

**BEACHWOOD CITY COUNCIL
LEGAL AND PERSONNEL COMMITTEE MEETING AGENDA
MONDAY, JULY 1, 2019, 6:00 PM
at BEACHWOOD CITY HALL, CONFERENCE ROOM A,
25325 Fairmount Boulevard, Beachwood, Ohio 44122**

James Pasch
Justin Berns
Brian Linick
Eric Synenberg

Agenda Items

1. Mayor's Report
2. Executive Session Discussion regarding Letter of Engagement with Tom Greve for Prosecuting Duties and Discussion regarding Pending or Imminent Litigation
3. Discussion regarding An Ordinance accepting an Easement to the City of Cleveland, Ohio and the City of Beachwood, Ohio from Beachwood Senior Living, LLC DBA Rose Senior Living Beachwood for the Installation and Maintenance of a Water Main for the Purpose of Supplying Water Service
4. Any other matters coming before the Legal and Personnel Committee

#

AN ORDINANCE ACCEPTING AN EASEMENT TO THE CITY OF CLEVELAND, OHIO AND THE CITY OF BEACHWOOD, OHIO FROM BEACHWOOD SENIOR LIVING, LLC DBA ROSE SENIOR LIVING BEACHWOOD FOR THE INSTALLATION AND MAINTENANCE OF A WATER MAIN FOR THE PURPOSE OF SUPPLYING WATER SERVICE; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, Beachwood Senior Living, LLC DBA Rose Senior Living Beachwood is constructing a private development on Harvard Road within the City of Beachwood; and

WHEREAS, it was necessary to install a water main for the purpose of supplying water service to the private development; and

WHEREAS, the City has agreed to accept an easement for the installation and maintenance of a water main for the purpose of supplying water service for the private development.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: The City hereby accepts a permanent easement for the installation and maintenance of a water main for the purpose of supplying water service to the City of Cleveland and the City of Beachwood as set forth in Exhibit "A", a copy of which is attached hereto and incorporated herein.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 3: This Ordinance is hereby declared an urgent measure which is immediately necessary for the preservation of the public peace, health, safety or the efficient operation of the City; and for the further reason that it is necessary to accept an easement at the earliest time in order for proper completion of the installation and maintenance of a water main to serve the private development; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

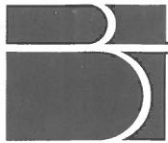
WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 1st day of July, 2019, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 2nd day of July, 2019.

Clerk

Approval: I have approved this legislation this 2nd day of July, 2019, and filed it with the Clerk.

Mayor



BRAMHALL
ENGINEERING &
SURVEYING COMPANY

801 Moore Road • Avon, OH 44011
(440) 934-7878
(440) 934-7879 Fax

LETTER OF TRANSMITTAL

DATE	May 22, 2019	JOB NO.	14-4562
ATTENTION	Diane Catta		
RE:	Rose Senior Living Harvard Rd. Waterline Extension		

TO Diane Catta - Law Director
25325 Fairmount Blvd.
Beachwood, OH 44122

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via _____ the following items:

☐ Improvement Plans ☐ As-Built Plans ☐ Site & Grading Plan ☐ Foundation Check ☐ Final Grade

☐ Specifications ☐ Record Plat/Boundary Survey ☐ _____

COPIES	DATE	NO.	DESCRIPTION
1		10 pages	Original Document & Cover Letter

THESE ARE TRANSMITTED as checked below:

- | | | |
|---|---|---|
| ☐ For approval | ☐ Approved as submitted | ☐ Resubmit _____ copies for approval |
| ☐ For your use | ☐ Approved as noted | ☐ Submit _____ copies for distribution |
| ☐ As requested | ☐ Reviewed as submitted | ☐ Reviewed as noted |
| ☐ For review and comment | ☒ For Signature | |
| ☐ FOR BIDS DUE _____ | ☐ PRINTS RETURNED AFTER LOAN TO US | |

REMARKS Please return original document to our
office after it has been signed accordingly
and we will have the easement recorded.
Thank you

COPY TO _____

SIGNED: _____

If enclosures are not as noted, kindly notify us at once.



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Utilities
Division of Water
1201 Lakeside Avenue
Cleveland, Ohio 44114-1175
(216) 664-2444
www.clevelandwater.com



May 2, 2019

Bramhall Engineering & Surveying Company
Attn: Aaron Appell
801 Moore Road
Avon, Ohio 44011

Re: Standard Water Main Easement for Project 11628
Harvard Road Waterline Extension (Rose Sr. Living Facility)
Beachwood, Ohio

Enclosed is the original standard water main easement for the above referenced location which has been accepted by the Director of Public Utilities.

