
ARNSTEIN & LEHR LLP

Accomplished lawyers who understand your goals.

BUT...
IT'S ONLY AN EASEMENT

IRWA-Chapter 12

Legal Symposium - April 20, 2016

JOANNE F. FEHN

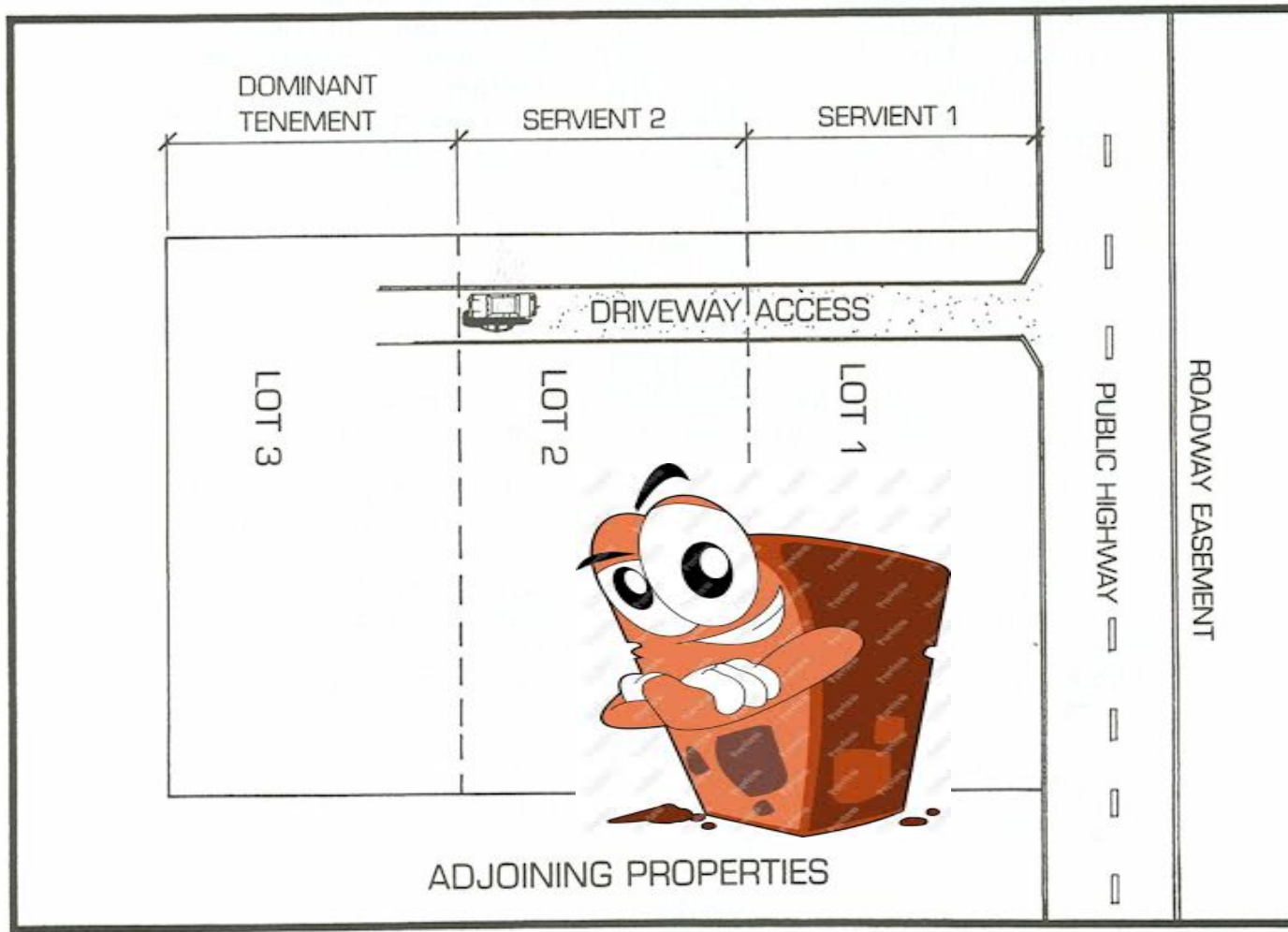
Attorney
Arnstein & Lehr LLP

Meet Mr. Brick

**Mr. Brick =
Weight
Burden
Encumbrance**



DOMINANT AND SERVIENT ESTATES



CREATION

- **Express or Implied**
 - ❖ **Deed**
 - ❖ **Easement Agreement**
 - ❖ **Plat of Subdivision**

