

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION

For Inclusion on Board Agenda


    X     Resolution or Ordinance (Blue) \_\_\_\_\_ *Waiver of First Requested*  
 \_\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
 \_\_\_\_\_ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: February 6, 2007 (B of T) Date: February 15, 2007

TITLE: 705 E. Prairie – Grant of Easement

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing the signatures of President and Clerk on a Grant of Easement as it relates to fencing on the property at 705 E. Prairie which abuts the Union Pacific Railroad right-of-way. (DISTRICT # 4)

Staff recommends approval of this request.

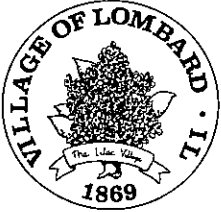
Please place this item on the February 15, 2007 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <u>William T. Lichter</u>	Date <u>2/7/07</u>

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



## MEMORANDUM

**TO:** William T. Lichter, Village Manager

**FROM:** David A. Hulseberg, AMCP *GH*  
Asst. Village Manager/Community Development Director

**DATE:** February 15, 2007

**RE:** **Grant of Easement (705 E. Prairie Ave.)**

Attached please find a copy of the Grant of Easement between the Village and the Grantor - Sean and Bonnie Partridge of 705 E. Prairie Avenue. This Agreement sets forth the terms and provisions between the parties as it pertains to the Village installing a six (6) foot high wrought-iron fence on the Grantor's property, which abuts the Union Pacific Railroad right-of-way.

### **Background**

Due to recent concerns regarding the dangers of pedestrian access to the Union Pacific Railroad, the Board authorized the installation of fencing at selected locations. The Grantor's southern property line extends two hundred and seventy-five (275) feet along the Union Pacific Railroad and is located within a residential area. An existing chain link fence is located six (6) feet north of the Grantor's southern property line. The proposed fence would connect and the fence would extend the fence one hundred (100) feet from the west property line of the Grantor's property, parallel with the south property line. The Agreement would also obligate the Village to provide for a four (4) foot high by four (4) foot wide gate for the Grantor, in order to allow the Grantor access to the portion of their property south of the fence line.

### **Recommendation**

Staff recommends that this item be placed on the February 15, 2007 Board of Trustees Agenda with a recommendation to approve the attached resolution authorizing the President and Village Clerk to sign the Grant of Easement for the proposed fence.

**RESOLUTION**  
**R\_\_\_\_\_07**

**A RESOLUTION ACCEPTING GRANT OF EASEMENT**  
**705 EAST PRAIRIE**

**WHEREAS**, in connection with the Village of Lombard's installation of a fence along the Union Pacific Railroad right-of-way (the Village's Fence"), the grant of a certain easement to the Village of Lombard is necessary for the installation and maintenance of a fence (the "Connecting Fence") connecting the Village's Fence to an existing fence on the property at 705 East Prairie Avenue, Lombard, Illinois (the "Subject Property"); and

**WHEREAS**, Sean Patridge and Bonnie Jean Patridge, the owners of the Subject Property, have provided the Village of Lombard with a Grant of Easement for the construction, installation, reconstruction, replacement, removal, repair, alteration, inspection, maintenance and operation of the Connecting Fence, and attachment of said Fence to the existing fence on the Subject Property, as attached hereto as Exhibit A; and

**WHEREAS**, the President and Board of Trustees of the Village of Lombard find it to be in the best interest of the Village of Lombard to accept the easement as set forth in the attached Grant of Easement, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS, as follows:

**SECTION 1:** The recitals set forth hereinabove are incorporated as findings of fact by the President and Board of Trustees of the Village of Lombard.

**SECTION 2:** The Grant of Easement, as set forth in Exhibit A attached hereto, is hereby approved.

SECTION 3: The Village President and Village Clerk are authorized to sign said Grant of Easement on behalf of the Village of Lombard.

SECTION 4: That this Ordinance shall be in full force and effect from and after its adoption and approval as provided by law.

**ADOPTED** by me this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Approved this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

**PREPARED BY AND AFTER  
RECORDING RETURN TO:**

Klein Thorpe and Jenkins, Ltd.  
20 North Wacker Drive  
Suite 1660  
Chicago, IL 60606  
George A. Wagner, Esq. (#49-42)

*[The above space reserved for the Recorder of Deeds of DuPage County]*

**GRANT OF EASEMENT**

THIS GRANT OF EASEMENT is made as of this 9<sup>th</sup> day of January 2007,  
by Sean Patridge and Bonnie Jean Patridge, of 705 East Prairie Avenue, Lombard, IL 60148 (hereinafter  
referred to as the "**Grantor**") and the VILLAGE OF LOMBARD, an Illinois municipal corporation, County of  
DuPage, Illinois, 255 East Wilson Avenue, Lombard, IL 60148-3969 (hereinafter sometimes referred to as  
the "**Village**" or "**Grantee**").

