

My name is Diane Less. I have been sued in 2 different lawsuits in Mahoning County by Mill Creek Park seeking to take my property against my will through eminent domain to build another bike trail parallel to the one that already exists on Washingtonville Road, just 8/10<sup>th</sup> of a mile away.

I am not against eminent domain when truly needed, and I am not against bike trails when the property is acquired through legitimate means but we landowners were told that eminent domain would never be used against us. So much for keeping their word.

In the first lawsuit, the park would destroy my easements across my neighbors property by taking their property, and I would lose my access to State Route 165 from my farm.

In the second lawsuit the park would cut off over 6 acres of land from the rest of my farm, which has been in my family for 99 years. I don't know how I would get to my separated property.

This proposed bike trail would be for recreational purposes. Nobody would use it for anything other than leisure. It is awful that the government is suing me to take my property for someone else's recreation.

All of us landowners are being treated as squatters on our own land.

You may not be familiar with eminent domain being used for bike trails, and that is likely because landowners rarely are able to afford to fight to keep their own land. Think about that. What happens is that a park district has so many resources that landowners usually cannot fight back even though they do not want their property taken.

A park district has basically unlimited funding and no budget cap, and in our cases anyway just do what they please. In our case, they use tax dollars to hire one of the largest law firms in Youngstown, while we have to pay for our own lawyers with our after tax earnings. Parks then use an appraiser to make ridiculously low "offers" and then the landowners have to spend our money, thousands and thousands of dollars to pay for our own appraiser. Because the system is so unfair, landowners usually have to submit to the demands of the park and settle because they cannot afford to stand up for their property rights.

All of the landowners who are here have to take off work to be here. When the park districts come down to tell you how wonderful they think are for suing us, will they be getting paid? Will they be getting mileage reimbursement? We won't.

1. This is NOT a situation where a bike trail is being put immediately next to an existing road way. What the park wants to do is build a bike trail cutting through my farm and others farms.

2. To clarify, this proposed additional bike trail is not being built on an "abandoned rail line" as it has been inaccurately described. The rail line on my farm was removed over 40 years ago. On my property and others involved, the property has been reclaimed and is in use. Nothing about my property is "abandoned." Where the park wants to put this trail is through my farmland. (If someone refers to an "abandoned house" there would have to be a house still standing there. Same for a rail line).

3. In the lawsuit to take my easement away from me to cross my neighbors property, the park was supposed to send me a Letter of Intent to take as described in 163 of the Ohio Revised Code. That Letter of Intent to take was supposed to be sent to me 30 days before I was sued, and it was supposed to

have an appraisal, and a good faith offer. The park never sent me a Letter of Intent to take and never gave me an appraisal and never made me an offer.

4. In lawsuit #2 to take my own property, the park was supposed to give me (and other landowners ) notice that we had the right to appeal the park's decision to take our property to the elected government agency that appointed the unelected park director. In this case, that appeal would be to the probate court. But the park completely deleted that part from the notice we were sent, and they deleted that mid-sentence from what they sent us. That was very serious misconduct that deprived us of our rights.

5. The park has NOT sent me any plans of how I would get utilities such as water, gas and electric to my separated property. In another part of the bike trail already built, that park district has refused access under the trail to run a water line. I would have a very important drainage system separated from my farm that I would not even be able to access. The park has not even showed me how I would get across to this part of my property. The park has told other landowners that they might put a gate in for them, but if the bike trail was damaged while crossing, the landowner would be responsible for damages caused. That basically means we won't be able to cross over the trail, or risk having huge expense for using our own property!

6. The park has also never sent me any satellite maps to show exactly where they want to put the trail, though I believe they likely have such maps. They have also not placed surveying stakes for me to see the exact locations where they want to place the trail. I should not have to pay a surveyor to see what the park is attempting to do.

7. The park wants to take my and other landowners property by an easement, which means we would still have to pay taxes, insurance, and if anything happens on the trail and there is a lawsuit, I would be sued. How is this fair?

8. If the park does take our property, any money we get we would have to pay taxes on for property we don't even want to sell. How is this fair?

9. This additional bike trail is not even necessary. The park claims they want to connect 2 parts of already existing trails, but they are already connected. For over 20 years, people have used Washingtonville Road as a bike route connecting the two bike trails. There is even a government installed bike crossing sign on the roadway where the bikes cross onto Washingtonville Road. Washingtonville Road is just 8/10 of a mile from its furthest part from where the park wants to add this additional parallel trail. But the park wants to spend over \$6 million in tax dollars (that amount is from their own website in 2016 dollars before the economy improved, which means it will probably cost even more). Some of the proposed route by the park even uses Washingtonville Road or is immediately adjacent to it.

10. In addition to the over \$6 million the park wants to spend in tax dollars, they have announced they are selling naming rights to the bike trail So they are taking our property and naming our property after someone else. That is disgusting.

11. The park is trying to take between 66 and 70 feet of property from me, for a bike trail that according to their website is only 14 feet wide.

12. The park will tell you that they offered to meet with landowners before we were sued. I went to one of those meetings and the context of those meetings was, paraphrasing, we were told "We are taking

your property whether you like it or not. Sell it to us now and maybe we will do some landscaping and maybe address some of your security and privacy concerns, but if we sue you, you will get nothing. And under no circumstance will we move the trail an inch from where we have already decided we want it." But if the park had notified us as they were supposed to that we could have appealed the project to the probate court, then the landowners would have had an elected official review the park's plans.

