

RESOLUTION NO. R-62-07

A RESOLUTION EXTENDING THE TERM OF A CABLE TELEVISION
FRANCHISE

WHEREAS, a cable television franchise was granted to Centel Cable Television Company of Illinois by the City pursuant to a Cable Television Franchise Agreement dated July 2, 1984, which together with all subsequent amendments and modifications are hereinafter collectively referred to as the "Franchise" or the "Franchise Documents"; and

WHEREAS, on September 5, 1989 (Resolution R-82-89), and dates thereafter the City of Wheaton consented to the transfer of the Franchise from Centel Cable Television Company of Illinois to Jones Growth Partners, L.P., a Colorado Limited Partnership and then to various other successor franchisees including the current successor franchisee, Comcast; and

WHEREAS, the Franchise was originally to expire on July 1, 1999; and

WHEREAS, subsequent to July 1, 1999 the Franchise documents were extended by Resolutions of the City of Wheaton on a consistent basis to maintain the efficacy of the Franchise Documents so as to allow the successor franchisee to continue to provide service to the citizens of Wheaton and operate within the City's rights of way; and

WHEREAS, the City of Wheaton seeks to further extend the term of the Franchise until February 29, 2008, or until a new Cable Franchise Agreement is finalized, whichever is earlier, in order to enable the City and successor franchisee to continue the Franchise renewal process and negotiate a renewal of the Franchise.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the term of the Franchise be hereby extended until February 29, 2008, or until a new Cable Franchise Agreement is finalized, whichever is earlier, subject to the following terms and conditions:

1. During the extension of the Franchise term, the City and successor franchisee shall be subject to the same terms and conditions as set forth in the Franchise Documents, provided that the City agrees that nothing herein shall be interpreted to prevent the Franchisee from: (a) seeking to pass through to basic cable service subscribers any increase in the cost of complying with the public, educational and governmental access support requirements in the Franchise Documents after March 31, 2003, to the extent permitted by, and in compliance with, federal rate regulation, and subject to the City's right to regulate rates pursuant to federal law and regulation; and (b) itemizing the increase in the cost of such access support on subscribers' bills as an access channel cost, subject to applicable law and the City's right to regulate the amount attributable to such costs pursuant to federal law and regulation.

2. During the extension period, the representatives of the City and of the successor

franchisee shall work together in good faith and diligently in order to consider a renewal of the Franchise pursuant to the procedures contained in Section 626 of the Cable Communications Policy Act of 1984, 47 U.S.C. §§ 546, as amended (the "1984 Cable Act").

3. Neither the City nor the successor franchisee waive their rights to rely upon the rights, procedures, protections and recourse granted to them pursuant to applicable federal, state or local rule, regulation, law or precedent (specifically including, but not limited to, the 1984 Cable Act), provided that, notwithstanding the foregoing, the successor franchisee shall:

(a) make, as voluntary contributions without offset against the successor franchisee's franchise fee payment obligations, all payments in support of public, educational and government access which are currently required to be made under the Franchise Documents (the "Access Payments"), as such voluntary contributions were contemplated by the legislative history of the 1984 Cable Act (H.Rep. 98-934, 98th Cong., 2nd Sess. At 65);

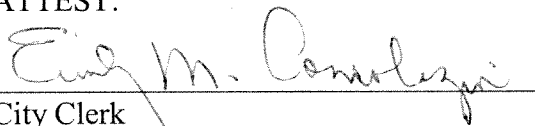
(b) waive any right it may have under applicable federal, state or local rule, regulations, law or precedent (including, without limitation, Sections 611, 624(c), 625 and 637(a) of the 1984 Cable Act, 47 U.S.C. §§ 531, 544(c), 545 and 557(a)) to claim either that: (i) its Access Payments are not voluntary contributions or (ii) it is entitled to offset all or any portion of such Access Payments against the amount to be paid to the City as franchise fees; and

(c) not contest the validity of any aspect of this Extension Agreement, nor contest the City's authority to enter into this Extension Agreement or to enforce the terms of this Extension Agreement and the Franchise Documents through September 30, 2007, or until a new Cable Franchise Agreement is finalized, whichever is earlier.

4. This Resolution and the Franchise Documents shall remain binding on the successor franchisee and all permitted assignees, transferees, or other successors in the interest to Franchisee, and no such assignment, transfer, or any other change in control shall be permitted from and after the date of this Resolution unless, among other things, the assignee, transferee or successor specifically agrees to be bound by the terms of this Resolution and the Franchise Documents.

ADOPTED this 17th day of September, 2007.

