

ORDINANCE NUMBER 12 - 08

ORDINANCE APPROVING VILLAGE UTILITY EASEMENT RIGHTS TO PLATTED EASEMENT LOCATED AT 14N859 ON ROUTE 25

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Village of East Dundee is hereby given easement right to the platted easement designates the Village Utility Easement shall be used solely to install, operate, maintain and remove from time to time above ground and underground facilities and appurtenances used in connection with all public water transmission mains of the Village of East Dundee.

WHEREAS, and the easement at 14N859 on Route 25.

WHEREAS, no permanent building or trees shall be placed on said easements, but same may be used for gardens, shrubs, landscaping and other purposes that no not then or later interfere with the aforesaid uses or rights herein granted.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. That it is in the interests of the Village for the approval of the utility easement at 14N859.

Section Two.

LEGAL DESCRIPTION FOR EASEMENT

The Westerly 20.0 Feet of properties described as follows:

Parcel 1: Lot 3 in Fox River Bluffs Unit No.3, a subdivision of part of Sections 35 and 36, Township 42 north, Range 8 east of the Third Principal Meridian, Kane County, Illiouis; and

Parcel2: That part of the northwest quarter of Section 35, Township 42 north, Range 8 east of the Third Principal Meridian, lying between the southerly extension of the east and west lines of said Lot 3 described as follows:

commencing at the point of intersection of the north line of the northeast quarter of said Section 35 with the center line of State Route 25; thence south 08 degrees 03 minutes west along said center line, 708.15 feet to the southerly line extended westerly of said Lot 3 of Fox River Bluffs Unit No. 3 for the point of beginning; thence south 08 degrees 03 minutes west along said center line 49.34 feet; thence south 79 degrees 10 minutes east, 400.33 feet; thence northerly 68.86 feet to the southeast corner of Lot 7 of said Fox River Bluffs Unit No. 3; thence north 82 degrees 02 minutes west along the southerly line and southerly line extended of said Fox River Bluffs Unit No.3, 400.0 feet to the point of beginning, (excepting therefrom the westerly 50 feet, as measured at right angles from the center line of State Route No. 25) in the Township of Dundee, Kane County, Illinois.

Section Three. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Four. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Five. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 27th day of February, 2012, pursuant to a roll call vote as follows:

AYES: 6 - Trustees Ruffalo, Lynam, Miller, VanOstenbridge, Skillicom
NAYES: 0 & President Bartels

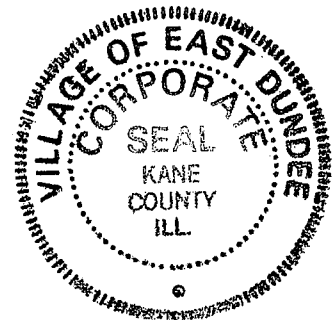
ABSENT: 1 - Trustee Gorman

Approved by me this 27th day of February, 2012.

Jerald Bartels
JERALD BARTELS, President

Published in pamphlet form this 5th day of March, 2012, under the authority of the President and Board of Trustees.

ATTEST:
Jennifer Behr
JENNIFER REHBERG, Village Clerk



Recorded in the Village Records on March 6th, 2012.

EASEMENT AGREEMENT

This Agreement, dated as of this _____ day of February, 2012, by and between the Village of East Dundee, Kane and Cook Counties, Illinois, an Illinois municipal corporation, {the “Village”), and Michael Kessler, of 14N859 Rt. 25 (the “Owner”).

RECITALS

- A. Owner is the owner of that certain parcel of real estate comprising of approximately 1.2 acres as legally described on Exhibit A attached hereto (the “Property”).
- B. The Village desires to obtain from Owner, free of charge, a certain utility easement (the “Utility Easement”) over and across the western-most twenty (20) feet of Property for purposes of installation of a Village-owned sanitary sewer main and possible other Village-owned utilities.
- C. Owner is willing to grant the Utility Easement to the Village on the terms set forth herein.

CONSIDERATION AND AGREEMENT

In consideration of the grant of the Utility Easement by the Owner to the Village and of other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

- 1. **Grant of Easement.** Within five (5) business days following the execution of this Agreement and delivery of a fully executed original counterpart hereof to the Owner, the Owner shall execute and deliver to the Village that certain Plat of Easement in the form attached hereto as Exhibit A, thereby granting to the Village the easement therein described (the “Village Utility Easement”).
- 2. **Right of Connection.** Owner shall have the right to connect any and all buildings now existing and / or hereafter constructed on Property to the Village’s sanitary sewer main situated within the Utility Easement without a connection fee, recapture fee, or other such charge. It is acknowledged and agreed, however, that (i) the existing improvements on the Property are already connected to the Village’s potable water main and (ii) the Owner shall be responsible to pay for (A) all water usage charges and, (B) following connection to the Village sanitary sewer main, monthly sanitary treatment charges at those rates as are otherwise generally charged to and become payable by other residents of the Village who are connected to its sanitary sewer system.
- 3. **Reclamation Obligation.** In exercising its easement right with respect to the Village Utility Easement, the Village shall, at its sole cost and expense, reclaim, restore, and repair any and all damage that may be caused to any improvements within the Easement Parcel or otherwise on the Property, including, but not limited to, landscaping, fixtures, curbs, driveways, structures, and the like which

are impacted by any work by the Village or its agents or contractors within such easement parcel.

