

Claudia Wouden
Elmer Smith
629 E. Blvd. N.

Re: Appealing notice of ordinance violation

In the fall of 2005 we contacted the City Ordinance Enforcement Department about a severe cactus problem on the corner of East Boulevard North and Madison. It is our belief that said corner is city property, a part of the boulevard, not an easement, nor the property of adjacent landowners.

However, we had mowed the corner several times per year since 1990. Now, due to mower damage caused by the cactus infestation, we felt the City of Rapid City should do its own mowing or, at a minimum, take care of the cactus problem.

The lady that we spoke to in the enforcement department stated that she would look into what could be done about the situation and get back to us. Two weeks later, we placed another call questioning what had been decided.

The gentleman we spoke with that time said that the city would do nothing as this was the responsibility of the property owners. Our contention was that the property owner is the City of Rapid City.

On approximately the 7th of June, 2006, we again contacted the city about their right-of-way. The ordinance officer, Tom ?, came out and inspected the property. On June 9, 2006 a violation notice was issued. Tom ? indicated that we were responsible for the entire corner.

We were also told at one point by a different city official that we were not responsible for the corner, just the portion that would become ours if the city vacated its right-of-way.

As there was a difference of opinion between the way the ordinance departments' interpretation and what we had been previously told, we filed an appeal with the building official as directed on the violation notice. That official was not certain when the board would meet, so we were asked to check the following day for the date and time of said meeting. When we checked, as asked, we were advised by that official that the meeting would be on June 21 at 7:00 a.m. When we arrived for that meeting, we were informed that we were on no one's agenda. In fact, no one there knew anything about said meeting.

At that point we contacted Mayor Jim Shaw, who directed us to the office of the City Attorney. We were informed that the attorney's had determined that the board with which we had been originally scheduled to meet did not have jurisdiction, and we were then given a new date of June 28 at 12.30 p.m. with a different board. We asked why we were not notified of the change and were told that they didn't know who we were. Our name and address was on the agenda for the 28th. Someone had to know. It has seemed all along that the right hand does not know what the left is doing.

Rapid City Geographic Information System



629 E. Blvd. N. shown with property line ~~shown~~ extended out to existing street. Property under appeal is circled in yellow.

Guy A. Martin
Roxann Chamberlain
15 Madison Street

Re: Appealing notice of ordinance violation

When we bought our property in April 2003 we tried to buy this piece of property and were told that it belonged to the City, it is Boulevard Easement so they wouldn't sell it. We were also turned down for a vacation of easement. At that time there was no mention that we would be responsible for the up keep on this lot. I called the Parks Department on Monday June 5 and asked if they could come mow it because of the weeds. The next thing we know Tom is out there looking at the property saying that someone had called and complained, (which was me) he proceeded to tell my husband that it was our responsibility to take care of this property.

When we attended the June 28th council meeting, Councilman Tom Johnson made a comment that the City would not take care of private property, "if the City does it for one person everyone will expect it". The said property is not private property, the City owns this property. City attorney Green also referred to the property as Right of Way, not easement, so which is it? They have two different meanings.

Right-of-Way: A legal right of passage over another person's ground

Easement: An interest in land owned by another that entitles its holder to a specific limited use or enjoyment

Neither of these definitions pertain to us. We do not need to have passage on this property to reach our property. And we have no interest in this land for use or enjoyment. No one could enjoy it with all the weeds and cactus in it.

Who is going to reimburse us for the wear and tear to our mowers and the gas to maintain this property? We were told that if we didn't take care of it the City would hire someone to take care of it and back bill us, but the City expects us to do it for nothing.

We would like to encourage each and everyone of you to bring your lawn mower from home and mow this piece of property and see how much damage is done to your mower, don't forget the trash bags for picking up all the trash and broken bottles that are left there by the foot traffic.

In the City ordinance 12.20.090 Parkways-Maintenance, Item A.1. says that the owner may prohibit pedestrian traffic thereon except on concrete sidewalks where concrete sidewalks exist. Item B, says no parkway shall be fenced or otherwise enclosed.

