

The History of Sawmill Wetlands Education Area

The 17 acre property now known as Sawmill Wetlands was originally part of a larger wetland of about forty acres. It was located on a 4000 acre tract just east of what is now Sawmill Road that belonged to Philemon Thomas during the first three decades of the nineteenth century. By 1842 the large tract was broken up and the wetlands were on a 124 acre plot belonging to Colonel Griffith Thomas, a veteran of the War of 1812. A steam powered sawmill was located on the southwest corner of the property at the intersection of Dublin Granville Road and Sawmill Road. Presumably, Sawmill Road was named for the Thomas sawmill.

Griffith Thomas died in 1858 and the property was divided between his sons. James K Thomas received 75 acres which contained the wetlands. His family held the property until sometime after 1919.

In 1940 the parcel was still 74 acres and belonged to Frank J. and J. I. Dillahunt.

By 1949 the property was subdivided into several parcels split between George Mueller and Maude Mueller

In 1958 P. H. Jenkins received a 5 acre plot just south of the wetlands. The parcel was surrounded by the remaining land held by the Muellers.

In 1969 the Muellers and Jenkins sold the property to Citation Realty and Investment Co.

In 1970 Federated Department Stores had bought the Sawmill parcels and the surrounding land for a total of 382 acres east of Sawmill Road and north of Dublin Granville Road.

In 1985 Federated sold 165 acres including the wetlands to JMB/Federated Realty Associated Ltd.

In 1986 63 acres including the wetlands was sold to Land at Sawmill Place Limited Partnership.

On February 14 1991 the United States Environmental Protection Agency cited JMB/Urban Development Company, and Land at Sawmill Place Limited Partnership for causing fill material to be discharged into approximately 40 acres of wetlands in violation of the Clean Water Act. The wetlands were determined to be hydraulically connected to the Olentangy River.

In 1993 the property was sold to Limrea Properties Ltd.

On August 16, 1995 Limrea Properties Ltd. deeded the property to Morno Holding Company.

In 1996, Morno Holding Company deeded the 17.85-acre parcel of remaining wetlands to the Ohio Department of Natural Resources (ODNR). Morno added to the deed a restrictive covenant that provided that the conveyance was "granted and accepted on the condition that the real property be used and occupied solely for public purposes." Apparently, Morno included the public-use restriction in the deed to support a charitable tax deduction. After receiving the property, ODNR named it the "Sawmill Wetlands Education Area" and opened it to school groups so students could study the wetlands contained in the property. The Sawmill property, however, was little utilized for educational purposes. Moreover, security concerns forced ODNR to fence the property and only allow access to the general public by reservation. Only a few birders, wildlife researchers and school classes visited.

In 2012, ODNR entered into a contract with JDS (a development company) to swap the Sawmill property for a 43.33-acre property located on the west bank of the Olentangy River. While JDS did not own the Olentangy property, it had an option to purchase the property. ODNR wanted the Olentangy property due to its larger size, proximity to the Olentangy River and Highbanks Metro Park, and the variety and uniqueness of the wildlife inhabiting the property. JDS wanted the Sawmill property in order to develop it for commercial use

JDS agreed to obtain a release of the public-use restriction in the Sawmill property's deed prior to the property transfer so that JDS could develop the Sawmill property. ODNR agreed to work cooperatively with JDS to obtain that release. If JDS failed to obtain a release from Morno, it could either terminate the contract or waive the requirement that it obtain a release. If JDS chose to waive the release requirement, it was bound to indemnify ODNR for any breach of the public-use restriction.

As news of the proposed swap became public, neighbors and environmental activists raised objections to the deal. In November, 2012 a group called the Friends of the Sawmill Wetlands was formed and began to raise public awareness and opposition to the possible loss of the green space. The Sierra Club, the Nature Conservancy, the Ohio Environmental Council and Worthington Hills Garden Club joined the fight. Petitions were circulated, letters were sent and phone calls were made to state officials.

Both the Ohio Environmental Council and the Sierra Club requested that Morno enforce the public-use restriction in the deed to prevent the commercial development of the Sawmill property. In response, Morno pronounced that it had no interest in the Sawmill property and, thus, had nothing to enforce or release. Morno wanted nothing to do with the land-swap deal or the controversy over the potential development of the Sawmill property.

JDS wanted to develop the Sawmill property for commercial use, so it needed to eliminate, or at least neutralize, the public-use restriction. With Morno refusing to provide a release, JDS urged ODNR to agree, as stated in the amendment, to release and remove the public-use restriction from the deed. However, ODNR became concerned that it, alone, lacked the legal authority necessary to release the public-use restriction.

In a letter dated March 6, 2013, JDS asked ODNR to grant an extension of the deed contingency period, which was set to expire on April 7, 2013. ODNR refused to grant the requested extension. The property swap contemplated in the contract never occurred.

On December 16, 2014, JDS filed suit in the trial court against ODNR, alleging a claim for breach of contract. JDS sought specific performance for the conveyance of the Sawmill property from ODNR to JDS, free of all liens and encumbrances. In a judgment entered September 2, 2016, the trial court granted JDS summary judgment. The trial court ordered ODNR to transfer, convey, and deliver to JDS the deed to the Sawmill property. The original land swap contract contained a clause to the effect that if ODNR backed out of the the contract then JDS would receive the property free with no obligation to swap the Olentangy property. In other words, JDS was to receive the wetlands property free of charge.

ODNR appealed the trial court's judgement, arguing that the trial court erred in granting JDS summary judgment on the issue of breach of contract.

The Court of Appeals held that the trial court erred in finding a breach of the contract. Here, ODNR, the covenantor, promised to use and occupy the Sawmill property solely for public purposes. As the other party to this promise, Morno, the covenantee—not ODNR—had the legal authority necessary to release the public-use restriction.

ODNR did not violate that section when it rejected JDS' request that it unilaterally release the public-use restriction, when it refused to waive or release any rights it might have to enforce the public-use restriction, or when it informed JDS that it would protect the deed if JDS acquired the property without a release of the public-use restriction from Morno.

On March 29, 2018, the Tenth Court of Appeals ruled that the evidence in the record demonstrated that ODNR did not breach the parties' contract, and ODNR is entitled to judgment as a matter of law. The trial court, therefore, erred in granting JDS summary judgment. The judgment of the Franklin County Court of Common Pleas was reversed. The wetlands thus remained in ODNR's hands and the swap would not take place. The developer then appealed to the Ohio Supreme Court. On August 1, 2018, the Ohio Supreme Court declined to hear the case, in effect agreeing with the Appeals Court and finally closing the case.

During the land swap contract negotiations, ODNR allowed the Friends of Sawmill Wetlands limited access to the site. In March 2013, a series of open houses was initiated. They were called Sawmill Saturdays and were held on the first Saturday of each month to educate the public about the value of the wetlands. Bird watching tours were held and a naturalist exhibited some of the rare creatures found in vernal wetlands. There were nature oriented activities for the children. In June, Worthington Hills Garden Club gave native plants to the visitors. The open houses were well attended with up to 200 people. Friends of Sawmill Wetlands and Worthington Hills Garden Club continued to have Sawmill Saturdays until October 2016 when ODNR closed the land to the public except by special permit. There was only one Sawmill Saturday open house in 2017. After a hiatus of two years, Sawmill Saturdays resumed in April, 2019

From 2012 to 2016, over a dozen workdays were held at Sawmill Wetlands. They were organized by the Friends of Sawmill Wetlands and Worthington Hills Garden Club. Volunteers from the Boy Scouts, Columbus Audubon, Columbus Wild Ones and others participated. Trash was taken from the site. Invasive species including amur honeysuckle and garlic mustard were removed. The boardwalk was repaired. Native trees were planted. A Monarch Waystation that included native plants for pollinators and host plants for butterflies was planted. A prairie demonstration bed was established that included many plants indigenous to Ohio prairie habitats.

With one exception, Sawmill Saturdays and workdays were halted from fall 2016 through fall 2018 while the property was closed due to the ongoing lawsuit. In 2019, workdays and Sawmill Saturdays were resumed. In 2020, the Friends of the Lower Olentangy Watershed (FLOW) became involved in the care of the Wetlands. Garlic mustard and honeysuckle had returned during the closed period and had to be removed. Work was started on the four acre slope on the south side of the property. It was cleared of invasive pear trees and honeysuckle and 750 trees and 350 native perennial plants were ordered and were to be planted on Earth Day, 2020 by a large group of volunteers. However, in March, 2020, the Covid 19 pandemic crisis resulted in all group events being cancelled. Nevertheless, a small number of dedicated souls managed to plant the trees and flowers while exercising social distancing mandated by the pandemic.

Work has continued through 2020 by a few dedicated volunteers while maintaining social distancing. The removal of honeysuckle, callery pears and invasive weeds has continued. Trees and pollen producing plants have been planted. Trash is being removed as it blows in. A wildflower garden has been planted.