4. **Miscellaneous.**

- (a) This Agreement constitutes the entire Agreement of the parties with respect to the Easement to be granted by the Owner to the Village over the Property.
- (b) This Agreement is separate and independent of any annexation agreement which may have heretofore been, or may hereafter be, agreed to between the parties.
- (c) Any and all notices given by either party to the other, shall be in writing, and shall be delivered personally, or by certified mail as follows:

If to Owner: Michael Kessler
 14N859 Rt. 25
 East Dundee, IL 60118

With copy to: Peter C. Bazos, Esq.
 Bazos, Freeman, Kramer, Schuster,
 Vanek & Kolb, LLC
 1250 Larkin Ave., Suite 100
 Elgin, IL 60123

If to Village: Village of East Dundee
 Attn: Village Clerk
 120 Barrington Ave.
 East Dundee, IL 60118

With copy to: Patrick O'Connor, Esq.
 20 N. Chicago St., Suite 1250
 Chicago, IL 60602

In witness whereof, the parties have executed this Easement Agreement as of the date first written above.

Michael Kessler

VILLAGE OF EAST DUNDEE

By: _____
Michael Kessler, Owner

By: Jerald Bartels
Jerald Bartels, President

Attest: Jennifer Rehberg
Jennifer Rehberg, Village Clerk

PLAT OF EASEMENT

EXHIBIT "A"

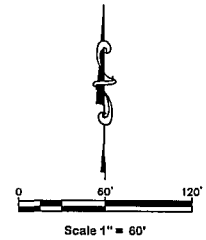
THE WESTERLY 20.0 FEET OF PROPERTIES DESCRIBED AS FOLLOWS:

PARCEL 1:
LOT 3 OF FOX RIVER BLUFFS, UNIT NO. 3, A SUBDIVISION OF PART OF SECTIONS 35 AND 36, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANE COUNTY, ILLINOIS.

PARCEL 2:
THAT PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING BETWEEN THE SOUTHERLY EXTENSION OF THE EAST AND WEST LINES OF SAID LOT 3 DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 35 WITH THE CENTER LINE OF STATE ROUTE 25; THENCE SOUTH 08 DEGREES 03 MINUTES WEST ALONG SAID CENTER LINE, 708.15 FEET TO THE SOUTHERLY LINE EXTENDED WESTERLY OF SAID LOT 3 OF FOX RIVER BLUFFS UNIT NO. 3 FOR THE POINT OF BEGINNING; THENCE SOUTH 08 DEGREES 03 MINUTES WEST ALONG SAID CENTER LINE 49.34 FEET; THENCE SOUTH 79 DEGREES 10 MINUTES EAST, 400.33 FEET; THENCE NORTHERLY 68.86 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID FOX RIVER BLUFFS UNIT NO. 3; THENCE NORTH 82 DEGREES 02 MINUTES WEST ALONG THE SOUTHERLY LINE AND SOUTHERLY LINE EXTENDED OF SAID FOX RIVER BLUFFS UNIT NO. 3, 400.0 FEET TO THE POINT OF BEGINNING, (EXCEPTING THEREFROM THE WESTERLY 50 FEET, AS MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF STATE ROUTE NO. 25), IN THE TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

PARCEL INDEX NUMBER: 03-35-228-003
03-35-228-009

PROPERTY ADDRESS: 14N859 ROUTE 25
EAST DUNDEE, IL 60118



VILLAGE UTILITY EASEMENT (V.U.E.)

THE VILLAGE OF EAST DUNDEE IS HEREBY GIVEN EASEMENT RIGHTS TO THE PLATTED EASEMENT DESIGNATED "VILLAGE UTILITY" EASEMENT SHALL BE USED SOLELY TO INSTALL, OPERATE, MAINTAIN AND REMOVE FROM TIME TO TIME ABOVE GROUND AND UNDERGROUND FACILITIES AND APPURTENANCES USED IN CONNECTION WITH THE WATER, SANITARY SEWER OR STORM DRAINAGE SYSTEMS OF THE VILLAGE OF EAST DUNDEE, AND ANY OTHER UTILITY EXPRESSLY PERMITTED BY THE VILLAGE. NO PERMANENT BUILDING OR TREES SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS HEREIN GRANTED.

