#### **COUNTY COUNCIL**

**OF** 

#### TALBOT COUNTY

2011 Legislative Session, Legislative Day No.: March 22, 2011

Resolution No.: 182

Introduced by:

Mr. Bartlett, Ms. Price

A RESOLUTION TO CONSIDER THE PETITION OF PETER G. KORYTNYK, 10538 MIRACLE HOUSE CIRCLE, CLAIBORNE, MARYLAND, TAX MAP 14 PARCEL 3, IN THE FIFTH ELECTION DISTRICT, TALBOT COUNTY, **MARYLAND** 

THE PETITION REQUESTS THAT TALBOT COUNTY FORMALLY DECLINE TO ACCEPT AN OUTSTANDING, UNACCEPTED OFFER OF DEDICATION IN AND TO CERTAIN PLATTED BUT UNIMPROVED AVENUES AND ALLEYS SHOWN AS A PORTION OF "PARK AVENUE"; A PORTION OF "HARRISON AVENUE"; A PORTION OF "HARRINGTON AVENUE" EACH CONSISTING OF A 50' WIDE PLATTED AND UNIMPROVED PAPER STREET, TOGETHER WITH AN UNIMPROVED ALLEY LYING TO THE NORTH OF AND PARALLEL WITH THAT PORTION OF "PARK AVENUE" REFERENCED ABOVE, AND A SECOND UNIMPROVED ALLEY LYING TO THE SOUTH OF AND PARALLEL WITH "HARRISON AVENUE" BETWEEN "HARRISON AVENUE" AND "HARRINGTON **AVENUE" EACH UNIMPROVED ALLEY BEING 15' WIDE** 

By the Council: March 22, 2011

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, May 10, 2011 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: Susan W. Moran, Secretary

A RESOLUTION TO CONSIDER THE PETITION OF PETER G. KORYTNYK, 10538 MIRACLE HOUSE CIRCLE, CLAIBORNE, MARYLAND, TAX MAP 14 PARCEL 3, IN THE FIFTH ELECTION DISTRICT, TALBOT COUNTY, MARYLAND

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WHEREAS, Peter G. Korytnyk, (the "Petitioner") the current owner of 10538 Miracle
House Circle, Tax Map 14, Parcel 3, Fifth Election District, Talbot County, Maryland (the
"Property"), has petitioned the County to formally decline to accept an outstanding,
unaccepted offer of dedication in and to certain platted but unimproved avenues and alleys
described in said Petition, which is incorporated by reference herein; and,

**NOW, THEREFORE,** be it resolved by the County Council of Talbot County, Maryland as follows:

**Section 1.** Upon introduction of this Resolution, a public hearing shall be scheduled, and the date, time, place, and purpose of the public hearing shall be advertised at Petitioner's expense once a week for three successive weeks in a newspaper of general circulation in the County in accordance with the requirements of Article 25A § 5 (B), Md. Ann. Code. The advertisement shall state the terms of any proposed disposition, the compensation, if any, to be received therefor, and shall give opportunity for objections thereto.

Section 2. The County shall conduct a public hearing, at which time the Petition will be open for receipt and consideration of public comment. Upon receipt and consideration of any recommendations from the Planning Commission and Public Works Advisory Board, and recommendations by the Talbot County Department of Public Works and the Talbot County Roads Department, conclusion of the public hearing(s), and closing of the record, the County Council will consider the merits of the Petition.

**Section 3.** This Petition pertains to the following described property or interest in property:

 The avenues and alleys that are located in, upon, or over that certain tract, lot, or parcel known as 10538 Miracle House Circle, Tax Map 14, Parcel 3, Fifth Election District, Talbot County, Maryland (the "Property"), at or near the village of Claiborne, more particularly described in a deed to Petitioner dated December 22, 2008 and recorded among the Land Records of Talbot County, Maryland at Liber 1657, folio 399 and as shown on a certain plat entitled "Plat of Turner's Addition to Claiborne" as surveyed by W.V. Polk, Civil Engineer, recorded May 14, 1906 among the Land Records of Talbot County, Maryland at Liber No. 147, folio 156, (the "Plat") consisting of the following avenues and alleys:

A portion of "Park Avenue"; a portion of "Harrison Avenue"; and a portion of "Harrington Avenue" each consisting of a 50' wide platted and unimproved paper street, and each subject to a heretofore unaccepted offer of dedication arising from recordation of said Plat, together with an unimproved alley lying to the North of and parallel with that portion of "Park Avenue" referenced above, and a second unimproved alley lying to the South of and parallel with "Harrison Avenue" between "Harrison Avenue" and "Harrington Avenue" each unimproved alley being 15' wide on said Plat. Those portions of the paper streets, avenues, and alleys are more particularly shown by yellow bounds and located by a survey prepared by Christopher Waters Professional Land Surveying in October, 2009, and revised July 30, 2010, entitled "Plat Showing Revision of Boundary Lines on the Lands of Peter G. Korytnyk, Tax Map 14 Grid 9, Parcel 3, in the Fifth Election District, Talbot County, Maryland," which is attached hereto as Exhibit "A" and incorporated by reference herein. (All such avenues and alleys are referred to collectively herein as the "Paper Streets")

- **Section 4**. The County finds that that there would be no public purpose served by construction, operation or maintenance of a public road or alley at these locations and hereby declines to accept the offer of dedication of the Paper Streets. These findings and disposition are subject to the following conditions:
  - (a) There are no drainage facilities or public utilities located in, upon, under, or through the Paper Streets;
    - (b) The Petitioner has granted or will grant a perpetual easement to the County, in form and content acceptable to the County, for drainage and utility easements adjacent to all public roads and roadways abutting, in, upon, or through the Property, as necessary to serve the Property or other properties in the area, if any;
    - (c) The Petitioner shall prepare all deeds, surveys, plats, or other documents in a form satisfactory to the County, and pay the cost thereof, including without limitation all duplication and other costs associated with all instruments prepared pursuant to this Resolution;

- (d) The Petitioner shall execute a "Release, Waiver, and Indemnification" substantially in the form attached hereto as Exhibit "A."
- 70 Section 5. The President of the County Council is authorized to execute a Quitclaim Deed,
- 71 consistent with the terms of this Resolution, in form and content acceptable to the County
- 72 Attorney, to be recorded at the Petitioner's expense among the land records of Talbot
- 73 County, Maryland.
- 74 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its
- date of passage.

#### **PUBLIC HEARING**

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. 182 having been published, a public hearing was held on Tuesday, May 10, 2011 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

## BY THE COUNCIL

Read the second time:

Adopted: May 10, 2011

By Order: Susan W. Moran Secretary

Bartlett - Aye

Hollis - Aye

Pack - Aye

Price - Aye

Duncan - Aye

## BEFORE THE COUNTY COUNCIL FOR TALBOT COUNTY, MARYLAND

IN THE MATTER OF

10538 Miracle House Circle

\* Claiborne, Maryland

\* Tax Map 14, Parcel 3,

THE PETITION OF PETER G. KORYTNYK

\* Fifth Election District,

\* Talbot County, Maryland

# PETITION OF PETER G. KORYTNYK REQUESTING TALBOT COUNTY COUNCIL TO DECLINE UNACCCEPTED OFFER OF DEDICATION OF PAPER STREETS

- 1. The undersigned, Peter G. Korytnyk, (the "Petitioner"), by and through Patrick J. Fitzgerald and Ewing, Dietz, Fountain & Kehoe, P.A., his Attorneys, petitions the County Council of Talbot County, Maryland to formally decline to accept an outstanding, unaccepted offer of dedication in and to certain platted but unimproved avenues and alleys described in Paragraph 2, below.
- 2. The avenues and alleys are located in, upon, or over that certain tract, lot, or parcel known as 10538 Miracle House Circle, Tax Map 14, Parcel 3, Fifth Election District, Talbot County, Maryland (the "Property"), at or near the village of Claiborne, more particularly described in a deed to Petitioner dated December 22, 2008 and recorded among the Land Records of Talbot County, Maryland at Liber 1657, folio 399 and as shown on a certain plat entitled "Plat of Turner's Addition to Claiborne" as surveyed by W.V. Polk, Civil Engineer, recorded May 14, 1906 among the Land Records of Talbot County, Maryland at Liber No. 147, folio 156, (the "Plat") consisting of the following avenues and alleys:

A portion of "Park Avenue"; a portion of "Harrison Avenue"; and a portion of "Harrington Avenue" each consisting of a 50' wide platted and unimproved paper street, and each subject to a heretofore unaccepted offer of dedication arising from recordation of said Plat, together with an unimproved alley lying to the North

of and parallel with that portion of "Park Avenue" referenced above, and a second unimproved alley lying to the South of and parallel with "Harrison Avenue" between "Harrison Avenue" and "Harrington Avenue" each unimproved alley being 15' wide on said Plat. Those portions of the paper streets, avenues, and alleys are more particularly shown by yellow bounds and located by a survey prepared by Christopher Waters Professional Land Surveying in October, 2009, and revised July 30, 2010, entitled "Plat Showing Revision of Boundary Lines on the Lands of Peter G. Korytnyk, Tax Map 14 Grid 9, Parcel 3, in the Fifth Election District, Talbot County, Maryland," which is attached hereto as Exhibit "A" and incorporated by reference herein. (All such avenues and alleys are referred to collectively herein as the "Paper Streets")

- 3. Petitioner is the current owner of the Property.
- 4. Petitioner avers that the Paper Streets are unimproved, that they do not now nor have they ever served the public or the owners in the subdivision where the same are located.
- 5. Petitioner avers that there would be no public purpose served by construction, operation or maintenance of a public road, alley, or thoroughfare at these locations and it would be in the County's interest to formally decline to accept any outstanding offer of dedication concerning the Paper Streets.
- 6. Pursuant to the requirements of Article 25A § 5 (B), Md. Ann. Code, Petitioner agrees to pay for and otherwise assure publication of an advertisement once a week for three successive weeks in one or more newspapers of general circulation published in Talbot County, Maryland, stating the terms of the proposed disposition, stating the compensation, if any, to be received by the County therefor, and giving opportunity for objections thereto. A copy of the proposed Notice to be published is appended hereto and made a part hereof.
- 7. In the event this Petition is granted, Petitioner, for himself and for the successors-ininterest or title to the Property, agrees to indemnify and hold the County harmless to the maximum extent permitted by law from any and all liabilities, damages, expenses, suits,

actions, causes of action, demands, or judgments (collectively "Claim" or "Claims"), including payment of reasonable attorneys' fees, costs of defense, and investigation of any such Claim or Claims arising from or relating in any way from any decision to formally decline to accept the outstanding offer of dedication of the Paper Streets. This indemnification and hold harmless agreement shall include, without limitation, the County's elected and appointed officials, directors, employees, agents, successors, assigns, and representatives.

WHEREAS, your Petitioner requests the County Council of Talbot County to formally determine and decide to decline to accept the outstanding offer of dedication concerning the above-described Paper Streets, and to authorize the President of the County Council to execute a quit-claim deed to convey the County's interest in the same, if any, to your Petitioner.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING PETITION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

PETER G. KORYTNYK

Counsel:

Patrick J. Éitzgerald

Ewing, Dietz, Fountain & Kehoe, PA

16 South Washington St

Easton, Maryland 21601

(410) 822-1988

# **QUITCLAIM DEED**

THIS QUITCLAIM DEED, dated the \_\_\_\_\_ of \_\_\_\_\_, 2011, from Talbot County, Maryland, a charter County and political subdivision of the State of Maryland, Grantor, to Peter G. Korytnyk, Grantee.

