

ORDINANCE 2021-18

BOROUGH OF BUTLER
COUNTY OF MORRIS
STATE OF NEW JERSEY

AN ORDINANCE AUTHORIZING THE BOROUGH OF BUTLER TO ACQUIRE A NON-EXCLUSIVE EASEMENT AND RIGHT-OF-WAY FOR ACCESS OVER CERTAIN REAL PROPERTY LOCATED WITHIN THE BOROUGH IN ORDER TO PROVIDE THE BOROUGH'S MUNICIPAL FACILITIES AT ONE ACE ROAD WITH PEDESTRIAN AND VEHICULAR INGRESS, EGRESS AND REGRESS TO AND FROM ACE ROAD AND WHITTECK STREET

WHEREAS, the Borough of Butler, a municipal corporation of the State of New Jersey, County of Morris ("Fee Owner") is the fee simple owner of certain real properties located at Lot 10.01, Block 41 ("Leased Property") and Lot 10, Block 41 ("Fee Property") in the Borough of Butler; and

WHEREAS, Fee Owner has leased the Leased Property to Butler Senior Citizens Housing LP, a New Jersey limited partnership ("Leasehold Owner") having an address at 4814 Outlook Drive, Suite 201, Wall Township, New Jersey 07753; and

WHEREAS, Leasehold Owner has improved the Leased Property with an apartment complex for seniors; and

WHEREAS, Fee Owner and its guests and invitees at times access the Municipal facilities on the Fee Property from Ace Road and Whitteck Street by way of private driveways located on the Leased Property; and

WHEREAS, Fee Owner and Leasehold Owner (collectively, the "Parties") have proposed to enter into a formal easement agreement to memorialize the use of such driveways; and

WHEREAS, copies of the individual parcel maps depicting the areas of the above-referenced Leased Property over which the Borough shall acquire the proposed easement are attached to this Ordinance and are made a part hereof (copies are on file in the office of the Borough Clerk); and

WHEREAS, pursuant to the New Jersey Local Lands and Building Law, N.J.S.A. 40A:12-1 to -38, a municipality may acquire any real property, capital improvement, personal property, or any interest or estate whatsoever therein, including but not limited to an easement, by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement, pursuant to the adoption of an Ordinance;

WHEREAS, the Mayor and Council have determined that it would be in the best interests of the health, safety and welfare of the residents of the Borough, and the general public, to acquire and establish a non-exclusive easement and right-of-way over, upon and across the Leasehold Property in the shaded area shown on **Exhibit A** attached hereto (the “**Easement Area**”) for purposes of facilitating public ingress, egress and regress to and from the Municipal facilities on the Fee Property from Ace Road and Whitteck Street;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Butler, in the County of Morris and State of New Jersey, as follows:

Section 1. That, pursuant to N.J.S.A. 40A:12-1 to -38, the Borough is hereby authorized to acquire a non-exclusive easement and right-of-way over, upon and across the above-referenced Leased Property (as depicted by the shaded area on **Exhibit A**) in order to facilitate public pedestrian and vehicular ingress, egress and regress to and from the Municipal facilities on the Fee Property.

Section 2. That the Borough Attorney is hereby authorized and directed to prepare the necessary deed of easement as described herein.

Section 3. That the Borough Administrator shall be authorized to undertake all steps needed to carry out the intent of this Ordinance.

Section 4. That this Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 5 That, in the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Introduction: July 20, 2021

Adoption: _____, 2021

ATTEST:

MARY A. O’KEEFE
MUNICIPAL CLERK

RYAN MARTINEZ
MAYOR