

**ORDINANCE NO. 774**

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA PROVIDING FOR THE ACQUISITION OF PROPERTY LOCATED IN AND THROUGH THE PREMISES LOCATED AT 1066 SENECA STREET IN THE BOROUGH OF FOUNTAIN HILL BY CONDEMNATION FOR AN EASEMENT FOR A STORM WATER LINE AND PROVIDING FOR AN EFFECTIVE DATE AND GENERAL REPEALER.**

**WHEREAS**, the Property subject to this acquisition is more specifically described in Exhibit "A" (hereinafter referred to as the "Property") and is located within the privately owned premises of 1066 Seneca Street; and

**WHEREAS**, the Borough Code provides that storm water management easements shall be provided by the property owner if necessary for access for inspections and maintenance or for preservation of storm water conveyance, infiltration, detention areas or other uses. See 53 P.S. § 46501; and

**WHEREAS**, the Pennsylvania Eminent Domain Code, as amended, 26 P.A. Stat. Ann. § 1-101, et seq., enables the Borough to appropriate and condemn properties pursuant to the procedures set forth in the Code; and

**WHEREAS**, the Borough has valued that the fair market value of the property as of December 5, 2011 as \$500.00; and

**WHEREAS**, Borough Council has determined that it is in the best interest of the Borough to acquire the Property at this time at its fair market value.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Borough of Fountain Hill, Lehigh County, Pennsylvania, in lawful fashion duly assembled, as follows:

**SECTION 1.** It is hereby determined that the Property described in Exhibit "A" existing within the premises of 1066 Seneca Street is necessary for the proper maintenance and construction of the storm water line and should be acquired by the Borough for its fair market value of \$500.00 or for such value as may be determined by Borough Council by resolution.

**SECTION 2.** The President of Borough Council and the Borough Secretary are hereby authorized, empowered and directed to negotiate for and in behalf of the Borough with the owner or owners of the Property for the purchase of such property.

**SECTION 3.** In the event that the said officers of the Borough are unable to agree with the owners of the property as to the purchase price, then title to and possession of said Property shall be acquired by the Borough through condemnation and Donald H. Lipson, Esq., as Solicitor for the Borough, is hereby authorized, empowered and directed to

institute proceedings in the Court of Common Pleas of Lehigh County to acquire title to and possession of the Property for the Borough in accordance with the Eminent Domain Code of the Commonwealth of Pennsylvania.

SECTION 4. All ordinances or parts of ordinances, and all resolutions or parts of resolutions, inconsistent herewith shall be and are herewith repealed.

SECTION 5. The provisions of this Ordinance are severable. If any provision, sentence, clause, phrase, section or part thereof shall for any reason be found unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts thereof, but the same shall remain in effect. It is hereby declared to be the intent of the Borough that this Ordinance shall stand notwithstanding the invalidity of any part included herein.

SECTION 6. The provisions of this Ordinance shall take effect when the Mayor shall approve it.

**DULY ENACTED AND ORDAINED** on this 21st day of December, 2012, by the Borough of Fountain Hill in lawful session duly assembled.

	Motion	2nd	Yes	No	Abstain
Ed Stech			X		
Carolee Gifford			X		
Norman Blatt	X		X		
Fred Capuano			X		
Larry Rapp			X		
Doug Trotter			X		
Helen Halleman		X	X		
Mayor Jose Rosado					

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

\_\_\_\_\_  
Lawrence E. Rapp, President of Council

**ATTEST:**

\_\_\_\_\_  
Ricky L. Prill, Borough Administrator

\_\_\_\_\_  
DATE

**APPROVED:**

\_\_\_\_\_  
Jose Rosado, Mayor

EXHIBIT A  
DESCRIPTION OF STORM SEWER EASEMENT  
ACROSS LANDS  
NOW OR FORMERLY WALTER NEWMAN  
1066 SENECA STREET  
DOC. ID 1259 / 759  
TAX PARCEL ID 642721419969

ALL THAT CERTAIN lot, piece or parcel of land situated in the Borough of Fountain Hill, County of Lehigh and Commonwealth of Pennsylvania, bounded and described as follows to wit:

An Easement in and through the subject premises of 1066 Seneca Street, said Easement being 20 feet wide, centered on the location of the installed storm sewer, and extending from the northern property line of lands now or formerly Thomas and Robin Giles (1068 Seneca Street, Doc. ID 7478714, Tax Parcel ID 642721418832) to the southern property line of lands now or formerly of Michelle A. Dionne (1064 Seneca Street, Doc. ID 7377946, Tax Parcel ID 642721520176).