

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

GERALD DEMSHAR

14825 Cleveland Avenue

New Berlin, WI 53151

Plaintiff,

15CV003568

vs.

CASE NO.

RECEIVED

MAY 04 2015

VERITAS PROPERTIES

9100 W. Greenfield Avenue

Milwaukee, WI 53214

CITY OF WEST ALLIS
CITY CLERK

VERITAS PROPERTIES, LLC

9100 W. Greenfield Avenue

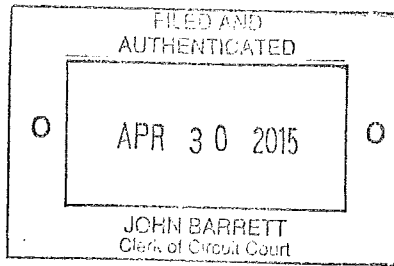
Milwaukee, WI 53214

CITY OF WEST ALLIS

7525 W. Greenfield Avenue

West Allis, WI 53214

Defendants.



RESTRAINING ORDER

Based upon the Affidavit and Summons and Complaint filed herein;

IT IS HEREBY ORDERED that the Defendants Veritas Properties, Veritas Properties, LLC and City of West Allis and each of them, shall cease and desist from taking any action that would allow the granting of a permit for a fence to be installed and/or any action concerning the installation of a fence on the disputed sidewalk property line between the properties 9100 West Greenfield and 9104-06 West Greenfield Avenue, until further order of the Court.

Dated this 30 day of April, 2015.

BY THE COURT:

[Handwritten Signature]
CIRCUIT COURT JUDGE

Attorney Michael S. Winter
735 West Wisconsin Avenue
Milwaukee, WI 53233
414 224-0914
State Bar No. 1017454

Attorney 5/8/15

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

GERALD DEMSHAR
14825 Cleveland Avenue
New Berlin, WI 53151

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Plaintiff,

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CASE NO.

VERITAS PROPERTIES
9100 W. Greenfield Avenue
Milwaukee, WI 53214

Case Code No.

VERITAS PROPERTIES, LLC
9100 W. Greenfield Avenue
Milwaukee, WI 53214

CITY OF WEST ALLIS
7525 W. Greenfield Avenue
West Allis, WI 53214

Defendants.

AFFIDAVIT

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

GERALD DEMSHAR, being first duly sworn deposes and says as follows:

1. That he is the Plaintiff in the above entitled action, and makes the Affidavit in support of the request for a Temporary Restraining Order in this matter against the Defendants who own 9100 West Greenfield Avenue and the City of West Allis.
2. That he is the owner of the property located at 9104-9106 West Greenfield Avenue, West Allis, Wisconsin, and he purchased this property approximately twenty years ago.
3. That at the time of the purchase of this property the seller had owned the property for at

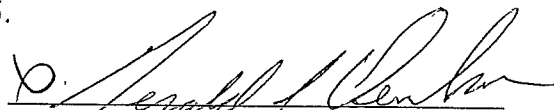
least twenty years.

4. That for more than forty years the affiant and the affiant's predecessor have used the shared sidewalk that is located between 9100 West Greenfield Avenue and 9104-06 West Greenfield Avenue for the purpose of ingress and egress to be able to allow the Plaintiff, Plaintiff's Agents, Lessees, and Tenants to be able to go from Greenfield Avenue through that area to access the back residence, as well as to use this area for ingress and egress to the back of the property, as well as for storage of and maintenance of garbage.

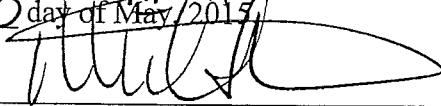
5. That the tenants that I have in the residence would be irreparably harmed if they cannot get to their home, as this is the only access to the back residence on my property, they would have to leave the property, and I would be in Breach of Lease if they cannot get to their home.

6. I will also have no place to put the commercial garbage, that is, generated by my property located at 9104-06 West Greenfield Avenue if a fence is constructed in the shared sidewalk area as proposed by the Defendants and approved by the City of West Allis.