**WITNESSETH:**

For and in consideration of TEN AND NO/100THS DOLLARS (\$10.00) and other good and  
valuable consideration in hand paid, receipt of which is hereby acknowledged, the conditions herein  
contained in paragraphs 3, 4, 5, 6, 7, and 8 hereof and the benefits to be derived from this Grant of  
Easement:

1. Grantor is the owner of a tract of land described as follows:

Lot 40 in Block 7 in Lombard Countryside Farmettes Subdivision, being a Subdivision in  
the South ½ of the Southeast ¼ of Section 5, Township 39 North, Range 11, East of the  
Third Principal Meridian, according to the Plat thereof recorded October 16, 1946 as  
Document 508901, in DuPage County, IL.

PIN: 06-05-0420-039-0000

ADDRESS: 705 East Prairie Avenue, Lombard, IL 60148

(hereinafter the "**Subject Property**").

2. Grantor hereby grants, releases, conveys, assigns and quit claims to the Village of  
Lombard, DuPage County, Illinois, an Illinois municipal corporation, a perpetual easement and right-of-way



for the full and free right, privilege and authority to clear, trench for, construct, install, reconstruct, replace, remove, repair, alter, inspect, maintain and operate a fence, as hereinafter described (hereinafter the "**Fence**") in, on, upon, over, through, across and under a strip of land on the Subject Property, as hereinafter described, and to attach said Fence to any fence, fence post, or gate on or about said strip of land, which is described as follows:

That portion of Lot 40 in Block 7 in Lombard Countryside Farmettes Subdivision, being a Subdivision in the South ½ of the Southeast ¼ of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded October 16, 1946 as Document 508901, in DuPage County, IL., described as follows:

Commencing at the Southeast corner and the point of beginning ("POB"), thence North 10 feet to a point on the East boundary line; thence Southwest 272.63 feet to the West boundary line on a line parallel to the Southern boundary line; thence South 10 feet to the Southern boundary line; thence Northeast 272.63 feet to the POB,

(hereinafter the "**Permanent Easement Premises**").

The Fence shall consist of six-foot (6') high wrought iron post(s) and fencing, which shall connect Grantor's present chain link fence (hereinafter "**Grantor's Fence**") to a fence installed by the Village on the Union Pacific Railroad right-of-way. Grantor's Fence is located on the Permanent Easement Premises approximately six feet (6') north of the southern boundary line of the Subject Property and extends approximately one hundred feet (100') from the west boundary line of the Subject Property in a northeasterly direction parallel to the southern boundary line of the Subject Property. The Village's fence shall extend parallel to the southern boundary line of the Subject Property from a point east of the east boundary line of the Subject Property to a point south of the northeast end of Grantor's Fence.

3. The Village hereby agrees to install a four foot (4') high by four foot (4') wide residential chain link gate (the "**Gate**") in the southwest section of the Grantor's Fence, so as to provide Grantor access to that portion of the Permanent Easement Premises adjacent to Grantor's Fence. Grantor hereby agrees to maintain and repair said Gate in working order.

4. Grantor hereby agrees to and with the Village that the officers, agents or employees of the Village, whenever elected, appointed or hired, may at any and all times designated herein, when necessary and convenient to do so, go in, on, upon, over and across the above-described Permanent Easement Premises, and do and perform any and all acts necessary or convenient to the carrying into effect the purposes for which this Grant of Easement and the easement created hereby are made, and that the Grantor shall not disturb, molest, injure or in any manner interfere with the aforesaid Fence and activities incidental thereto.

5. The Grantor reserves the right to make any use of the Permanent Easement Premises, including the maintenance and repair of Grantor's Fence, whether on, above or below its surface for any lawful purpose except that any structure or use shall not interfere in any manner with the easement and uses by the Village hereby granted and authorized.

6. The Village, its agents and employees, successors, grantees, lessees and assigns shall, as soon as practicable after construction of said Fence and activities incidental thereto, and after all subsequent maintenance, alterations and repairs thereunto, restore to its former condition any portion of the Grantor's property which is disturbed or altered in any manner by such clearing, trenching for, constructing, installing, reconstructing, replacing, removing, maintaining, altering, inspecting, repairing and operating.

7. All work, labor, services, equipment, tools and materials to be performed, furnished or used directly or indirectly in, or in connection with, the clearing, trenching for, constructing, installing, reconstructing, replacing, removing, maintaining, altering, inspecting, repairing and/or operating said Fence and activities incidental thereto, and all other matters and things to be performed, furnished or used, or expenses to be paid, under the term of this Grant of Easement are to be at the sole expense of the Village.

8. All right, title and interest in said Fence shall remain in the Village, and the Village shall have the obligation and the right to maintain and repair the Fence.

