

**Pamela and Michael Druhan  
1252 Sherman Avenue  
Madison WI 53703**

**Subject: Request for a Hearing**

This is our request for a hearing concerning allegations by the city and dated May 31, 2011. A copy of the complaint is enclosed.

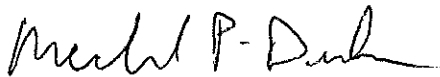
The principle reasons we believe the order was issued in error are the following:

- The area at issue is 38 inches wide extending from the street to the shore. *It has been continuously fenced off or staked since the 1960s*, and our landscaping was designed to fit entirely within this historical fence line.
- We met with an employee from the Parks Department on this very subject in 2006. During this lengthy meeting we explained the situation about the historical fence line and gave him photographs that clearly showed the location of the fence before we purchased the house in 2004. After that we had no further contact from the city, and after a few years, we reasonably assumed the matter was dormant.
- We have grave concerns about the resurrection of this issue after so many years, given we have been subjected to almost continual harassment by people unknown to us since 2004. This has consisted of numerous false accusations and defaming gossip. Up until now the city has largely ignored these crank calls and emails. We will investigate to see if the city has been influenced this time by malicious third parties.

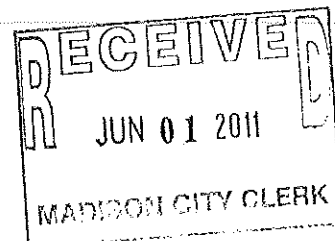
A letter to George Hank dated May 31, 2011 is also enclosed. That letter explains our views in more detail.



Pamela B. Druhan



Michael P. Druhan



**Pamela and Michael Druhan  
1252 Sherman Ave  
Madison, WI 53703**

George Hank  
Director, Building Inspection Division  
City of Madison Park Commission  
Madison Municipal Building  
215 Martin Luther King, Jr. Boulevard  
P.O. Box 2984  
Madison, WI 53701-2984

May 28, 2011

Dear Mr. Hank,

This letter is in response to your notice of May 25, 2011 stating that we are in violation of General Ordinances, Section 8.1 5(1). This letter constitutes a request for appeal. Accordingly, a copy of this letter will be filed with the City Clerk. We are frankly stunned to have received this notice since we received a similar notice in 2006, at which time we provided documentation and met with people from the Park Commission, and thought that the issue was resolved to the city's satisfaction.

We purchased this property in February, 2004 and undertook a historical restoration of a home that was both a hazard and an eyesore in the community. The renovation included landscaping and we actually received the very first certificate for a green historic renovation for both the work done on the house and the landscaping that was done to keep water on the property and out of the storm drains and lake. When we purchased the home, there was a fence separating the house from the park, and a (crumbled) blacktop driveway and walkways around the house. With one exception, the landscaping work that was done was within the fence line for a fence that had been installed sometime in the early 1960's. The driveway that was installed was a smaller footprint than the former blacktop driveway. As part of the project, we removed the fence, which was old, rusted and posted with "No Trespassing" signs.

In the spring of 2004 we noticed that the field / wooded area of Tenney Park adjacent to our home was badly neglected, full of beer cans, condoms, drug paraphernalia and trash. There were dead trees, one leaning on our garage and others fallen down or with dead limbs hanging dangerously. We wrote multiple (at least 3; one of which is on file with your office ) letters to our city alderwoman at the time, Brenda Konkel, requesting permission to remove the trash, dead limbs, and offered to replace the dead trees with new ones and also to plant native wildflowers on that piece of property. After not hearing from Ms. Konkel on any of our letters, we did have our landscapers remove the dead branches and we cleaned up the trash. There was also a depression in the ground next to our garage (and outside of the fence line) that was filled with stagnant water and was a breeding ground for mosquitoes. We partially filled it and constructed a "rain garden" to collect and absorb the water. We placed flagstones around it so that people could walk without getting their feet wet. With no response from our representative and the park in the condition that it was, we didn't imagine that there would be any objection to anything we had done to make the park cleaner, more attractive, and less of a mosquito hazard. Note that the

people who have been the primary users of these flagstones have been the general public, coming over to our yard to ask to use the phone, borrow a shovel for sand, or use a bathroom.