Please have the easement officially recorded at the Cuyahoga County Recorder's Office and forward a copy of the recorded easement to Cleveland Division of Water, Distribution Engineering section under my attention.

Thank you.

Sincerely,

Kim Battle

Kim Battle
Distribution Engineering
Division of Water

Enclosures

cc: File

STANDARD EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF A WATER MAIN
FOR THE PURPOSE OF SUPPLYING WATER SERVICE

We, Beachwood Senior Living, L.L.C. , the Grantor herein, for valuable consideration received and to be received to our full satisfaction, do hereby grant and convey to the City of Beachwood, and to the City of Cleveland, political subdivision of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in the City of Beachwood, County of Cuyahoga, State of Ohio, known as being part of the Original Warrensville Township Lot Nos. 68 & 69, and bounded and described as follows:

"A copy of the legal Description is attached hereto as
Exhibit "A" and made a part hereof as if fully written herein."

Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assigns.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantees the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises, The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantees, become and remain the property of the Grantee City of Beachwood, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, the City of Cleveland, now or hereafter in effect.

All service connections shall be installed in accordance with the ordinances, rules and regulations of the Grantees at the expense of owners of abutting property or others who seek water service thereby. Service connections shall be assigned to specific street mailing addresses by Grantee, City of Cleveland, when said Grantee receives the official designation of such addresses from Grantee, the City of Beachwood.

All water meters shall be furnished and set by Grantee, City of Cleveland, at the expense of the Grantor. All water shall be supplied by Grantee, City of Cleveland, in the same manner and to the same extent that said Grantee supplies water to properties abutting on public streets in the City of Cleveland. The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 - ½) feet above or one and one-half (1- ½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the depth of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

The Grantor agrees to construct a hard surface driveway, of at least fifteen (15) feet in width, adjacent to the water main. The Access driveway shall be constructed of concrete or asphalt and shall conform to current Ohio Department Of Transportation specifications.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than fifty (50) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become the property of Grantee, the City of Beachwood.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor and the Grantees mutually agree that neither the recording of this instrument nor its acceptance by the Grantees shall be construed as a dedication of the premises or an agreement by the Grantees to accept the premises for dedication for public use as a street.

The Grantor covenants with the Grantees that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantees against all lawful claims and demands whatsoever for the purposes described herein.

TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at
Oakland County, Michigan this 1st day of
May, 20 18.

Signed in the Presence of:

GRANTOR: Beachwood Senior Living, L.L.C.



Robert Schrader
(print or type name)

Warren Rose, Manager
(print or type name)

(print or type name)

This Instrument Prepared By:

STATE OF MICHIGAN)) SS: COUNTY OF OAKLAND)

Before me, a Notary Public in and for said County and State, personally appeared the above-named
Warren Rose, who acknowledged that (he) did sign the
foregoing instrument and that the same is (his) free act and deed, personally and as such officer(s) and
the free act and deed of said (corporation).

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at
Oakland County, Michigan, this 1st day of May, 2018.

Wendy Adcock

NOTARY

WENDY ADCOCK
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Sep 13, 2022
ACTING IN COUNTY OF oakland

The legal form and correctness of the within instrument is hereby approved:

Director of Law

(City, Village, Township, District)

(Date)

Accepted by the Council of _____ by (Resolution/Ordinance) No. _____
Passed _____, 20____.

Clerk or Assistant

(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within
easement and all the terms and conditions thereof this 26th day of
April, 2019, as authorized by Section 129.20 of the Codified Ordinances of
Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of: CITY OF CLEVELAND

ROBERT L. Davis By: [Signature]
Utilities date: 4-26-19

Director of Public

The legal form and correctness of the within instrument is hereby approved:

[Signature] Director of Law

By: [Signature] Chief, Assistant Director of Law

Date: 4.25.19

Exhibit "A"

25' Utility Easement June 2017

Legal Description 0.5414 of an Acre

Situated in the City of Beachwood, County of Cuyahoga, State of Ohio, known as being part of Original Warrensville Township Lot Numbers 68 & 69, as described in a deed to Beachwood Senior Living, L.L.C. as recorded in AFN 201707050207 of the Cuyahoga County Deed Records, and further described as follows:

Commencing at the intersection of the centerline of Eaton Boulevard (R/W Varies) with the centerline of Harvard Road (R/W Varies); Said point being 0.19 feet northerly and 0.21 feet westerly from a 1-1/4-inch iron pin with found in a monument box;

Thence North 00° 57' 50" West along the centerline of said Eaton Boulevard, a distance of 102.90 feet;

Thence South 89° 02' 10" West a distance of 64.00 feet to a point of curvature in the westerly right-of-way line of said Eaton Boulevard; Said point being 0.14 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;

