

## **SR 25 / Anthony Wayne Trail within Toledo City Limits - Key Points**

In 1944, a case was brought before the Sixth District Court of Appeals regarding landowners seeking to construct curb cuts on Anthony Wayne Trail to access the Anthony Wayne Trail. The landowners each owned a parcel that adjoined and abutted the former canal land in question. The initial judgment against the appellants was affirmed by the Court of Appeals and access was denied <sup>[1]</sup>. Some of the key points raised during the trial are as follows:

- The canal lands in question were lawfully purchased by the City of Toledo in 1922 for \$300,000 under an act by the Ohio General Assembly authorizing the purchase in 1920 <sup>[1][2]</sup>.
- The deed to the City stipulated that the property therein was to be used for park and boulevard purposes <sup>[1]</sup>.
- In 1933 an ordinance was passed by Toledo City Council “dedicating for boulevard purposes that portion of the abandoned bed of the Miami and Erie Canal” involved in the legal proceedings, and subsequent legislation prohibited the cutting of the curb without permission <sup>[1]</sup>.
- In 1939 the City constructed two 36 feet wide parallel strips of pavement separated by a strip of land 40 feet wide, and bounded by strips of land separating the pavement from the adjoining owners. This was found to meet the accepted definition of boulevard at the time <sup>[1]</sup>.
- Public or private ways across the bounding strips of land to the pavement were held to interfere with the City’s “legal right to do in character with its declared intention to dedicate and use this canal property as a ‘boulevard’” if they may be established other than as designated by it <sup>[1]</sup>.
- There was no special assessment for the 1939 improvements levied upon the abutting real estate. The relators have no greater right in these public lands than that enjoyed by the general public <sup>[1]</sup>.

In 1975, a case was brought before the Sixth District Court of Appeals regarding a landowner seeking to construct a drive to access the Anthony Wayne Trail. The only physical access from the parcel to the Toledo street and highway system was the Anthony Wayne Trail, as the parcel was bounded on the south side by the Ohio Turnpike and on the other sides by railroads. The initial judgment against the appellant was affirmed by the Court of Appeals and access was denied <sup>[2]</sup>. Some of the key points raised during the trial are as follows:

- The Ohio General Assembly created an act on February 4, 1825 to initiate the construction of canals in Ohio <sup>[2]</sup>.
- Section 8 of the act provides for the appropriation of property in fee simple <sup>[2]</sup>.
- Occupation was sufficient to convey title; no deeds or written conveyances were created unless the landowner claimed damages within one year thereafter <sup>[2]</sup>.
- Section 7 of the act provides for the establishment of reasonable tolls, and an act in 1826 prescribed penalties for unlawful use of the canal or towpath <sup>[2]</sup>.
- It was never a public highway in the sense that it was available to all without charge <sup>[2]</sup>.

- The canal system was only accessible at certain toll points, therefore the right of access to the canal land never existed in abutting owners' property <sup>[2]</sup>.
- The change in use from canal to highway or boulevard did not cause new rights to ripen in abutting owners <sup>[2]</sup>.
- The canal lands in question were lawfully purchased by the City of Toledo in 1922 for \$300,000 under an act by the Ohio General Assembly authorizing the purchase in 1920 <sup>[1][2]</sup>.
- ORC 717.04 establishes a municipality's right to designate certain highways 'limited access highways' <sup>[2]</sup>.
- The Anthony Wayne Trail was properly designated as limited access by the City of Toledo under TMC 331.30 <sup>[2][3]</sup>.

## **References**

[1] 75 Ohio App. 378

Court of Appeals of Ohio, Sixth District, Lucas County  
 State ex rel. Copland v. City of Toledo et al  
 State ex rel. Rugby Realty Co. v. Same  
 December 18, 1944.

[2] 46 Ohio App.2d 51

Court of Appeals of Ohio, Sixth District, Lucas County  
 Circle Investment Co., Appellant v. City of Toledo et al, Appellees.  
 April 18, 1975.

[3] Toledo Municipal Code 331.30.

Entering and exiting limited-access highways.

**(a) Anthony Wayne Trail.**

(1) The Anthony Wayne Trail is hereby declared to be a limited-access highway.

(2) No person shall drive or operate upon the Anthony Wayne Trail or any part thereof any vehicle which is designated in Section [303.06](#) (b). The provisions of this section shall not apply to vehicles crossing the Anthony Wayne Trail at regularly designated crossings thereof.

(3) No driver or operator of a vehicle shall stand or park the same on the Anthony Wayne Trail except in the case of emergency repairs and in such event only for so long as shall be necessary to make emergency repairs to such vehicle.

(4) No curb cuts, ingress or egress shall be allowed at any point along the Anthony Wayne Trail and only the following points are hereby designated as public points of entry and exit:

A. Entry: Michigan Street, Lafayette Street, Interstate Highway 75, Collingwood Avenue (southwest bound only), City Park Avenue, Western Avenue, South Avenue, Toledo Zoo access drive, Woodsdale Avenue, Harvard Boulevard, Glendale Avenue, Sherwood Avenue and Copland Boulevard.

B. Exit: Erie Street, Lafayette Street, Interstate Highway 75, Collingwood Avenue (northeast bound only), City Park Avenue, Western Avenue, South Avenue, Toledo Zoo parking lot, Toledo Zoo access drive, Woodsdale Avenue, Harvard Boulevard, Glendale Avenue, Sherwood Avenue and Copland Boulevard.

(1952 Code § 21-11-20; Ord. 142-73)

**(b) Toledo Expressway.**

(1) All expressways which are within the City and designated as Interstate Highway 75, Interstate Highway 280 and Interstate Highway 475, are hereby declared to be limited-access highways and the provisions of Section [303.06](#) shall apply.

(2) No curb cuts, ingress or egress shall be allowed at any point along such expressway or approaches thereto except such as are made in the construction thereof.

(1952 Code § 21-11-22; Ord. 875-63)

(c) No person shall drive a vehicle onto or from any limited-access highway except at such entrances and exits as are established by public authority.