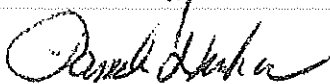
The questions on the property line arose when, on Earth Day in 2006, the Friends of the Yahara River Parkway came to Tenney Park to "fix it up". They removed trees, took out some weeds, and replanted plants and trees. The next day we heard from a neighbor that a woman who was somehow associated with the Friends and lives somewhere on our street was telling our neighbors that we were in "big trouble" with the city. We had already encountered this woman as she had repeatedly called the police on our building contractors for trespassing when they parked in the Tenney lot and accessed our yard from that side. In every case, her complaint was dismissed because our contractors had all obtained city and park permits. While we found it annoying and unfriendly, we dismissed her as a mean-spirited busybody with too much time on her hands. We apparently underestimated her influence.

Later that year we received the initial notice from the City and subsequently met with a gentleman from the Parks Department. We spent about 2 hours with him and we provided him with the pictures showing the fence that had been in place for over 40 years, the correspondence we sent to Ms. Konkel, and pictures of the blacktop driveway that extended more than a car's width beyond the garage. As stated earlier, our landscaper (not unreasonably) used the 40-year-old fence line as the guide for the property line and we used the original driveway footprint to plan the new one. We also showed him the rain garden and the walking stones we had placed beside it. We noted that, ironically, had we left the old blacktop driveway and ugly fence with its "No Trespassing" signs, we would not be having this discussion. He agreed and said that he would go back with our documentation. We heard nothing further and assumed that the matter was resolved. That was five years ago.

I want to close by saying we are not a "public nuisance" as stated in your letter. We had no intention of "encroaching" or taking over park land. We have been good citizens, good neighbors, and strong advocates for Tenney Park. With the fence removed, people have asked to use our yard for pictures, our dock for collecting water samples and to fish. People have used our phone, our bathrooms, and borrowed our shovel for sand. As neighbors to the park, we keep an eye on it and have reported drug deals, illegal drinking, someone living in the park and suspicious individuals on the playground. We watered the trees planted by the Friends when the summer was dry and they were dying. My husband clears the walk all the way to the crosswalk at Marston and clears out the bus stop in front of the park. Tenney Park is lucky to have us for neighbors.

We look forward to talking to you so that we can resolve this matter once and for all.

Sincerely,



Pamela Druhan



Michael Druhan

CC: Kevin Briski, Bridget Maniaci, County Clerk



Department of Planning and Community & Economic Development  
**Building Inspection Division**

Website: [www.cityofmadison.com](http://www.cityofmadison.com)

Madison Municipal Building  
215 Martin Luther King, Jr. Boulevard  
P.O. Box 2984  
Madison, Wisconsin 53701-2984  
TTY/TEXTNET 866 704 2318  
FAX 608 266 6377  
PH 608 266 4551

May 25, 2011

MICHAEL P DRUHAN  
PAMELA B DRUHAM  
1252 SHERMAN AVE  
MADISON WI 53704

**Subject: Driveway, Flagstone Path and Landscaping Encroaching into Tenney Park**

Dear Property Owners:

It has been brought to my attention that a portion of your driveway, flagstone path and other landscaping elements along your East property line, encroach into Tenney Park which adjoins your property. Some elements encroach up to 13.7 feet into the park. It is a violation of Madison General Ordinances Section 8.15(1) to install a driveway, flagstone path and other landscaping elements on park lands. The installation of the driveway, flagstone path and other landscaping elements has been declared a public nuisance and the violation is subject to a forfeiture of up to \$500.00 each day the violation continues. With this letter, the City is directing you to abate the nuisance by removing the portion of the driveway, flagstone path and other landscaping elements that encroach into Tenney Park. Failure to remove that portion of the driveway, flagstone path and other landscaping elements by June 30, 2011, will cause the City to abate the public nuisance by removing the items that encroach in to the park. The cost of abatement shall be assessed as a special charge to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. I have enclosed a copy of a survey which shows the location of the driveway, flagstone path and other landscaping elements and their relationship to the property line.

