u>	<u>6-11-12</u>
<u>Library</u>	<u>6-11-12</u>
<u>Cee Dee Mart</u>	<u>6-11-12</u>
<u>T's Quick Stop</u>	<u>6-11-12</u>

Attest:

Date: June 11, 2012

Maura J. Meena
Village Fiscal Officer