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AIR RIGHTS AND ACCESS EASEMENT AGREEMENT

96824255

THIS AIR RIGHTS AND ACCESS EASEMENT AGREEMENT ("Agreement") is made as of this 7th day of APRIL, 1995, by and between ILLINOIS BELL TELEPHONE ("IBT"), CONTINENTAL CABLEVISION ("Continental"), AT&T ("AT&T"), and the VILLAGE OF PALATINE ("Palatine") (IBT, Continental, AT&T, and Palatine collectively referred to as "Utilities"), and MORGAN'S GATE HOMEOWNERS ASSOCIATION ("Morgan").

The following recitals of facts are a material part of this Agreement:

A. Leo Cassidy and Patricia Cassidy ("Cassidy") are the holders of legal title to a certain parcel of land in the Village of Palatine ("Village"), County of Cook and State of Illinois which is legally described on Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Parcel");

B. Utilities have easement rights in the Parcel ("Utility Easement");

C. Morgan intends to install and maintain a sign ("Sign") at the Parcel, and Cassidy has granted Morgan an easement to install and maintain the sign;

D. Utilities wish to grant and Morgan wishes to receive an air rights easement to maintain a sign above the Utility Easement;

E. Utilities wish to grant and Morgan wishes to receive an easement for ingress and egress over, upon and across a certain portion of the Utility Easement for the benefit of the Parcel, all as more fully set forth below;

F. The parties wish to make certain agreements regarding such easement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

SECTION 1. AIR RIGHTS EASEMENT. Utilities hereby grant, give and convey to Morgan, and its successors and assigns, a non-exclusive, irrevocable and perpetual easement to maintain a sign in an area above the Utility Easement.

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DEPT-01 RECORDING 455.00
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48984 CG *96-824255
COOK COUNTY RECORDER
DEPT-10 PENALTY 452.00

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SECTION 2. INGRESS AND EGRESS EASEMENT. Utilities hereby grant, give and convey to Morgan, and its successors and assigns, a non-exclusive, irrevocable and perpetual easement for ingress and egress over, upon and across the Utility Easement to provide access to the Sign.

SECTION 3. CONSTRUCTION AND MAINTENANCE. Morgan shall, at its own cost and expense, construct and maintain the Sign and keep the same in a clean, sightly, safe, unobstructed, good and usable condition. Morgan shall comply with any and all applicable federal, state and local zoning and other ordinances, statutes, guidelines, requirements and regulations.

SECTION 4. INDEMNITY. Morgan hereby expressly agrees to defend, hold harmless and indemnify Utilities from and against any and all claims, costs, damages and expenses, judgment, and liability resulting from the acts and work performed by Morgan pursuant to this Agreement, except if caused by Utilities. The Utilities, or any of them, shall not be liable for any damage to the Sign, except if caused by the gross negligence of Utilities, or any of them.

SECTION 5. COVENANTS RUNNING WITH THE LAND. All provisions of this Agreement, including the benefits and burdens set forth herein, shall run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

SECTION 6. INTERPRETATION. The rule of strict construction does not apply to the grants herein. The grants herein shall be given a reasonable construction to carry out the intention of the parties hereto confer a commercially usable right of enjoyment of each grantee.

SECTION 7. COUNTERPARTS. This Agreement may be executed in mutiple counterparts, which together shall be deemed one Agreement.

MORGAN'S GATE HOMEOWNERS ASSOCIATION

By: Paul R. Ryske
Its: PRESIDENT

~~COMMONWEALTH EDISON~~

By: _____
Its: _____

~~NORTHERN ILLINOIS GAS~~

By: _____
Its: _____

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ILLINOIS BELL TELEPHONE

By: _____
Its: _____

AT&T

By: _____
Its: _____

~~MCI~~

By: _____
Its: _____

~~NORTHWEST WATER COMMISSION~~

By: _____
Its: _____

~~WATER RECLAMATION DISTRICT~~

By: _____
Its: _____

VILLAGE OF PALATINE

By: [Signature]
Its: Village President

CONTINENTAL CABLEVISION

By: _____
Its: _____

This instrument was prepared by and after recording should be returned to:

Richard L. Gayle, Esq.
ROBBINS, SALOMON & PATT, LTD.
25 East Washington St., Suite 1000
Chicago, Illinois 60602
(312) 782-9000