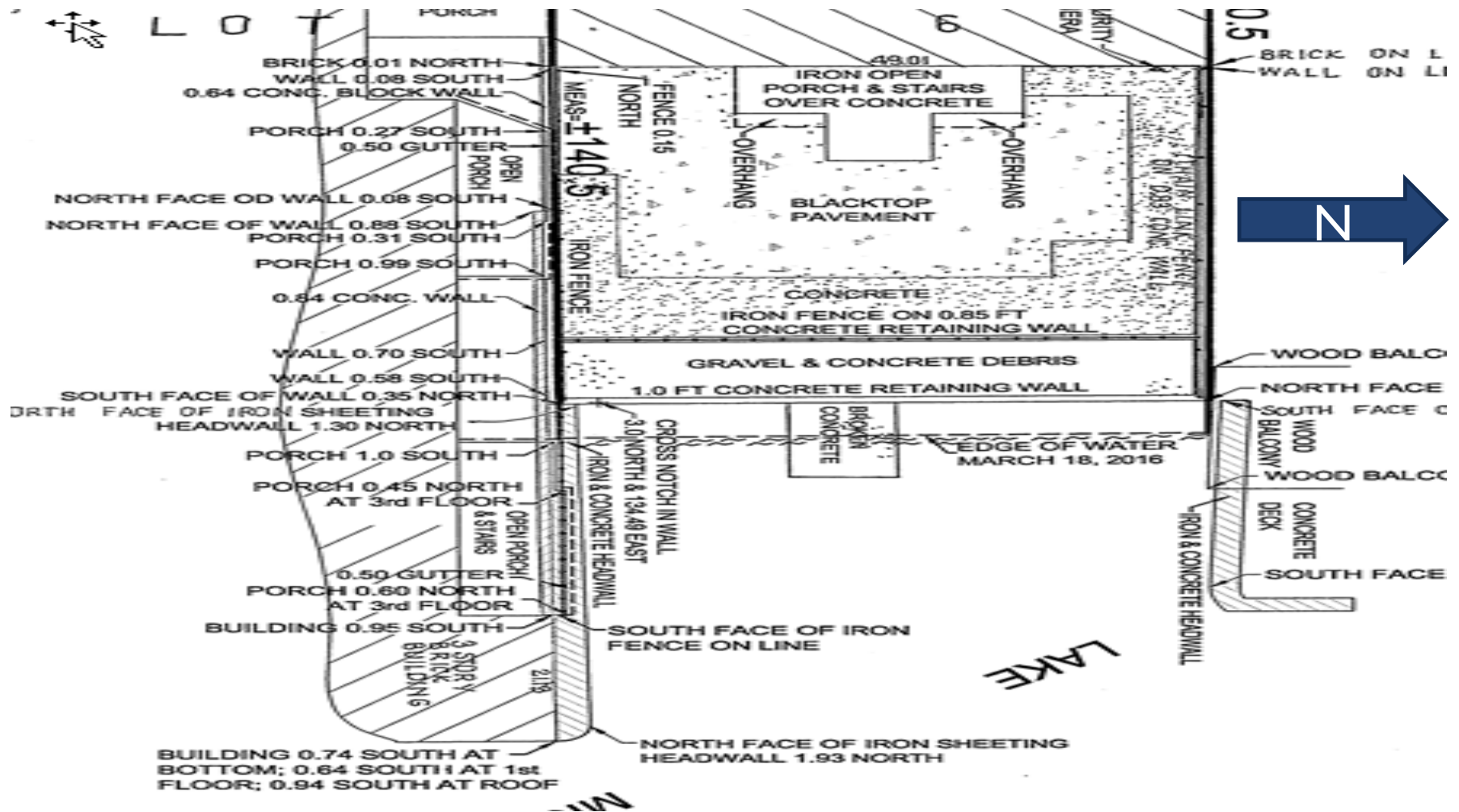
PLAT OF SUBDIVISION

PUBLIC UTILITY AND DRAINAGE EASEMENT PROVISIONS
UTILITY AND DRAINAGE EASEMENTS ARE HEREBY RESERVED FOR THE LASALLE NATIONAL BANK, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 29, 1985 AND KNOWN AS TRUST NUMBER 110154, ITS SUCESSORS AND ASSIGNS, AND GRANTED TO THE VILLAGE OF GLENDALE HEIGHTS, AND ILLINOIS MUNICIPAL CORPORTATION, IN DUPAGE COUNTY, ILLINOIS, ("GRANTEE") AND TO THOSE PUBLIC UTILITY COMPANIES OPERATING UNDER FRANCHISE FROM THE GRANTEE, INCLUDING, BUT NOT LIMITED TO COMMONWEALTH EDISON COMPANY, ILLINOIS BELL TELEPHONE COMPANY, NORTHERN ILLINOIS GAS COMPANY, AND THEIR SUCCESSORS AND ASSIGNS OVER, UPON, ALONG, UNDER AND THROUGH ALL AREAS MARKED "PUBLIC UTILITY AND DRAINAGE EASEMENT" ON THE PLAT FOR THE PERPETUAL RIGHT, PRIVILEGE AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, REPAIR, INSPECT, MAINTAIN AND OPERATE VARIOUS UNDERGROUND UTILITY TRANSMISSIONS AND WITH ANY AND ALL NECESSARY MANHOLES, CATCH BASINS, CONNECTION APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY GRANTEE AND ALSO THE CONVEYANCE OF STORM SYSTEMS OVER, UPON, ALONG, UNDER AND THROUGH SAID EASEMENT, TOGETHER WITH RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO PERFORM ANY OF THE ABOVE WORK.



