

E-7

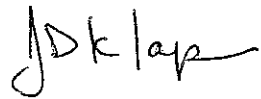
**TOWN OF HARRISON  
VILLAGE OF HARRISON  
ATTORNEY'S OFFICE**

**MEMORANDUM**

TO: Ronald W. Belmont, Supervisor  
Members of the Town Board

Ronald W. Belmont, Mayor  
Members of the Village Board

FROM: Jonathan D. Kraut, Village Attorney



DATE: August 20, 2013

RE: **Informal Dedication of Oak Ridge Manor and Oak Valley Subdivision**

Attached hereto is a memo dated May 7, 2013 which was previously sent to the Town Board members in connection with the Informal Dedication of Oak Ridge Manor and Oak Valley Subdivision.

Please place this matter on the August 29, 2013 Town Board meeting requesting that the Town and Village Board pass a Resolution authorizing the acceptance of these roadways by Informal dedication (copy of a draft Resolution is attached).

JDK:ap  
Attachments  
cc: Assessor  
Building  
DPW  
Engineering  
Town Clerk

RECEIVED  
2013 AUG 20 AM 11:00  
TOWN CLERK  
HARRISON, N.Y.

**TOWN OF HARRISON  
VILLAGE OF HARRISON  
ATTORNEY'S OFFICE**

TO: Ronald Belmont, Supervisor and Mayor and  
Members of the Town Board and Village Board

FROM: Jonathan D. Kraut, Village Attorney JK

DATE: May 7, 2013

SUBJECT: Informal Dedication

It has been brought to our attention by the Highway Department that there are two subdivisions that have been started, secured by a Letter of Credit and not completed. The Letters of Credit have been liquidated, and the funds paid to the Town.

Such subdivisions are as follows:

- A. Oak Ridge Manor (Oak Ridge Court) Subdivision
  - Letter of Credit balance, \$24,734.74
  - Date of First Public Use: September 1, 1998 (CO list attached)
  - Date abandoned by Developer: On or about February 9, 2011
  - Completed
  - Date Letter of Credit Collected: February 9, 2011
  
- B. Oak Valley Subdivision
  - Letter of Credit balance, \$9,747.48
  - Date of First Public Use: May 18, 1999 (CO list attached)
  - Date abandoned by Developer: On or about March 25, 2007
  - Completed
  - Date Letter of Credit Collected: March 25, 2007

A telephone call to the New York State Department of Transportation has indicated that in order to have these two roads placed on their inventory list for additional funding, we must submit to them a template description of each highway, which the Engineering Department will supply and have the Town accept these

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roads. The Town is completing, maintaining, and repairing said roads with the funds listed above.

Pursuant to §189 of the Highway Law, these roads have been open to the public for over ten years and therefore, even though the Town does not have fee simple title to the roads, we have an easement for same.

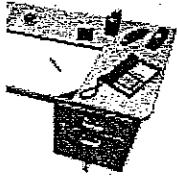
A copy of §189 of the Highway Law is attached, together with a proposed resolution.

For future reference, the filing of a subdivision map with the Westchester County Clerk, without a reservation by the applicant as to keeping the streets private is a continuing offer of Dedication which the Town or Village Board may accept at their discretion at any time.

JDK/ds

cc: Building Department  
Comptroller  
Department of Public Works  
Engineering Department  
Frank P. Allegretti, Town Attorney

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Suzanne Fuller/Town Of  
Harrison

02/11/2013 10:43 AM

To Anna Pilloni/Town Of Harrison@Town Of Harrison

cc

bcc

Subject CO issue dates

Please print this for Arthur:

2 OAK RIDGE CT 11/8/99  
HARRISON, NY 10528  
4 OAK RIDGE CT 5/12/99  
HARRISON, NY 10528  
6 OAK RIDGE CT 9/1/98  
HARRISON, NY 10528  
7 OAK RIDGE CT 6/23/00  
HARRISON, NY 10528  
8 OAK RIDGE CT 3/22/00  
HARRISON, NY 10528  
9 OAK RIDGE CT 7/10/03  
HARRISON, NY 10528  
10 OAK RIDGE CT 10/4/99  
HARRISON, NY 10528