There are in fact concrete sidewalks on the two street sides of the property, yet pedestrians have worn a path through the middle of the corner lot and through the corner of our lot. If we are to maintain this property how do we prohibit people from walking through it? Why would we want to use this property for landscaping, gardens, etc. if we can not prohibit foot traffic on this property?

There is a tremendous amount of traffic that passes that corner daily back and forth to the Rushmore Mall, including tourists (our main source of industry), we know this for a fact as we have given directions to many tourists in the 3 years we have lived at this location. Maybe the City should consider this area greenway, because the people passing by this area do not know that the City requires property owners to maintain this property, it sure doesn't look good for the City for potential new businesses or industries, and people moving to the area when they are seeking potential new homes or locations for their businesses.

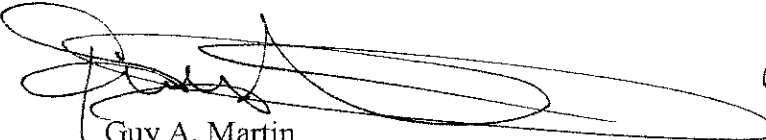
Maybe the City should use some of it's beautification money to put up one of the nice landscaped corners on that corner with wildflowers that do not require much maintenance.

The City employees that mow are only a half block away consisting of four houses (See Aerial A) from this property, it doesn't seem like to much to ask to have some help from the City to maintain this property, the mowers that are used by the City will not be affected by the infestation of cactus and weeds, these mowers are better built for these types of mowing situations than a mower that is used to mow lawns.


The greenway area that is mowed by the City is not kept within the 8" guide line around the tree bases, next to the guard rail, and there are a lot of Cottonwood and Chinese Elm saplings in said area. Which your Parkway Maintenance ordinance prohibits. (See Aerial B & C) Why do they mow part of the greenway and then stop at the hillside area on North Street and E. Blvd N. leaving long grass and weeds next to the sidewalk area? So does that mean that the City is in violation of its own ordinance? (See Aerial C)

The area along North Street behind the Journey Museum and abutting the property on the corner of 5th and North Street which is a new building housing Attorneys, it is full of weeds and grass over 8" and a tremendous amount of trees that have cropped up from seeds, Chinese Elm and shrubs, who is suppose to take care of that?

The houses facing E Blvd N don't have to be concerned with mowing the Blvd easement in front of their houses because they have been allowed to park there for years. So the maintenance of the corner lot falls on the owners 629 E Blvd N and 15 Madison Street. Our house at 15 Madison Street is not on the Blvd. so we feel that the people who live on the E Blvd N side should be responsible for the maintenance of the Blvd property, we already take care of a half of a City block of street side and alley Easement in front of and behind our house, which we knew we would have to maintain when we purchased our home. We have attached a copy of Fisk Engineering survey of our property and a copy of the aerials from the City Geographic information.



Guy A. Martin
15 Madison Street



Roxann Chamberlain
15 Madison Street

Rapid City Geographic Information System



— Easement already maintained by 15 Madison
Property in question

Aerial A

Pennington County - Rapid City GIS



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Area Mowed by City

Aerial B



- Hillside Area where city stops mowing
- Easement already maintained by 15 Madison

