

AGREEMENT

AGREEMENT, made this 17th day of November, 1952, between the MICHIGAN BELL TELEPHONE COMPANY, a Michigan corporation, and THE DETROIT EDISON COMPANY, a New York corporation, hereinafter called the LICENSORS, and the LENROE BUILDING COMPANY, a copartnership composed of Jack Rose and Emanuel Leonard, hereinafter called the LICENSEE.

WHEREAS, the Licensors are lawful users of a public easement right of way over, above, and across property east of and adjacent to Lot 33, Thomas Brothers Earlmont Subdivision, City of Oak Park, Michigan, said right of way being shown on the plat for said subdivision as recorded in Liber 17 of Plats, Page 13, Oakland County Records.

WHEREAS, the Licensee, without the consent of the said Licensors or the City of Oak Park, has encroached upon the said right of way by constructing a chimney in said right of way, said chimney being attached to a house which was built so that the easterly side thereof was on and adjacent to the easterly side of said Lot 33.

WHEREAS, the Licensee has now become aware of the superior rights of the Licensors, and is anxious to effect a satisfactory adjustment of the matter.

NOW, THEREFORE, it is understood and agreed as follows:

1. The Licensee recognizes and acknowledges the existence and validity of the above described public easement right of way, and that its use and occupation of said right of way is pursuant to and measured by this agreement, it being understood that the interest of said Licensee, whether past, present, or future, is and shall be deemed subordinate in law to the rights of the Licensors and the said City of Oak Park in said right of way.

2. The said Licensee agrees to indemnify and save harmless the Licensors and the City of Oak Park from any and all liability, loss, expense, or damage, for injury to persons or damage to property of (a) the Licensee, (b) the Licensors, their agents or employees, (c) the City of Oak Park, and (d) any other person or firm arising in any way directly or indirectly out of the risks created by the continuance of the above described encroachment, or any lesser type encroachment, whether or not such injury or damage is due to the negligence of the Licensors, or any other person, excepting only injury or damage arising solely from the negligence of the Licensors, their agents or employees.

3. The said Licensee agrees not to increase the present degree of encroachment, said chimney now extending sixteen (16) inches into the said right of way.

4. It is also agreed that the said Licensee shall pay the cost for any changes or rearrangements of the Licensors' poles, wires, cables, and associated fixtures requested made by the said Licensee. It is understood that such changes and/or

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rearrangements will not be made until said Licensee has paid to the said Licensors the estimated cost of such changes and/or rearrangements. In the event that the cost as finally determined varies from the estimated cost, an additional payment or a reimbursement will be made as the case may be.

5. This agreement shall run with the land and is hereby declared to be binding upon the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this agreement on the date first above written.

WITNESS:

Patricia H. Moskwa
Patricia H. Moskwa

Gerald J. Fitzgerald
Gerald J. Fitzgerald

MICHIGAN BELL TELEPHONE COMPANY

By David P. Stuart
David P. Stuart
Its: SUPERVISOR OF RIGHT-OF-WAY

THE DETROIT EDISON COMPANY

W. G. Hedder

By Richard H. Taylor
RICHARD H. TAYLOR
Its: DIRECTOR, RIGHTS OF WAY DEPT.

D. P. Stuart
D. P. Stuart
Paul L. Shryock
Paul L. Shryock

LENROE BUILDING COMPANY
Jack Rose
Jack Rose
By Emanuel Leonard
Emanuel Leonard

State of Michigan)
County of Wayne) SS

On this 17 day of November, 1952, before me, a notary public in and for said county, personally appeared David P. Stuart, to me personally known, who being by me sworn, did say that he is the Supervisor of Right of Way of the corporation named above, and that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and said David P. Stuart acknowledged said instrument to be the free act and deed of said corporation.

Gerald J. Fitzgerald
Notary Public, Wayne County, Michigan
Gerald J. Fitzgerald
Acting in Wayne County

My Commission Expires:
June 5, 1956

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State of Michigan)
County of Wayne) SS

On this 18th day of December, 1952, before me, a notary public in and for said county, personally appeared Richard H. Taylor, to me personally known, who being by me sworn, did say that he is the Manager, Rights of Way Department of the corporation named above, and ~~that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors,~~ and said Richard H. Taylor acknowledged said instrument to be the free act and deed of said corporation.

Raymond S. Holder
Notary Public, Wayne County, Michigan

My Commission Expires:
11-20-54

State of Michigan)
County of ~~Wayne~~) SS
Oakland

On this 17th day of November, 1952, before me, a notary public in and for said county, personally appeared Jack Rose and Emanuel Leonard, being all the partners in a co-partnership known as the Lenroe Building Company, to me personally known, who being by me sworn did say that they are the Licensee named in the above agreement and that the agreement was signed by them and that they have read and fully understand the terms of said agreement.

David P. Stuart
Notary Public, ~~Wayne~~ Oakland County, Michigan
David P. Stuart Oakland

My Commission Expires:
March 25 1955

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December 29, 1952

Mr. D. P. Stuart
Supervisor of Right-of-Way
520 Boulevard Building
7510 Woodward Avenue
Detroit 2, Michigan

Dear Sir:

Herewith are two (2) executed copies of the agreement covering a right-of-way in the City of Oak Park, Oakland County, Michigan, and signed for Michigan Bell Telephone Company, The Detroit Edison Company and the Lenroe Building Company.

We have retained one fully executed copy for our records.

Yours very truly,

Supervisor
Rights-of-Way Procurement

L.G. Hedden:jm
Encl.

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THE DETROIT EDISON COMPANY

INTERDEPARTMENT CORRESPONDENCE
Legal Department

December 11, 1952

MEMORANDUM TO:

Mr. L. G. Hedden
Rights of Way Department
300 General Offices

Re: Easement encroachment - Lot 33, Earlmont
Subdivision, Oak Park, Michigan

The plat wherein this easement is located dedicates all alleys and streets to the use of the public. On January 3, 1949 this alley was vacated by the City of Oak Park reserving, however, to the City of Oak Park the right to use any and all of said alley for any and all municipal purposes the same as if alley were never vacated.

Thus, the proper party to any agreement or for any action would be the City of Oak Park. Since the City of Oak Park reserves the right to use any and all of said alley for municipal purposes adverse possession may not run upon this easement. No possible purpose could be served by having The Detroit Edison Company a party to any agreement permitting an encroachment upon this easement.


Keith L. Roach

KLR:mf

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