



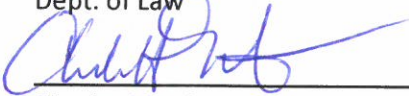
Lexington-Fayette Urban County Government  
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray  
Mayor

Charles Martin  
Acting Commissioner

**MEMORANDUM**

**To:** Keith Horn, Managing Attorney  
Dept. of Law

**From:**   
Charles Martin, Acting Commissioner  
Department of Environmental Quality & Public Works

**Date:** April 25, 2014

**Re:** Proposed Transfer of Right-of-Way - Hickory Street  
(Newtown Pk. @ Fourth St.)

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The Lexington-Fayette Urban County Government has received a request to transfer right-of-way for a portion of Hickory Street, which is located at the corner of Newtown Pike and Fourth Street. The request comes from D&D Realty and is attributable to the state Transportation Cabinet's reconfiguration of this intersection.

The request and pertinent support materials were circulated among various divisions and utility representatives to determine impacts to current operations. The comments can be summarized as follows:

**LFUCG Divisions:**

**Div. of Engineering:** There are some existing utilities present (KU and other aerial lines) within the areas which were quitclaimed from the KYTC to D&D Realty, Inc. The KYTC Quitclaim Deed (Book 3170, Page 422) makes no provisions for retaining utility easements, it only releases any future ownership claim they (KYTC) would have on the property. If we (LFUCG) are to agree with the release of right-of-way (for the same two parcels: 10C-1 and 10C-2) we should retain a utility easement blanketing both parcels. This would cover all aerial lines traversing the site. As long as the utility easements are identified and established on our quitclaim deed and council action, I can see no reason for the Division of Engineering to requests that the LFUCG retain these parcels. (Brad Frazier, Andrew Grunwald)

**Div. of Traffic Engineering:** Traffic Engineering has no facilities in or interest in retaining the abandoned portion of Hickory Street between Newtown Pike and West Fourth Street. The KYTC widening project modified the intersection ensuring all our facilities (signal and fiber) are within public R/W. (Jeff Neal)

**Keith Horn**  
**Page Two**

The following divisions had no concerns to report: Divisions of Water Quality, Police, Fire, Waste Management, Streets & Roads, E911, and Planning.

**Utilities:**

Kentucky Utilities: KU has existing facilities and would like the ROW to be a utility easement. (Gary Houck)

Kentucky-American Water Company: Kentucky-American DOES have facilities in the Hickory St right-of-way which is proposed to be closed. Accordingly, we will Require easement rights be retained and copy of easement provided on Hickory St. before final consent is given. (Tobey Adams)

Windstream: After review of the attached materials, the closing will not have any adverse effect on our operation. Any utility easement retained by KU will work for us as well. We will use KU pole line in the event we need a service route in the area. (Mike Adair)

Columbia Gas: Columbia Gas does not have a pipeline in the limits of this street. No easement needed. (Tony Tipton)

db

**QUITCLAIM DEED**

**THIS QUITCLAIM DEED** made and entered into this 22 day of May, 2013, by and between the **COMMONWEALTH OF KENTUCKY**, by Lori H. Flanery, Secretary of the Finance and Administration Cabinet, 702 Capital Ave., Frankfort, Kentucky 40601, on behalf of the **TRANSPORTATION CABINET**, Department of Highways, 200 Mero Street, Frankfort, Kentucky 40622, Grantor, and the **D & D REALITY, LLC, a Kentucky limited liability company**, 944 Wishbone Circle, Lexington, Kentucky 40502, the Grantee, (whose in-care-of tax mailing address for the current tax year is 944 Wishbone Circle, Lexington, Kentucky 40502).

**WITNESSETH:**

**WHEREAS**, the said parties of the first and second part are abutting landowners to a public road owned by Lexington Fayette Urban County Government known as Hickory Street, Lexington, Fayette County and as such enjoy certain reversionary rights said public road is abandoned; and

**WHEREAS**, the Party of the Second Part intends to petition the Lexington Fayette Urban Government to abandon a portion of Hickory Street in conjunction with certain roadway improvements associated with Newtown Pike, FD04 C034 8448401R, Item No. 7-375.00 (Newtown Pike and West Fourth Street); and

**WHEREAS**, if a portion of Hickory Street is abandoned, the Party of the First Part will require a temporary easement on property that will revert to the Party of the Second Part as a result of the abandonment of said roadway for the purpose of roadway improvements associated with Newtown Pike and West Fourth Street.

