

No. 2014-60

AN ACT

HB 1602

Approving the release of Project 70 restrictions on certain land owned by the Borough of Downingtown, Chester County, in return for the development of public park improvements within Kardon Park within the Borough of Downingtown and East Caln Township, Chester County; and making a related repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Release of restrictions in Chester County.

(a) Authorization.—Pursuant to the requirements of section 20(b) of the act of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the Project 70 Land Acquisition and Borrowing Act, the General Assembly approves the release of Project 70 restrictions from the land owned by the Borough of Downingtown, Chester County, which is more particularly described in subsection (c) in accordance with the following conditions:

(1) The following apply to consideration:

(i) Project 70 restrictions removed from the land described in subsection (c) shall be for \$285,000, which is the fair market value of the restrictions as established by a self-contained appraisal report prepared by a State-certified general appraiser certified under the act of July 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers Certification Act.

(ii) Any land within the area described in subsection (c) sold by the Borough of Downingtown, without Project 70 restrictions, shall be for an amount equal to or greater than the fair market value of the land as established by a self-contained appraisal report prepared by a State-certified general appraiser certified under the Real Estate Appraisers Certification Act.

(2) The proceeds of the sale of the land and the release of the Project 70 restrictions shall be deposited into an interest-bearing account established by the Borough of Downingtown and designated solely for the purposes of the conditions under this subsection.

(3) The money in the interest-bearing account shall be used by the Borough of Downingtown for the sole purpose of improvements to Kardon Park in accordance with a development plan, including, but not limited to:

(i) Construction plans and specifications prepared by a licensed engineer or landscape architect and preapproved in writing by the department.

(ii) The following improvements for use by the public:

- (A) Trails.
- (B) Pedestrian bridges.
- (C) Parking.
- (D) Docks and boating slips.

(E) Enhancements to the water quality and quantity of the ponds and millrace. This clause includes:

- (I) introduction of fresh water and fountains; and
- (II) aeration devices.
- (F) Wetlands plantings.
- (G) Remediation of environmentally contaminated soils.
- (H) Landscaping.
- (I) Measures to save existing mature trees.
- (J) Lighting.
- (K) Signage.
- (L) Par courses.
- (M) Fencing.

(iii) Improvements to protect safety of pedestrians crossing the Struble Trail.

(4) The Borough of Downingtown shall certify to the department that an area of land matching the metes and bounds description in subsection (d) has been deed restricted for public park use, which (deed restriction) has been recorded by the Borough of Downingtown in the form and substance acceptable to the department. The department and the Borough of Downingtown may mutually agree on adjustments to the metes and bounds of the public park land as long as the public park land is not less than 20.0 acres in size.

(b) Use of funds securing the public park improvements.—In accordance with the requirements set forth in subsection (a):

(1) The funds, including interest, shall be used solely to ensure the development of public park improvements within Kardon Park constructed or caused to be constructed by the Borough of Downingtown in accordance with the plan approved by the department. The funds shall be released for the development of the Kardon Park following approval of the development plan as set forth in subsection (a)(3).

(2) Any funds, including interest, remaining five years after the date the funds are deposited, unless extended by the department for a period not to exceed two years, shall immediately be paid to the department for deposit in the department's General Restricted Revenue Fund for the purpose of funding conservation and recreation grants. Failure to make the payment shall result in the amount of funds, including interest, constituting a debt by the Borough of Downingtown to the Commonwealth.

(c) Land subject to release from Project 70 restrictions.—The land which is subject to the release from Project 70 restrictions in accordance with the provisions under subsection (a) is as follows:

All that certain tract of land situate in East Caln Township, Chester County, Pennsylvania, as shown on a plan entitled "P-70 Park Plan" prepared by Commonwealth Engineers, Inc., Downingtown, Pennsylvania, dated July 18, 2012, and being more fully described as follows:

Beginning at an existing railroad spike (set) located in the center of Norwood Road, said point being the northwestern corner of parcel 4001 00223010e in East Caln Township, Chester County, Pennsylvania, and the true point of beginning;

Thence from the beginning of left curve from which the radius point bears north 28°51'05" west, northeasterly and northerly a distance of 443.47 feet along the curve concave to the northwest, having a radius of 345.61 feet and a central angle of 73°31'06";

Thence north 12°22'11" west tangent to said curve, a distance of 67.97 feet;

Thence north 72°52'49" east, a distance of 604.99 feet;

Thence south 13°06'52" east, a distance of 762.14 feet;

Thence south 76°49'32" west, a distance of 405.48 feet;

Thence south 16°56'28" east, a distance of 171.56 feet;

Thence south 83°37'40" west, a distance of 474.54 feet;

Thence north 14°12'52" west, a distance of 130.69 feet;

Thence north 77°50'08" east, a distance of 17.50 feet;

Thence north 14°12'52" west, a distance of 309.33 feet to the point of beginning.

Containing 14.177 acres, more or less.

