



MEMORANDUM

TO: Bruce K. Walden, Chief Administrative Officer
FROM: William R. Gray, Public Works Director
Barbara H. Stiehl, Assistant to the Public Works Director
DATE: December 3, 2003
RE: An Agreement to Clarify Ownership of Parking Deck Walkway
(Between 115 West Main Street and the Urbana Parking Deck)

INTRODUCTION

At some time after the construction of the Urbana Parking Deck a walkway was constructed to connect the building located at 115 West Main Street to the parking deck. Since no formal record of ownership and maintenance responsibilities can be found, the City of Urbana wishes to clarify that it has no ownership and maintenance responsibilities for the parking deck walkway.

FISCAL IMPACTS

There would be no financial impacts to the City since the maintenance and repair of the walkway are solely at Mr. and Mrs. Baxley's expense. Additionally, Mr. and Mrs. Baxley are indemnifying the City against any losses, claims, etc. resulting from the walkway.

RECOMMENDATION

It is recommended that "AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT CLARIFYING OWNERSHIP OF PARKING DECK WALKWAY" be approved.

Attachments: Exhibit 1
Photograph of Walkway
Agreement
Ordinance

AN AGREEMENT CLARIFYING OWNERSHIP OF PARKING DECK WALKWAY

WHEREAS, the City of Urbana (hereinafter called "City") is owner of a certain public parking deck located on Broadway Avenue between Main Street and Elm Street; and

WHEREAS, there exists for many years, since the parking deck was built, a walkway connecting the second floor of the said parking deck and the former "Masonic Building" located at 115 West Main Street, now owned by Norman and Carolyn Baxley (hereinafter called "Owners"). The walkway referred to herein is that structure between the north face of the parking deck thence stretching northward to the former "Masonic Building", legally described as:

The West 44 feet of Lots 33 and 35 in the Original Town of Urbana, otherwise described as Lot 5 in a Subdivision on Lots 33 and 35 in the Original Town, Now City of Urbana, situated in Champaign County, Illinois

commonly known as 115 West Main Street (Permanent Parcel Index #92-21-17-206-007)
; and

WHEREAS, no formal record has been found regarding ownership and maintenance responsibilities regarding the walkway; and

WHEREAS, the walkway primarily serves as a convenient pedestrian entry from the parking deck to the second floor of the "Masonic Building", and

WHEREAS, it is in the best interests of the parties hereto to clarify the ownership and responsibility for the walkway, and

The parties having reached an agreement desire to reduce such agreement to writing and hereby agree as follows:

1. As between the City and the Owners, the Walkway described below is agreed to be the property of Owners and whatever legal interest the City has or may have is hereby conveyed and quit claimed to Owners, thereby fixing the privileges and the full responsibility of ownership for the said walkway in the Owners.

2. It is acknowledged that the said walkway occupies air space above the alley right-of-way. Permission of the City is hereby granted for the continued location of the walkway in its present location (see Exhibit 1), so long as it is maintained in a safe condition. Upon written notice to the Owner that the walkway is not safe, the Owner will promptly cause it to be repaired and made safe or remove it at the Owners' sole expense.

3. This agreement is not intended to affect any rights or liabilities of either party with respect to any injury or claims of injury or damage based upon any incident that occurred prior to the date of this agreement.

4. Owners shall indemnify hold and save the City harmless from any and all liability and expense, including judgments, costs, and damages, for any alteration, repair, maintenance and restoration of the walkway undertaken by Owners, and from any and all personal injuries or deaths occurring out of any use, repair, maintenance and restoration of the walkway by Owners, including the passive negligence, if any, of the City and name the City as an additional insured party in connection with any liability insurance policy which Owners may have in effect for the 115 West Main Street property and its related use of the walkway.

5. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a

nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Owner at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

- (i) In the case of the Owner, to:

ATTN: _____
Tel: (217) _____
Fax: (217) _____

- (ii) In the case of the City, to:

City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
ATTN: Chief Administrative Officer
Tel: (217) 384-2454
Fax: (217) 384-2363

6. The provisions of this agreement shall be binding upon the parties, their successors and assigns, and shall be deemed to be covenants running with the land constituting the 115 West Main Street property.

CITY OF URBANA:

Owners:

Tod Satterthwaite, Mayor

Norman Baxley

Carolyn Baxley

ATTEST:

Phyllis D. Clark, City Clerk

ORDINANCE NO. 2003-12-142

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT
CLARIFYING OWNERSHIP OF PARKING DECK WALKWAY
(Adjacent to 115 West Main Street)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That an Agreement Clarifying Ownership of Parking Deck Walkway between the City of Urbana and Norman and Carolyn Baxley, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

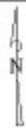
APPROVED by the Mayor this _____ day of _____,
_____.

Tod Satterthwaite, Mayor



EXHIBIT 1

 area of proposed agreement



City of Urbana
 Public Works Dept
 Engineering Division
 Date 09/25/03 PLC



WALKWAY BETWEEN 115 WEST MAIN AND PARKING DECK
(Facing north from the parking deck)