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ILLINOIS BELL TELEPHONE

By: James J. Roland
Its: ENGINEER - RIGHT OF WAY

AT&T

By: _____
Its: _____

~~MCI~~

By: _____
Its: _____

~~NORTHWEST WATER COMMISSION~~

By: _____
Its: _____

~~WATER RECLAMATION DISTRICT~~

By: _____
Its: _____

VILLAGE OF PALATINE

By: _____
Its: _____

CONTINENTAL CABLEVISION

By: _____
Its: _____

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Richard L. Gayle, Esq.
ROBBINS, SALOMON & PATT, LTD.
25 East Washington St., Suite 1000
Chicago, Illinois 60602
(312) 782-9000

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ILLINOIS BELL TELEPHONE

By: _____
Its: _____

AT&T

By: _____
Its: _____

~~MCI~~

By: _____
Its: _____

~~NORTHWEST WATER COMMISSION~~

By: _____
Its: _____

~~WATER RECLAMATION DISTRICT~~

By: _____
Its: _____

VILLAGE OF PALATINE

By: _____
Its: _____

CONTINENTAL CABLEVISION

By: John R. [Signature]
Its: ROW ENGINEER

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ROBBINS, SALOMON & PATT, LTD.
25 East Washington St., Suite 1000
Chicago, Illinois 60602
(312) 782-9000

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ILLINOIS BELL TELEPHONE

By: _____
Its: _____

AT&T

By: Ellie G. Watson
Its: District Manager

APPROVED AS TO
FORM ONLY
RD
9-25-95
AT&T LAW DIVISION
SOUTHERN REGION

~~MCI~~

~~By: _____
Its: _____~~

~~NORTHWEST WATER COMMISSION~~

~~By: _____
Its: _____~~

~~WATER RECLAMATION DISTRICT~~

~~By: _____
Its: _____~~

VILLAGE OF PALATINE

By: _____
Its: _____

CONTINENTAL CABLEVISION

By: _____
Its: _____

This instrument was prepared by and after recording should be returned to:

Richard L. Gayle, Esq.
ROBBINS, SALOMON & PATT, LTD.
25 East Washington St., Suite 1000
Chicago, Illinois 60602
(312) 782-9000

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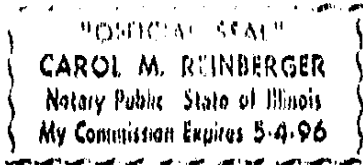
State of Illinois)
County of Cook)

I, the undersigned, a Notary Public in and for the County in the State aforesaid, do hereby certify that PAUL R. RYSKE, the PRESIDENT of MORGAN'S GATE HOMEOWNERS ASSOCIATION, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such PRESIDENT, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said Association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 7th day of APRIL, 1995.

Carol M Reinberger
NOTARY PUBLIC

My commission expires: 5-4-96



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2025-01-14 10:00 AM

UNOFFICIAL COPY

State of Illinois)
) SS
County of ~~Cook~~)
 Lake

I, Karen L. Durrant a Notary Public in and for said County and State, do hereby certify that JAMES I. ROLAND and _____, respectively of _____ and _____, respectively of ILLINOIS BELL TELEPHONE, as such ENGINEER - RIGHT OF WAY, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 17th day of NOVEMBER, 1995.

Karen L. Durrant
NOTARY PUBLIC

My commission expires: 4/18/98

"OFFICIAL SEAL"
KAREN L. DURRANT
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4/18/98

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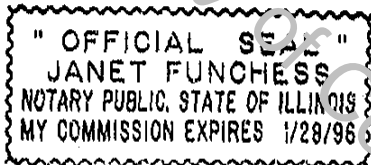
2025/08/27

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State of Illinois)
) ss
 DUPAGE)
County of Cook)

I, JANET FUNCHESS, a Notary Public in and for said County and State, do hereby certify that JAMES K. HERRON and _____, respectively of _____ and _____, respectively of CONTINENTAL CABLEVISION, as such R.D.W. ENGINEER and _____ appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20TH day of September, 1995.