PROPERTY IN QUESTION

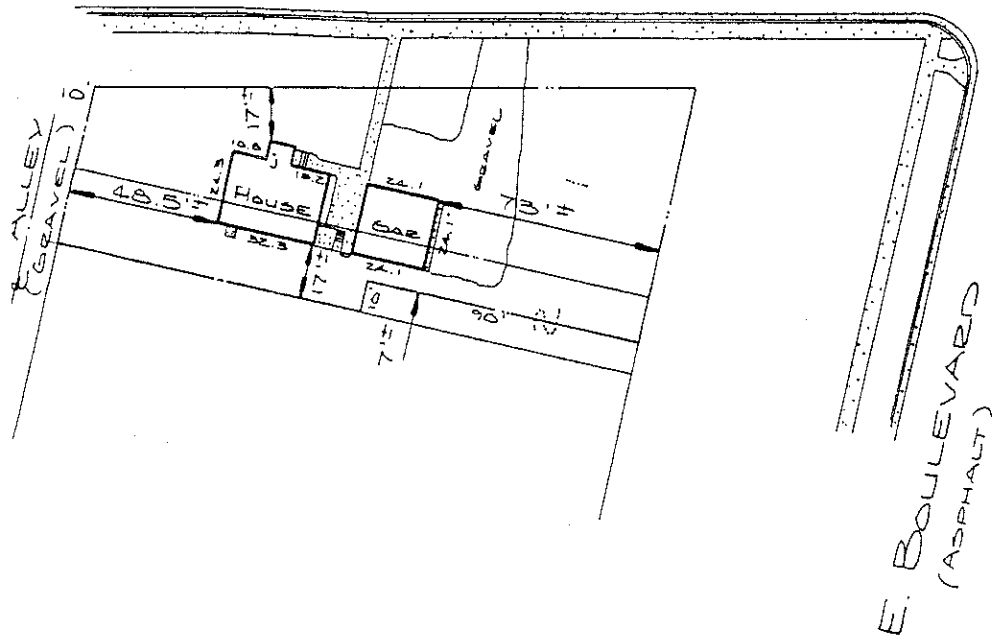
- Houses facing E BLVD N. - EASEMENT used for parking

Aerial C



1" = 40'

MADISON STREET (ASPHALT)



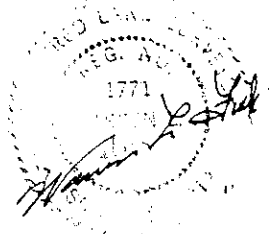
LEGAL: Lots 1 & 2, except the South 10' of the East 90' of Lot 2,

Block 2, Blake's Addition, Rapid City, South Dakota

CLIENT: Michael & Evelyn Poznanski - 15 Madison Street

Security Mortgage Corporation

I, the Registered Land Surveyor in the State of South Dakota as signed hereon, do hereby certify that this drawing was prepared by me or under my direct supervision. The boundary lines of the parcel of land shown and described hereon are the deed lines of the property as described on the record plat of said property. The location of the major improvements are geometrically calculated from the nearest reliable property corners. This is not a boundary survey and the precise property lines were not determined at the time of this survey. The dimensions to the deed lines are shown to the degree of accuracy required to satisfy the needs of a lending institution or title company and should not be used to establish the true boundary. Easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.



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right-of-way

One entry found for **right-of-way**.

Main Entry: **right-of-way** **n**)
 Pronunciation: "rIt-&(v) - 'wA
 Function: *noun*

Inflected Form(s): *plural rights-of-way also right-of-ways*

- 1** : a legal right of passage over another person's ground
- 2 a** : the area over which a right-of-way exists **b** : the strip of land over which is built a public road **c** : the land occupied by a railroad especially for its main line **d** : the land used by a public utility (as for a transmission line)
- 3 a** : a precedence in passing accorded to one vehicle over another by custom, decision, or statute **b** : the right of traffic to take precedence **c** : the right to take precedence over others <gave the bill the *right-of-way* in the Senate>

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Browse words in
right-of-way



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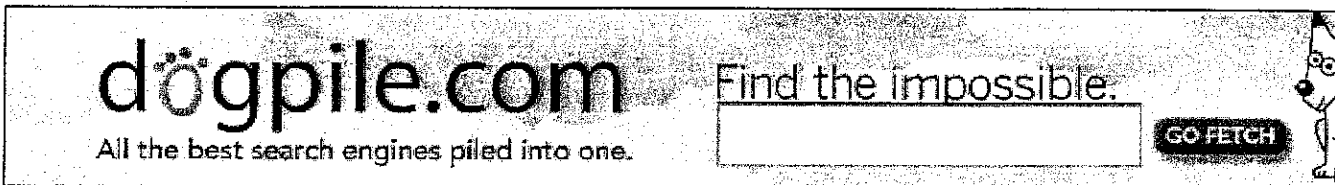
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easement

One entry found for **easement**.

Main Entry: **ease·ment** 

Pronunciation: 'Ez-m&nt

Function: *noun*

- 1 : an act or means of easing or relieving (as from discomfort)
- 2 : an interest in land owned by another that entitles its holder to a specific limited use or enjoyment; *also* : an area of land covered by an easement

Browse by letter

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Browse words near **easement**



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