

1675

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

EAST "O" REALTY COMPANY,
A Corporation,

) Docket 287

) Page 38

) Plaintiff,

) vs.

) CONSENT DECREE

) CLERK'S OFFICE, DISTRICT COURT

) KENNETH C. SCHWEITZER and MABEL M. SCHWEITZER, Husband and Wife, and HILLCREST COUNTRY CLUB, A Corporation,

) FILED

) FEB 11 1975

) Defendants.

) KANDRA HAHN

) Clerk District Court

Now on this 2nd day of December, 1974, this matter came on for hearing on the plaintiff's petition and application for a summary judgment on the answer of Kenneth C. Schweitzer and Mabel M. Schweitzer, defendants, and on the answer and cross-petition of Hillcrest Country Club, A Corporation, defendant, a temporary injunction having heretofore been entered by the Court on May 29, 1974, plaintiff being present in Court by its attorneys, R. R. Perry and Earl J. Witthoff of Perry, Perry, Witthoff & Guthery, and Ted J. Frazier of Fraizer & Fraizer, attorneys, representing Kenneth C. Schweitzer and Mabel M. Schweitzer, and Rollin R. Bailey of Davis, Bailey, Polsky, Huff & Denney, attorneys, for Hillcrest Country Club, defendant, and it was agreed by the parties through their attorneys that a consent decree be entered disposing of all of the issues in the case and providing for disposition of the case and final decree by consent.

THE COURT FINDS, ORDERS, ADJUDGES AND DECREES as follows:

1. That the plaintiff is the fee owner of real estate described as Lot A, in the East Half (E½) of Section Twenty-six (26), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lancaster County, Nebraska, containing 175 acres, more or less, and that as the owners of said property are the owners of an easement contained of record in Sheriff's Deed Book No. 309, Page 602, Paragraph 2, relating to Lot D, said easement providing as follows:

"2. Right to use that part of sewage system now installed on Lot D extending from clubhouse on Lot A in a straight line southeast to and including septic tank on Lot D, and right to enter upon Lot D along line of said sewer solely for necessary maintenance, repair and use, owner of Lot D to be at no expense or unnecessary damage in connection with maintenance, repair or use of said sewer or tank."

That the location of the easement is as described on page 2 of 2 of Exhibit 10.

2. That Hillcrest Country Club, a corporation, defendant herein is the lessee of plaintiff East "O" Realty Company of said Lot A and the improvements thereon and the easements relating thereto.

3. That the defendants Kenneth C. Schweitzer and Mabel M. Schweitzer, husband and wife, are the fee owners of real estate described as Lot D, Subdivision of the East One-half (E1/2) of Section Twenty-six (26), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lancaster County, Nebraska, and that said Lot D is subject to the easements relating to sewer hereinbefore set forth.

4. That the pool backwash line shown on page 2 of 2 of Exhibit 10 is an existing storm sewer line which is not a part of the sewer system running to the septic tank and that the existence of said storm sewer line and the right to use the same by the plaintiff and its lessee was not ^{IN ISSUE} ~~disputed~~ in this proceeding, and *the court makes no findings in regard thereto.*

5. That the four-inch lateral sanitary sewer identified as abandoned 6/74 on page 2 of 2 of Exhibit 10 is agreed to be an abandoned line to which the plaintiff and plaintiff's lessee hereby foregoes any right they might have or claim to use after June of 1974.

6. That the remaining part of the sewage system relating to sanitary sewage described in the aforesaid easement on Lot D is found to exist in the location and as described on page 2 of 2 of Exhibit 10.

7. This action arose from plaintiff's need to maintain and repair the effluent discharge lateral field and the refusal of the defendant Schweitzer to permit the plaintiff and plaintiff's lessee to enter upon Lot D to accomplish maintenance and repairs.

8. That under the temporary injunction entered by the court on May 29, 1974, the sewer line, manholes, septic tank on Lot D have been located and identified as heretofore described and the lateral field has been repaired by the reconstruction thereof and the location, size and boundaries of the lateral field as reconstructed have been established and are accepted and recognized as now installed and the parties have stipulated and agreed that the sewage system on said Lot D for the benefit of plaintiff's property on said Lot A and the easement therefor is and has been established as described, located and identified on page 2 of 2 of Exhibit 10, the same also being referred to as an As-Built Drawing Hillcrest Lateral Field, June 20, 1974, identified as page 2 of 2 of Exhibit 10 and attached hereto and made a part of this decree,

9. That there should be filed with the office of the Register of Deeds a copy of this decree and a copy of page 2 of 2 of Exhibit 10 and the cost of filing to be borne equally by the plaintiff, East "O" Realty Company, and the defendant, Schweitzer.

10. That the defendants, Schweitzer, shall be paid by the plaintiff and by the defendant, Hillcrest Country Club, a total sum of Three Hundred Dollars (\$300) which is consented to and agreed to by all parties as in full payment of any and all crop or other damages suffered by defendants, Schweitzer, or by their tenant, if any, by reason of repairs done to plaintiff's sanitary sewer line and lateral field during the crop year 1974 and prior to the date of entry of this consent decree.