The Grantor, for no monetary consideration, grants, conveys, releases, assigns and quitclaims to the Grantee, his personal representatives, heirs and assigns, all of the Grantor's right, title, interest and estate in a certain lot of ground located in the Fifth Election District of Talbot County Maryland, and described as follows:

Those certain avenues and alleys, or portions thereof, located in, upon, or over that certain tract, lot, or parcel known a 10538 Miracle House Circle, Tax Map 14, Parcel 3, Fifth Election District, Talbot County, Maryland (the "Property"), at or near the village of Claiborne, more particularly described in a deed to Grantee dated December 22, 2008 and recorded among the Land Records of Talbot County, Maryland at Liber 1657, folio 399 and as shown on a certain plat entitled "Plat of Turner's Addition to Claiborne" as surveyed by W.V. Polk, Civil Engineer, recorded May 14, 1906 among the Land Records of Talbot County, Maryland at Liber No. 147, folio 156, (the "Plat"), said certain avenues and alleys, or portions thereof, being more particularly described as follows:

A portion of "Park Avenue"; a portion of "Harrison Avenue"; and a portion of "Harrington Avenue" each consisting of a 50' wide platted and unimproved paper street, and each subject to a heretofore unaccepted offer of dedication arising from recordation of said Plat, together with an unimproved alley lying to the North of and parallel with that portion of "Park Avenue" referenced above, and a second unimproved alley lying to the South of and parallel with "Harrison Avenue" between "Harrison Avenue" and "Harrington Avenue" each unimproved alley being 15' wide on said Plat. Those portions of the paper streets, avenues, and alleys are more particularly shown by a survey prepared by Christopher Waters Professional Land Surveying in October, 2009, and revised July 30, 2010, entitled "PLAT SHOWING REVISION OF BOUNDARY LINES ON THE LANDS OF PETER G. KORYTNYK, TAX MAP 14 GRID 9, PARCEL 3, IN THE FIFTH ELECTION DISTRICT, TALBOT COUNTY, MARYLAND," which is attached hereto as Exhibit "A" and incorporated by reference herein.

Together with all improvements thereupon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto. Subject to, however, any rights of access of adjoining property owners over any of said alleys or ways.

WITNESS the hand and seal of the Grantor.

ATTEST:	Talbot County, Maryland		
Susan W. More, Secretary	By: P	President, Talbot County Council	
STATE OF MARYLAND, COUNT	Y OF Jaltot	, TO WIT:	
county Council of Talbot County, such President, being authorized instrument for the purposes therein as President of the Talbot County County that the consideration as recited h	State of Maryland, C who acknowledged he Maryland, a Maryland so to do, acknowled contained, by signing bouncil, and further manageries is true and contained in the sound on in which there is a	County of, personally nimself to be the President of the Talbot and political subdivision, and that he as edged that he executed the foregoing the name of Talbot County by himself adde oath, under the penalties of perjury, correct, and further certified that this a sale, lease, exchange or other countries.	
AS WITNESS my hands and		Swan W. WARN	
My commission expires: $3/\omega/2$	2013	Notary Public Coun	
RELEASE, WAIVER	. AND INDEMNIFIC	CATION AGREEMENT	
hereby agrees to indemnify, defend against any and all claims, actions, or or judgments of every kind, natural Resolution No, declining declining to improve or otherwise Grantee's obligation to indemnify and and appointed officials, officers, boo servants, and agents and shall run withis personal representatives, heirs, su	l, and hold Talbot (demands, damages, lee, or description we to accept an offer makes the subject defend shall included ands, commissions, at and bind the land,	centatives, heirs, successors and assigns, County, Maryland, harmless from and liabilities, losses, expenses, suits, costs, whatsoever arising from or related to r of dedication for a public street or paper street available for public use. de Talbot County, Maryland, its elected agencies, department heads, employees, and shall be binding upon the Grantee, in perpetuity.	
WITNESS:			
	Peter G. Kory	ytnyk (SEAL)	

STATE OF MARYLAND, COUNTY OF, TO WIT:	
I HEREBY CERTIFY, on thisday of 2011 before me, subscriber, a Notary Public of the State and County aforesaid, personally appeared <b>PETER KORYTNYK</b> , known to me, or satisfactorily proven to be the person whose name app above, who acknowledged himself/herself to be the same, and being authorized so to executed the foregoing document for the purposes therein contained.	ears
IN WITNESS WHEREOF I set my hand and official seal.	
My commission expires:  Notary Public	
CERTIFICATION	
This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryla	of ınd.
Patrick J. Fitzgerald, Attorney at Law	

Y:\PJF\PELD Clients\Korytnyk\Quitclaim Deed 2.wpd

