

Right of Way Utility Easements and BP Pipeline Questions

This presentation will present and address many questions regarding easements, right of way and the rights associated with those easements.

The presentation will also address a number of questions from residents regarding the BP Pipeline and their proposed clearing work in the Village.



HOMER GLEN

What is an Easement?

- An easement allows a person or entity to use someone else's property for a specific purpose.
- Easements are established in writing through a deed, will, or contract. Easements are also established through survey and plats.
- They are recorded with the County and, in most cases, exist in perpetuity unless the easement is released.



Right of Way (ROW)

- Right of way is generally defined as “the legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another”.
- Right of way can be considered as a type of easement.
- Public right of way exists throughout the Village and covers all public roadways and pedestrian facilities owned, operated, and maintained by the Village of Homer Glen.
- Right of way can also exist on private property within the limits of an easement.



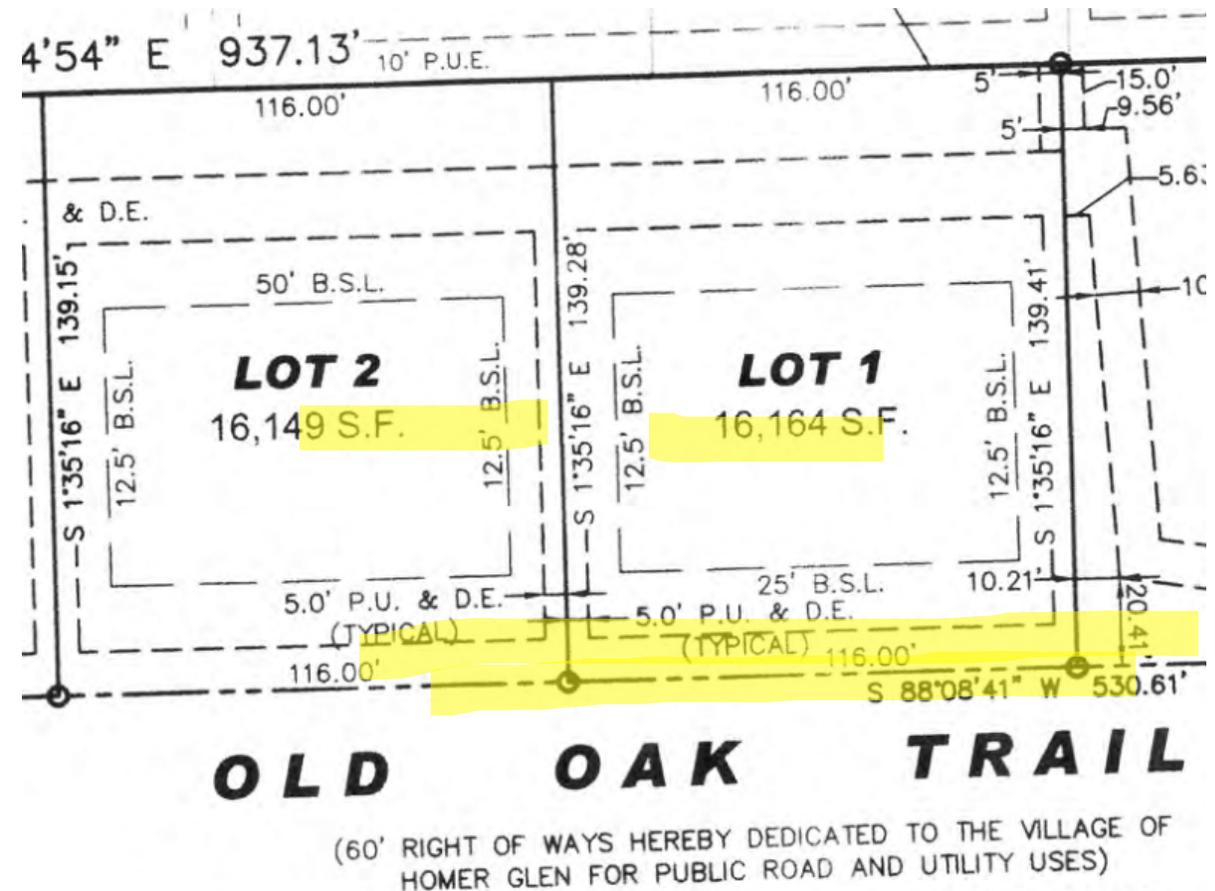
Easement Info

- Easements are established by a grantor (property owner or developer) and give certain rights to a grantee (usually utility company).
- Once established and recorded, easements exist in perpetuity unless released by the grantee.
- Easements are generally granted to utility companies but can also pertain to ingress/egress to and from a property.
- Conservation easements are another type of easement, used to protect and preserve natural areas or wetlands. These are common throughout the Village of Homer Glen.



Utility Easements

- Public Utility and Drainage Easements (P.U.D.E or P.U.E) are the most common types of easements over both public and private property.
- Every subdivision in the Village of Homer Glen contains utility easements to some degree. These easements allow utility companies to provide gas, water, electric, sewer, or telecommunications for the benefit and use of the public.



Who Owns the Easement?