9. Such perpetual easement as is herein granted shall run with the land and the covenants, agreements, terms, conditions, obligations, rights and interest herein contained or provided for shall be likewise binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, successors, grantees, lessees and assigns.

10. This Agreement shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of Illinois.

11. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12. This Agreement may be modified, amended or annulled only by the written agreement of the parties that is executed and delivered by authorized representatives of the parties.

13. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. The terms "Grantor" and "Grantee" as used herein shall be deemed to include any and all successors, grantees and assigns of such parties and their respective successors, grantees and assigns.

14. That the Lender's Consent, attached hereto as Exhibit A, is made a part hereof.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the Grantor, has caused its name to be signed to these presents the day and year first above written.

GRANTOR(S):

By:

Bonnie Jean Patridge

By:

Sean Patridge

GRANTEE:

VILLAGE OF LOMBARD

By:

Name: William J. Mueller

Title: Village President

ATTEST:

By:

Name: Brigitte O'Brien

Title: Village Clerk

[INSERT VILLAGE SEAL ABOVE]

Accepted by the Village of Lombard, DuPage  
County, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 2007.



STATE OF ILLINOIS

COUNTY OF DuPage

SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT, **SEAN PATRIDGE** and **BONNIE JEAN PATRIDGE**, are personally known to me to be the same persons whose name are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument, as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 9<sup>th</sup> day of January, 2007.

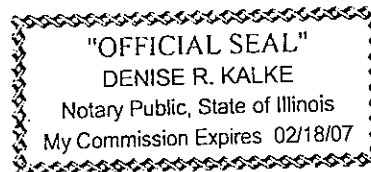
[Signature]  
Notary Public

2-18-07  
Commission Expiration

STATE OF ILLINOIS

COUNTY OF DUPAGE

SS.



I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named **WILLIAM J. MUELLER** and **BRIGITTE O'BRIEN**, as **Village President** and **Village Clerk** respectively of the **VILLAGE OF LOMBARD, A MUNICIPAL CORPORATION**, (the "Village") personally known to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and severally acknowledged that as such **Village President** and **Village Clerk**, they signed and delivered the said instrument as the **Village President** and **Village Clerk** pursuant to authority given by the **Village Board of Trustees**, and as their free and voluntary act, and as the free and voluntary act and deed of the **Village**, for the uses and purposes therein set forth, and that **Village Clerk**, as custodian of the corporate seal of the **Village**, has caused the seal to be affixed thereto.

GIVEN under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration

EXHIBIT A

**CONSENT, JOINDER AND SUBORDINATION OF LENDER  
WITH RESPECT TO THE GRANT OF EASEMENT  
("Joinder")**

Loan Number 12579669

The undersigned, as lender ("Lender") under that certain first mortgage dated 01-19, 2007, made by the Grantor hereinbefore named, which first mortgage was recorded on 09-13, 04 as Document Number 239517 in the Recorder of Deeds Office of DuPage County, Illinois (the "First Mortgage"), and the other ancillary documents executed therewith, including but not limited to the promissory note (collectively the "Loan Documents"), for itself and its successors and assigns of its interest under the First Mortgage (i) consents to the execution of the Grant of Easement and (ii) agrees that Lender's interest under the First Mortgage and the First Mortgage itself, and other Loan Documents, is subject and subordinate to all of the terms, covenants and provisions of the Grant of Easement to which this Joinder is attached.

The undersigned has executed this Joinder as of the 19<sup>th</sup> day of January, 2007

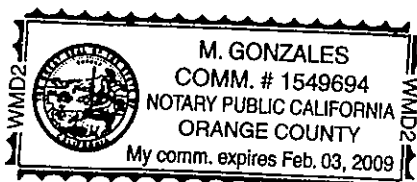
LENDER:

By: <u>Marie Hilsenbeck</u>	Attest: <u>Leo S. Ortega</u>
Name: <u>Marie Hilsenbeck</u>	Name: <u>Leo S. Ortega</u>
Title: <u>Assistant Secretary</u>	Title: <u>Assistant Secretary</u>

STATE OF California )  
COUNTY OF Orange ) SS

The undersigned, a Notary Public in and for said County and State aforesaid, DOES HEREBY CERTIFY that Marie Hilsenbeck and Leo S. Ortega, Jr. are the Assist. Secretary and Assist. Secretary of the Option One Mortgage Corp. (the "Corporation") and are personally known to me to be the same persons whose names are subscribed to the foregoing instrument and appeared before me this day in person and acknowledged that they signed and delivered said instrument as their free and voluntary act and the free and voluntary act of the Corporation for the uses and purposes therein set forth.

GIVEN UNDER my hand and Notary Seal this 19 day of January, 2007.



M. Gonzales  
Notary Public