

**IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO**

**HARTFORD TOWNSHIP  
BOARD OF TRUSTEES**

**CASE NO. 2011 CV 01007**

**Plaintiff**

**JUDGE KONTOS**

v.

**JUDGMENT ENTRY**  
**(Consent Decree)**

**SHARON SPEEDWAY PROPERTIES,  
LLC**

**Defendant**

**I. STATEMENT OF CASE, PROCEDURAL POSTURE, RECITALS**

**Whereas, Defendant is the owner of approximately forty-nine (49) acres of real property (hereinafter referred to as the "Premises") located at 3241 Custer Orangeville Road, Hartford Township Trumbull County, Ohio as more fully described in attached Exhibit "A"; and**

**Whereas, Hartford Township duly adopted a zoning resolution regulating land use in the unincorporated area of the township at the General Election on November 1959, pursuant to the authority granted in Chapter 519 of the Ohio Revised Code; and**

**Whereas, the premises is located in a zoned district designated as "R" - Residential; and**

**Whereas, the premises, having an unpaved oval race track, has, historically and prior to the adoption of Zoning within the Township, been used for auto racing and related events; and**

**Whereas, the use of the premises constitutes a non-conforming use of the property pursuant to Section 519.19 ORC; and**

**Whereas, a dispute and controversy exists between the Plaintiff Hartford Township Trustees and Defendant Sharon Speedway Properties LLC, over the scope of the non-conforming use of the premises in accordance with RC 519.19 ; and**

**Whereas, the parties desire to settle the controversy by agreement and consent to avoid further and ongoing controversy and costly litigation; and to determine the scope of non-conforming use of the premises which balances the ability of the Defendant to enjoy and maintain the viability of their non-conforming use, while protecting the peace and quiet enjoyment of adjoining property owners and the community at large;**

**Now Therefore, the parties mutually agree, covenant and consent to the following Order:**

**II. CONSENT DECREE**

**IT IS ORDERED, ADJUDGED AND DECREED, that**

**The following event activities are permitted on the premises without limitation:**

- 1) Auto Racing
- 2) Swap Meets
- 3) Car Shows / Car Cruise-Ins

**The following activities are permitted on the premises within the prescribed limitation of event scheduling per calendar year:**

- |  |                                    |
|--|------------------------------------|
| 1) Flea Market, Craft Show, Antique Show, or Auction | an aggregate of 18 events per year |
| 2) Circus  | 1 event per year                   |
| 3) Dog/Cat/Small Animal Show                         | 2 events per year                  |
| 4) Horse Show  | 2 events per year                  |
| 5) Cowboy Rodeo                                      | 2 events per year                  |
| 6) Truck Race, Tractor Pull or Monster Truck Show    | an aggregate of 5 events per year  |
| 7) Motorcycle/Motor Cross Racing                     | an aggregate of 5 events per year  |
| 8) Stunt Show/Snowmobile Racing                      | an aggregate of 5 events per year  |
| 9) Festivals (i.e, Apple Festival)                   | 2 events per year                  |

The premises may be used for the following activities without limitation of the number of said events, including and similar to:

- 1) Graduation Parties
- 2) Bridal/Baby Showers
- 3) Weddings/Anniversaries
- 4) Family Reunions
- 5) Retirement Parties
- 6) School events
- 7) Church and Scouting events
- 8) Business seminars and events
- 9) Charity events
- 10) Fund Raiser/Event Dinners

All of the above activities must be contained within the building or within the fenced in area west of the grandstand. Musical entertainment may be provided *in conjunction with* all permitted activities and celebrations so long as the music is pre-recorded or provided by a DJ or a local performer or local band.

Twice per year the Speedway may present a live music concert by a nationally known artist. Each concert shall be on a single day, ending by the applicable concluding time, and shall be conducted so as not to constitute a nuisance to the neighboring property owners.

The following rules and regulations shall apply to all events and activities on the premises except as otherwise noted;

- 1) **Liquor Sales** – Permit Liquor Sales (issued by the Ohio Division of Commerce, Department of Liquor Control) are permitted in accordance with the applicable Liquor License Classification(s), and the rules and regulations of the Department of Liquor Control.
- 2) Other than auto racing, swap meets, car shows and cruise ins, all events shall be held during the following time periods:
  - a) Said events shall commence no earlier than 7:00 AM
  - b) Said events shall conclude as follows:
    - i) In Season (April 15<sup>th</sup> to September 30<sup>th</sup>) - by 11:00 PM
    - ii) Off Season (October 1 to April 14<sup>th</sup>) by 9:00 PM weekdays, 11:00 PM on Fridays & Saturdays, and Sundays at 9:00PM
    - iv) All outdoor Events when School is in session the following day-by

7:00PM

- 3) The Speedway will wet down the track and take appropriate measures before and/or during all track events to suppress and minimize dust and dirt.
- 4) In Season, visitors may camp on the premises, however, such camping is limited to event camping only, within reasonable times of the start and completion of events. In addition, there can be a maximum of up to six campers kept on the premises during In Season and Off Season as temporary housing for employees operating and taking care of the premises. Said temporary housing campers shall be located behind the back of the west side of the track, screened from view from the roadway.
- 5) The Speedway is entitled to future construction, reconstruction, modification, alterations and changes of structures or use as permitted by law.
- 6) To the extent it is within the owner's and/or event organizer's control, all event traffic shall be directed to use State Route 7 to State Route 305 for ingress and egress to the premises. The owner and/or event organizer shall post traffic directional signs on State Route 7 and State Route 305 during events for this purpose.
- 7) If the owner or event organizer desires Police Security on the premises, the Hartford Township Police Department shall have the first right of refusal to work the off-duty event security pursuant to the same terms, conditions and wages offered to other law enforcement agency officers, on an annual basis. If the Hartford Township Police Department declines said off-duty employment under the terms and conditions offered (wages, hours, duty assignments) or is unable to provide said security, then the owner or event organizer may offer said employment to other law enforcement agency officers of their choice.

**IT IS FURTHER, ORDERED ADJUDGED AND DECREED,** that this Order runs with the land and is binding upon all successor owners, lessees and parties in interest.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that this Decree shall in no way restrict or limit the rights of the Defendant or its successors in interest to avail themselves of the provisions of Chapter 519 of the Ohio Revised Code and the Hartford Township Resolution to seek amendment or variance for the use of the land subject to this decree. If upon application of the Defendant or their successors in interest, any amendment or variance for the use of the land subject to this decree is approved and adopted pursuant to Chapter 519 of the Ohio Revised Code and/or the Hartford Township Zoning Resolution, said amendment or variance shall supersede any terms or provisions of this Decree for which the amendment or variance is in conflict, and all other provisions of this Order are to remain in full force and effect.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that this Decree shall in no way restrict or limit the rights of the Plaintiff Hartford Township Trustees to avail themselves of the Provisions of Chapter 519 of the Ohio Revised Code, the Hartford Township Zoning Resolution and all other remedies in law and equity to enforce its zoning resolution on the land subject to this Decree, except as provided herein, and that Defendant and its successors in interest shall not use or permit the use of the property in any manner which constitutes a public nuisance .

Cost to be split between the Parties.

Date: 5/24/13

  
\_\_\_\_\_  
JUDGE PETER J. KONTOS

2013 MAY 24 AM 10:11  
TRUMBULL COUNTY  
CLERK OF COURTS  
KAREN INFANTE ALLEN  
TRUMBULL COUNTY  
CLERK OF COURTS

**Approved by**

Hartford Township Board of Trustees  
Plaintiff

Rebecca Whitman  
Rebecca Whitman

Michael Bridge  
Michael Bridge

Phillip Wilhelm  
Phillip Wilhelm

Mark S. Finamore  
Mark S. Finamore (#0012726)  
Hartford Township Legal Counsel

Sharon Speedway Properties, LLC  
Defendant

James T. Walker Sr.  
By:

DANIEL DANILUK, LLC  
Attorneys for Defendant

Cherry Lynne Poteet  
Cherry Lynne Poteet (#0030634)

**EXHIBIT "A"**

**Parcel 1:** All that certain parcel of land located in Section 11 of Hartford Township in Trumbull County, Ohio. Being known as lands of S.K. Properties Leasing, Inc., (OR 1367 - 200), and being further described as follows: BEGINNING at a point at the intersection of Wilson-Sharpville Rd. (S.R. 305), and Custer-Orangeville Rd. (C.H. 169 C); thence along the centerline of Custer-Orangeville Rd., S 00°-47'-00" W for a distance of one thousand twenty eight and seven tenths (1028.70') feet to the south line of T. & D. Durica (OR 994-907) which is the true place of beginning for the herein described parcel; thence along the south line of T. & D. Durica (OR 994-907) (through a 1" krimp top pipe found 25.12' from centerline) S 89°-00'-00" E for a distance of three hundred ninety six (396.00') feet to a 1" krimp top pipe found; thence along the east line of T. & D. Durica (OR 994-907) N 00°-47'-00" E for a distance of one hundred (100.00') feet to a 5/8" iron pin set; thence along lands of D. & D. Riddle (OR 889-491), S 89°-00'-00" E for a distance of ninety nine (99.00') feet to a 5/8" iron pin set; thence along lands of D. & D. Riddle (OR 889-491), S 01°-20'-26" W for a distance of one thousand ninety two and fifty seven hundredths (1092.57') feet to a 5/8" iron pin set; thence (through a 5/8" iron pin set 25.00' from centerline) along lands of W. & M. Fiast (Bk. 1072 Pg 374), said line following a wire fence N 88°-08'-15" W for a distance of four hundred ninety five (495.00') feet to a point in the centerline of Custer-Orangeville Rd; thence along said centerline (also being the west line of Section 11) N 01°-33'-46" E for a distance of seven hundred seventy four and six tenths (774.60') feet to a point; thence continuing along said centerline N 00°-47'-00" E for a distance of two hundred ten and fifty five hundredths (210.55') feet to the true place of beginning for the herein described parcel.

Containing 497,728 Sq.Ft. to Centerline  
11.426 Acres to Centerline  
24,943 Sq.Ft. Located in Right-Of-Way  
0.573 Acres Located in Right-Of-Way

As per survey by Harris Engineers dated 1/16/2002.

Note: Bearings shown hereon were obtained from a survey by Joe Harris for Margaret Holmes dated July 12, 1957. North is shown in relationship to these bearings.

**Parcel 2:** All that certain parcel of land located in Section 12 of Hartford Township in Trumbull County, Ohio. Being known as lands of S.K. Properties Leasing, Inc. (200003150008923), and being further described as follows: BEGINNING at a point at the intersection of Wilson-Sharpville Rd. (S.R. 305), and Custer-Orangeville Rd. (C.H. 169 C); thence along the centerline of Custer-Orangeville Rd. S 00°-47'-00" W for a distance of one thousand two hundred thirty nine and twenty five hundredths (1239.25') feet; thence continuing along said centerline S 01°-33'-46" W for a distance of one hundred thirty six and thirty four hundredths (136.34') feet to the south line of M. Eckart (OR 696-557) which is the true place of beginning for the herein described parcel; thence continuing along said centerline S 01°-33'-46" W for a distance of one thousand five hundred forty nine and two hundredths (1549.02') feet to the north line of B.S. Wright Trustee (OR 1035-138); thence along the north line of B.S. Wright Trustee (OR 1035-138)(through a 5/8" iron pin set 25.03' from centerline) said line following a wire fence N 85°-29'-27" W for a distance of eight hundred seventeen and seventy six hundredths (817.76') feet to a 5/8" iron pin set; thence along the west line of B.S. Wright Trustee (OR 1035-138), said line following a wire fence S 02°-37'-17" W for a distance of five hundred seventy three and fifty nine hundredths (573.59') feet to a 5/8" iron pin found; thence along the north line of B.S. Wright Trustee (Bk. 1097 Pg. 893 and OR 496-639), N 87°-38'-50" W for a distance of one hundred sixty one and four hundredths (161.04') feet to a 5/8" iron pin found; thence along the east line of J. & D. Fabick (Bk. 749 Pg. 447) N 00°-44'-40" E for a distance of two thousand sixty four and eight hundredths (2064.08') feet to a 5/8" iron pin found; thence along the south line of M. Eckart (OR 421-767 and OR 696-557)(through a 5/8" iron pin set 25.00' from centerline) S 89°-14'-51" E for a distance of one thousand seventeen and eighty eight hundredths (1017.88') feet to the true place of beginning for the herein described parcel.

Containing 1,625,251 Sq.Ft. to Centerline  
37.311 Acres to Centerline  
38,710 Sq.Ft. Located in Right-Of-Way  
0.889 Acres Located in Right-Of-Way

As per survey by Harris Engineers dated 1/16/2002.

Note 1: Bearings shown hereon were obtained from a survey by Joe Harris for Margaret Holmes dated July 12, 1957. North is shown in relationship to these bearings.