

# OHIO TURNPIKE COMMISSION

## Resolution Directing that Legal Proceedings be Initiated Against Property Owners of Permanent Parcel Nos. 06-00259.00 and 06-00260.00 in Berlin Heights, Ohio at Milepost 124.4

WHEREAS, the Commission is authorized by Section 5537.04 of the Ohio Revised Code to take all actions necessary to operate, maintain and regulate the use of the Turnpike, including, but not limited to the filing of legal actions to carry out its powers; and

WHEREAS, the Commission by Resolution No. 99-1952 adopted on December 2, 1952 declared its policy of taking any and all reasonable and lawful actions to discourage the construction of commercial advertising devices and billboards on properties that abut Turnpike Project No. 1 that were designed or intended to attract the attention of motorists traveling on the Ohio Turnpike, which Resolution is attached hereto and incorporated by reference;

WHEREAS, the Commission has consistently followed its declared policy by taking those actions necessary to enforce its policy by acquiring easements, covenants or other restrictions from the grantors or owners of property from whom the Commission has acquired property for the operation, maintain or construction of Turnpike Project No.1;

WHEREAS, the General Counsel has advised the Commission that it acquired restrictive covenants prohibiting the construction or erection of commercial advertising devices that are visible to motorists traveling on the Turnpike as it relates to the use of property located at Milepost 124.4, which restrictive covenants are reflected in the attached warranty deeds obtained from the prior owners of Permanent Parcels 06-00259.00 and 06-00260.00 or OTC Parcel 101D, located in Berlin Heights, Ohio, which covenants run with the land;

WHEREAS, the General Counsel has reported to the Commission that the property owners of Permanent Parcels No. 06-00259.00 and 06-00260.00, located in Berlin Heights, Ohio at Milepost 124.4 have authorized or permitted the construction of two (2) billboard support structures in contravention of the restrictive covenants that prohibit the erection of such advertising devices on their property, which restrictions were purchased by the Commission on or about March 5, 1955 as reflected in the warranty deeds issued on or about that date;

WHEREAS, the Commission wishes to effectuate its policy of taking those reasonable and lawful actions necessary to restrict the construction of commercial advertising devices that are intended to attract the attention of motorists traveling on the Turnpike property in order to promote the safety and security of vehicles traveling on the Turnpike;

WHEREAS, the Commission has requested in writing through its Right of Way Coordinator and outside counsel that the property owners remove each billboard structure in conformity with the restrictive covenant that runs with the property in question; however, the billboard structures have not been removed as of the present date;

WHEREAS, the General Counsel has advised the Commission that the initiation of legal proceedings may be necessary to seek the enforcement of the restrictive covenants that so restrict the use of Permanent Parcels 06-00259.00 and 06-00260.00 in Berlin Heights, Ohio by the current property owners.

NOW, THEREFORE, BE IT

RESOLVED that the General Counsel is authorized to take those steps necessary to initiate legal proceedings as may be necessary against the current property owners of Permanent Parcels 06-00259.00 and 06-00260.00 to enforce the restrictive covenant acquired by the Commission by warranty deed and the Commission's declared policy restricting the use of commercial advertising devices intended to attract the attention of motorists traveling on the Ohio Turnpike.

**(Resolution No. 4-2009 adopted February 9, 2009)**