THE RIGHT IS ALSO GRANTED TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS, OR OTHER PLANTS ON THE EASEMENT THAT INTERFERE WITH THE OPERATION OF THE SEWERS, UTILITIES OR THE CONVEYANCES OF STORM WATERS. NO PERMANENT BUILDINGS SHALL BE PLACED IN SAID EASEMENT, BUT SAME MAY BE USED FOR GARDENS, BHRUBS, LANDSCAPING, HARD SURFACED DRIVEWAYS, AISLES AND PARKING AREAS AND SUCH OTHER PURPOSES AND IMPROVEMENTS THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS, WHERE AND EASEMENT IS USED BOTH FOR SEWER AND OTHER UTILITIES, THE OTHER UTILITY INSTALLATION SHALL BE SUBJECT TO THE APPROVAL OF THE GRANTEE AS TO DESIGN AND LOCATION; ALL INSTALLATIONS ARE SUBJECT TO THE ORDINANCES OF THE GRANTEE. GRANTEE SHALL BE RESPONSIBLE FOR BACKFILLING AND GRADING ANY TRENCHES EXCAVATED IN THE COURSE OF INSATLLING, REPAIRING, MAINTAINING, AND OPERATING SAID UTILITY SYSTEMS BUT GRANTEE SHALL NOT BE REQUIRED TO RESTORE OR REPLACE PAVEMENTS, CURBING, WALKWASY OR LANDSCAPING IMPROVEMENTS DISTURBED IN THE PERFORMANCE OF SAID ACIVITIES.

