

COPY

State of Illinois

Illinois Commerce Commission

City of Park Ridge
Petitioner

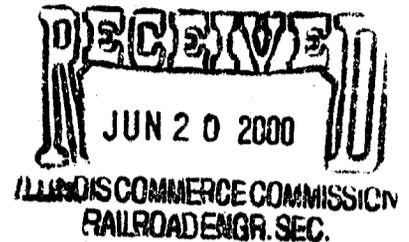
T00-0053

vs.

~~T98 xxx~~

Union Pacific Railroad
Respondent

Petition of the (municipality) for an Order approving
A beautification plan as being in compliance with the
requirements of 92 Ill.Adm.Code 1535.205 on the (Rail
Carrier) right-of-way within 500 feet of the crossings
Of the (Rail Carrier's) tracks with the following streets
And highways:



Petition

Now comes the (City) of Park Ridge (Petitioner), and respectfully petitions the Illinois
Commerce Commission (Commission) as follows:

1. Petitioner is a municipal corporation in the United States of Illinois.
2. The (Union Pacific Railroad) (Respondent) is a registered rail carrier operating in the State of Illinois.
3. Petitioner has planted or intends to plant a variety of bushes, shrubbery, trees and other decorative vegetation upon Respondent's right-of-way within 500 feet of the at-grade crossing of Respondent's tracks and street(s) or highway(s) as shown on a scale drawing attached as Exhibit A. These plantings have been or will be installed pursuant to a lease entered into between Petitioner and Respondent to assure that Respondent's right-of-way in this area does not become unsightly, and the plantings enhance the aesthetics of the commuter station (or other applicable areas) in the municipality.
4. The grade crossings described in paragraph (3) each have automatic flashing light signals and gates approved by the Commission to warn motorists of trains approaching or occupying the crossings.
5. Respondent has alleged that certain of the plantings may be in violation of 625 ILCS 5/18c-7401(3) and 92 Ill.Adm.Code 1535.205, both dealing with obstructions at crossings.

DOCKETED

6. On May 13, 1998, representatives of Petitioner, Respondent, and the Commission staff (staff) inspected the above-mentioned crossings to determine whether, and if so, which plantings should be trimmed or removed to comply with the spirit and intent of the law and Commission rule cited in paragraph 5. Attached, as Exhibit B is a letter from Respondent outlining a proposal detailing planting and maintenance requirements that is acceptable to Petitioner and Respondent.
7. Commission Staff has recommended further and additional trimming or removing of plantings for a distance of 500 feet from the crossings so that a motorist stopped at the stop bar or at the automatic flashing light signals and gates if there is no stop bar has an unobstructed view of approaching trains. This sight line would be established from a point where a motorist is positioned in the vehicle (approximately 9 feet back from the stop bar or automatic flashing light signal and gate) to a point on the near rail 500 feet from the near edge of the crossing. Petitioner has studied its beautification plan and determined that any additional trimming or removing of plantings to accomplish this view would be minimal and therefore has no objection to staff's proposal.
8. Petitioner requests that its Exhibit A beautification plan, as modified by the recommendations, if any, made by staff, be approved by the commission as complying with the requirements of 92 Ill.Adm.Code 1535.205, and agrees to maintain the plantings in such a manner as to ensure that the view of approaching trains to travelers on the highway does not become materially obscured.
9. Petitioner understands that it is responsible for notifying the Commission of any change in the condition of the plantings and crossings which are subject of this proceeding which could have an adverse affect on the view of approaching trains to travelers on the highway at such crossings.
10. Petitioner request that the relief sought in this Petition be granted without hearing.

Respectfully Submitted:

By: 
Timothy W. Schuenke

Title: City Manager

ATTACHMENT/EXHIBIT

**ITEM TOO LARGE TO SCAN
COPY AVAILABLE FROM FORMAL FILE**

UNION PACIFIC RAILROAD COMPANY

Real Estate Department

R. D. Uhrich
Assistant Vice President
J. A. Anthony
Director-Contracts
D. D. Brown
Director-Real Estate
M. W. Casey
General Director-Special Properties
J. P. Gade
Director-Facility Management



1800 Farnam Street
Omaha, Nebraska 68102
Fax: (402) 997-3601

J. L. Hawkins
Director-Operations Support
M. E. Heenan
Director-Administration & Budgets
D. H. Lightwine
Director-Real Estate
T. K. Love
Director-Real Estate

JUN 12 2000

Folder No. 1889-31

JOHN D. MORELL
CITY OF PARK RIDGE
505 BUTLER PLACE
PARK RIDGE, IL 60068

Dear Mr. Morell:

RE: Lease Covering Beautification of Railroad Property at Park Ridge, Illinois

Attached for your permanent record is a fully executed original of the above-referenced Lease.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. **Prior to digging on the Railroad's property you must contact the Railroad Company at 1-800-336-9193 to determine if this property contains fiber optic cable.** In any event, you should thoroughly review the terms and conditions of this Lease.

