

ORDINANCE 13-2017

**AN ORDINANCE AUTHORIZING THE ACCEPTANCE AND RECORDING OF DEED
OF EASEMENT (SEWER EASEMENT)
BLOCK 1902/LOT 12 (1080 N. DELSEA DRIVE)**

WHEREAS, Helping Hand Behavioral Health, Corp. (hereinafter referred to as "Helping Hand") submitted an application to the Borough of Clayton Planning Board for a project to be completed on Block 1902/Lot 12; and

WHEREAS, Block 1902/Lot 12 does not have sanitary sewer facilities located on it; and

WHEREAS, as part of the approval by the Planning Board, Helping Hand agreed to pay for the extension of the Borough of Clayton (hereinafter referred to as the "Borough") sanitary sewer system to Block 1902/Lot 12; and

WHEREAS, to complete the extension of the sanitary sewer system, a sewer line needs to be installed on property located at Block 1902/Lot 12, owned by BDK, LLC (hereinafter referred to as the "Property Owner") and more commonly known as 1080 N. Delsea Drive (hereinafter referred to as the "Property"); and

WHEREAS, it has been determined that an easement is required to allow Helping Hand to install the sewer line and to provide future access to the Property by the Borough to service and maintain the sanitary sewer system in the future; and

WHEREAS, the Property owner has consented to grant access to the Property to the Borough to provide for future access for the Borough to maintain the sanitary sewer system; and

WHEREAS, a Deed of Easement was prepared and reviewed by the Property owner; and

WHEREAS, the Property owner has agreed to execute the Deed of Easement to grant an easement on a portion of their property for the installation of sewer line to complete the extension of the sanitary sewer system to Block 1902/Lot 12 and for future access for the

maintenance of the sanitary sewer system by the Borough; and

WHEREAS, the Borough has received a fully executed Deed of Easement by the Property owner for the Property located at Block 1902/Lot 12 and more commonly known as 1080 N. Delsea Drive which is attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Clayton in the County of Gloucester, and State of New Jersey as follows:

1. Pursuant to Local Lands and Buildings Law of the State of New Jersey, N.J.S.A. 40A:12-1, et seq., the Borough of Clayton does hereby authorize the acceptance and recording of the attached Deed of Easement pertaining to Block 1902/Lot 12, more commonly known as 1080 N. Delsea Drive for the installation of sewer line to complete the extension of the Borough of Clayton sanitary sewer system to Block 1902/Lot 12 and for the future access for maintenance of the sanitary sewer system by the Borough.
2. That the Mayor and Borough Clerk be and are hereby authorized to accept and record the Deed of Easement on behalf of the Borough of Clayton.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF CLAYTON



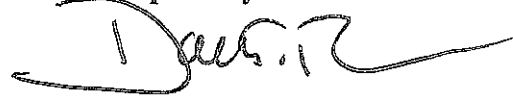
THOMAS BIANCO, Mayor

Attest:



CHRISTINE NEWCOMB, Borough Clerk

Prepared by:



Dale T. Taylor, Esquire
51 Forage Drive
Mickleton, N.J. 08056
(856) 687-5444

**DEED OF EASEMENT
(Sewer Line)**

THIS DEED OF EASEMENT (this "Easement") is made on this 5th day of June, 2017 by BDK, LLC, having its place of business at 1080 N. Delsea Drive, Clayton, N.J. 08012 and being further shown as Block 1902, Lot 12 on the tax maps of the Borough of Clayton, County of Gloucester, State of New Jersey (hereinafter referred to as "Grantor"), and THE BOROUGH OF CLAYTON, a body corporate and politic of the State of New Jersey, with offices at 125 N. Delsea Drive, Clayton, New Jersey 08312 (hereinafter referred to as "Grantee"). The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

THIS EASEMENT is granted by Grantor to Grantee (and to Grantee's successors in title) for and in consideration of One (\$1.00) Dollar and other good and valuable consideration, receipt of which is hereby acknowledged.

THE EASEMENT AREA covered by this Easement (the "Affected Lands") are more formally described on EXHIBIT "A" (attached hereto and incorporated herein by this reference) and prepared by Ewing Associates, P.O. Box 145, Clayton, N.J. 08312. Said above affected lands is also depicted on a Plan of Easement prepared by Ewing Associates and attached hereto as EXHIBIT "B", and incorporated herein by reference.

THE TERMS OF THIS EASEMENT are as follows:

1. Grantee is permitted to place, construct, install, operate, maintain and inspect a ten foot (10 Ft.) wide sewer line within the easement area across the affected lands as is set forth herein, provided that (a) all such facilities shall be constructed and installed under the affected lands, (b) all such facilities shall be kept in good repair and operating condition, (c) any plants, shrubs, and other growth located on the affected lands shall either not be disturbed by such construction and installation, or, if disturbed, shall promptly be replaced in like kind, (d) any structures located on the affected lands shall either not be disturbed by such construction and installation, or, if disturbed, shall promptly be replaced in like kind, and (e) the affected lands shall in all other respects be restored to the condition existing immediately prior to such construction and installation.

2. Grantor shall not plant any shrubs, trees or other growth and/or install any fences, poles or placement of other structures in the proposed easement area.