**FOR AND IN CONSIDERATION** of the above premises, and for no monetary consideration, the Party of the First Part does hereby trade, remise, release and forever quitclaim unto the Party of the Second Part, its successors and assigns forever, any reversionary interest it has in the following described real property, viz:

A following parcel of land lying and being in Fayette County, Kentucky and being described as follows:

Parcel 10  
Tract C-2

*MAIL TO:*  
*Transportation Cabinet*  
*Larry Greenwell*  
*PO Box 1127*  
*Lex Ky 40512*

Being a portion of 10C and beginning at a point 70.52 feet right of Newtown Pike at Station 103+21.97 thence North 10 Degrees 57 Minutes 44 Seconds East a distance of 7.76 feet to a point 70.24 feet right of Newtown Pike at Station 103+29.78 thence along an arc 50.90 feet to the right, having a radius of 34.00 feet, the chord of which is North 53 Degrees 51 Minutes 05 Seconds East for a distance of 46.28 feet, to a point 100.45 feet right of Newtown Pike at Station 103+64.94 thence South 48 Degrees 03 Minutes 02 Seconds West a distance of 52.23 feet to a point 70.52 feet right of Newtown Pike at Station 103+21.97 and the POINT OF BEGINNING.

The above described parcel contains 0.009 acre (411.056 sq. ft.) of Urban County Government owned ROW.

It is understood between the parties that the Party of the First Part reserves a temporary easement to the property described above for the purpose of constructing the Proposed Newtown Pike and West Fourth Street.

Should the Party of the Second Part obtain any reversionary rights to property resulting from the abandonment of Hickory Street, identified as Parcel 10 Tract C-1, the Party of the Second Part does hereby trade, remise, release and quitclaim unto the Party of the First part a temporary easement to the following described property for the purpose of road construction, viz:

A parcel of land lying and being in Fayette County, Kentucky and being described as follows:

Parcel 10  
Tract C - 1

Being a portion of 10C and beginning at a point 71.52 feet right of Newtown Pike at Station 102+92.29 thence N 10°57'44" E a distance of 29.54 feet to a point 70.52 feet right of Newtown Pike at Station 103+21.97 thence N 48°03'02" E a distance of 52.23 feet to a point 100.45 feet right of Newtown Pike at Station 103+64.94 thence along an arc 20.45 feet to the right, having a radius of 34.00 feet, the chord of which is S 66°01'47" E for a distance of 20.14 feet, to a point 120.23 feet right of Newtown Pike at Station 103+61.14 thence S 48°26'58" W a distance of 84.02 feet to a point 71.52 feet right of Newtown Pike at Station 102+92.29 and the POINT OF BEGINNING.

The above described parcel contains ± 0.029 acre (1256.253 sq. ft.) of City owned ROW.

All according to the schematic attached hereto as Exhibit A.

The Commonwealth of Kentucky obtained title to property adjacent Hickory Street which would give rise to reversionary rights by deed from Cordelia G. Lathrem, J. E. Davis, and Opal L. Davis, his wife April 1, 1965 which is duly recorded in Deed Book 830 at page 17. D & D Realty obtained title to property adjacent to Hickory Street which would give rise to reversionary rights by deed from Color and Supply Co., Inc., a Kentucky Corporation, To D & D Realty, LLC, a Kentucky limited liability company, dated the 12th day of January, 2001, which is duly recorded in Deed Book No. 2178 at page 453. All documents referenced herein are lodged in the office of the County Clerk of Fayette County, Kentucky.

The acquisition of right of way of the project reference herein was authorized by the Kentucky Department of Highways Official Order No. 107720. The control of access on this project and access to the remaining property of the Party of the Second Part shall be by permit, as required to be set forth in Section 6 of the Kentucky Administrative Regulations, (603 KAR 5:120).

The proposed public road, Newtown Pike, FD04 C034 8488401 R, Item No. 7-375.00, the plans for which are on file in the office of the Department of Highways in Frankfort, Kentucky.

**TO HAVE AND TO HOLD** said property unto the Party of the Second part, its successors and assigns, by way of quitclaim.

#### **CONSIDERATION CERTIFICATE OF GRANTOR**

**The Grantor** herein, hereby certifies that the consideration reflected in this deed, as set forth hereinabove, is the full consideration paid for the property hereby conveyed, with a fair market value of \$2,970.00.

