



Department of Public Works
City Engineering Division

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City Engineer

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Hydrogeologist
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July 8, 2013

Burl and Debra Bely
114 Milo Lane
Madison, WI 53714

RE: Prohibited Use of Public Greenway

Dear Mr. and Mrs. Bely,

A field inspection conducted of the greenway abutting your property at 114 Milo Lane revealed that a fence has been placed in the public greenway directly behind your property. Please be advised that the fence is not allowed in the current location. In accordance with Madison General Ordinance Section 8.15 (*see attached*), such encroachments into publicly-owned greenways are not permitted.

Please remove or relocate this item from the greenway by August 9, 2013. After August 9th, we will re-inspect the area to confirm that the encroachment has been eliminated. If at that time the fence has not been removed from the public greenway, the encroachment will be considered a violation of public land use and a citation shall be issued.

Per MGO 8.15, you have fifteen (15) days, after the mailing of this Notice of Violation, to appeal the allegation of violation to the Board of Public Works. Such appeal must be in writing and must inform the Board of the reasons why the person aggrieved believes the order has been issued in error.

If you have any questions or need additional information please contact Eric Dundee, of my staff, at (608) 266-4913. We appreciate your cooperation and understanding as we work to improve our City -owned property and protect our water quality.

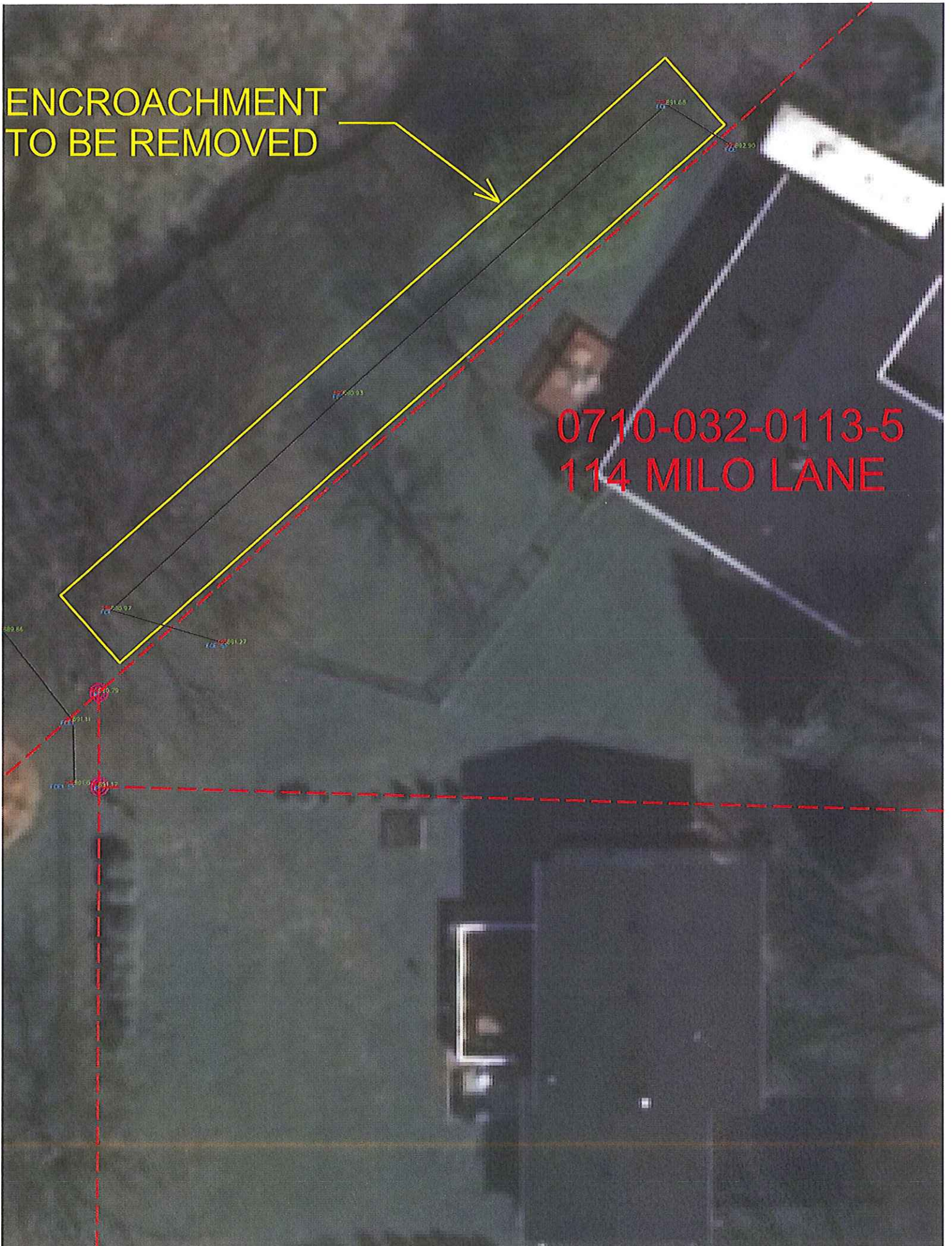
Sincerely,

Robert F. Phillips, P.E.,
City Engineer

RFP:can
Cc: Mike Dailey, P.E., Assistant City Engineer
Kathy Cryan, Operations Manager
David Ahrens, Alderperson – District 15

ENCROACHMENT
TO BE REMOVED

0710-032-0113-5
114 MILO LANE



8.15 REGULATION OF PRIVATE USE OF GREENWAYS AND PARK LANDS.

- (1) Public Nuisance. Private use of City-owned or leased greenways and park lands including, but not limited to, fences, retaining walls, outbuilding sites, dog runs, play equipment and gardens, storage of piers, boat hoists, or other private personal property, planting or pruning of trees and shrubs, mowing of grass on park lands, or mowing of grass on greenways when posted for no mowing is a public nuisance and is prohibited unless approval to use City-owned or leased greenways is obtained pursuant to Subsection (2). (Am. by Ord. 12,992, 1-25-02; Ord. 13,177, 11-5-02)
- (2) The City Engineer may approve planting native grasses and/or forbs or removal of invasive species in a City-owned or leased greenway, provided that:
 - (a) the applicant is the owner of land abutting the greenway where the use is proposed;
 - (b) the City's ability to maintain the greenway is not adversely impacted by the proposed use;
 - (c) the applicant pays to the City Treasurer a fee of one hundred twenty-five dollars (\$125);
