

County of Dane

Correspondence/Memorandum

DATE: October 17, 2014

TO: Public Works and Transportation Committee

FROM: David Janda, Dane County Emergency Management

SUBJECT: Siren Easement – Bayview Heights, Town of Dunn.

A copy of the Siren Easement referenced above is attached to this memo for consideration by the Public Works & Transportation Committee.

This Siren Easement is granted by Bayview Heights for a replacement early warning siren at this trailer home park. The existing siren has been in place since the 1970's and will be decommissioned. The easement provides for the installation of a new siren mounted on a 55' wood pole with all associated control equipment. Electrical service will be provided through a separate service from the local utility. There is no cost to the County for this easement.

This siren project is part of a county-wide effort to upgrade the early warning siren system. The Bayview Heights siren is one of about nine new warning sirens being placed around the County. The majority of these new sirens are being located on municipal properties through intergovernmental agreements. The siren at Bayview Heights is on private property.

Mary Kasparek, Dane County Corporation Counsel, and Jan Zimmerman, Dane County Real Estate Coordinator have drafted and reviewed the easement and determined that it is in the best interest of Dane County.

As an easement under \$100, this falls under Chapter 28.33 of the County ordinance. As such, authority is given to the Public Works & Transportation Committee to approve, and only the County Clerk's signature is required.

SIREN EASEMENT

This Easement is made and entered into by and between Bay View Heights, Inc. ("GRANTOR") and the County of Dane, a Wisconsin municipal corporation ("COUNTY").

WHEREAS, GRANTOR is the owner of certain real property located in the Town of Dunn, Dane County, Wisconsin, more particularly described in Exhibit A ("the Property"), and depicted in Exhibit B; and

WHEREAS, COUNTY wishes to install, operate and maintain an existing or replacement COUNTY-owned siren warning system together with the erection, use and maintenance of one wooden pole serving the siren warning system on a portion of the Property; and

WHEREAS, GRANTOR has agreed to provide COUNTY with an easement and access over a portion of the Property to install, operate, and maintain a warning system;

Name and Return Address:
Real Estate Coordinator
5201 Fen Oak Drive #208
Madison WI 53718

Parcel Identification Number (PIN)
028/0610-262-9000-3

NOW THEREFORE, for good and valuable mutual consideration, the delivery, receipt, and sufficiency of which is acknowledged by each party for itself, the parties agree as follows:

1. Grant of Siren Easement. GRANTOR grants and conveys to COUNTY, and COUNTY hereby accepts from GRANTOR, a permanent, non-exclusive Easement ("Easement") for the sole purpose of installing, operating, maintaining, repairing and replacing an early warning siren ("the Siren") on that portion of GRANTOR's property described in the attached Exhibit A and depicted on Exhibit B.
2. Access. COUNTY, its contractors, successors and assigns shall have reasonable access to the Property for persons and vehicles to install, maintain, repair, modify and replace the Siren and pole, including access for installation and maintenance of utilities needed for Siren operation. Reasonable access shall include ingress/egress using existing service routes to the Siren location and unimpeded access between the service routes and the Easement area. Said installation and operation of the COUNTY Siren shall comply with all existing easements of record. Any modification to such improvements following the initial installation shall be subject to prior written approval by GRANTOR. GRANTOR shall not charge any type of fee for use pursuant to this Easement.
3. Site Restoration. Following any entry by COUNTY or its contractors upon the Easement herein conveyed, COUNTY shall repair and restore the Easement area as nearly as practicable to the condition existing prior to the entry.
4. Decommission Existing Siren. COUNTY shall have access to the existing Siren site on the Property for purposes of decommissioning said Siren and removing associated equipment. Once removed, COUNTY access to the decommissioned Siren site location shall terminate.
5. Grantor Use of Property. GRANTOR reserves the right to use and occupy the Property in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb COUNTY's installation, operation, maintenance, repair and replacement of the Siren.