PRESCRIPTION



NECESSITY



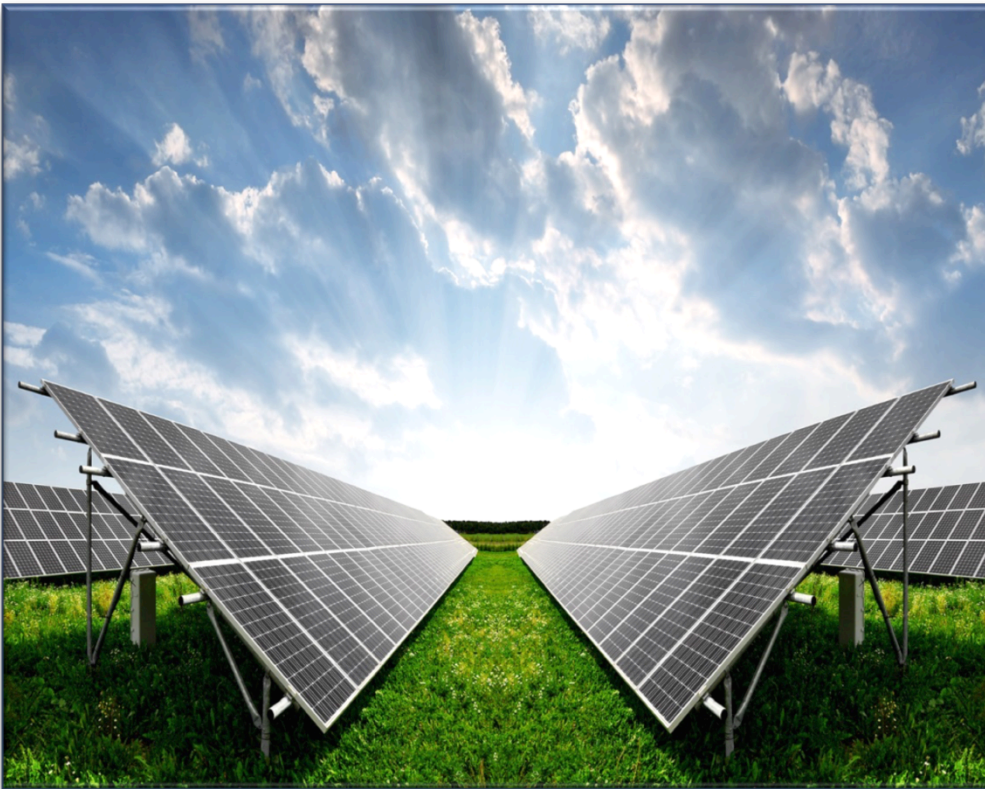
TYPES OF EASEMENTS

- **MANY TYPES**
- **Temporary Construction Easements**
- **Permanent Easements**
- **Utility Easements**
- **Ingress and Egress**