In compliance with the Internal Revenue Service's policy regarding Form 1099, this is to advise you that 94-6001323 is Union Pacific Railroad Company's Federal Taxpayer Identification Number and we are doing business as a corporation.

Sincerely yours,

Jim Harrel
Senior Manager - Real Estate
(402) 997-3557

CC: Tom Zapler
Rick Sturm

**RAILROAD RIGHT-OF-WAY
LANDSCAPE BEAUTIFICATION LEASE**

AUDIT 215733

UNION PACIFIC RAILROAD COMPANY (hereinafter called "~~Company~~") hereby leases to the ~~CITY OF PARK RIDGE, COOK COUNTY,~~ ILLINOIS (hereinafter called "Lessee") to use for planting, pruning and otherwise maintaining landscaping ("Landscape Beautification") the entire Union Pacific right-of-way in Park Ridge, Illinois, subject to the express terms and conditions of this Lease, the Specifications (the "Specifications") attached hereto as Exhibit A and hereby made a part hereof, and a Landscape Beautification Plan attached hereto as Exhibit B and hereby made a part hereof (the "Premises"). This Lease (the "Lease") shall become effective May 1, 2000 and shall run for a period of one year and thereafter unless terminated as hereinafter provided.

Lessee agrees to pay Company as rent for the Premises the sum of TEN AND NO/100 DOLLARS (\$10.00) per year payable annually in advance. Nothing herein shall limit or modify the terms and conditions of any other agreement between Company and Lessee for use of Company's right-of-way or any portion of the Premises for other than Landscape Beautification.

This Lease is given upon the following express terms and conditions herein and the Specifications and Landscape Beautification Plan as finally authorized by the Illinois Commerce Commission (the "ICC Authorized Specifications") and should the Lessee at any time violate any of said terms, conditions or the ICC Authorized Specifications, or use or attempt to use the Premises for any other or different purpose than that stated herein, then the Company may, at its option, immediately terminate this Lease.

As a material consideration for entering into this Lease and without which Company would not enter into same, Lessee covenants and agrees to indemnify, save harmless and protect the Company and the Commuter Rail Division of the Regional Railway Authority ("Metra") from and against any and all loss, damage, injury, claim, demand, fine, lawsuit, judgment and/or liability, and any and all costs, expenses and legal fees in connection therewith by reason of injuries to or death of persons and/or loss of or damage to property and/or violation of any law, ordinance or regulation ("Claim") to the extent such Claim arises out of or is connected with Lessee's Landscape Beautification of the Premises or any act or omission of (i) Lessee, its officers, employees, contractors, or agents, and/or (ii) and other person(s) performing any work or service for or on behalf of the Lessee on

or about said Premises or arising out of their presence on said Premises. Notwithstanding the foregoing, Lessee shall not be obligated to indemnify and hold harmless Company and Metra for personal injury, death and/or property damage to the extent arising out of the acts or omissions of the Company, Metra or the officers, employees, agents or contractors of either the Company or Metra.

Company reserves the right to use, occupy and enjoy, consistent with the City's Zoning Ordinances, the Premises and its tracks, property and right-of-way, for such purpose, in such manner, and at such time as it shall desire, the same as if this instrument had not been executed by it, including the right to lease or license any of the Premises for commercial or industrial purposes without any prior notification to Lessee.

Lessee accepts the Premises subject to the rights of any party, including Company, in and to any existing roadway, easements, permits or licenses. Lessee further accepts the Premises subject to rights of any party, including Company, in and to any existing telephone, telegraph, or other wires, and poles and facilities of any kind whatsoever, whether or not of record.

Company reserves the right to maintain or relocate its existing facilities, or to construct and thereafter maintain new facilities, in the vicinity of the Premises with no liability for damages to Lessee's interests or Premises resulting from such beautification activities.