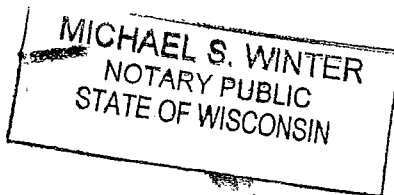
Dated this 30 day of April, 2015.


GERALD DEMSHAR

Subscribed and sworn to before me
this 30 day of May, 2015.



Notary Public, State of Wisconsin
My Commission is Permanent.



STATE OF WISCONSIN
GERALD DEMSHAR
14825 Cleveland Avenue
New Berlin, WI 53151

CIRCUIT COURT

MILWAUKEE COUNTY

Plaintiff,

15CV003568

vs.

CASE NO.

VERITAS PROPERTIES
9100 W. Greenfield Avenue
Milwaukee, WI 53214

Case Code No.

VERITAS PROPERTIES, LLC
9100 W. Greenfield Avenue
Milwaukee, WI 53214

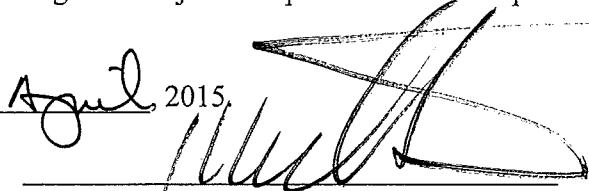
CITY OF WEST ALLIS
7525 W. Greenfield Avenue
West Allis, WI 53214

Defendants.

NOTICE OF HEARING

PLEASE TAKE NOTICE, that on 14 day of May, 2015 at 10:00 o'clock in the A M., the Plaintiff by his attorney Michael S. Winter will be move the Court before the Honorable John J. DiWotto Circuit Court Judge presiding in his courtroom Room 401, Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, WI 53233 for an Order to make the Exparte Restraining Order Injunction permanent based upon all files, records and proceedings heretofore had.

Dated this 30 day of April 2015.


MICHAEL S. WINTER, Attorney for
Plaintiff, Gerald Demshar
State Bar No. 1017454

P.O. ADDRESS:
735 W. Wisconsin Ave. Ste. 980
Milwaukee, WI 53233
414 224-0914

GERALD DEMSHAR
14825 Cleveland Avenue
New Berlin, WI 53151

Plaintiff,

vs.

VERITAS PROPERTIES
9100 W. Greenfield Avenue
Milwaukee, WI 53214

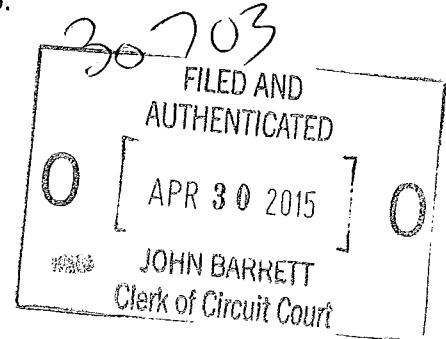
VERITAS PROPERTIES, LLC
9100 W. Greenfield Avenue
Milwaukee, WI 53214

CITY OF WEST ALLIS
7525 W. Greenfield Avenue
West Allis, WI 53214

Defendants.

CASE NO.
Case Code No.

15CV003568



HON. JOHN DIMOTTO, BR. 41
CIVIL F

SUMMONS

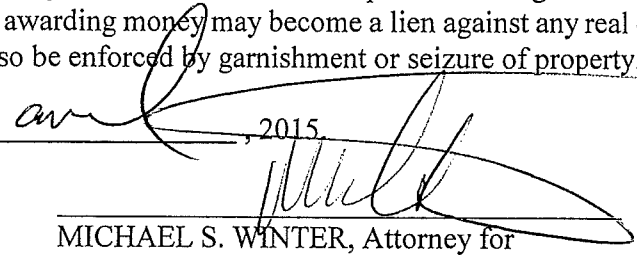
STATE OF WISCONSIN, To Each Person Named Above As A Defendant:

YOU ARE HEREBY NOTIFIED that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written Answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the Statutes. The Answer must be sent or delivered to the Court, whose address is Circuit Court of Milwaukee County, 901 North 9th Street, Milwaukee, Wisconsin 53233 and to Plaintiff's Attorney, Michael S. Winter, whose address is 735 West Wisconsin Avenue, Suite 980, Milwaukee, Wisconsin 53233. You may have an Attorney help or represent you.