LET THE SUNSHINE

Solar Easements



TERMINATION

RELEASE

MERGER

ABANDONMENT

PLANNING – ROW PROCESS

**Easements have to be acquired
Often only an after thought
Oh... But... It's Only an Easement**

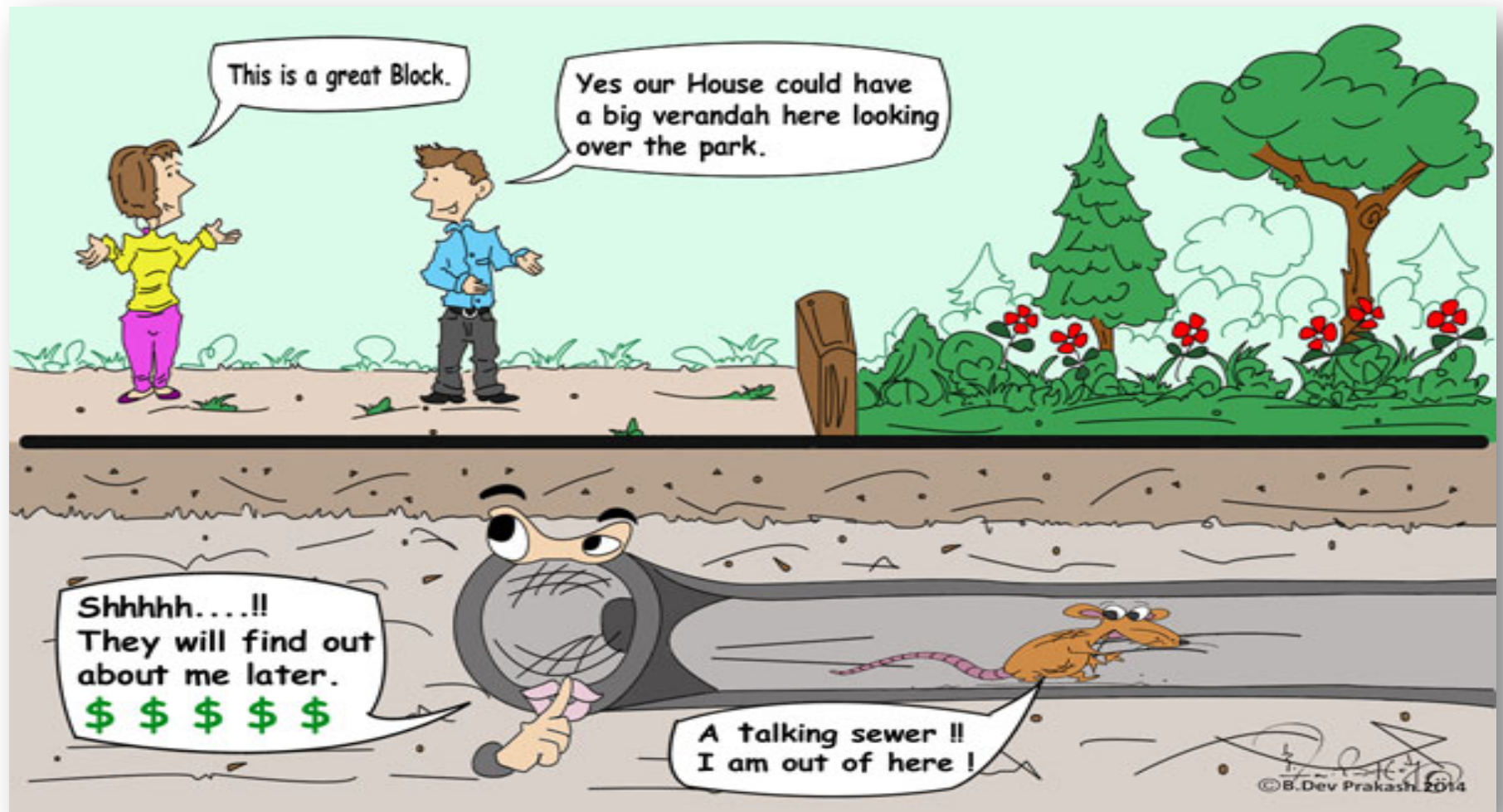
USE

- ☐ Marlatt v Peoria Water Works Co.
- ☐ Water services was not clearly included
- ☐ Limit on use and scope of Easement
- ☐ Unable to construct water main

OVER WHAT



PIPELINES



TRANSMISSION



Border Wire Zone Border

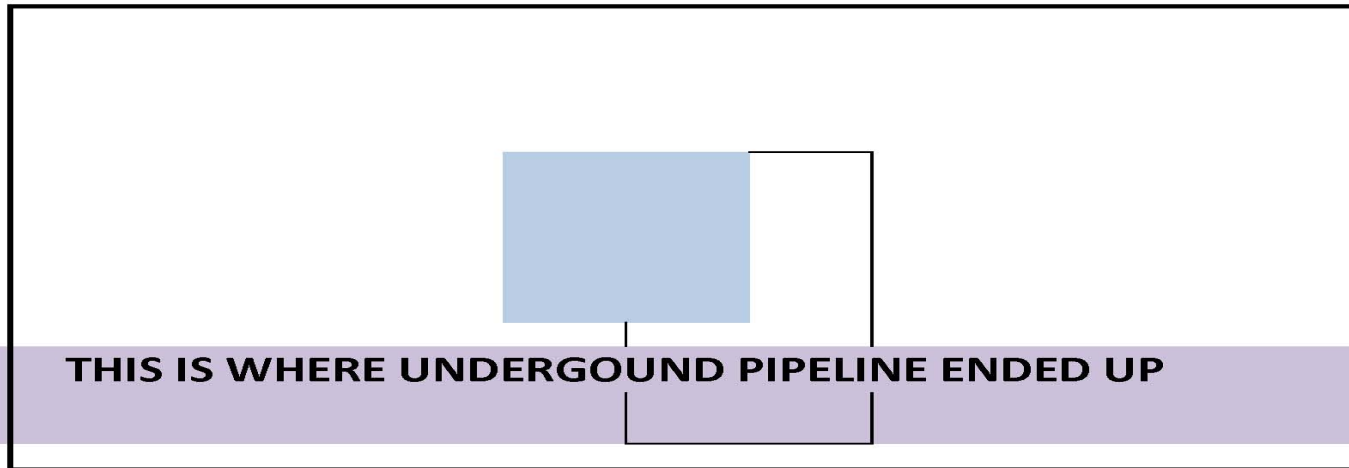


WT *



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OOPS THERE IT IS



THIS IS WHERE UNDERGROUND PIPELINE SHOULD HAVE BEEN

ARNSTEIN & LEHR LLP

Accomplished lawyers who understand your goals.

THANK YOU

JOANNE F. FEHN

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