Janet Funchess
NOTARY PUBLIC

My commission expires: 1/28/96

COOK County Clerk's Office

95824255

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State of Illinois)
) ss
County of Cook)

I, Vicki E. Davis, a Notary Public in and for said County and State, do hereby certify that ELLIE G. WATSON and _____, respectively of AT&T, as such DISTRICT MANAGER and _____, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29th day of September, 1995.

Vicki E. Davis
NOTARY PUBLIC VICKI E. DAVIS

My commission expires: 6/9/98

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CONSENT OF MORTGAGEE

Banc One Mortgage Corporation, organized and existing under the laws of the State of Delaware, holder of Mortgage dated March 9, 1994, and recorded March 15, 1994, as Document Number 94-232063, covering the Parcel, hereby consents to the execution and recording of the within Air Rights and Access Agreement and agrees that said Mortgage is subject and subordinate thereto.

IN WITNESS WHEREOF, the Bank has caused this instrument to be signed by its duly authorized officers on its behalf at Indianapolis, Indiana, Illinois on this 20 day of September, 1996.

By: Veronica M. Tharp
Its: VERONICA M. THARP, VICE PRESIDENT



ATTEST:

By: Veronica M. Tharp
Its: _____

State of Illinois)
County of Cook) SS

I, Arthur J. Lee, a Notary Public in and for said County and State, do hereby certify that Veronica M. Tharp and _____, respectively of Banc One Mortgage Corporation, as such Vice President and _____, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20 day of September, 1996.

Arthur J. Lee
NOTARY PUBLIC

My commission expires: _____

C-4896-1
NO 03/936



BARBARA J. LEE
NOTARY PUBLIC, STATE OF INDIANA
MY COMMISSION EXPIRES FEBRUARY 22, 1998

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CONSENT OF PARCEL OWNER

Leo Cassidy and Patricia Cassidy, the owners of the Parcel, hereby consent to the execution and recording of the within Air Rights and Access Easement Agreement ("Agreement"), and consent to the terms of the Agreement.

Leo B. Cassidy
Leo Cassidy

Patricia Cassidy
Patricia Cassidy

Property of Cook County Clerk's Office

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Property of Cook County Clerk's Office



Northern Region Headquarters
September 6, 1995

Mr. Barry Glazer
Robbins, Salomon & Patt, Ltd.
Suite 1000
25 East Washington Street
Chicago, Illinois 60602

RE: Utility Easement Encroachment with a sign at:
Dundee and Arbor Lane (1329 North Arbor Lane)
Palatine, Illinois
NWA-95-0724

Dear Mr. Glazer:

In response to your letter dated August 23, 1995, please be advised that ComEd cannot grant an encroachment into the twelve (12) foot utility easement along the northerly side of the property legally described as follows:

LOT 71 IN MORGAN'S GATE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 8, AND THE SOUTHWEST QUARTER OF SECTION 9, ALL IN TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 3, 1987, AS DOCUMENT #87425912, IN COOK COUNTY, ILLINOIS.

Permission cannot be granted due to the location of existing underground primary and secondary cables. These cables provide electrical service to the surrounding area. A sign encroaching into this easement could not only cause a potential safety hazard it could also encumber maintenance, repair and replacement of electrical cable.

In reviewing the drawing of the sign, I am unable to determine exactly how this sign can overhang without posts being put into the easement.

ComEd will, however, grant an overhang only encroachment into the southerly six (6) feet of the westerly thirty (30) feet of the twelve (12) foot utility easement along the northerly side of the property legally described above.

Please be advised that this is an overhang easement encroachment only. No digging or structures of any kind can be installed into this twelve foot utility easement.

Should you wish to contact me, I can be reached at (708) 816-5251.

Respectfully,

Diane L. Fielding
Field Agent
Northern Regional Engineering

DLF\cp

DF0830-1

A Unicom Company

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1844 Harry Road
Naperville, IL 60563-9600
708 983-8888

Mailing Address:
P.O. Box 190
Aurora, IL 60507-0190

Northern Illinois Gas

August 31, 1995

Subject: Execution of Air Rights Easement
Morgan's Gate Homeowner's Association
Dundee and Arbor Lane, Palatine, IL

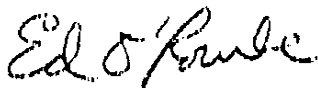
To Whom It May Concern:

This letter is sent in response to your recent inquiry regarding your proposed construction within the air space above the utility easement lying in the following described property:

Lot 71 in Morgan's Gate Subdivision, being a Subdivision of part of the Northeast Quarter and the Southeast Quarter of Section 8, and the Southwest Quarter of Section 9, all in Township 42 North, Range 10 East of the Third Principal Meridian, according to the Plat thereof recorded August 3, 1987, as Document No. 87425912, in Cook County, Illinois.