You have the right to appeal this allegation of violation to the City of Madison Park Commission within 15 days after the mailing of this Notice. Such appeal must be in writing and must inform the Commission of the reasons why you believe this order has been issued in error. If you wish to appeal, MGO 8.15 specifies that the appeal be filed with the City Clerk at 210 Martin Luther King Jr. Blvd., Room 103, Madison, WI 53703.

Sincerely,

George Hank  
Director, Building Inspection Division

cc: Kevin Briski, Parks Superintendent

# BOUNDARY SURVEY ADJACENT TO TENNEY PARK

Lot 40, Addition to Willow Park, City of Madison, Dane County, WI

SURVEYED FOR: City of Madison, WI Parks Division  
210 MLK Jr Drive #104 Madison, WI 53703 Tel 608-266-4711

SURVEYED BY: Dan Rodman, RLS  
City of Madison, WI Parks Division

0 30 60 ft  
Grid North, Dane County Coordinate System,  
NAD83(2007) Datum

### LEGEND:

- P1 ● Found monument (see Point Table & Line Table)
- ☼ Deciduous tree (trunk diam., in.)  
H=Hackberry, M=Maple, A=Ash

### NOTES:

1. Date(s) of field work: June 23, 2009
2. Address / tax parcel:  
Lot 40 = 1252 Sherman Ave / 0709-124-1023-3  
Tenney Park = 1254 Sherman Ave / 0709-124-1101-7
3. All surface and subsurface improvements, trees, hedges and ground cover on and adjacent to the site are not necessarily shown.
4. Except as specifically stated or shown, this map does not show easements, building setbacks, zoning and land use restrictions, covenants, or any other restrictions or benefits that a current and accurate title search may disclose.

### POINT TABLE

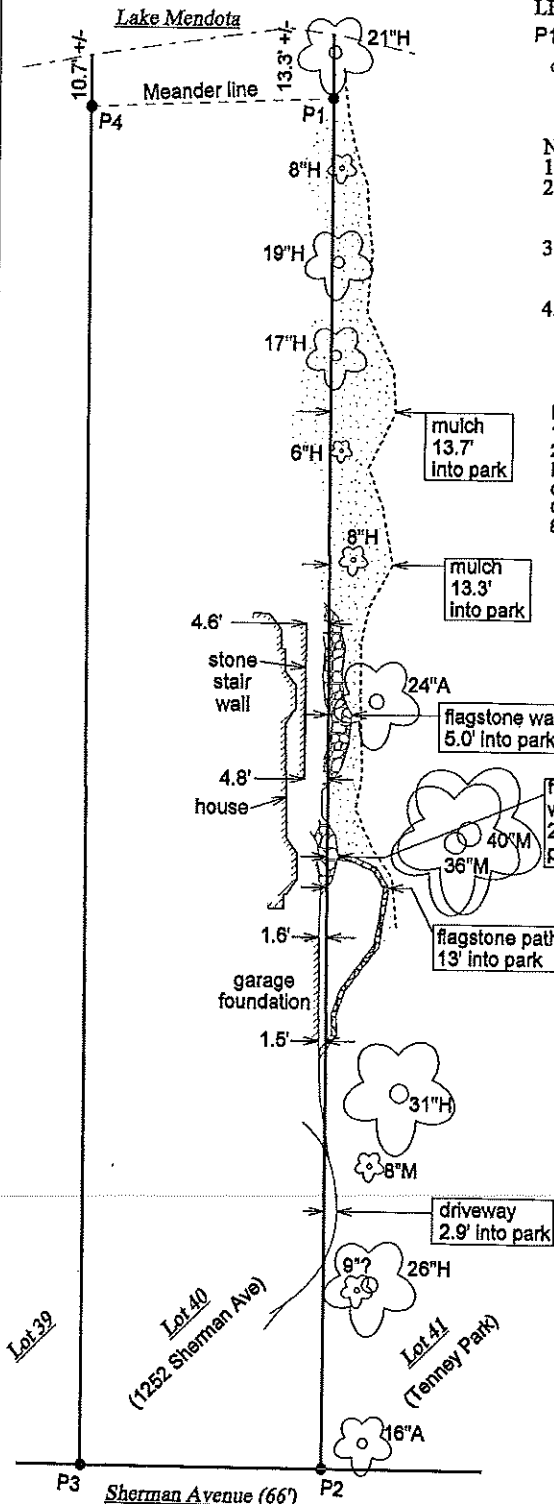
1. Monument dimensions in inches, outside diameter (unless noted)
2. Coordinates are Dane County Coordinates, U.S. Survey feet, NAD83(2007) Datum, determined from a combined adjustment of conventional and GPS measurements from the City of Madison GPS base station at Emili Street, at 43°02'12.78277"N, 89°24'34.27099"W, N=469049.99, E= 814396.30 US ft.