This is outrageous. There are several farms where the path could have been built along property borders so as not to split farms. Instead my neighbor Dave Roller will have 13 acres split from his property; The Chahine family will have 13 acres split from their farm too, lose a mile of property, plus they will lose all access to Middletown Road; the Camerons will have the trail go right through the middle of their dairy farm; I will have over 6 acres split from my farm; Tom Hough will lose a mile of property, etc etc. The Sportsman Club, just down the street from me is where I go for fish fry's. They will have to move their archery range (at their own expense) and have the trail go right through the middle of their tractor pull area. At the Sportsman's Club, some of the trail will be immediately next to Washingtonville Road and then the trail diverts through their property and ruins their tractor pull area. How is it ok for the park to destroy the recreation of the Sportsman's Club to build a bike trail for someone else?

13. The buzz phrase the park keeps using is that the landowners will be "fairly compensated." Nothing could be further from the truth. First, the park's so called "good faith offer" regarding my property in the second lawsuit (remember, in the first lawsuit, the park never even made me an offer) was based upon a "willing seller." None of us are willing sellers, so how can that be called fair compensation? Also, we have to hire appraisers to show the absurdity of the park's so called good faith offer. How is it fair that we have to spend thousands of dollars to keep from being swindled?

14. The park director was quoted on the news as saying he "has no idea" why the route chosen was selected. And yet in the Letters of Intent to Take, he is the one who we were told to write letters of opposition to of the trail and he is the one making the decision as to whether the project goes forward!

15. In 2018 there were 2 rapes on a bike trail just about 15 minutes or so to the west of where the park wants to build this additional trail. In reference to that, the park director told the news reporter "crime happens everywhere." There have been several assaults on Mill Creek Park trails too. We don't want this crime coming to our properties.

16. Only after the park sued us did I learn from the lawsuit for the first time there was allegedly a study done some time around 1996, almost 25 years ago, about potential routes for the trail. Well, 25 years ago, there were no bike trails to the north or south of us that were completed and there were no signs for a bike crossing on Washingtonville Road like there is now. And why weren't the landowners included DURING the study?

At one time, I even offered to DONATE property along Washingtonville Road if the park needed it to make a trail there. The park would not even discuss this with me.

17. One thing I find especially aggravating are the Facebook posts of one of the park's board members who voted in September 2018 to take our property via eminent domain. He posts about Mill Creek park business and events and public issues on Facebook. I believe he is or was president of our local Audubon Society. I actually agree with many of his Facebook posts about preserving nature and making sure wildlife and their habitat is protected. I often take time to clean streams, pick up litter,

move turtles and frogs off the road, and try to help injured wildlife, so in that regard I truly commend him for caring and offering up ideas on how to protect nature. Many of his posts are informative and helpful.

I agree with his 6-27-19 post quoting Ansel Adams: "Once destroyed, nature's beauty cannot be repurchased at any price."

I have many very nice trees and wildlife on my property that will be impacted by the proposed bike trail. So do my neighbors, so it is confusing when he refers to people as "idiots" who destroy bird habitat (4-11-19) and denounces eminent domain for projects he disagrees with 1-10-2019 & 2-4-2019, but votes to take my property by eminent domain.

However, my property and that of others will see OUR wildlife destroyed and OUR wildlife habitat destroyed if the bike path goes through. He posted a beautiful photo of his backyard that he enjoys (6-12-18) that he refers to as "such peace." What about my peace? Neither he nor anyone else at the park that I am aware of doesn't offer up any of their property for any public recreation. If not a bike trail, how about a swing set or a picnic table in THEIR yard for the public?

On September 5, 2019 he commented on a pollution bill, stating "Laws are for the special interests and those who have the money." That describes how I feel when dealing with the park.

On January 22, 2019, not long before I was sued, he posted "Civility is dead in this country and nobody cares. *It's all about my team winning at all costs and to hell with the rest of you.* Welcome to America 2019." That's how I feel the park behaves.

On June 18, 2019 he commented about a local gas station project: "Just what we need. Mores (sic) hard surfaces=more runoff." But he voted to cut down trees in our natural areas and farmland, to be replaced with 6 miles of a paved hard surfaces for a bike trail.

On April 24, 2019 he posted a very interesting and relevant article in opposition to Ohio allowing ATV's on state lands. In the article he posted, there are many citations to the dangers of "pathway morality in amphibians," and references to "trails and paths introduce runoff of sediment into water systems," the dangers of "invasive plants" the reality of "dangerous people" (see my concerns about rapists and other bike trail crime) and how certain snakes "avoid crossing paved roads." There are many other such references. Why don't creatures on our property matter? As I stated earlier, I will have over 6 acres of my property separated from the rest of my land.

18. The park is suing me claiming they have the right to take my property via Ohio Revised Code 1545.11. My lawyer says they do not have such authority, but it is going to cost me money to try and preserve my own land. That law states a park district can sue to take land "for conversion into forest reserves, and for the conservation of natural resources of the state, including streams, lakes, submerged lands, and swamplands." Cutting down my trees, disrupting wildlife and building a bike path is not preserving natural resources.

19. Beware what the park tells you when referring to the % of respondents in a survey of what the public wants. Ask to see the polling universe, and ask to see the methodology. Same for their claims of how many people use their current trail. Doing a census count in a highly populated area usually counts a single user multiple times and is not a truly scientific poll.

20. The park will tell you about how bike riders prefer a path through our farms, yet there are bike paths all across Ohio along side very busy highways, and Washingtonville Road is a safe country road with little traffic. It doesn't even need widened. All it needs is some signs that say "Share the Road" just like Mill Creek Park has all throughout Mill Creek Park. And of course paint the bicycle symbol on the road, just like has been done on busy roads throughout Ohio, including downtown Youngstown, and throughout Mill Creek Park.

I priced the signs and paint and stencils to complete that work, and it would be less than \$10,000 (ten thousand) compared to \$6,000,000.

I genuinely thank this committee for taking the time to listen to me and hear my concerns.