5 OAK VALLEY LN 5/18/99  
HARRISON, NY 10528  
8 OAK VALLEY LN 11/18/01  
HARRISON, NY 10528  
9 OAK VALLEY LN 4/12/05  
HARRISON, NY 10528  
12 OAK VALLEY LN 6/19/07  
HARRISON, NY 10528  
15 OAK VALLEY LN 5/3/02  
HARRISON, NY 10528

Thanks,

Suzanne Fuller  
Senior Office Assistant  
Town/Village of Harrison  
Building Department  
1 Heineman Place  
Harrison, NY 10528  
(914)670-3056 Phone  
(914)670-3171 Fax  
[www.harrison-ny.gov](http://www.harrison-ny.gov)

**TOWN HIGHWAYS**

**I HIGHWAYS**

**Art. 8**

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, c. 330, § 208.

, c. 568, § 98.

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People v. East  
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**Art. 8**

**3. Source of funds**

Town superintendent could obtain funds to open a newly laid out highway

by an additional tax under § 268 [now covered by Local Finance Law § 29.00]. 1903, Op.Atty.Gen. 380.

**§ 189. Highways by use**

All lands which shall have been used by the public as a highway for the period of ten years or more, shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway, and the town superintendent shall open all such highways to the width of at least three rods.

(L.1936, c. 63; amended L.1959, c. 548, § 1; L.1963, c. 993.)

**Historical and Statutory Notes**

**Derivation**

Highway Law of 1909, c. 30, § 209.

Highway Law of 1908, c. 330, § 209.

Highway Law of 1890, c. 568, § 100;  
R.S., pt. 1, c. 16, title 1, §§ 100, 101.

**West's McKinney's Forms**

The following forms appear in Selected Consolidated Laws under Highway Law § 189:

Complaint in Action by Record Owner of Realty to Bar Town's Claims Thereto as Public Highway, see SCL, HWY § 189, Form 1.

Judgment Barring Town's Claim to Realty as Public Highways, see SCL, HWY § 189, Form 2.

Notice of cross motion for summary judgment by town to dismiss complaint seeking to enjoin town from altering, changing, or taking gravel road, see SCL, HWY § 189, Form 3.

Affidavit in support of cross motion for summary judgment by town to dismiss complaint seeking to enjoin town from altering, changing, or taking gravel road, see SCL, HWY § 189, Form 4.

Complaint in action for declaratory judgment by subdivision owner seeking declaration that subdivision access road is public road, see SCL, HWY § 189, Form 5.

Order and judgment in action for declaratory judgment by subdivision owner seeking declaration that subdivision access road is public road, see SCL, HWY § 189, Form 6.

**Library References**

**American Digest System**

Highways ⇌ 1.

**Encyclopedias**

C.J.S. Highways §§ 1, 24.

**Texts and Treatises**

43 NY Jur 2d, Dedication § 11, 19, 21, 28, 32.

23 Am Jur 2d, Dedication §§ 52 to 54.

39 Am Jur 2d, Highways, Streets, and Bridges §§ 25 to 31, 52, 53, 195.

APPROVAL OF INFORMAL DEDICATIONS FOR OAK RIDGE MANOR  
SUBDIVISION AND OAK VALLEY SUBDIVISION

On motion of \_\_\_\_\_, seconded by \_\_\_\_\_,

it was

RESOLVED to approve the request of Village Attorney Jonathan Kraut for authorization to accept informal dedications pursuant to Section 189 of the Highway Law, of Subdivisions Oak Ridge Manor (Oak Ridge Court) and Oak Valley.

FURTHER RESOLVED to authorize the Town Attorney's office to proceed with said dedications.

FURTHER RESOLVED to forward a copy of this Resolution to the Building Department, Comptroller, Engineering Department, Department of Public Works and Law Department.

Adopted by the following vote:

AYES:

NAYES:

ABSENT: