

**IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO**

STATE OF OHIO EX REL.

CASE NO.

VILLAGE PLAZA SPARKLE, INC.

Db a Sparkle Market

1135 W. Western Reserve Road

Poland, OH 44514

Relator

v.

COURTROOM NO.

MAHONING COUNTY BOARD OF COMMISSIONERS

21 W. Boardman Street, Suite 200

Youngstown, OH 44503

Respondents

**PETITION FOR WRIT OF MANDAMUS
[R.C. 2731.01 - .16]**

This verified Petition is being brought under R.C. 2731.01 - .16 by the Relator, Village Plaza Sparkle, Inc. (dba Sparkle Market) an Ohio corporation, which states the following:

JURISDICTION AND VENUE

1. This court has jurisdiction over this matter under R.C. 2731.02 and Article 1, Section 19 of the Constitution of the State of Ohio. All parties are residents of Mahoning County, and therefore this court has personal jurisdiction over them. This is the proper venue under Civil Rule 3(C)(4).

STATEMENT OF FACTS

2. The Relator is the owner of a business located at 1135 W. Western Reserve Road in Mahoning County. The business is known as Sparkle Market, and has operated at this location since 2006. Sparkle Market is a retail grocery store, and is a long-time member of an association of Sparkle grocery store owners with multiple locations in the Youngstown area. Sparkle stores have been a respected institution in this community since 1955. The Relator company and its owners have been

members of the Sparkle association since 1962. Their other stores are located in Cornersburg and Columbiana.

3. For the years from its opening in 2006 through 2022, the Western Reserve store consistently increased its revenue each year, and likewise was consistently profitable during that period.

4. Almost six years ago, in September of 2020, the Mahoning County Engineer announced an \$18 million project which would involve the widening of Western Reserve Road and renovating the adjacent sewer system. The project would cover the area of W. Western Reserve Road beginning from Hitchcock Road to its terminus at the Five Points intersection on E. Western Reserve Road. This is the area in which the Relator's store is located. In particular, the store is located in the area between Hitchcock Road and Glenwood Avenue.

5. As described by the Engineer, the "first phase" of the project would cover the area between Hitchcock Road and Market Street. This first phase was expected to commence in the Spring of 2021 and was to have ended in the late Spring or Summer of 2022 – in other words, just over one year. In fact, the first phase did not actually begin until October 31, 2022.

6. Before the project began, the Engineer gave assurances that, "traffic will be maintained in both directions." (Sept. 3, 2020 Comments and Responses). Of the flow of traffic, the Engineer later stated that, "It's going to be a major inconvenience for traveling, but it's a temporary inconvenience." (Vindy Feb. 27, 2021).

7. Despite the Engineer's assurances, the project may more accurately be described as a "nightmare" rather than an "inconvenience." Beginning on the first day of the project, October 31, 2022, the road was completely closed between Hitchcock Road and Glenwood Avenue during the hours of 6:30 a.m. to 5:30 p.m., and it remained closed until November 23rd.

8. The impact of this closing on the affected businesses was immediate and devastating. One of the business owners noted that, "Business is down immensely because of what is going on, and it's very upsetting to us. We wish they wouldn't have done it during the holidays." The owner also mentioned that her customers are confused by the closing of the road and the different detours every day. "Somedays, they can get here from Hitchcock. Some days, they can get here from Glenwood. We want to encourage our customers and Sparkle customers to make the effort to find which way they can get here because that will help us right now." (Vindy Nov. 9, 2022). A few days later, she described her business as a "ghost town." (Vindy Nov. 13, 2022).

9. For the Relator, the experience was similar. Almost immediately, revenue declined by approximately sixty percent during the regular daytime hours. These conditions were compounded by rumors that Sparkle and the businesses in the plaza had actually closed. Hoping to clarify these misconceptions, the Relator attempted to contact the Engineer's office for some assistance in

correcting the misinformation, but they received no response from the Engineer, no efforts to help at all.

10. The closing of the road, the interruption of traffic, and the impact on the businesses prompted the *Vindicator* to publish an editorial, which is summarized as follows:

Road construction is a necessary inconvenience that generally pays dividends in the end.

But businesses along a stretch of Western Reserve Road in Mahoning County where roadwork has been underway for several weeks say the price they are paying greatly exceeds just the tax dollars being spent on the infrastructure because no considerations were made for customer access. Some customers even have been turned away by road crews, leaving business owners now fearing for their livelihoods.

No infrastructure upgrades ever should come at that cost.

What's worse, the elected county official in charge of the project has been unresponsive to attempts to discuss these concerns.

Specifically in question is a half-mile portion of West Western Reserve Road between Hitchcock Road and Glenwood Avenue that is the first part of a multiphase project to replace about 5 miles of sanitary sewer line all the way to North Lima Road. We suspect this problem will continue with the next phases as well.

We were further bewildered when [Sparkle's representative] said they've received reports from people trying to get to their store being told the plaza was closed. She attempted to inquire about the county engineer posting a sign stating the Sparkle plaza was open, "but we've gotten no response," she said.

Multiple messages left by our reporter seeking comment from Ginnetti [the Engineer] also were not returned.

In the end, the businesses erected their own signs near the road at both plazas.

Indeed, Western Reserve Road is a high-traffic thoroughfare. Certainly, this problem should have been anticipated. Plans should have been laid that were much more conducive to the public's needs than just discouraging access and attempting to turn motorists away.