Lessee recognizes and assumes all responsibility for all present and future environmental liability or responsibility imposed under applicable environmental laws, regulations or any other similar requirements relating to any contamination of the Premises or groundwater thereunder or discharge or release to adjacent property arising from or in any respect aggravated or altered, to the extent of such aggravation or alteration, by any operations or activities by, or any equipment or facilities used by or permitted on the Premises by Lessee in performance of Landscape Beautification (the foregoing hereinafter referred to as "Lessee Landscape Beautification Operations"). Lessee, therefore, agrees to indemnify and hold harmless Company, its officers, agents, and employees from any and all liability, fines penalties, claims, demands, loss or lawsuits brought by any third party or governmental agency under any theory of law against Company seeking to hold Company liable for any investigation, response or cleanup costs, penalties or damages, whether personal property or environmental, for any contamination of any property or groundwater thereunder or discharge or release to adjacent property arising out of or in any respect aggravated or altered,

to the extent of such aggravation or alteration, by Lessee Landscape Beautification Operations. Lessee agrees that the above indemnity extends to any liability resulting from or arising out of Lessee's implementation of any investigation, response or cleanup plan approved by the United States Environmental Protection Agency or companion state agency.

Lessee further agrees to undertake at its own expense any investigation, response or cleanup of any contamination of the Premises and groundwater thereunder arising from or in any respect aggravated or altered, to the extent of such aggravation ~~or~~ alteration, by any Lessee Landscape Beautification Operation and to promptly notify Company of any event, notice, claim, demand or litigation which involves or alleges contamination of the Premises, the groundwater thereunder or a discharge or release therefrom to adjacent property. Lessee agrees to waive any and all statutes of limitations applicable to any controversy between the Lessee and the Company arising out of this paragraph, and Lessee further agrees that it will not raise or plead a statute of limitations defense against Company in any action by the Company against the Lessee arising out of Lessee's failure to comply with this paragraph.

Company, its agents, employees and authorized contractors shall have the right to enter the Premises or any part thereof, at all reasonable hours, for the purpose of inspecting the Premises to determine if Lessee is complying with all terms and conditions of this Lease and/or to determine through inspection and/or testing if any hazardous condition, pollution or contamination is present or threatened. Lessee agrees to cooperate with Company in any such inspection and to provide at Company's request any and all permits, reports, or records of any kind, relating to any materials used, stored, treated or disposed of on the Premises.

Either party hereto shall have the right at any time to cancel this Lease by giving ten (10) days' notice in writing. At the expiration for the time limited by said notice, the Lessee shall promptly, and in the manner directed by Company, if necessary, restore the Premises to a condition acceptable to the Lessee and the Company. Upon default of the Lessee to do so, the Company may accomplish the same and so restore the Premises, and the Lessee will promptly pay to the Company for the cost and expense of such restoration. In addition, at termination Lessee shall provide evidence, reasonably satisfactory to Company, that the condition of the Premises and all improvements thereon attributable to the acts and/or omissions of Lessee during the term of this Lease comply with all applicable laws, regulations and standards.

IN WITNESS WHEREOF, the parties have executed these presents on May 1, 2000.

UNION PACIFIC RAILROAD COMPANY

CITY OF PARK RIDGE

By: J. L. Harrel

By: T. W. Schube

Title: SR MGR- REAL ESTATE

Title: City Manager

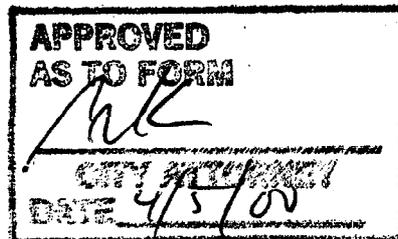
(Municipal Seal)

Municipal Clerk

By: Betty W. Henneman

Title: City Clerk

~~Resolution/Ordinance number~~



(TAZ\parkridg.bl)

EXHIBIT A**SPECIFICATIONS**

Unless otherwise modified by Order of the Illinois Commerce Commission:

1. No new planting or other landscaping material shall be allowed within 16 feet of the edge of the nearest tie nor allowed to grow into this zone other than grass or ground cover, which will not grow in excess of three (3) feet in height.
2. Any planting or other landscape material done on the railroad right-of-way within 500 feet of any grade crossing shall be maintained so as not to exceed a height of three (3) feet.
3. Any grading or future planting done on Company's property must be approved in writing by Company's Engineering Department located at 500 West Madison, Suite 3610, Chicago, Illinois 60661, if such grading or planting does not comply with these specifications.
4. Except for routine landscape maintenance such as mowing, weeding, etc., any work done on Company's property closer than 16 feet from the edge of the nearest tie will require a flagman provided by Company at Lessee's expense.
5. There is to be no interference with Company facilities, including pole lines, drainage structures and signal apparatus.
6. There is to be no adverse effect to visibility or drainage on Company property.
7. Lessee shall not construct or permit to be constructed any building, structure, excavation or any other obstruction without the written consent of Company's Engineering Department.
8. The Union Pacific Railroad Company will not, in any way, share in the cost of landscaping or for any improvements to the area covered by this lease.
9. The Union Pacific Railroad Company will not be responsible for any damage to the landscaping or improvements.

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** TOTAL PAGE.02 **