- Utility companies and assigned users of easements do not own the property that the easement has been granted over. Property owners still own the land within the limits of their parcel.
- An easement grants the right of the utility company to access, install and maintain within that easement.
- The easement may also restrict what can be placed or constructed within the limits of the easement. For example, swimming pools, sheds, sidewalks, driveways, or other more 'permanent' structures are not allowed within utility easements without some sort of encroachment agreement.



Easement Encroachment

- Encroachment agreements are used by the Village of Homer Glen when a structure (deck, pool, sidewalk, etc.) will encroach into a PUDE.
- Encroachment agreements allow utility companies to ‘sign off’ on the encroachment of the structure in their easement with the understanding that if the structure needs to be removed by the utility company for future maintenance or repairs, it is at the sole cost of the property owner.
- While encroachment agreements can be useful in some select scenarios, the best practice is to avoid encroaching upon utility easements all together.



Pipeline Easements

- The Village of Homer Glen contains 11 pipelines within its boundary.
- Pipelines within the Village transmit liquid petroleum products or natural gas.
- Most, if not all, pipeline easements within the Village have been established many years ago dating back to the 1940s or earlier.
- Blanket Easements were granted by property owners allowing for the construction of pipelines anywhere within a large area. Once the pipelines were installed, the easement limits would be reduced to 50 ft. or 66 ft. as a standard width.



Pipeline Easements

- Pipeline easements generally contain a similar language as the utility easements discussed earlier. They grant pipeline operators the right to “lay, maintain, inspect, operate, replace, change or remove a pipeline” along with “the right of ingress and egress to and from for any and all purposes necessary or incidental to [the rights listed previously].”
- This general statement usually covers all the bases but each easement can be unique and can include unique requirements from the grantee or pipeline operator.



Pipeline Easements and Maintenance

- Once a transmission pipeline is installed and active, it falls under the jurisdiction of the Federal Department of Transportation and more specifically the Pipeline and Hazardous Materials Safety Administration (DOT PHMSA).
- Pipeline right of way (easements) are required to be inspected on a regular basis by Federal law.
- Hazardous liquid pipeline operators must perform surface condition inspections 26 times a year at intervals not exceeding 21 days (once every three weeks).
- Natural gas pipeline operators must perform surface condition inspections every 4.5 - 15 months depending on the population density near the pipeline.
- As such, pipeline operators are required to maintain the vegetation within their easement as to not hinder pipeline inspection or maintenance activities.



Pipeline Easements and Maintenance Requirements

- Pipeline operators are required to notify stakeholders (owners of private or public property that contain a pipeline easement) of their maintenance activities.
- Pipeline operators are required to provide stakeholders with an explanation regarding the need for vegetation management activities.
- This should include a discussion of the rights granted under easements as well as start and completion dates of the work.
- Notification can be in the form of mailed letters, door hangers, phone calls, or face to face meetings depending on the location and situation.



Why is Pipeline Maintenance Important?

Properly maintained ROW allows for the identification of surface conditions such as:

- Unauthorized activities on or near the ROW
- Heavy equipment on the ROW without authorization
- Urban encroachment
- Construction activities on or near the ROW
- Erosion at water crossings, flooding on the ROW or sedimentation in streams
- Missing or moved aerial markers, pipeline markers, or identification signs
- Evidence of leaking gas or liquid
- Soil defects



Why is Pipeline Maintenance Important?

- If pipeline damage occurs, pipeline operators may need direct and immediate access to the pipeline.
- A clear ROW makes aerial patrol inspections more efficient and effective.
- Tree roots have the potential to damage pipeline coatings which can contribute to the loss of integrity of the pipeline.



Location of Pipeline under large stump after badger daylighting.



Location of damaged coating after removing stump and roots.

BP Pipeline Clearing within Village ROW

- BP Pipeline has a hazardous liquid pipeline that runs through the Village of Homer Glen. The pipeline carries jet fuel from Manhattan to O'Hare airport in Chicago.
- BP has stated the clearing and maintenance of their easement is necessary to:
 - Provide efficient and effective aerial surface inspection as required.
 - Provide means of ingress/egress as needed for inspection, maintenance, or emergency services.
 - Protect the integrity of the pipeline; tree roots can damage its protective coating.



BP Pipeline Clearing within Village ROW

What is the Village doing?

- At this time, the Village has instructed BP to halt any tree clearing within the Village limits.
- The Village has requested BP Pipeline provide evidence of safety issues or conditions of their pipeline located within Village ROW that shows degradation of the pipe or its protective coating.
- The Village intends on continuing negotiations with BP to reduce the removal of trees within the Village ROW.
- The Village will continue efforts to protect the forested areas impacted by the proposed work, however, the safety and wellbeing of the residents is always the top priority.



Q&A

The Village will address a list of questions provided from residents and trustees. After going over these questions, we will open the floor for any other questions regarding easements, ROW, or proposed pipeline clearing within the Village.



Useful Links

Pipelines and Informed Planning Alliance Regulations

- https://primis.phmsa.dot.gov/comm/pipa/pipa_practice_table.htm?nocache=1275

Pipeline & Hazardous Materials Safety Administration

- <https://www.phmsa.dot.gov/regulations>
- <https://www.phmsa.dot.gov/legislative-mandates/mandates-overview>

ICC Pipeline Safety Program

- <https://icc.illinois.gov/home/Illinois-Gas-Pipeline-Safety-Program>

Pipeline Awareness

- <https://il.pipeline-awareness.com/home>