Let's face it, the sole purpose of upgrading infrastructure is to improve access and services for businesses located there, along with the residents and traveling public. None of this work is beneficial if it causes irreparable harm to the very business these upgrades are supposed to help.

Frankly, this is not the first time that Mahoning County Engineer Pat Ginnetti has allowed complaints of business owners and the traveling public to fall on deaf ears. It wasn't that long ago that Austintown businesses and motorists expressed frustration with roadwork on the busy Mahoning Avenue. Requests for that work to be done at night were denied.

We believe road crews, supervisors and especially elected officials making these decisions should be working harder to find compromises that will keep roads and accessibility open.

Why not do the work at night? Why not make arrangements to ensure that at least one lane is kept open during construction, and that road crews and law enforcement on the sites go out of their way to assist motorists get where they are going? Temporary traffic signals or flaggers on each end easily could achieve that goal.

And perhaps the overarching question is why did this project have to be done now — the busiest shopping season of the year? Perhaps there is a very logical reason, but attempts by the businesses and by our staff to reach Ginnetti were not returned.

That's unacceptable. Elected officials must realize they work for the public — not the other way around.

Installation of new infrastructure and roadwork should not come at an expense to the very business the work is expected to serve in the long run.

<https://www.vindy.com/opinion/editorials/2022/11/businesses-must-be-considered-in-roadwork-plans/> (November 20, 2022)

11. The *Vindicator* editorial perfectly described the hardships that the Relator and the neighboring businesses have had to endure. One might have thought that such a forceful and compelling argument would have alerted the Engineer to reevaluate the process and make some mid-course corrections which might have at least partially diminished the hardships described in the editorial. Unfortunately, nothing has changed. Now, more than three and a half years later, the “temporary” project that was supposed to have been completed in just over a year has no apparent end in sight.

12. Over this three and a half-year period, there have been constant intermittent and lengthy disruptions of the traffic flow in the area of the Relator's store. This has had a destructive cumulative effect. Over time, traffic has been diminished in the area both as a direct result of the construction work, and just as important, there has also been an indirect psychological effect, as commuters have permanently changed their travel routines and have, in effect, written off the Western Reserve Road corridor as a convenient route of travel. This diminished flow of traffic has been especially destructive to the Relator's grocery business which, like all grocery businesses, relies on high sales volume rather than high profit margins to sustain the business.

13. As previously noted, the Relator has been a member of the local Sparkle Market association for 64 years. Its owners are life-long residents of this Valley, and they have been loyal and generous members of the community. In the face of intense competition from national companies such as Walmart, Target, Meijers, and others, Sparkle Markets have held their ground by maintaining fair

pricing, excellent service, and operational efficiencies. They treat their employees and customers with respect, and unlike the national grocery chains, Sparkle does not expect their customers to scan and bag their own items. Sparkle Markets has always been a humane and admirable company.

14. In paragraph 7 of this Petition, the chain of events recited above has been described as a nightmare. Unfortunately, the nightmare has come true. On March 22, 2026, the Relator's owners made the torturous decision to close the Sparkle store as a result of the financial losses that have occurred over the last three and a half years. When the evidence is presented in this case, the Relator will show that the financial devastation of their store was directly caused by the Western Reserve Road project.

ARTICLE 1, SECTION 19 OF THE OHIO CONSTITUTION

15. Article 1, Section 19 of the Ohio Constitution provides in part that, “[p]rivate property shall ever be held inviolate, but subservient to the public welfare. * * * [W]here private property shall be taken for public use, a compensation therefor shall first be made in money * * * and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.” As recited in the facts above, this provision of the Constitution is implicated as a result of the consequences of the Western Reserve Road project. The actions of the County Engineer in the planning and execution of the project have caused a “substantial and unreasonable interference with the property right[s]” of the Relator. This has amounted to an involuntary “taking” under Article I, Section 19 of the Ohio Constitution. *See New Wen, Inc. v. Marchbanks*, 159 Ohio St. 3d 15, 2000-Ohio-63, para. 16.

16. As stated by the Ohio Supreme Court, “[m]andamus is the appropriate action to compel public authorities to institute appropriation proceedings where an involuntary taking of private property is alleged.” *State ex rel. Doner v. Zody*, 130 Ohio St.3d 446, 2011-Ohio-6117, para. 53.

17. In a mandamus proceeding, the Relator must establish the following: (1) a clear legal right to the requested relief under Article 1, Section 19; (2) a clear legal duty on the part of the public authority to provide the relief requested; and (3) the lack of an adequate remedy in the ordinary course of law. *State ex rel. Waters v. Spaeth*, 131, 131 Ohio St.3d 55, 2012-Ohio-960. All of these elements are present in this case.

WHEREFORE, the Relator requests that the court grant either a peremptory writ of mandamus or an alternative writ of mandamus compelling the Board of the Mahoning County Commissioners to commence an appropriation proceeding under R.C. Chapter 163 to compensate the Relator for the unconstitutional taking of its private property as described above.

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Attorney for the Relator

STATE OF OHIO
CC:
COUNTY OF MAHONING

VERIFICATION

I, Vincent J. Furrrie, the authorized agent acting on behalf of Village Plaza Sparkle, Inc., being first duly sworn, state that the facts recited in this Petition are true and accurate to the best of my knowledge.

May 27, 2026
Date

VINCENT J. FURRIE

On this 27th day of May, 2026, Vincent J. Furrrie personally appeared before me and after being duly sworn, signed the Verification of this Petition.

Jay Blackstone
Notary Public

JAY BLACKSTONE ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration Date.
Section 147.03 O.R.C.