



## Legislation Details (With Text)

**File #:** O-425-19      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 8/23/2019      **In control:** City Council  
**On agenda:** 9/3/2019      **Final action:** 9/3/2019

**Title:** Declaring the vacation of a portion of Martin Luther King Jr. Boulevard at Broadway within the Oliver's Division, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Audio: Agenda Review 8/27/2019, 2. Audio: City Council Meeting 9/3/2019

Date	Ver.	Action By	Action	Result
9/3/2019	1	City Council		
9/3/2019	1	City Council		
9/3/2019	1	City Council		

Zoning & Planning Committee

**Declaring the vacation of a portion of Martin Luther King Jr. Boulevard at Broadway within the Oliver's Division, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.**

### SUMMARY & BACKGROUND:

Petitioner has filed a request to vacate a portion of Martin Luther King Jr. Boulevard at Broadway within the Oliver's Division, and the alley running adjacent to lots 285, 286 and 287, in the City of Toledo, Lucas County, Ohio.

The Council of the City of Toledo, by Resolution No. 460-18 adopted on October 23, 2018, declaring its intent to vacate a portion of Martin Luther King Jr. Boulevard, at Broadway within the Oliver's Division, in the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 hereof.

On December 6, 2018, the Toledo City Plan Commission recommended approval of the request for the vacation of a portion of Martin Luther King Jr. Boulevard, at Broadway within the Oliver's Division, and the City Council Zoning and Planning Committee on January 9th, 2018, sent as approved the request for the vacation of a portion of Martin Luther King Jr. Boulevard, at Broadway within the Oliver's Division.

The Board of Revision met on March 7, 2019 and approved the request for the vacation of a portion of Martin Luther King Jr. Boulevard, at Broadway within the Oliver's Division.

All of the preliminary steps have been taken as required by law, the Charter of the City of Toledo, and the Toledo Plan Commission has made reports regarding the proposed vacations; and all things required by law to be done, have been done.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the City Council does hereby declare the vacation of a portion of Martin Luther King Jr. Boulevard at Broadway within the Oliver's Division, and the alley running adjacent to lots 284, 285, 286 and 287, in the City of Toledo, Lucas County, Ohio

Being a parcel of land situated and being a part of Lots 284 and 285 in the Oliver's Division, in the City of Toledo and more fully described as follows:

Commencing at a the southeasterly corner of Lot Number 285 within the Oliver's Division within the City of Toledo, and being the Point of Beginning for this description;

Thence Southwesterly on the Southeasterly lot lines of Lots Numbered 284 and 285 for a distance of 55.26 feet more or less to the intersection of the Easterly right-of-way of Martin Luther King Jr. Boulevard and the southeasterly lot line of said Lot Number 284;

1. Thence Northerly on said Easterly right-of-way of Martin Luther King Jr. Boulevard for a distance of 90.41 feet more or less to a point of intersection of the Northeasterly lot line of said Lot Number 285, said intersection being 71.55 feet northwesterly from the southeasterly lot line of said Lot Number 285;
2. Thence Southeasterly on said Northeasterly lot line of Lot Number 285 for a distance of 71.55 feet to the point of beginning.

Containing an Area of 1,976.96 Square Feet or 0.0454 Acre of land, subject to all legal easements, leases and restriction of record. Together with the full width of a 16.50 foot alley being adjacent to Lots 284, 285 thru 287 for a distance of 142 feet more or less within the Oliver's Division to the City of Toledo, Containing an additional Area of 2,336.94 Square Feet or 0.0536 Acre of land more or less.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following condition(s):

The following four (4) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

#### Engineering Services

1. A pre-submittal meeting is not required; however, one may be requested. Contact information is as follows:

Engineering Services: ph. 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: 419-245-1341

Roadway: 419-245-1344

Water: 419-936-2163

Stormwater Drainage: 419-245-3221; 419-245-1338

Sanitary Sewers: 419-936-2276

2. Applicant shall relocate existing public sanitary sewer from the proposed vacated right of way. Alternatively, a full width easement shall be retained by the City of Toledo over vacated right of way.

The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

"That a full width easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing sewer and/or water facilities located in said vacated alley, together with any other utilities located therein, as they exist at the time of passage of this Ordinance. All City of Toledo facilities located within said easement are hereby dedicated to the City of Toledo, for City utility use only, to allow for future maintenance, repairs, replacements, etc. and shall not be combined with easements for other utilities. The easement hereby retained by the City of Toledo herein shall be primary in nature to any other utilities located therein, and any easement retained by any other utility as a result of this Ordinance shall be subject first to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility currently located thereon and shall run with the land. Said easement also includes reasonable rights of ingress and egress over and through the utility easement area for the purpose of operating, maintaining, replacing, repairing and/or constructing any utilities located within the easement. The property owner shall not construct fences, walls or other barriers, nor plant trees or other large vegetation which would impede access onto the easement. No temporary or permanent structures including building foundations, roof overhangs or other barriers denying access may be constructed on or within the easement. Driveways, parking lots, walkways and other similar improvements are acceptable. The property owner hereby releases the City of Toledo, only, from any liability, responsibility or costs resulting from the City's removal of any barriers which deny ingress or egress from the easement or which obstruct access to the public utilities located on said property, and the City of Toledo shall have no obligation or duty to restore or compensate the property owner for the removed facilities. Further, any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained by the owner separately from each utility, as to their interest(s) only, by separate, recordable instrument."

#### Buckeye Telesystem

3. Buckeye Cablevision Inc. DBA Buckeye Broadband and its affiliates, including Buckeye TeleSystem, Inc. shall be granted an easement within the shaded portion as shown on the attached map, also being an Alley & ROW abutting Lots 286 & 287 in Oliver's Subdivision, with the following conditions:

A perpetual, nonexclusive easement upon and through the portion of Grantor's Property to construct, install, inspect, maintain, repair, enlarge, reconstruct and/or replace telecommunications transmission lines, cables, power nodes, conduits, markers, signs and related equipment and facilities (collectively, the "facilities"); The right of ingress and egress over real property for the purposes stated herein.

#### Plan Commission

4. A Site Plan Review shall be required for any future developments on the vacated area in accordance with the provisions of the Toledo Municipal Code Part Eleven, Planning and Zoning, Sec. 111.0800, *Site Plan Review*.

SECTION 3. Payment of fees for costs was paid at the rate of \$1,573.41.

SECTION 4. This property is to be split with all requested vacated property going to the applicant. This is per the request of the adjacent property owner who has relinquished his rights to the vacated property.

SECTION 5. That the Real Estate Section of the Department of Development is hereby directed to cause a copy of this Ordinance to be recorded in the records of the office of Lucas County Recorder.

SECTION 6. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council, and that all deliberations of Council and any of its committees that result in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this Ordinance is hereby declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this Ordinance must be immediately effective so that the vacations can be expeditiously completed to enable the property owner(s) to obtain the resulting benefits at the earliest time.

Vote on emergency clause: yeas 12, nays 0.

Passed: September 3, 2019, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

September 3, 2019  
Wade Kapszukiewicz  
Mayor