

01-170-CD  
IN RE: CLOSING OF A PORTION OF ASPEN WAY IN THE RAILROAD  
PROPERTY INDUSTRIAL PARK, DUBOIS, CLEARFIELD COUNTY,  
PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
Civil Action

**In Re: Closing of a portion of  
Aspen Way in the Railroad  
Property Industrial Park,  
DuBois, Clearfield County,  
Pennsylvania**

: No. 01-170-10

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**PETITION**  
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: Filed on behalf of Redevelopment Authority  
: of the City of DuBois  
:  
:  
: Counsel of Record for Party:  
: ERVIN S. FENNELL, JR.  
: Supreme Ct. No. 05873  
: P.O. Box 606  
: DuBois, PA 15801  
: (814) 371-6900

FILED

FEB 06 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
Civil Division

**In Re: Closing of a portion of** : No. \_\_\_\_\_  
**Aspen Way in the Railroad** :  
**Property Industrial Park,** :  
**DuBois, Clearfield County,** :  
**Pennsylvania** :

**PETITION**

TO THE HONORABLE JOHN K. REILLY, PRESIDENT JUDGE OF SAID COURT:

The petition of the Redevelopment Authority of the City of DuBois (the Authority) respectfully represents:

1. Petitioner is a redevelopment authority created and incorporated under the provisions of the Urban Redevelopment Law of 1945, with its address as P.O. Box 711, DuBois, Pennsylvania, 15801.
2. The Authority acquired title to a nine acre parcel of property located in the Fourth Ward of the City of DuBois, Clearfield County, Pennsylvania, known as the Railroad Property Industrial Park (herein Industrial Park) by virtue of condemnation proceedings filed in the Civil Division of the Court of Common Pleas of Clearfield County, Pennsylvania, to No. 95-1424-CD, recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, in Deeds & Records Book 1710, page 396.
3. The Authority subdivided the Industrial Park into six separate parcels which subdivision was approved by the Planning Commission of the City of DuBois and by the DuBois City Council September 9, 1996. The subdivision plan was recorded in the Office of the Recorder of Clearfield County, Pennsylvania.

4. The said sub-division plan portrayed a 50-foot right-of-way known as Aspen Way extending along the easterly right-of-way of the Buffalo & Pittsburgh Railroad and fronting on Lots B, C, D, and E of said Industrial Park and extending to Lot F of said Industrial Park.

5. The remaining lots in the Industrial Park, namely A, B, and D, are owned by the Authority.

6. Lot C is owned by Donald L. Bohensky and Hazel F. Bohensky by virtue of a deed from the Authority dated August 12, 1998, and recorded in the Office of the Recorder of Clearfield County, Pennsylvania.

7. Lot E, although owned by the Authority, is under an agreement of sale to Mark T. Sullivan and Dana E. Smith, dated December 29, 2000.

8. Lot F is owned by John R. Hibner and Norman L. Schaffer, partners, t/d/b/a Penn Central Services by virtue of a deed from the Authority dated February 7, 1997, recorded February 11, 1997, in Clearfield County Deeds & Records Book 1819, page 491.

9. The Authority, Donald L. and Hazel F. Bohensky, John R. Hibner and Norman L. Schaffer, and Mark T. Sullivan and Dana E. Smith, are the only owners and persons, firms or corporations interested in the said Industrial Park and, therefore, are collectively and individually the only entities whose permission is necessary for the closing of portions of Aspen Way.

10. The Authority and all of the owners of the lots in the Industrial Park are in agreement that the following portions of Aspen Way should be closed and added to the existing lots as follows:

(A) That portion of Aspen Way extending from the westerly side of Lot B to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot B, said closed parcel being a rectangle measuring 255.56 feet by 50 feet; and

(B) That portion of Aspen Way extending from the westerly side of Lot E to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot E, said closed parcel being a rectangle measuring 240.31 feet by 50 feet.

11. Attached to this Petition are the consents to the closing of Aspen Way as set forth herein, being all of those persons having an interest in any of the Lots in the Industrial Park, namely:

(A) Donald L. Bohensky and Hazel F. Bohensky, husband and wife, owners of Lot C;

(B) Mark T. Sullivan and Dana E. Smith, equitable owners of Lot E under an agreement of sale with the Authority; and

(C) John R. Hibner and Norman L. Schaffer, partners, t/d/b/a Penn Central Services, owners of Lot F.

There are no further consents required.

12. All of the lots in the Industrial Park will continue to maintain access, either from the portion of Aspen Way remaining open or from adjoining streets or highways adjacent to the Industrial Park.

13. A map or plat prepared by Alexander & Associates dated December 7, 2000, revised December 18, 2000, showing the changes in Lots B and E of the Railroad Industrial Park is

intended to be recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, following approval of this Petition by your Honorable Court.

WHEREFORE, Petitioner respectfully requests that the Court will order the closing of certain portions of Aspen Way as described herein and as portrayed on the map or plat prepared by Alexander & Associates, Inc. It is respectfully suggested that no formal hearing is necessary inasmuch as the owners of all of the lots in the Industrial Park have consented to the requested closings.