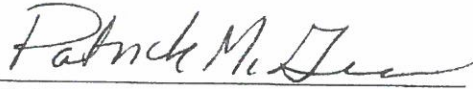
**IN TESTIMONY WHEREOF**, the Commonwealth of Kentucky has executed this Quitclaim Deed by Lori H. Flanery, Secretary of the Finance and Administration Cabinet of the Commonwealth of Kentucky, this the 22 day of MAY, 2013.

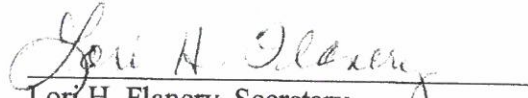
D & D Realty, LLC, a Kentucky limited liability company, has executed this Quitclaim Deed by and through Barbara Jan Deifel, Operating Manager thereof, pursuant to authority granted in its current Operating Agreement dated May 11, 2010 has executed this Deed on this the 22 day of MAY, 2013

**GRANTOR**

Approved as to form and legality:

Commonwealth of Kentucky

  
\_\_\_\_\_  
Attorney  
Finance and Administration Cabinet

  
\_\_\_\_\_  
Lori H. Flanery, Secretary  
Finance and Administration Cabinet

Examined:

This quitclaim deed is hereby approved:

  
\_\_\_\_\_  
Mike Alexander  
Counsel to Governor

  
\_\_\_\_\_  
Steven L. Beshear, Governor  
Commonwealth of Kentucky

**CONSIDERATION CERTIFICATE OF GRANTEE**

The undersigned Grantee herein, does hereby certify that the consideration reflected in this deed, as set forth hereinabove, is the full consideration paid for the property hereby conveyed with a fair market value of \$2,570.00.

In witness whereof, the undersigned has executed this Consideration Certificate this 22 day of May, 2013.

**CERTIFICATE OF ACKNOWLEDGMENT**

**COMMONWEALTH OF KENTUCKY**

**COUNTY OF FRANKLIN**

The foregoing quitclaim deed and consideration certificate were subscribed, sworn to and acknowledged before me by Lori H. Flanery, Secretary of the Finance and Administration Cabinet of the Commonwealth of Kentucky, on behalf of the Commonwealth of Kentucky, on this the 23<sup>rd</sup> day of May, 2013.

My Commission expires: 5/24/15

John D. Morris  
Notary Public, State at Large, Kentucky

D & D Realty, LLC,  
a Kentucky limited liability company, by:

Barbara J. Deifel  
Barbara Jean Deifel, Operating Manager



**CERTIFICATE OF ACKNOWLEDGMENT**

**COMMONWEALTH OF KENTUCKY**

**COUNTY OF Fayette**

I, the undersigned, certify that the foregoing Deed was produced before me in my said County and State and duly acknowledged and sworn to by Barbara Jean Deifel, Operating Manager, for and on behalf of D & D Realty, LLC, a Kentucky limited liability company, the Party of the First Part therein to be their act and deed.

Witness my hand this the 22<sup>nd</sup> day of July, 2013.