Pt	Northing	Easting	Monument
P1	489479.06	824044.85	Found 3/4" rod
P2	489298.88	824262.70	Found 1-inch rod
P3	489260.38	824230.82	Found 1-1/4 inch pipe
P4	489439.18	824014.66	Found 1-inch rod

### LINE TABLE

(dimensions in parentheses are previously recorded)

From	To	Bearing	Distance
P1	P2	S50°24'23"E	282.71 ft
		(S51°20"E)	(282.87 ft)
P2	P3	S39°37'35"W	49.99 ft
		(S38°40"W)	(50 ft) (50.08)
P3	P4	N50°24'13"W	280.53 ft
		(N51°20"W)	(280.81 ft) (280.70) (280)
P4	P1	N37°07'35"E	50.02 ft
		(N38°18'39"E)	(50.12 ft)



I, Daniel C. Rodman, Registered Land Surveyor Number 2793, certify that this survey was executed under my direction and control, and that it meets the Minimum Standards for Property Surveys of the Wisconsin Administrative Code (AE 7), and that this map is correct to the best of my knowledge and belief.

Signed: *Daniel C. Rodman*  
Date: Jun 24, 2009

file

Department of Public Works  
Parks Division

City of  
Madison



Madison Municipal Building, Room 120  
215 Martin Luther King, Jr. Boulevard  
P.O. Box 2987  
Madison, Wisconsin 53701-2987  
PH # 608 266 4711  
TDD # 608 267 4980  
FAX # 608 267 1162

July 26, 2006

Michael P. Druhan  
1252 Sherman Avenue  
Madison, WI 53703-1722

re: Encroachment in Tenney Park

Dear Mr. Druhan:

I apologize for a delayed response to your letter of May 15, 2006. I have recently been urged by the Council of the Tenney-Lapham Neighborhood Association to deal with this matter, which concerns them greatly. On July 5, they passed a resolution asking the Parks Division "to pursue all avenues in reclaiming the appropriated land including the removal of all hardscape and plants that the owners of 1252 put on park property".

Thank you for your letter explaining your background knowledge of this issue. I will respond to several of the points that you raised. It seems clear that you have known from the time of your survey in 2004 (and possibly when you purchased the property earlier in 2004) exactly where the legal property line was. You removed the fence from City property in 2004, without asking us for permission. After receiving a variance from the Board of Review to build in your sideyard setback, you proceeded to install pavers, flagstones and landscaping on City property, and allowed your landscaper to store items on city property.

Sometime in 2005, your landscaper asked one of my staff landscape architects for permission (which was granted) to get access to your back yard across City property from the Tenney Beach parking lot. This did not allow material storage or any permission for improvements on park property.