ATTEST:


Cindy M. Conzelmann
City Clerk


Michael Jones
Mayor

Roll Call Vote:

Ayes:

Councilwoman Corry
Councilman Johnson
Councilman Levine
Mayor Gresk
Councilman Mouhelis
Councilman Prendiville
Councilman Sues

Nays:

None

Absent:

None

Motion Carried Unanimously

PLAT OF SURVEY

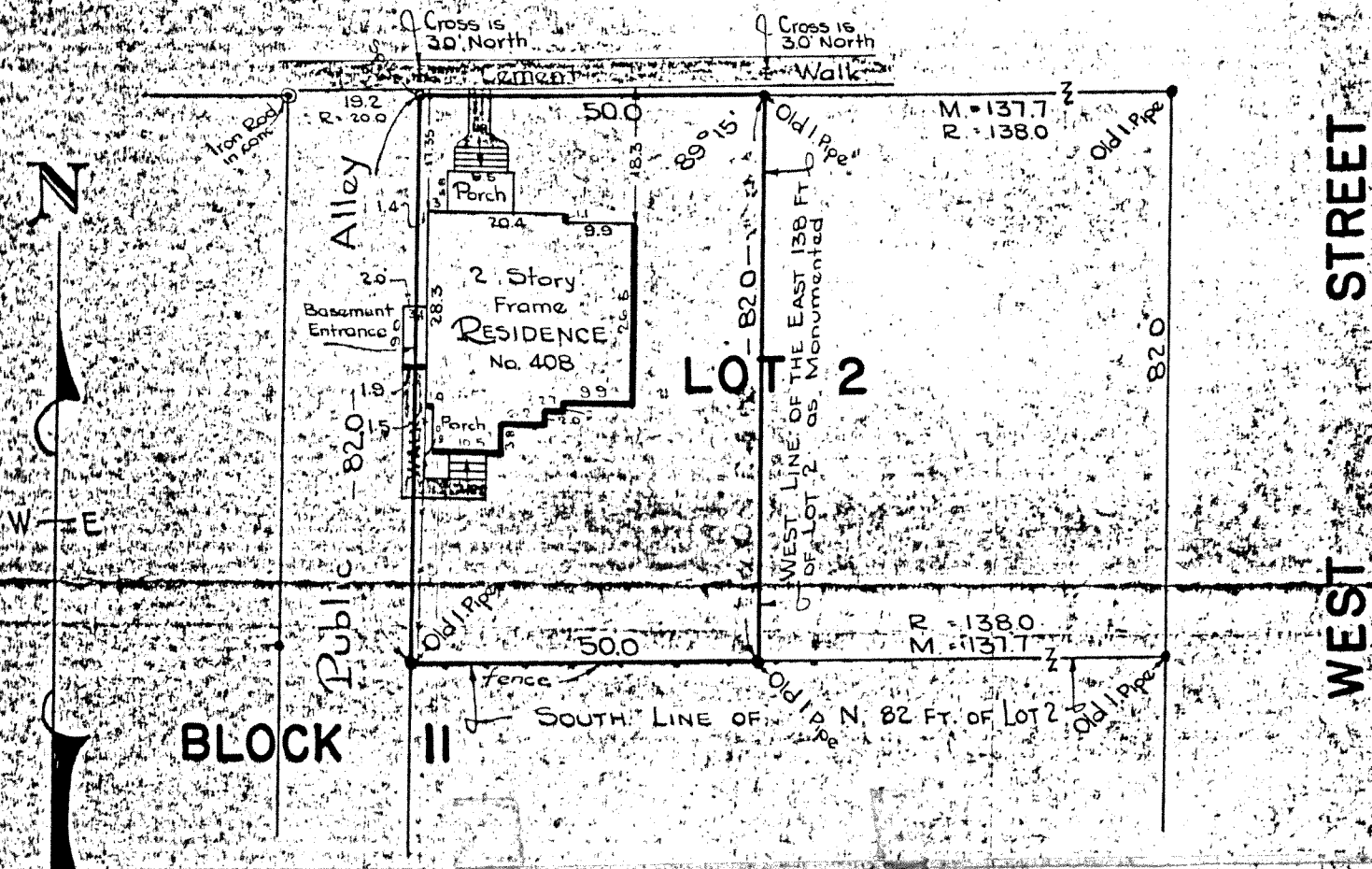
EXHIBIT A

OF

THE NORTH EIGHTY TWO (82) FEET, (EXCEPT THE EAST ONE HUNDRED THIRTY EIGHT (138) FEET THEREOF) OF LOT TWO (2) IN BLOCK ELEVEN (11), IN NOAH E. GARY'S FIRST ADDITION TO WHEATON, IN THE NORTH EAST QUARTER OF SECTION SEVENTEEN (17) TOWNSHIP THIRTY NINE (39) NORTH, RANGE TEN (10) EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS

JEFFERSON

AVENUE



STATE OF ILLINOIS)
COUNTY OF DU PAGE) SS.

This is to certify that I, Harold F. Steinbrecher, an Illinois Land Surveyor, have surveyed the above described property, as shown on the annexed plat which is a correct representation of said survey. All distances are in feet and decimal parts thereof. Scale of map is 20 feet to one inch. Building is located as shown. This survey was made to conform to the existing lines of occupation and the existing old iron pipe which are shown on the annexed plat.

Wheaton, Illinois, September 9, 1943.

HAROLD F. STEINBRECHER
CIVIL ENGINEER AND
ILLINOIS LAND SURVEYOR
WHEATON, ILLINOIS.

Harold Steinbrecher
Illinois Land Surveyor, Certificate 113.