Madeline Broom Deifel  
Notary Public, State at Large, Kentucky

My Commission expires: 12/3/2016  
Notary ID# 479376

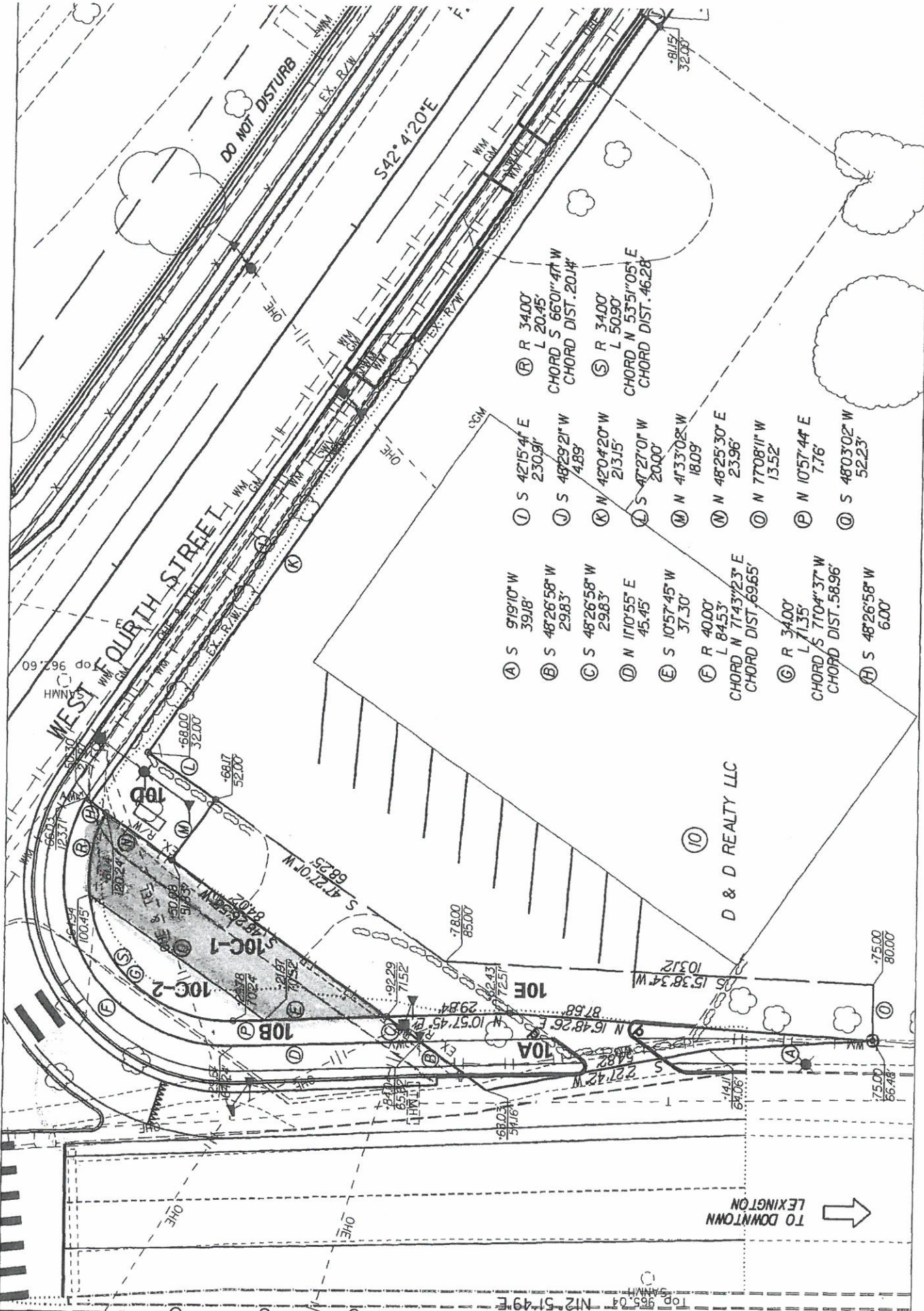
This document prepared by:

Will Fogle  
Will Fogle, Attorney  
Transportation Cabinet  
Office of Legal Services  
200 Mero Street  
Frankfort, KY 40622  
502 564-7650

102+05.00 NEWTOWN PIKE

Top 965.04 N12°51'49"E

TO DOWNTOWN  
TO LEXINGTON



- Ⓐ S 91°10' W 39.18'
- Ⓑ S 48°26'58" W 29.83'
- Ⓒ S 48°26'58" W 29.83'
- Ⓓ N 11°0'55" E 45.45'
- Ⓔ S 10°57'45" W 37.30'
- Ⓕ R 40.00' L 84.53' CHORD N 71°43'23" E CHORD DIST. 69.65'
- Ⓖ R 34.00' L 71.35' CHORD S 77°04'37" W CHORD DIST. 58.96'
- Ⓗ S 48°26'58" W 6.00'
- Ⓘ S 42°15'41" E 230.91'
- Ⓝ S 48°29'21" W 4.89'
- Ⓚ N 42°04'20" W 213.15'
- Ⓛ S 47°27'01" W 20.00'
- Ⓜ N 41°33'08" W 18.09'
- Ⓝ N 48°25'30" E 23.96'
- Ⓞ N 77°08'11" W 13.52'
- Ⓟ N 10°57'44" E 7.76'
- Ⓠ S 48°03'02" W 52.23'
- Ⓡ R 34.00' L 20.45' CHORD S 66°01'47" W CHORD DIST. 20.47'
- Ⓢ R 34.00' L 50.90' CHORD N 53°51'05" E CHORD DIST. 46.28'

D & D REALTY LLC

DO NOT DISTURB

S42°4'20"E

WEST FOURTH STREET

100C-1  
100C-2

100E

100A

100B

100C

100D

100E

100F

100G

100H

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100JT



I, Donald W Blevins Jr, County Court Clerk  
of Fayette County, Kentucky, hereby  
certify that the foregoing instrument  
has been duly recorded in my office.