Northern Illinois Gas Company has no objection to the proposed construction within the air space above the utility easement. However, this is not a release or waiver of any rights NI-Gas may have in or to the utility easement. Further, any future expense NI-Gas may incur in exercising its rights in the utility easement shall be borne by the property owner.

Very truly yours,



Ed O'Rourke
General Real Estate Agent

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MCI Telecommunications
Corporation

2400 N. Glenville Drive
Richardson, TX 75082

MCI

November 17, 1995

Barry Glazer
Robbins, Salomon & Patt, Ltd.
25 East Washington Street
Chicago, IL 60602

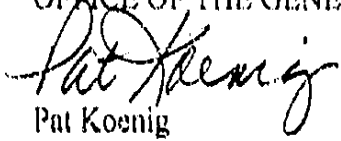
Re: Execution of Air Rights Easement
Morgan's Gate Homeowner's Association
Dundee and Arbor Lane, Palatine, IL

Dear Mr. Glazer:

MCI has reviewed the Air Rights and Access Easement Agreement located in the Village of Palatine, County of Cook, State of Illinois. It has come to the conclusion that MCI has no interest in this easement. Therefore, we cannot execute the above-referenced easement. If you have any questions, please feel free to call me at 214/918-6859.

Sincerely,

OFFICE OF THE GENERAL COUNSEL


Pat Koenig
Real Estate Administrator

95824255

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NORTHWEST WATER COMMISSION
525 North Wolf Road
Des Plaines, Illinois 60016
TEL 708-635-0777
FAX 708-635-9244



COMMISSION MEMBERS
Villages of:
Arlington Heights
Buffalo Grove
Palatine
Wheeling

September 5, 1995

Ms. Jerrie Gayle
Robbins, Salmon & Patt
25 East Washington St.
Suite 1000
Chicago, Illinois 60602

RE: Morgan's Gate Homeowner's Association
Air Rights Easement

Dear Ms. Gayle:

This letter will officially inform your firm that the Northwest Water Commission has no easement rights in the above mentioned area. If you have additional questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "P. Stephen Sturgell".

P. Stephen Sturgell
Executive Director

gm

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Metropolitan Water Reclamation District of Greater Chicago

100 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2003 312/751-6600

Chairman of Finance
Frank B. Gardner
Joseph B. Gardner
Terrence J. O'Brien
Nancy Drew Sheehan
Patricia Young
Harry "Bue" Yourell

Michael Rosenberg
Attorney
312/751-6505

November 16, 1995

Mr. Barry Glazer
Robbins, Salomon & Patti
25 East Washington, Suite 1000
Chicago, Illinois 60602

Re: Air Rights Easement Agreement
Morgan's Gate Homeowner's Association
Our File No. 95 B 035

Dear Mr. Glazer:

In response to your letter dated August 23, 1995, the request was reviewed by the District's Engineering Department, and no easement of record was found in the subject area.

The District, therefore, has no objection to the construction as proposed, so long as access to the right of way for legitimate business purposes is not limited as a result of the positioning of the proposed sign.

Very truly yours,

Frederick M. Feldman
Head Assistant Attorney

JMB
FMF:JMB:smd

10455

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EXHIBIT A

LEGAL DESCRIPTION - PARCEL

LOT 71 IN MORGAN'S GATE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 8, AND THE SOUTHWEST QUARTER OF SECTION 9, ALL IN TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 3, 1987, AS DOCUMENT #87425912, IN COOK COUNTY, ILLINOIS.

Common Address: 1329 Arbor Lane, Palatine, Illinois

P.I.N. 02-08-206-016-0000

AFTER RECORDING, RETURN TO:

RICHARD L. GAYLE, ESQ.
ROBBINS, SALOMON & PATT, LTD.
25 E. WASHINGTON ST., SUITE 1000
CHICAGO, IL 60602

95824255

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Approved 8/10/87

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2025-01-24