If you do not provide a proper Answer within twenty (20) days, the Court may grant Judgment against you for the award of money or the legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A Judgment may be enforced as provided by law. A Judgment awarding money may become a lien against any real estate you own now, or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 30 day of April, 2015


MICHAEL S. WINTER, Attorney for
Plaintiff, Gerald Demshar
State Bar No. 1017454

P.O. ADDRESS:
735 West Wisconsin Avenue, Ste. 980
Milwaukee, WI 53233
(414) 224-0914

GERALD DEMSHAR
14825 Cleveland Avenue
New Berlin, WI 53151

Plaintiff,

vs.

VERITAS PROPERTIES
9100 W. Greenfield Avenue
Milwaukee, WI 53214

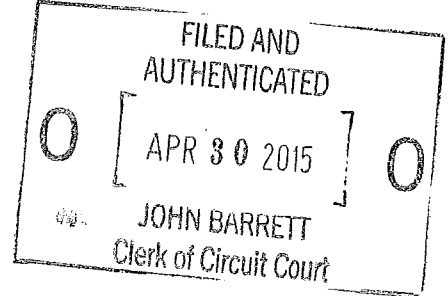
VERITAS PROPERTIES, LLC
9100 W. Greenfield Avenue
Milwaukee, WI 53214

CITY OF WEST ALLIS
7525 W. Greenfield Avenue
West Allis, WI 53214

Defendants.

CASE NO.
Case Code No.

15CV003568



COMPLAINT

NOW COMES the Plaintiff by his attorney Michael s. Winter and as and for a cause of action against the Defendants and each of them, alleges and shows to the Court as follows:

1. Alleges that the Plaintiff is the owner of the property located at 9104-06 West Greenfield Avenue which is commercial and has a residence located at the back of that property.
2. That at all material times, the Plaintiff has owned this property and his ownership has been for a period of twenty years.
3. That prior to the ownership of this property this property was owned by the previous owner for an additional in excess of twenty years, and that during that entire period of time more than forty years the Plaintiff and the Plaintiff's predecessor have used the property that is located between 9100 W. Greenfield Ave. and 9106 West Greenfield Avenue for ingress, egress to the home for ingress and egress from the commercial property to the back of the property as well as for use for storage of garbage on what we will call as a shared sidewalk located between the properties.
4. That pursuant to Wisconsin Statute 893.28 the uninterrupted use of this shared

sidewalk by the Plaintiff has affected the property boundary line and ownership of the shared sidewalk located between the properties of 9104-06 West Greenfield Avenue and 9100 West Greenfield Avenue, and as such, a prescriptive easement and/or ownership of the shared sidewalk has been transferred to the owner of 9104-9106 West Greenfield Avenue the Plaintiff herein.

5. That despite the notification and knowledge that has been imparted upon the Defendants Veritas Properties and/or Veritas Properties, LLC, as well as to the City of West Allis, the Defendants Veritas Properties and Veritas Properties, LLC have requested that West Allis grant a permit to install a fence on this shared sidewalk area, a copy of the request for the proposal of the construction is attached hereto as Exhibit A.

6. The Plaintiff has notified all Defendants that the building of this fence would infringe upon the Plaintiff's ability to use Plaintiff's property which has been allowed and has been pursuant to Wisconsin Statute 893.28 as either ownership of the area or a prescriptive easement on the shared sidewalk area. See survey Exhibit C, lot line appears to be in middle of shared sidewalk.

7. That a Final Notice was sent to the Defendants by email, a copy of which is Exhibit B attached hereto.

8. That upon information and belief the City of West Allis has granted, or is in the process of granting permit for said fence and the installation of the fence would cost irreparable damage to the Plaintiff in this matter.