By: DOUG BRADLEY ,dc

201307230153

July 23, 2013                      9:33:33      AM

Fees	\$26.00	Tax	\$ .00
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Total Paid	\$26.00
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7 Pages

422 - 428



April 15, 2014

Mr. Brad Stone  
Administrative Officer  
Lexington Fayette Urban County Government  
200 East Main Street  
Lexington, KY 40507

Re: Proposed Right-of-Way Closure/Transfer (Hickory St)

Dear Mr. Wentz:

Your request of April 14, 2014 has been received and reviewed. Kentucky American **DOES** have facilities in the Hickory St right-of-way which is proposed to be closed. Accordingly, we will **Require** easement rights be retained and copy of easement provided on Hickory St. before finally consent be given.

Please advise if we can be of further assistance.

Sincerely,

Tobey Jason Adams  
Engineering Technician  
Kentucky American Water

## Brad Stone

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**From:** Brad Frazier  
**Sent:** Tuesday, January 28, 2014 10:55 AM  
**To:** Commisioner EQ PW Exec Asst  
**Cc:** Brad Stone  
**Subject:** FW: Reminder; Responses Due: D&D Realty--Request to close abandoned portion of Hickory Street  
**Attachments:** Quitclaim Deed.pdf

Engineering is okay with the request as long as utility easements are included in the transaction, see below. Thanks.

---

**From:** Andrew Grunwald  
**Sent:** Tuesday, January 28, 2014 10:48 AM  
**To:** Brad Frazier  
**Subject:** RE: Reminder; Responses Due: D&D Realty--Request to close abandoned portion of Hickory Street

Good morning,

Jim Gilles and I looked at this site this morning. There are some existing utilities present (KU and other aerial lines) within the areas which were quitclaimed from the KYTC to D&D Realty, Inc. The KYTC Quitclaim Deed (Book 3170, Page 422) makes no provisions for retaining utility easements, it only releases any future ownership claim they (KYTC) would have on the property. If we (LFUCG) are to agree with the release of right-of-way (for the same two parcels: 10C-1 and 10C-2) we should retain a utility easement blanketing both parcels. This would cover all aerial lines traversing the site.

As long as the utility easements are identified and established on our quitclaim deed and council action, I can see no reason for the Division of Engineering to requests that the LFUCG retain these parcels.

Andrew Grunwald, P.E.  
Municipal Engineer Senior  
Division of Engineering  
859-258-3597

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**From:** Brad Frazier  
**Sent:** Tuesday, January 28, 2014 8:12 AM  
**To:** Andrew Grunwald  
**Subject:** FW: Reminder; Responses Due: D&D Realty--Request to close abandoned portion of Hickory Street

Hello Andrew. Do we have any issues with this? Thanks.

---

**From:** Commisioner EQ PW Exec Asst  
**Sent:** Tuesday, January 28, 2014 7:56 AM  
**To:** Brad Frazier; Jim Woods; Tracey Thurman; Albert Miller; Chris King; Keith Jackson; Ronnie Bastin; Paul Hockensmith; Christopher Doerge; Rodney Chervus  
**Subject:** Reminder; Responses Due: D&D Realty--Request to close abandoned portion of Hickory Street

Good Morning!

I have received a few responses. If you haven't submitted yet, please review and send your responses by 4:00 today.

04/24/2014

## Brad Stone

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**From:** Houck, Gary [Gary.Houck@lge-ku.com]  
**Sent:** Monday, April 21, 2014 9:53 AM  
**To:** Brad Stone  
**Subject:** RE: D&D Realty--Request to close abandoned portion of Hickory Street  
KU has existing facilities and would like the ROW to be a utility easement.