Respectfully submitted,



Ervin S. Fennell, Jr.  
Attorney for Petitioner

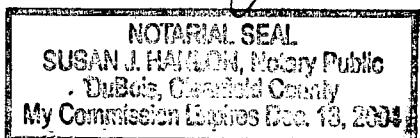
STATE OF PENNSYLVANIA :  
: SS  
COUNTY OF CLEARFIELD :

FENTLEY B. SHENKLE, Chairman of the Redevelopment Authority of the City of DuBois, Petitioner herein, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.

Fentley B. Shenkle  
Fentley B. Shenkle

Subscribed and sworn to before me  
this 30<sup>th</sup> day of January, 2001.

Susan J. Hainlin  
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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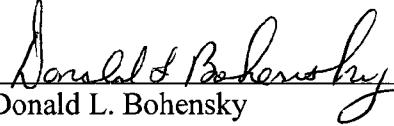
**CONSENT**

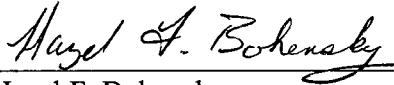
We, Donald L. Bohensky and Hazel F. Bohensky, husband and wife, owners of Lot C of the Railroad Property Industrial Park are in agreement with and hereby consent to the closing of certain portions of Aspen Way with the same to be added to the existing lots as follows:

(A) That portion of Aspen Way extending from the westerly side of Lot B to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot B, said closed parcel being a rectangle measuring 255.56 feet by 50 feet; and

(B) That portion of Aspen Way extending from the westerly side of Lot E to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot E, said closed parcel being a rectangle measuring 240.31 feet by 50 feet.

This consent is given in reliance upon the understanding that the above closings of portions of Aspen Way will not affect access to our property in the Industrial Park which will continue from other open portions of Aspen Way.

  
Donald L. Bohensky

  
Hazel F. Bohensky

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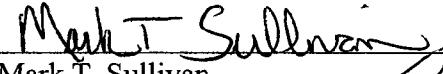
**CONSENT**

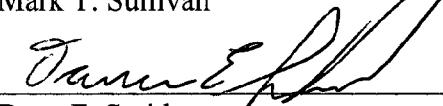
We, Mark T. Sullivan and Dana E. Smith, equitable owners of Lot E of the Railroad Property Industrial Park are in agreement with and hereby consent to the closing of certain portions of Aspen Way with the same to be added to the existing lots as follows:

(A) That portion of Aspen Way extending from the westerly side of Lot B to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot B, said closed parcel being a rectangle measuring 255.56 feet by 50 feet; and

(B) That portion of Aspen Way extending from the westerly side of Lot E to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot E, said closed parcel being a rectangle measuring 240.31 feet by 50 feet.

This consent is given in reliance upon the understanding that the above closings of portions of Aspen Way will not affect access to our proposed property in the Industrial Park which will continue from other open portions of Aspen Way.

  
\_\_\_\_\_  
Mark T. Sullivan

  
\_\_\_\_\_  
Dana E. Smith

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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: No. \_\_\_\_\_  
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**CONSENT**

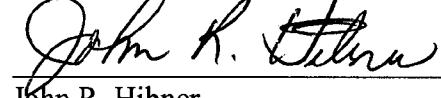
We, John R. Hibner and Norman L. Schaffer, partners, t/d/b/a Penn Central Services, owners of Lot F of the Railroad Property Industrial Park are in agreement with and hereby consent to the closing of certain portions of Aspen Way with the same to be added to the existing lots as follows:

(A) That portion of Aspen Way extending from the westerly side of Lot B to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot B, said closed parcel being a rectangle measuring 255.56 feet by 50 feet; and

(B) That portion of Aspen Way extending from the westerly side of Lot E to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad added to Lot E, said closed parcel being a rectangle measuring 240.31 feet by 50 feet.

This consent is given in reliance upon the understanding that the above closings of portions of Aspen Way will not affect access to our property in the Industrial Park.

PENN CENTRAL SERVICES

  
John R. Hibner

  
Norman L. Schaffer

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**O R D E R**

AND NOW, the 20<sup>th</sup> day of February, 2001, the Court having read and considered the contents of the Petition of the Redevelopment Authority of the City of DuBois, and attached Consents of all of the owners of lots in the Railroad Property Industrial Park in the City of DuBois, Clearfield County, Pennsylvania, the Court having been informed that the consents of no other persons are necessary, it is hereby **ORDERED** and **DECREED** that the following portions of Aspen Way in the Railroad Property Industrial Park in the City of DuBois, Clearfield County, Pennsylvania, are closed:

(A) that portion of Aspen Way extending from the westerly side of Lot B to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad, said closed parcel being a rectangle measuring 255.56 feet by 50 feet, with the same being added to Lot B in the said sub-division; and

(B) that portion of Aspen Way extending from the westerly side of Lot E to the Easterly right-of-way of the Buffalo & Pittsburgh Railroad, said closed parcel being a rectangle measuring 240.31 feet by 50 feet, with the same being added to Lot E in the said sub-division.

BY THE COURT

P.J.

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Pennsylvania

PETITION

FILED

FEB 06 2001  
142147  
Fennell  
William A. Shaw  
Prothonotary  
pd \$10.00

cc. atty. Fennell

LAW OFFICES

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