SECOND CAUSE OF ACTION INJUNCTION

Now comes the Plaintiff by his attorney Michael S. Winter and as and for a cause of action alleges and shows to the Court as follows:

1. Repeats all previous allegations as if fully set forth herein.
2. That due to the irreparable harm of the installation of the fence that could cause to the owners of the property at 9104-9106 West Greenfield Avenue, it would not allow access to the back residence of that property for the tenants.

3. In addition, it would also not allow access to, for and from the area for the purpose of fire safety or police safety, and would further not allow access for purpose of garbage or other pick up or distribution.

THIRD CAUSE OF ACTION MONETARY DAMAGES

1. Repeats and realleges all previous allegations as if fully set forth herein.

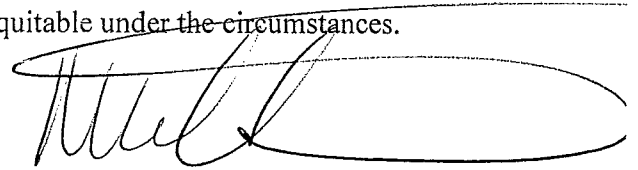
2. In the event that construction of the fence were to begin or would occur, the Plaintiff would suffer monetary damages in an amount to be determined by the Court, including but not necessarily limited to, loss of rents, loss of ability to be able to access parts of Plaintiff's property.

WHEREFORE, on the First Cause of Action Plaintiff asks the Court to declare 893.20 Wis. Stats. that the shared sidewalk located between 9100 West Greenfield Avenue, and 9104-06 West Greenfield Avenue belongs to 9104-06 West Greenfield Avenue, or in the alternative that a prescriptive easement shall be declared by the Court to be effective relating to that portion of the property, and/or such other relief as the Court deems just and equitable under the circumstances.

On the Second Cause of Action, for an Temporary Injunction and a Permanent Injunction which requires that the Defendants and each of them not allow the beginning of, or the construction of, a fence or any other construction to the area that is in dispute in this matter which is the shared sidewalk between 9100 W. Greenfield Ave. and 9104-06 West Greenfield Avenue.

On the Third Cause of Action, on its claim for damages any damages that may flow as a result of the Defendants total disregard of the Plaintiff's rights concerning the shared sidewalk between the properties, and such other relief as the Court deems just and equitable under the circumstances.

Dated 30 day of and, 2015.



MICHAEL S. WINTER, Attorney for
Plaintiff, Gerald Demshar
State Bar No. 1017454

P.O. ADDRESS:
735 West Wisconsin Avenue, Ste. 980
Milwaukee, WI 53233
(414) 224-0914

Veritas Properties, LLC

9100 W. Greenfield Avenue • Milwaukee, WI 53214 • (262)522-4690 • Fax (262)522-4691
mike@veritasplanning.com

City of West Allis
Planning Commission
7525 W. Greenfield Avenue
West Allis, WI 53214

City of West Allis
Department of Development

MAR 20 2015

RECEIVED

March 16, 2015

To Whom It May Concern-

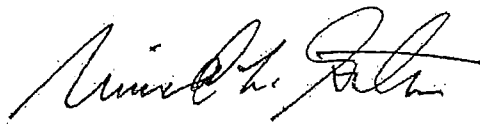
I propose to construct a fence along the western border of my property located at 9100 W. Greenfield Avenue (Tax Key #442-0527-000) per the attached drawing. I currently operate an insurance and financial services business as well as a residence rental unit from this property.

I would like to construct the fence for the following reasons: to provide security for my property, business, and tenants; to provide a visual screen from the neighboring property; and to control pedestrian traffic through the sidewalk between my property and the neighboring property to the west.

I propose to construct an aesthetically pleasing fence that complies with all required codes. I believe that this will enhance local property values and provide the security that area residents deserve.

Please contact me directly with any questions regarding the proposed project.