Thence along the westerly right-of-way line of said Eaton Boulevard and along the arc of a curve to the right, having a radius of 15.00 feet, an arc length of 27.21 feet, a tangent length of 19.17 feet, a delta of 103° 55' 25" and a chord length of 23.63 feet which bears South 50° 59' 53" West to a point of tangency in the northerly right-of-way line of said Harvard Road; Said point being 0.11 feet northerly and 0.21 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;

Thence North 77° 02' 25" West along the northerly right-of-way line of said Harvard Road, a distance of 177.93 feet to an angle point; Said point being 0.14 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;

Thence North 67° 47' 15" West along the northerly right-of-way line of said Harvard Road, a distance of 180.03 feet to an angle point; Said point being 0.10 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;

Exhibit "A"

**25' Utility Easement
June 2017**

**Legal Description
0.5414 of an Acre**

Thence North 66° 30' 59" West along the northerly right-of-way line of said Harvard Road, a distance of 149.08 feet to a point in the southeasterly corner of said Beachwood Senior Living, L.L.C. parcel and being 0.08 feet northerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found and the **True Place of Beginning** of land herein described;

- Course 1:** Thence continuing, **North 66° 30' 59" West** along the northerly right-of-way line of said Harvard Road, a distance of **96.64 feet** to a point; Said point being 0.11 feet northerly and 0.11 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;
- Course 2:** Thence **South 26° 13' 39" West** along the northerly right-of-way line of said Harvard Road, a distance of **4.66 feet** to a point; Said point being 0.06 feet northerly and 0.16 feet westerly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found;
- Course 3:** Thence **North 63° 45' 37" West**, a distance of **231.72 feet** to a point of curvature;
- Course 4:** Thence along the northerly right-of-way line of said Harvard Road and along the arc of a curve to the left, having a radius of **1677.02 feet**, an arc length of **574.84 feet**, a tangent length of **290.27 feet**, a delta of **19° 38' 23"** and a chord length of **572.03 feet** which bears **North 73° 34' 48" West** to a point; Said point being 0.13 feet northerly and 0.07 feet easterly from a 5/8-inch rebar with cap stamped "CT Consultants, Inc." found in the southwesterly corner of said Beachwood Senior Living, L.L.C. parcel;
- Course 5:** Thence **North 08° 57' 35" West**, a distance of **25.94 feet** to a point of curvature;

Exhibit "A"