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**From:** Brad Stone [mailto:bstone@lexingtonky.gov]  
**Sent:** Monday, April 14, 2014 4:42 PM  
**To:** toby.adams@amwater.com; lezlie.allison@windstream.com; Houck, Gary; jtipton@nisource.com  
**Cc:** Charles Martin; Commisioner EQ PW Exec Asst  
**Subject:** FW: D&D Realty--Request to close abandoned portion of Hickory Street

The Lexington-Fayette Urban County Government has received a request to transfer right-of-way for a portion of Hickory Street, which is located at the corner of Newtown Pike and Fourth Street. The request comes from D&D Realty and is attributable to the state Transportation Cabinet's reconfiguration of this intersection.

Please review the attached materials and indicate whether the closing will have any adverse effect upon your operations, or whether any easements should be retained within the right-of-way in the event of closure. You may submit your response to me via email at [bstone@lexingtonky.gov](mailto:bstone@lexingtonky.gov).

Thank you very much for your time and attention to this request.

**D. Brad Stone, Admin. Officer Sr.**  
Dept. of Environmental Quality & Public Works  
Lexington-Fayette Urban County Government  
200 East Main St.  
Lexington, KY 40507  
(859) 425-2520 [office]  
(859) 559-3070 [cell]

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**From:** Ruschell, Stephen M. [mailto:SRUSCHELL@stites.com]  
**Sent:** Friday, January 10, 2014 2:36 PM  
**To:** Brad Stone  
**Cc:** Charles Martin  
**Subject:** D&D Realty--Request to close abandoned portion of Hickory Street

Brad:

Our client, D and D Realty requests the City abandon the right-of-way of a portion of Hickory Street which is located at the corner of Newtown Pike and Fourth Street. This parcel has been conveyed to our client by the Commonwealth as a part of the reconfiguration of this corner .

The Commonwealth's Quitclaim deed is attached which will give you the necessary legal description for your formal review.

Please advise us of the next steps in this process to enable our client to have this matter 'blue-sheeted' and before the Council at your earliest convenience.

Please let us know if you have any questions or need more information. Thanks,

04/24/2014

**Stephen M. Ruschell**

*Member*

*Direct: 859-226-2317*

*Fax: 859-425-7998*

*[sruschell@stites.com](mailto:sruschell@stites.com)*

**STITES&HARBISON** PLLC

250 West Main Street, Suite 2300, Lexington, KY 40507-1758

**[About Stites & Harbison](#) | [Bio](#) | [V-Card](#)**

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----- The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.

Thanks!

All,

Attached is a request to transfer right-of-way for a portion of Hickory Street. Please review the proposal and indicate whether the transfer will have any adverse effect upon your division, proposed costs associated with this request, and whether any easements should be acquired within the right-of-way in the event of the transfer.

Please provide your response by **Tuesday, January 28, 2014**.

Thanks!

Marian

Executive Assistant to Charlie Martin  
Acting Commissioner, Department of Environmental Quality & Public Works  
859-258-3400  
[commeqpwea@lexingtonky.gov](mailto:commeqpwea@lexingtonky.gov)



Lexington-Fayette Urban County Government  
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray  
Mayor

Charles H. Martin, P.E.  
Acting Commissioner

**MEMORANDUM**

To: Brad Frazier, Director – Division of Engineering  
Jim Woods, Acting Director – Division of Traffic Engineering  
Tracey Thurman, Acting Director – Division of Waste Management  
Albert Miller, Acting Director – Streets, Roads and Forestry  
Chris King, Director – Division of Planning  
Chief Keith Jackson – Division of Fire and Emergency Services  
Chief Ronnie Bastin – Division of Police  
Paul Hockensmith – E911  
Chris Doerge – GIS  
Rod Chervus – Division of Water Quality

From: Brad Stone, Administrative Officer Sr.

Date: January 14, 2014

RE: Proposed transfer of right-of-way (Public to Private): Former Hickory Street – Corner of Newtown Pike and West Fourth Street

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The Lexington-Fayette Urban County Government has received a request from D and D Realty to abandon right-of-way for a portion of Hickory Street which is located at the corner of Newtown Pike and Fourth Street. This parcel has already been conveyed to D&D by the Commonwealth as a part of the reconfiguration of this corner (see attached Quitclaim deed).

Please review this proposal and indicate whether the transfer will have any adverse effect upon your Division, proposed costs associated with this request, or whether any easements should be retained within the right-of-way in the event of the transfer. **Please provide an email response to:**

**[commeqpwea@lexingtonky.gov](mailto:commeqpwea@lexingtonky.gov)**

**by January 28, 2014**

Thank you for your time and attention to this request.