Best regards,



Michael L. Gorectke, CLTC, RHU
President

EXHIBIT A 3P

Veritas Properties

Michael L. Gorectke

Fence Project

3/16/2015

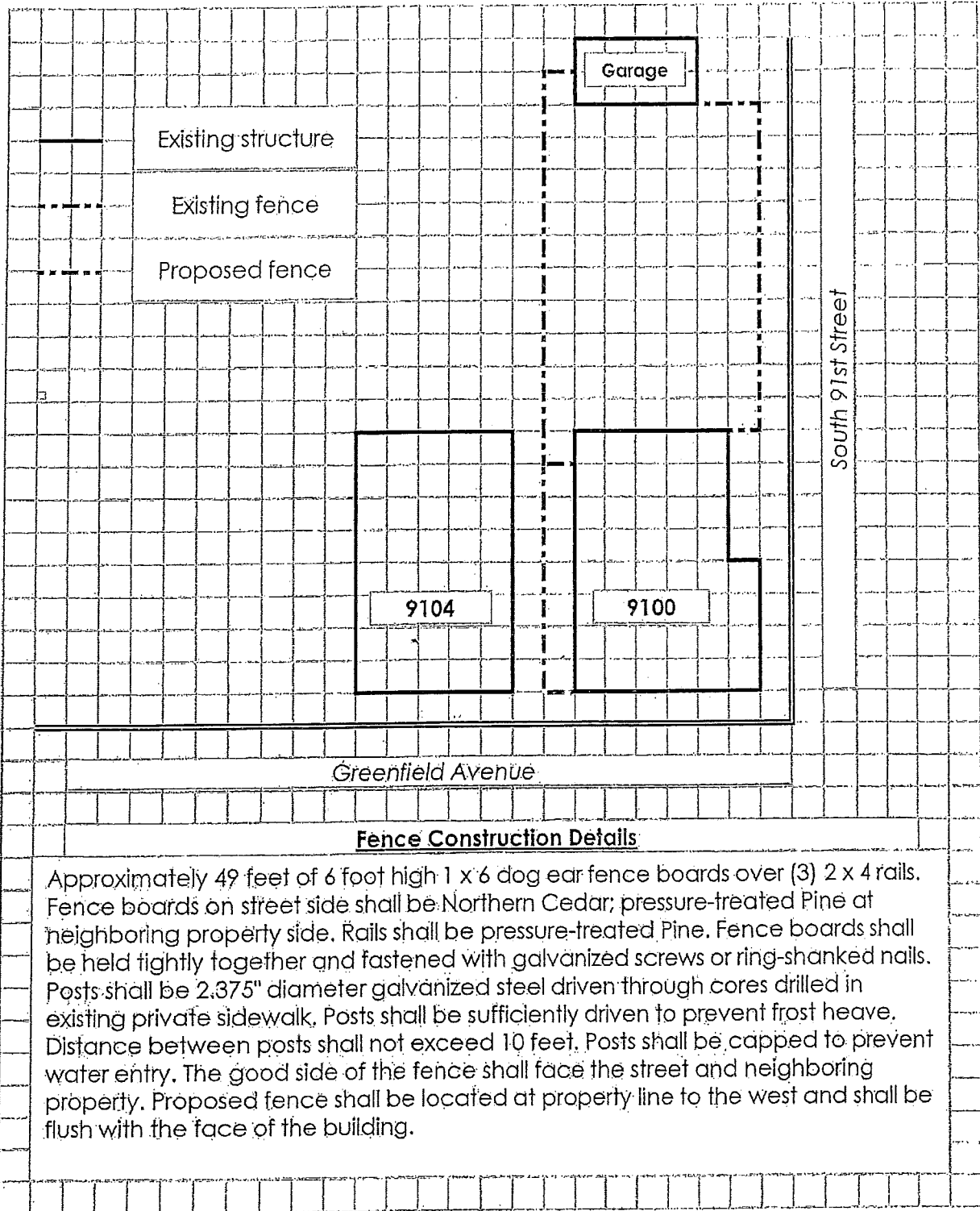


EXHIBIT A

P 2



DEPARTMENT OF DEVELOPMENT
 John F. Stibal
 414/302-8460
 414/302-8401 (Fax)
 City Hall
 7525 West Greenfield Avenue
 West Allis, Wisconsin 53214
 www.westalliswi.gov
 jstibal@westalliswi.gov

April 27, 2015

Mr. Michael Gorectke
 Veritas Properties, LLC
 9100 W. Greenfield Ave.
 West Allis, WI 53214

RE: Site Plan for a new fence to be installed along the west property line of the commercial property located at 9100 W. Greenfield Ave., submitted by Michael Gorectke d/b/a Veritas Properties, LLC/property owner (Tax Key 442-0527-000).

