

## ORDINANCE NO. 114

AN ORDINANCE AUTHORIZING AND DIRECTING THE TAKING, APPROPRIATING AND CONDEMNING A SUBTERRANEAN EASEMENT FIFTEEN FEET WIDE, FOR THE INSTALLATION OF A PUBLIC SANITARY SEWER BY THE BOROUGH OF MONROEVILLE THROUGH THE PROPERTY OF FRANZ S. BACKER AND SIDONIA BACKER, HIS WIFE, AS IS DESCRIBED IN THIS ORDINANCE; PROVIDING FOR THE TENDER OF THE BOND OF THE BOROUGH OF MONROEVILLE TO THE OWNER OF SAID PROPERTY AND UPON HIS REFUSAL TO ACCEPT THE SAME TO PRESENT THE SAME TO THE COMMON PLEAS COURT OF ALLEGHENY; EMPOWERING AND DIRECTING THE SOLICITOR AND OTHER BOROUGH OFFICERS TO DO ALL ACTS NECESSARY TO THE MUNICIPAL EXERCISE OF THE ACT OF EMINENT DOMAIN IN ACCORDANCE WITH THE BOROUGH CODE AS SUPPLEMENTED AND AMENDED.

Be it ordained and enacted by the Burgess and the Council of the Borough of Monroeville and it is hereby ordained and enacted by the authority of the same.

Section One: - The Borough of Monroeville by its Ordinance No. 93 finally enacted on May 9, 1957 did provide for the building of a sanitary sewer to be constructed from the intersection of the old William Penn Highway and Beatty Road to the confluence of Abers Creek and Turtle Creek, all in the Borough of Monroeville.

Section Two: Contemporaneously with the enactment of Ordinance No. 93, the Borough Engineer at the direction of Borough Council prepared detailed plans and specifications for said sanitary sewer which said plans and specifications have been adopted by said Borough Council.

Section Three: - Said plans located said sanitary sewer within the lines of a private road located on the property of Franz S. Backer and Sidonia Backer and the construction of said sewer requires a right of way and easement fifteen feet wide in said private road and through the lands of Franz S. Backer et ux in accordance with the following description to-wit: -

Beginning at a point in a private road on line dividing land of Franz S. Backer and land now or formerly of Meadowbrook Farms, which point is one hundred thirty (130) feet more or less, North  $58^{\circ} 30'$  West, from a stone marking the Southeast corner of the Backer land; thence following the private road North  $38^{\circ} 40'$  East, two hundred seventy (270) feet more

or less to a point; thence North 30° 34' East, one hundred seventy-seven (177) feet more or less to a point; thence North 10° 34' East, seventh-two (72) feet more or less to a point on line dividing land of said Backer and land of H. A. Lersch in said private road, which point is South 70° 16' East, five (5) feet more or less from the corner common to Backer and Lersch.

Section Four: - The Borough of Monroeville has attempted to negotiate for the right of way or easement for the sanitary sewer as described above with the said owners Franz S. Backer and Sidonia Backer but such negotiations have proven unsuccessful, and therefore does by this ordinance exercise its right of eminent domain and hereby takes, appropriates and condemns for sanitary sewer purpose the right of way and easement described above with the right to install therein a sanitary sewer and to enter upon the said right of way or easement from time to time to construct, repair and maintain said sewer.

Section Five: - This taking, appropriation and condemnation is for public use, welfare and benefit and is made necessary in order to protect the health and welfare of the citizens and residents of Monroeville by the providing of necessary sanitary sewers.

Section Six: - The proper officers of the Borough of Monroeville are hereby authorized and directed to tender to the said Franz S. Backer and Sidonia Backer the bond of the Borough of Monroeville in the sum of One Thousand (\$1000.00) Dollars and present the same to Franz S. Backer and upon his refusal to accept the same, to have the solicitor present the same to the Court of Common Pleas of Allegheny County, Pennsylvania. The solicitor and the other officers of the Borough of Monroeville are hereby directed and empowered to do all acts necessary on behalf of the Borough of Monroeville to fully complete the taking, appropriation and condemning of this right of way or easement including the instituting and/or defending of all actions by viewers, or otherwise, for the determination of such damages, if any, connected herewith.

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Section Seven: - All ordinances or parts of ordinances conflicting with this ordinance, be and the same are hereby repealed in so far as they conflict with this ordinance.

Ordained and enacted into law this 26th day of November 1957.

BOROUGH OF MONROEVILLE

S/ Gladys Diller  
Borough Secretary

S/ Edgar Giles  
President of Council

Examined and approved by me this 26th day of November 1957.

S/ Samuel Jenkins  
Burgess