You proceeded to landscape onto City property (with plants not on the historic Tenney Park Landscape Plan) without asking City permission. However, you now you think the City should have asked the Neighborhood Association, the DNR, the State Historical Society, and you as abutting landowner, for prior approval before planting on our own City property. We have a very good working relationship with the neighborhood and the Friends of the Yahara River Parkway, and we understand them quite well. They are being neighborly to you and they love the work you've done in restoring the house, but we have heard nothing but objection to your encroachment.

On April 19, 2006, I met with you to view the situation and explained that we would not allow any encroachments onto City property other than possibly the rain garden or other

landscaping that might be compatible with plans for Tenney Park. Later it was reported by a neighbor that your landscaper was digging some kind of a utility pit in the park near the rain garden. The boat dock materials that you had stored on City property were quickly removed, but the encroaching flagstones in the driveway and walkway were not.

I visited the property again (May 8, I believe) and discussed the encroachment with your landscaper, who still had apparently not received any word about the encroachments being a problem. With his help, we easily located the property line shown on the survey. You were not home at the time, but the discussion with the landscaper did not lead to any removal of encroachments nor were any plantings.

I understand that your concerns are mainly about landscaping and the landscape interface and maintenance with the park. You are right to be concerned about the city's ability to do maintenance. It is not difficult to observe the budget difficulties that we currently have. Certainly when you purchased the property it was obvious what level of maintenance we had provided. However, we are experiencing a rebirth of interest in our city parks, and more landscape and natural area maintenance has been done in Tenney in the last five years than in the previous 30. Much of this has been accomplished by the dedicated volunteers of the Friends of the Yahara River. We are also agreeable to volunteer maintenance by our abutting neighbors, as long as they do not claim our land or give the appearance that the land is private.

We have no desire to invite the public to your property line, but we also do not want it to be, or appear to be, private property. The historic landscape concept for Tenney Park is a natural landscape with primarily native plant materials. The maintenance that you propose would make it look more like private property. If you do not wish to view the park landscape, or the park level of maintenance, or the public park use, you are free to install a fence and landscaping of your choice on your property.

Regarding plan approvals, it is neither required nor common practice to have the extensive multi-agency review of the landscape plan that you have suggested. In retrospect, it would have been a good neighborly idea for us to involve you in our landscape planning for our city property adjacent to yours. Perhaps it also would have been appropriate for you to ask our approval for your landscape design before you installed it on our city property?

We are still open to your suggestions on how our plan can be more compatible and not interfere with your use and enjoyment of your property. Perhaps our park does need better drainage, and perhaps I should be insisting that you not direct your drainage into a rain garden that you have constructed on city property, and which I did not object to after the fact. We too want the bats to return, and we are confident that our natural landscaping plan for Tenney Park will benefit them and other wildlife.

At this point the cleanest and most permanent resolution of this issue would be to require you to remove all of your encroachment and reinstall the chain link fence that you removed from City property. Of course it should be installed correctly, on the property line. If it appears too time consuming to argue about who should pay for a fence, we may install it at City expense. A second alternative would be for you to install the fence of your choice on the property line. Installing a fence that encroaches on City property is not an option.

A third alternative, which I approach cautiously given the history so far, is to allow you to clearly mark the property line (a row of posts 20 feet apart?), then plant and maintain a landscape that meets our criteria for Tenney Park and does not allow any other encroachment. This will require a landscape design, installation and maintenance plan approved and signed off by the Park Superintendent.

I have offered several alternatives to resolve the problem. Please let me know which solution you wish to pursue and I will work out the details with you. You have 60 days from receipt of this notice to remove all of the encroachments from park property. Failure to do so will result in referral to the City Attorney's office for appropriate action. If you fail to correct these encroachments within 60 days as specified, the city shall perform the work and charge it to you as a special assessment on your taxes. If you wish to appeal this directive, you may appeal to the Park Commission, which meets the second Wednesday of every month. To be included on the agenda, we must receive a request from you ten days in advance of the meeting.