Dear Mr. Gorectke:

This letter is to inform you that the Plan Commission, at its meeting of April 22, 2015, approved the above-referenced item, subject to the following conditions:

(Item 1 is required to be satisfied prior to the issuance of fence permits associated with the proposed work reviewed by the Plan Commission. Contractors applying for permits should be advised accordingly.)

OK - 1. Revised Site Plan being submitted to and approved by the Department of Development to show confirmation that existing and proposed fencing are located upon the 9100 W. Greenfield Ave. property. Any locational adjustments to existing fencing shall be specified and the location of the proposed fencing shall also be shown upon the 2014 survey with respect to the property lines; Contact Steven Schaer, Manager of Planning and Zoning at (414) 302-8466 with questions.

satisfied as of meeting date

Please contact the Building Inspection and Neighborhood Services Department at 414-302-8400 for additional requirements for permit application information.

Sincerely,

Steven J. Schaer, AICP
 Manager, Planning and Zoning Division

cc: John F. Stibal, Director, Department of Development
 Ed Lisinski, Director, Department of Building Inspections and Zoning

EXHIBIT A

A.3

Michael Winter

From: Michael Winter <michael_winter@att.net>
Sent: Friday, April 10, 2015 3:19 PM
To: 'mike@veritasplanning.com'
Subject: FW: Application and Plan - 9100 W. Greenfield Ave.

Correct email

Michael S. Winter
Attorney at Law
735 W. Wisconsin Ave., Suite 980 | Milwaukee, WI 53233
Phone: 414-224-0914 | Fax: 414-224-9477
Email: michael_winter@att.net

From: Michael Winter [mailto:michael_winter@att.net]
Sent: Friday, April 10, 2015 2:42 PM
To: 'Bart Griepentrog'
Cc: 'mike@veritasplanning.com'
Subject: RE: Application and Plan - 9100 W. Greenfield Ave.

My client, the next door neighbor to the west Gerald Demshar, objects to the Application for a fence that would be built on or near a lot line located on my client's only ingress and egress to the house in the back of his property at 9104-06 W Greenfield and the only place my client can put his garbage is in the middle of the shared sidewalk. We want to know what we can do to be sure this fence is not approved short of filing an injunction against the property owner and the City and an action for declaration of this prescriptive easement due to my client's uninterrupted use of this sidewalk for more than 20 years as well as the previous owner's use of the same for more than 30 years before that under Wis Stats 893.28.

This is actual notice to the City and to Veritas Properties, LLC of that right that should not be impaired in any way and we request that this application not be approved.

Michael S. Winter
Attorney at Law
735 W. Wisconsin Ave., Suite 980 | Milwaukee, WI 53233
Phone: 414-224-0914 | Fax: 414-224-9477
Email: michael_winter@att.net

From: Bart Griepentrog [mailto:bgriepentrog@westalliswi.gov]
Sent: Friday, April 10, 2015 12:08 PM
To: 'michael_winter@att.net'
Cc: Steve Schaer
Subject: Application and Plan - 9100 W. Greenfield Ave.

Michael,

As requested, attached is the application, project description and plan for the proposed fence at 9100 W. Greenfield Ave.

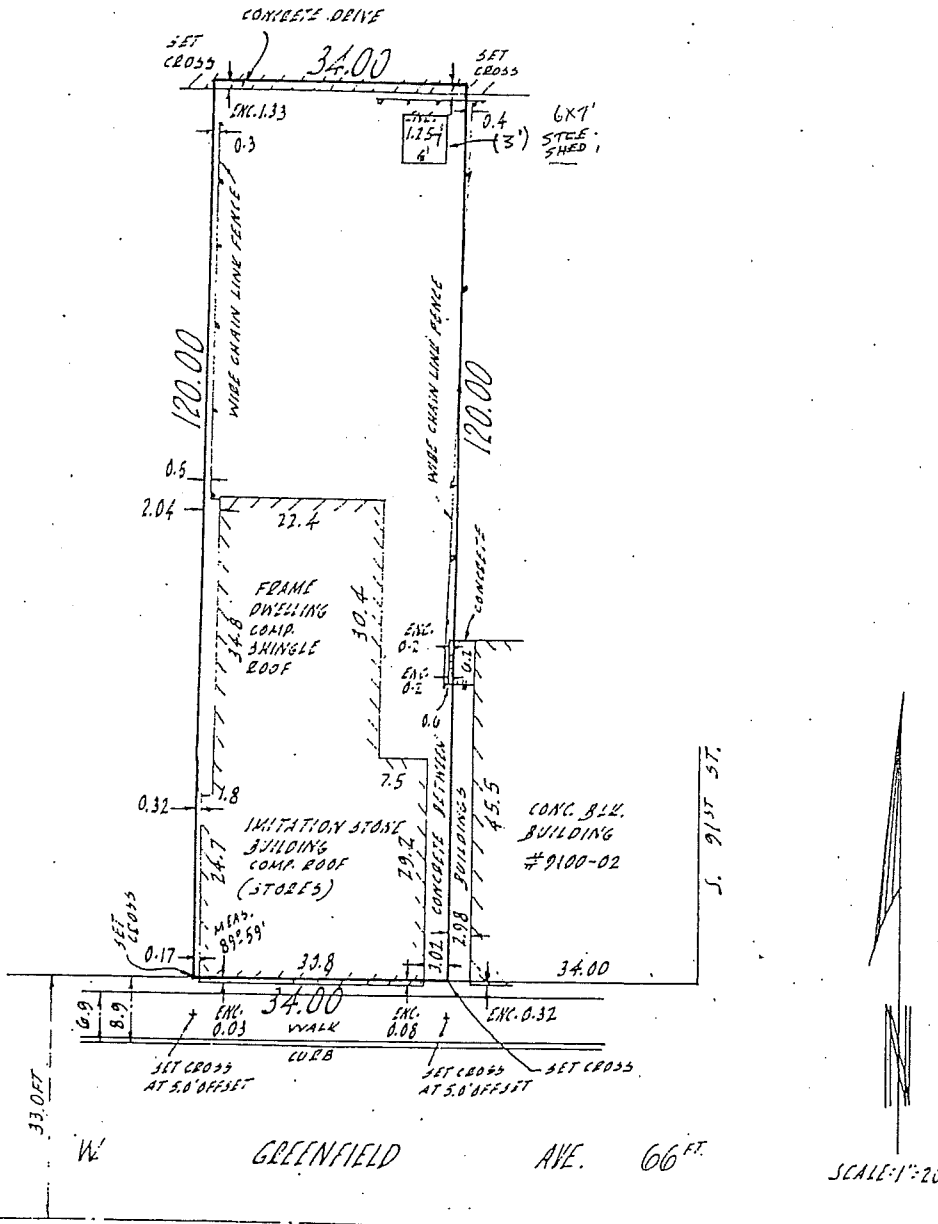
City of West Allis

File: Known as (9104-04A-06-06A West Greenfield Avenue) City of West Allis, Wisconsin
Lot 2 in Block 1 in ASSESSOR'S PLAT NO: 258, being a Subdivision of a part of the SW 1/4
of Section 33, T 7 N, R 21 E, in the City of West Allis, Milwaukee County, Wisconsin

DECEMBER 9, 1976

THERESA ZAJEC-OWNER

SURVEY NO. 139609-S



I Certify that I have surveyed the above described property (Property), and the above map is a true representation thereof and shows the size and location of the Property, its exterior boundaries, the location and dimensions of all visible structures thereon, boundary fences, apparent easements and roadways and visible encroachments, if any.

This survey is made for the exclusive use of the present owners of the Property, and also those who purchase, mortgage, or guarantee the title thereto, within one (1) year from date hereof.

Kenneth E. Berke
SURVEYOR



national survey engineering
470 north 127th street • p. o. box 444 • brookfield, wisconsin, 53005 • phone 414 / 781-1000

EXHIBIT C