6. Expenses. COUNTY shall perform all responsibilities pursuant to this Easement at its sole expense. Unless otherwise agreed upon, COUNTY shall be responsible for payment of all utility services serving the Siren.
7. Term. This Easement shall continue for so long as the Siren is in use. In the event and to the extent that the Siren shall be removed or abandoned, this Easement shall terminate, and the COUNTY shall provide notice to GRANTOR as may be requested for the purpose of further evidencing the termination of the rights granted hereby.
8. Relocation. COUNTY shall be responsible for relocating the Siren on the Property if future development of the Property is incompatible with the placement of the Siren. Any new location will be jointly agreed upon by the GRANTOR and the COUNTY and this Easement shall be amended to incorporate the new site location. Any relocation pursuant to this paragraph shall be coordinated so as to avoid disruption to the siren warning system.
9. Acts and Omissions. GRANTOR and COUNTY shall each be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agencies, officers, representatives and agents and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions, including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agencies, officers, representatives and agents. It is not the intent of the parties to impose liability beyond that imposed by state statute. The obligations of the parties under this paragraph shall survive the termination of this Easement.
10. Notices. All notices required by this Easement shall be sent to the following addresses::

For Grantor:
 Bay View Heights, Inc.
 909 Charles Lane
 Stoughton, WI 53589

For the County:
 Real Estate Coordinator
 Dane County Land Acquisition
 5201 Fen Oak Drive #208
 Madison WI 53718

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which payments and correspondence shall be sent or personally delivered.

11. Amendment. This Easement may not be amended, modified, or terminated except by written consent of the parties.
12. Each party warrants for itself that it has complied with all applicable statutes, rules, orders, ordinances, requirements and regulations to execute this Easement and that the person signing this Easement on its behalf is authorized to do so.
13. This Easement and its exhibits represent the entire agreement of the parties.

FOR BAY VIEW HEIGHTS, INC. ("GRANTOR")

Don E. Barber
 Type or Print Name: Don E. BARBER

10/18/14
 Date

ACKNOWLEDGMENT

State of Wisconsin)
)ss
Dane County)



Personally come before me this 8th day of October, 2014, the above-named Donn E. Barber to me known to be a qualified officer of Bay View Heights, Inc. and the person who executed the foregoing instrument and acknowledged the same in their official capacity.

Mary J. Gross
Print name: Mary J. Gross
Notary Public Dane County, Wisconsin
My Commission (expires 6-14-2015)(is permanent).

FOR COUNTY OF DANE

Scott McDonell, Dane County Clerk

Date

ACKNOWLEDGMENT

State of Wisconsin)
)ss
Dane County)

Personally come before me this ____ day of _____, 2008, the above-named Scott McDonell to me known to be, respectively, the duly elected and qualified County Clerk of the County of Dane and the persons who executed the foregoing instrument and acknowledged the same in their official capacity.

Print name:
Notary Public Dane County, Wisconsin
My Commission (expires _____)(is permanent).

THIS INSTRUMENT WAS DRAFTED BY: JANIS L. ZIMMERMANN, DANE COUNTY REAL ESTATE COORDINATOR

EXHIBIT A
Description of the Property and the Siren Easement Area

A portion of land owned by Bay View Heights, Inc. as Certified Survey Map #765, recorded 1/27/72 in Volume 3 of Certified Surveys, Pages 314-315 as Document #1316027 that is part of the South ½ of the NW ¼ of Section 26, Township 6 North, Range 10 East, Town of Dunn, Dane County, Wisconsin.

Specifically, this Easement covers a 10' X 10' area Southwest of the intersection of Charles Lane and Norman Drive and between Lots 748 and 881 as depicted in Exhibit B as well as reasonable access from adjacent service roads.

An existing Siren site Northwest of the intersection of Charles Lane and Norman Drive as depicted in Exhibit B will be decommissioned.

"OLD" Siren site to be
Decommissioned

Bay View Heights & Home Sales Park Map



Bay View Heights & Home Sales Map

"NEW" Siren location

Exhibit B - Siren Location(s)