 - (d) the applicant agrees to indemnify, defend, and hold harmless the City and its officers, employees and agents against all loss or expense by reason of any claim or suit, or of liability imposed by law upon the City or its officials, agents, or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising from, in connection with, caused by or resulting from activities related to an approved use of a greenway, whether caused or contributed to by the negligent acts of the City, its officials, employees, or agents.

The approval may contain conditions, including but not limited to, the duration of the approval and the geographic limits for the proposed use. The applicant shall notify all property owners within one hundred (100) feet of the greenway where the proposed use is located at least three (3) days prior to the date the proposed use begins. (Cr. by ORD-06-00175, 12-8-06)

- (3) Abatement. If the City determines that a public nuisance exists pursuant to (1), notice to remove such public nuisance shall be sent to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. If the public nuisance is not removed within the time specified in the notice, the City shall remove the public nuisance or cause it to be removed. The cost of abatement shall be assessed as a special charge to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. Any property held by the City after removal is subject to disposal thirty (30) days after a notice of removal is mailed to the owner, occupant or person causing, maintaining, or permitting the public nuisance. (Renumbered by ORD-06-00175, 12-8-06)
- (4) Appeal. Any person aggrieved by a determination that a public nuisance exists may appeal within fifteen (15) days of the mailing of the notice to remove the public nuisance. Appeal shall be to the Board specified on the notice and will be either the Board of Public Works or the Board of Park Commissioners, depending on which Board has the control and management of the public property at issue. All requests for appeal shall be filed with the City Clerk and must inform the Board of the reasons for the appeal. Within thirty (30) days, the Board shall hold a hearing at which the parties may offer testimony and documents. Within twenty (20) days of the hearing, the Board shall affirm, modify, or reverse the determination that a public nuisance exists. Appeal from the action of the Board shall be to Circuit Court within thirty (3) days of the determination of the Board. (Renumbered by ORD-06-00175, 12-8-06)
- (5) Penalty. Any person violating this ordinance shall, upon conviction thereof, be subject to a forfeiture of not less than ten dollars (\$10) nor more than five hundred dollars (\$500) Each day such violation continues shall be considered a separate offense. In addition to any other penalty imposed by this ordinance, the City Attorney may maintain an action pursuant to Ch. 823, Wis. Stats. to abate the nuisance. (Cr. by Ord. 5672, 11-17-76; Am. by Ord. 12,836, 6-26-01; Renumbered by ORD-06-00175, 12-8-06)