3. Upon reasonable notice to Grantor, and with Grantor's consent, Grantee shall have the right to ingress and egress to and over the affected lands at any time reasonably necessary for the purpose of constructing, repairing or inspecting the said sewer line and for doing anything reasonably necessary, useful or convenient for the enjoyment of the specific limited easement herein granted. Grantor shall not unreasonably withhold said approval. However, in the event of an emergency, as solely determined by the Director of Public Works and/or the Borough Engineer of the Borough of Clayton, Grantor expressly waives said notice and consent provision. Grantee shall use its best efforts during the performance of any such work to minimize interference with Grantor's use and enjoyment of the affected lands.

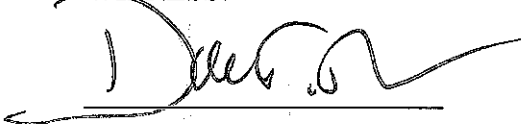
4. Grantee shall have the right to remove or replace at any time any or all of the sewer line improvements erected under the affected lands subject to the same obligations either not to disturb or to replace in like kind any structures, plants, shrubs, or other growth then located on the affected lands and to otherwise restore the affected lands to the condition existing immediately prior to such removal.

THIS EASEMENT and the rights and obligations hereunder shall run with the land and be binding upon all the parties hereto, their successors, heirs, transferees and assigns.

BEING a part of the same land and premises conveyed to BDK, LLC from Albert L. Richardson, by Deed dated May 10, 2017 and recorded in the Gloucester County Clerk's Office in Deed Book 5651, beginning on Page 85, on May 12, 2017.

THE GRANTOR SIGNS THIS DEED OF EASEMENT to be effective as of the date written at the top of the first page.

WITNESS:



GRANTOR:

By: 
Eugene Buchinger, Managing Member
BDK, LLC

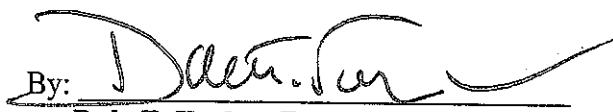
ACKNOWLEDGEMENT

STATE OF NEW JERSEY :
: SS
COUNTY OF GLOUCESTER :

I certify that on June 5, 2017, Eugene Buchinger, Managing Member BDK, LLC, did personally come before me and stated, to my satisfaction, that this person (or if more than one, each person):

- (a) is the maker of this Deed of Easement;
- (b) is the Managing Member of BDK, LLC and is authorized to sign this deed on behalf of the same;
- (c) executed this Deed of Easement as his own act and deed; and
- (d) made this Deed of Easement for \$1.00 as full and actual consideration paid to or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and

Signed and sworn before me on this 5th day
of June, 2017

By: 
Dale T. Taylor, Esquire, a Licensed
Attorney-At-Law in the State of New Jersey

Record and Return to:
The Law Office of Timothy D. Scaffidi
28 Cooper Street
Woodbury, New Jersey 08096

EXHIBIT "A"



Land Surveyors

P. O. Box 145 * Clayton, N.J. 08312

Phone: (856) 881-4931 / Fax: (856) 881-2476

BOUNDARY DESCRIPTION

EA File No. 40805

May 25, 2017

10-Foot Wide Sewer Easement to the Borough of Clayton

ALL that certain tract of lands situate in the Borough of Clayton, County of Gloucester and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the westerly line of Delsea Drive (55.5 feet wide) *also known as North Delsea Drive and New Jersey State Highway Route 47*, said point being in the division line of Lots 12 and 13 Block 1902 Tax Map, said point also being South 80 degrees 58 minutes 30 seconds West a distance of 27.75 feet from a point in the centerline thereof, and running: thence

- 1) South 80 degrees 58 minutes 30 seconds West a distance of 10.03 feet to a point; thence
- 2) North 04 degrees 34 minutes 00 seconds West a distance of 165.00 feet to a point; thence
- 3) North 80 degrees 58 minutes 30 seconds East a distance of 10.03 feet to a point in the westerly of Delsea Drive; thence
- 4) Along said westerly line, South 04 degrees 34 minutes 00 seconds East a distance of 165.00 feet to the point and place of beginning.

CONTAINING an area of 1655± square feet.

BEING KNOWN as part of Lot 12 in Block 1902 on the Borough of Clayton Tax Maps.

2015



02/27/30

43579 D
DP 1242

NOTICE OF INTRODUCTION

ORDINANCE 13-2017

**AN ORDINANCE AUTHORIZING THE ACCEPTANCE AND
RECORDING OF DEED OF EASEMENT (SEWER EASEMENT)
BLOCK 1902/LOT 12 (1080 N. DELSEA DRIVE)**

TAKE NOTE that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on June 8, 2017 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 7:00 p.m. on July 13, 2017, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

BY ORDER of the Mayor and Council of the Borough of Clayton.

Christine Newcomb
Borough Clerk

NOTICE OF ADOPTION

ORDINANCE 13-2017

**AN ORDINANCE AUTHORIZING THE ACCEPTANCE AND
RECORDING OF DEED OF EASEMENT (SEWER EASEMENT)
BLOCK 1902/LOT 12 (1080 N. DELSEA DRIVE)**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on July 13, 2017.

Christine Newcomb
Borough Clerk