Sincerely,



Simon Widstrand  
Parks Development Manager

cc: Ald. Brenda Konkel  
Michael May, City Attorney  
James P. Morgan, Park Superintendent



**MICHAEL P. DRUHAN**

1252 Sherman Avenue Madison Wisconsin 53703-1722

Business: 608-241-3635 • Mobile: 240-426-1093 • Email: [michael@druhan.com](mailto:michael@druhan.com)

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15 May 2006

Simon Widstrand  
Department of Public Works  
City of Madison Parks Division  
Madison Municipal Building, Suite 120  
PO Box 2987  
Madison WI 53701-2987

Dear Simon

We would like to address some of the issues that you raised during your visit to our home two weeks ago as well as some additional concerns we have with the landscaping plan for Tenney Park. The principal issues are the boundary line between the park and our property, the plan for park maintenance, and comments on the landscaping plan.

**Boundary Line**

I think you are fairly familiar with the history of our house. It was built in 1930 by Adolf Kannenberg and his wife, Edna Kannenberg, lived in the house continuously from 1935 until her death in 2003. We purchased the house from her estate in March, 2004.

Sometime in the 1960s, Mrs. Kannenberg built a chain link fence to separate her property from the park. The fence was built on a line approximately 36 inches into the park property. The city, knowingly or not, permitted this fence for over forty years until we removed it in 2004. We had the property surveyed around that time and gave copies to all of the contractors including the landscaper. However, when the landscaping was actually done, the workers -- quite reasonably -- used the old fence line as the border.

We are asking the city permit us to continue to use the de facto lot line that has been in place for over sixty years. We would use this area only to complement our landscaping and have no intention of building on it. However, keeping in mind the potential problems inherent to urban parks, we would like to reserve the right to replace the fence along the same line that the Kannenbergs used, but we have no plans to build such a fence in the foreseeable future.

**Park Maintenance**

We are concerned that the new plantings in the park are giving the city a maintenance burden that it is not prepared to accept. This patch of park property parallel to the border and about 30 feet wide was essentially abandoned by the city decades ago. Leaves, sticks, trash, and exotic trees and shrubs

100-53999-2100-9001

eventually took over this area. Not only was this unsightly for both the Kannenbergs and park visitors, it attracted underage drinkers, drug users, and others who used the area for cover. Despite regular police calls over at least two decades, the city did nothing to reclaim this land and clean up the hazard.

Last fall, Ed Jepsen made an heroic and single-handed effort to clean this area and remove the dead and exotic trees. He was helped by a group of volunteers only on two Saturday mornings in late 2005 and early 2006. However, this was the only maintenance done on this section of Tenney Park in decades.

In consideration for allowing us to use the historical lot line, and because we have a mutual goal in having a safe and beautiful park, my wife and I will commit to maintaining this section of park land, extending about thirty feet from our lot line to the grassy area next to the parking lot. The maintenance we would do would be similar to that done on the right-of-way next to the street, and would include cutting grass, raking leaves and sticks, picking up trash, and feeding and watering the trees and shrubs.

#### **Landscaping Plan**

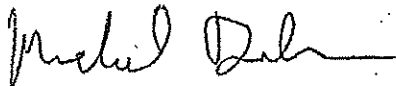
Now that we have seen it, we have some concerns with the landscaping plan beyond the maintenance. At a minimum, the plan should have been vetted with the immediate neighbors, with the Tenney-Lapham Neighborhood Association, the state Department of Natural Resources and the Wisconsin Historical Society before work began.

As it stands now, the plan makes no consideration for our adjoining property. While the previous situation was unsightly, it did provide a defined boundary and screen between the park and our property. Inexpensive changes to the plan could discourage park visitors from using our lawn and pier and give us more privacy. Similarly the plan does not fully address the needs of many park visitors. Some benches facing the parking lot and easier and safer access to the water are needed.

Finally, the plan should receive an historical and environmental review by the state and local authorities. Historically, we want the park to complement the award-winning restoration of the Kannenberg house. Environmentally, the park needs better drainage, and we are worried about a cohort of highly beneficial bats that failed to return this spring.

We appreciate this opportunity to respond to you and we look forward to your response.

Regards,



Michael P. Druhan