(d) Lands subject to deed restriction.—The lands which are subject to the deed restriction as required by subsection (a)(4) are as follows:

Parcel "A"

All that certain tract of land situate in Downingtown Borough and East Caln Township, Chester County, Pennsylvania, as shown on a plan entitled - "A" Park Area Legal Description Plan- prepared by Commonwealth Engineers, Inc., Downingtown, Pennsylvania, dated September 7, 2012, and being more fully described as follows:

Beginning at an existing bolt (set) located in the center of Pennsylvania Avenue, said point being the southeastern corner of parcel 1104 0023000E in Downingtown Borough, Chester County, Pennsylvania, and the true point of beginning;

Thence south 43°46'50" west, a distance of 500.70 feet;

Thence south 43°02'02" west, a distance of 5.40 feet;

Thence north 30°25'01" west, a distance of 136.79 feet;

Thence north 02°57'50" east, a distance of 361.29 feet;

Thence south 87°02'10" east, a distance of 123.32 feet;

Thence north 14°36'16" east, a distance of 111.23 feet;

Thence north 01°41'02" east, a distance of 237.40 feet;

Thence north 46°12'15" west, a distance of 361.72 feet;

Thence north 01°41'02" east, a distance of 129.44 feet;

Thence north 43°18'58" west, a distance of 73.53 feet;

Thence north 01°41'02" east, a distance of 83.92 feet;

Thence north 43°18'58" west, a distance of 19.80 feet;

Thence north 88°18'58" west, a distance of 39.21 feet;

Thence north 41°40'09" west, a distance of 24.75 feet;

Thence north 88°18'58" west, a distance of 136.35 feet to the beginning of a curve concave to the southwest having a radius of 367.00 feet and a central angle of 13°35'22" and being subtended by a chord which bears north 33°05'05" west 86.84 feet;

Thence northwesterly along said curve, a distance of 87.04 feet; Thence

north 39°52'46" west tangent to said curve, a distance of 277.81 feet to the beginning of a curve tangent to said line;

Thence northwesterly a distance of 34.60 feet along the curve concave to the southwest, having a radius of 187.00 feet and a central angle of $10^{\circ}36'07''$;

Thence north $50^{\circ}28'53''$ west tangent to said curve, a distance of 55.38 feet to the beginning of a curve concave to the west having a radius of 345.61 feet and a central angle of $45^{\circ}44'34''$ and being subtended by a chord which bears north $10^{\circ}30'06''$ east 268.65 feet;

Thence northeasterly and northerly along said curve, a distance of 275.92 feet;

Thence north $12^{\circ}22'11''$ west tangent to said curve, a distance of 67.97 feet;

Thence north $72^{\circ}52'49''$ east, a distance of 604.99 feet;

Thence south $13^{\circ}06'52''$ east, a distance of 762.14 feet;

Thence south $13^{\circ}06'28''$ east, a distance of 1148.90 feet to the point of beginning.

Containing 19.107 acres.

Parcel "B"

All that certain tract of land situate in Downingtown Borough and East Caln Township, Chester County, Pennsylvania, as shown on a plan entitled "Park Area Legal Description Plan" prepared by Commonwealth Engineers, Inc., Downingtown, Pennsylvania, dated September 7, 2012, and being more fully described as follows:

Beginning at an existing railroad spike (set) located in the center of Norwood Road, said point being the northwestern corner of parcel 4001 0023010e in East Caln Township, Chester County, Pennsylvania, and the true point of beginning;

Thence from the beginning of left curve from which the radius point bears north $28^{\circ}51'05''$ west, northeasterly a distance of 97.93 feet along the curve concave to the northwest, having a radius of 345.61 feet and a central angle of $16^{\circ}14'03''$;

Thence south $50^{\circ}28'53''$ east, a distance of 54.93 feet to the beginning of a curve tangent to said line;

Thence southeasterly a distance of 21.74 feet along the curve concave to the southwest, having a radius of 117.50 feet and a central angle of $10^{\circ}36'07''$;

Thence south $39^{\circ}52'46''$ east tangent to said curve, a distance of 178.08 feet;

Thence south $50^{\circ}07'15''$ west, a distance of 190.53 feet;

Thence south $75^{\circ}47'08''$ west, a distance of 39.06 feet;

Thence north $14^{\circ}12'52''$ west, a distance of 268.18 feet to the point of beginning.

Containing .990 acres.

Total restricted park property contains 20.097 acres, more or less.

(e) Definition.—As used in this section, the term "department" means the Department of Conservation and Natural Resources of the Commonwealth.
Section 2. Repeal.

(a) Declaration of policy.—The General Assembly declares that the repeal under subsection (b) is necessary to effectuate section 1.

(b) Provision.—Section 6 of the act of October 24, 2012 (P.L.1293, No.162), entitled "An act authorizing the Department of Conservation and Natural Resources to release, upon the satisfaction of certain conditions, Project 70 restrictions on certain land owned by the West Rockhill - Sellersville Joint Recreation Authority, Bucks County; authorizing the conveyance of an easement and the release of Project 70 restrictions imposed on a portion of land owned by the Pennsylvania Fish and Boat Commission in Gamble Township, Lycoming County, in return for the imposition of Project 70 restrictions on certain land being conveyed to the commission in Gamble Township, Lycoming County, and other terms and conditions; authorizing the sale and transfer of title for Project 70 lands owned by Erie County to Springfield Township, Erie County; authorizing Westmoreland County to convey and transfer a fee interest in certain Project 70 land in Unity Township free of Project 70 restrictions in return for the imposition of Project 70 restrictions on other land in Unity Township to be acquired by Westmoreland County; authorizing the Department of General Services, with the approval of the Department of Military and Veterans Affairs and the Governor, to grant and convey to QRS Realty Corp. certain lands and building situate in the City of Erie, Erie County; and approving the release of Project 70 restrictions on certain land owned by the Borough of Downingtown, Chester County, in return for the development of public park improvements within Kardon Park within the Borough of Downingtown and East Caln Township, Chester County," is repealed.

Section 3. Effective date.

This act shall take effect immediately.

APPROVED—The 18th day of June, A.D. 2014

TOM CORBETT