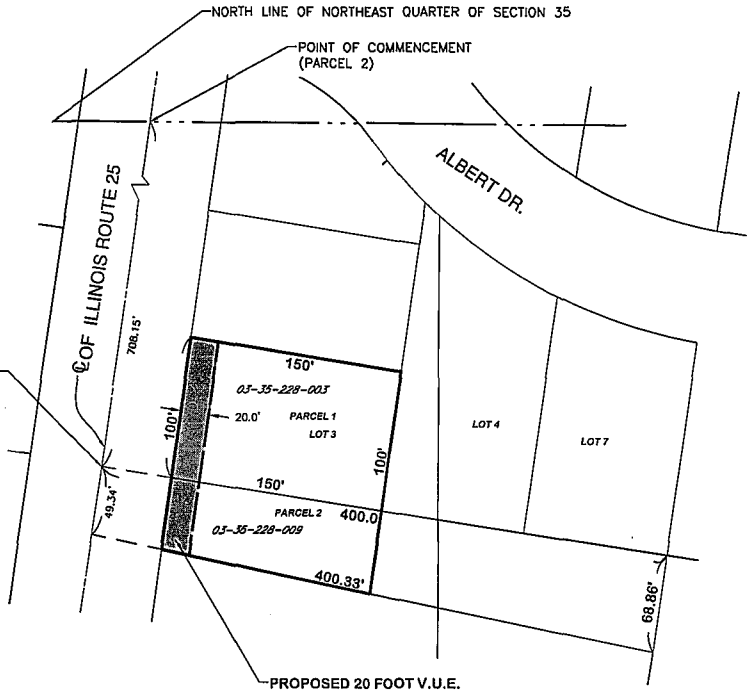
CERTIFICATE OF EASEMENT APPROVAL

STATE OF ILLINOIS }
COUNTY OF KANE } SS.

THIS PLAT OF EASEMENT HAS BEEN APPROVED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, ILLINOIS AT A MEETING HELD ON THIS _____ DAY OF _____ A.D., 20____.

Clement Bunt
VILLAGE PRESIDENT
Jimmi Beshley
VILLAGE CLERK

PLACE OF BEGINNING (PARCEL 2)



KANE COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS.

THIS INSTRUMENT NO. _____ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS, ON THE _____ DAY OF _____ A.D., 20____ AT _____ O'CLOCK, _____ M.

COUNTY RECORDER _____

OWNER'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS.

THIS IS TO CERTIFY THAT THE UNDERSIGNED IS THE OWNER OF THE LAND DESCRIBED ON THIS PLAT OF EASEMENT, AND HAS CAUSED THE SAME TO BE SURVEYED, AS INDICATED THEREON, FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DOES HEREBY ACKNOWLEDGE AND ADOPT THE SAME UNDER THE STYLE AND TITLE THEREON INDICATED.

THE UNDERSIGNED HEREBY DEDICATES FOR PUBLIC USE THE LANDS SHOWN ON THIS PLAT FOR A VILLAGE OF EAST DUNDEE UTILITY EASEMENT; ACCORDING TO THE EASEMENT PROVISIONS, WHICH ARE ATTACHED HERETO.

WITNESS OUR HANDS AND SEALS THIS _____ DAY OF _____ A.D., 20____.

BY: _____ ATTEST: _____

FOR: _____

STATE OF ILLINOIS }
COUNTY OF KANE } SS.

BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, PERSONALLY APPEARED _____ AND EACH SEPARATELY AND SEVERALLY ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT AS HIS OR HER VOLUNTARY ACT AND DEED, FOR THE PURPOSES THEREIN EXPRESSED.

WITNESS OUR HANDS AND SEALS THIS _____ DAY OF _____ A.D., 20____.

NOTARY PUBLIC _____

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS.

I, JOSEPH D. HEINZ, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THE PLAT HEREON DRAWN HAS BEEN PREPARED UNDER MY DIRECTION FOR THE PURPOSE OF PLATTING AN EASEMENT AND THAT IT IS A CORRECT REPRESENTATION OF THE AREA SHOWN THEREON.

EAST DUNDEE, ILLINOIS, DATED THIS _____ DAY OF _____ A.D. 2012.

Illinois Professional Land Surveyor No. 3551
License Expires 11-30-12
Design Firm Registration No. 184-002948

Note: Refer to the recorded Plat of Subdivision in the Recorder's Office of Kane County, Illinois for any easement provisions and covenants, if any, within the subject subdivision, which may effect these lots.

GERALD L. HEINZ & ASSOCIATES, INC.
CONSULTING ENGINEERS & LAND SURVEYORS
206 NORTH RIVER STREET
EAST DUNDEE, ILLINOIS 60118

PLAT OF EASEMENT
EXHIBIT "A"

VILLAGE OF EAST DUNDEE

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DATE: 02-24-2012
JOB NO.: ED-1886
SCALE: 1"=60'
SHEET 1 OF 1