**25' Utility Easement
June 2017**

**Legal Description
0.5414 of an Acre**

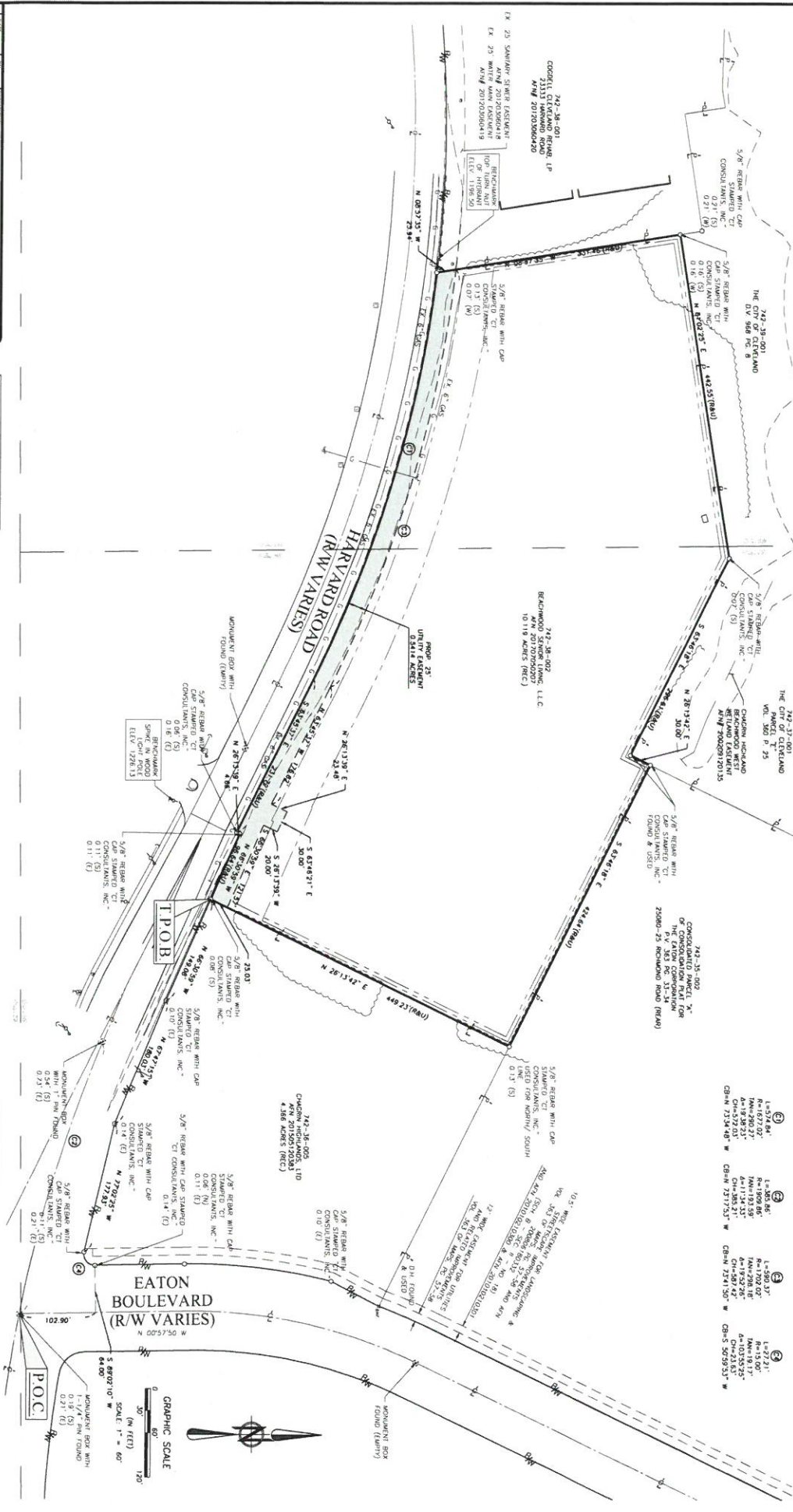
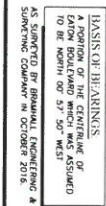
- Course 6:** Thence along the arc of a curve to the right, having a radius of **1702.02 feet**, an arc length of **590.37 feet**, a tangent length of **298.18 feet**, a delta of **19° 52' 26"** and a chord length of **587.42 feet** which bears **North 73° 41' 50" West** to a point of tangency;
- Course 7:** Thence **South 63° 45' 37" East**, a distance of **176.82 feet** to a point;
- Course 8:** Thence **North 26° 13' 39" East**, a distance of **23.48 feet** to a point;
- Course 9:** Thence **South 63° 46' 21" East**, a distance of **30.00 feet** to a point;
- Course 10:** Thence **South 26° 13' 39" West**, a distance of **20.00 feet** to a point;
- Course 11:** Thence **South 66° 30' 59" East**, a distance of **121.57 feet** to a point;
- Course 12:** Thence **South 26° 13' 42" West**, a distance of **25.03 feet** to the **True Place of Beginning**.

Containing within said bounds **0.5414 of an acre (23,584.70 s.f.)** of land, be the same more or less, but subject to all legal highways and easements of record as surveyed by Amy M. Kelly, P.S. 8469 for Bramhall Engineering & Surveying Company in October 2016. All bearings are intended to describe angles only. The basis of bearings used was a portion of the centerline of Eaton Boulevard which was assumed to be North 00° 57' 50" West.

The above intends to describe a 25 foot utility easement through a portion of Cuyahoga County Permanent Parcel Number 742-38-002.



SITUATED IN CITY OF BEACHWOOD, COUNTY OF CUYAHOGA, AND STATE OF OHIO
AND KNOWN AS BEING PART OF ORIGINAL WARRENSVILLE TOWNSHIP LOT NUMBERS 68 & 69.





GPD GROUP®
Glaus, Pyle, Schomer, Burns & DeHaven, Inc.

Cleveland Office

5595 Transportation Blvd
Suite 100
Cleveland, OH 44125

tel 216.518.5544
fax 216.518.5545
www.gpdgroup.com

MEMORANDUM

2019119.01

To: Diane Calta, Director of Law

From: Joseph R. Ciuni, P.E. P.S.
Consulting City Engineer

Date: May 28, 2019

Re: Rose Senior Living – Water Main Easement

As a requirement of the Rose Senior Living Development on Harvard Road, the Developer had to extend the water main across the frontage of their property. The new water main has been installed all the way across the 10-acre parcel, in a proposed easement outside the public right-of-way of Harvard Road. The attached document formalizes an Easement to the City of Beachwood and to the City of Cleveland, Division of Water for installing and maintaining a water main for the propose of supplying water service.

We have reviewed the easement, it meets all City of Beachwood and Cleveland Water Dept. standards and we hereby recommend approval.