11. That each party to this action shall pay its or his own costs and each party shall pay its or his own attorney's fees.

Entered by the court this 11th day of February, 1974.

Dale S. DeBake
District Judge

1625

WE CONSENT TO THE SUBSTANCE AND
FORM OF DECREE:

EAST "O" REALTY COMPANY, A
Corporation, Plaintiff

KENNETH C. SCHWEITZER and
MABEL M. SCHWEITZER, Husband
and Wife, Defendants

By *Percy Perry, Wittkopf & Guttenberg*
Its Attorneys

By *T. F. Fung*
Their Attorneys *Fung & Fung*

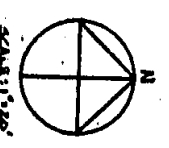
HILLCREST COUNTRY CLUB, A
Corporation, Defendant

By *Rollin T. Bailey*
Its Attorneys

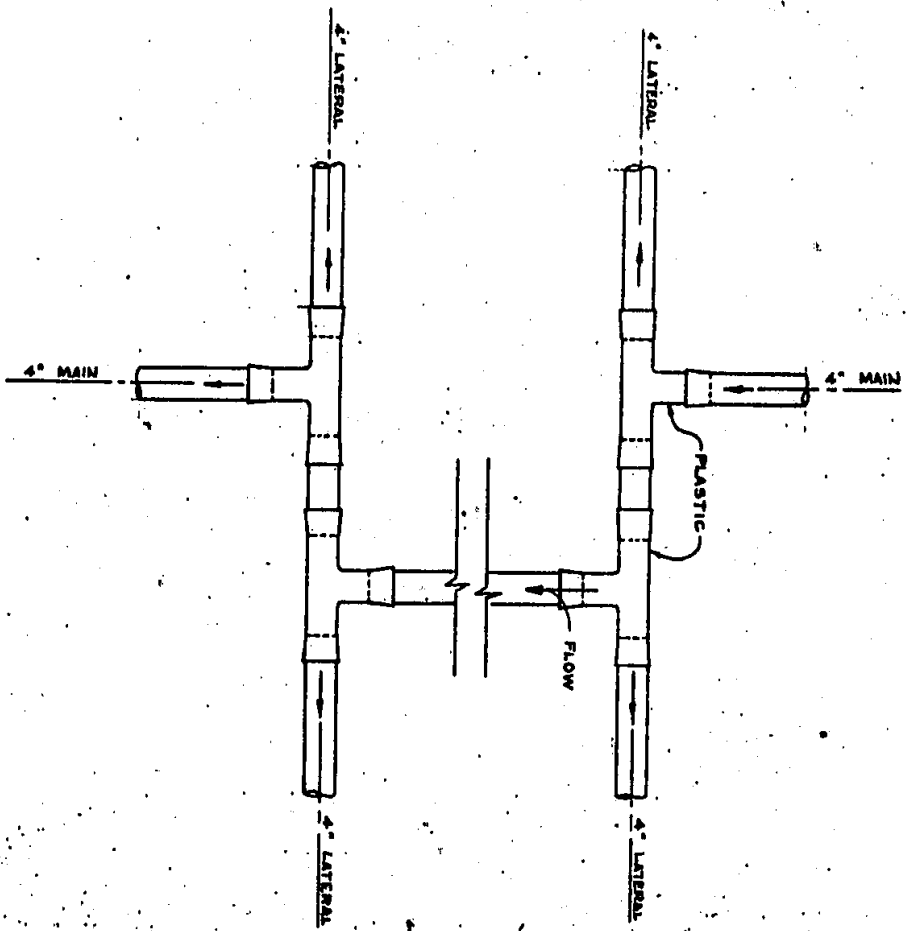
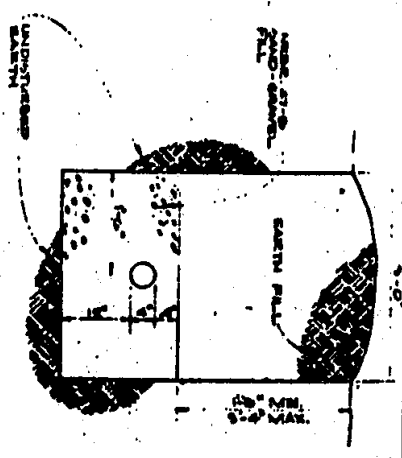
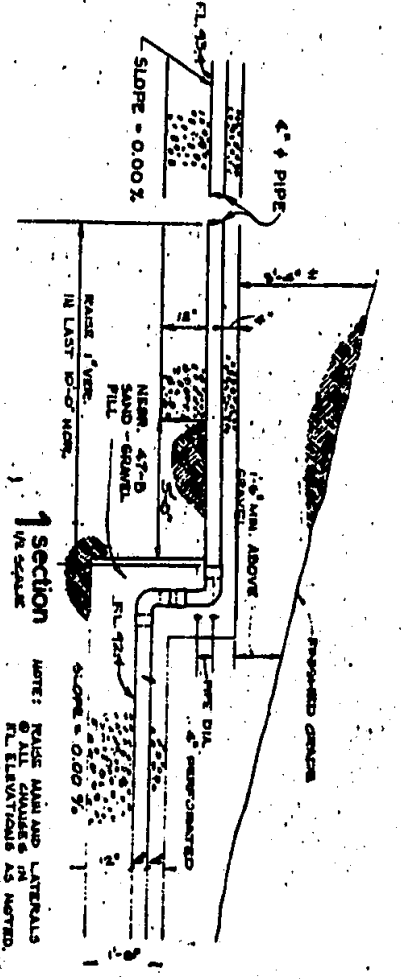
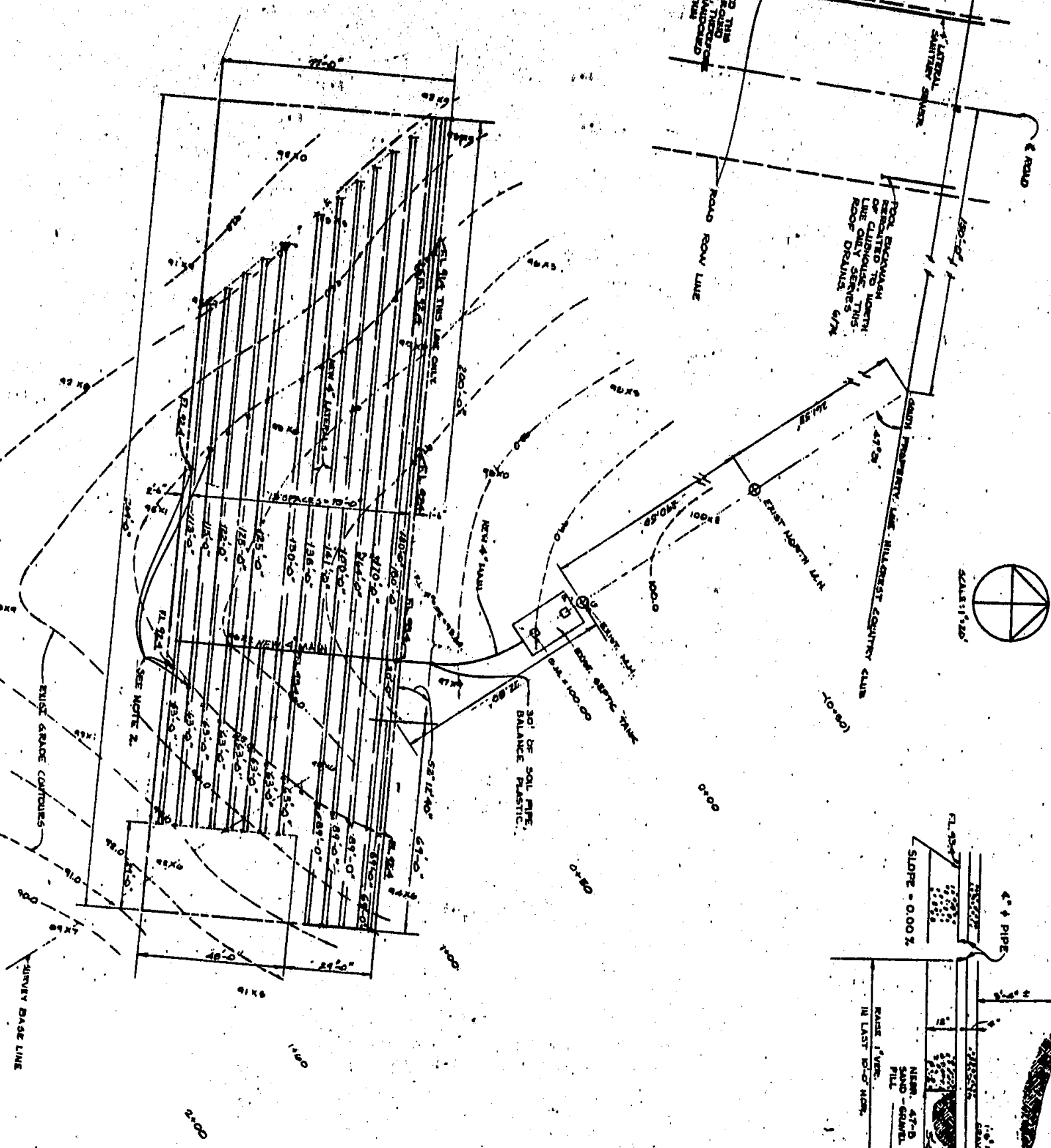
1620

FIELD SPACES REVEALED THIS
 LINE SPACED REVEALED THIS
 THE ROAD ROW LINE OF THE
 BY THE FIELD SPACES REVEALED
 CLINCHER. SEE ATTACHED
 DRAWING.

POOL BACKWASH
 RECONNECTED TO EXISTING
 LINE QUALITY SERVICE. THIS
 ROOF DRAINS 67%.



HILLCREST COUNTRY CLUB LATERAL FIELD
 REPLACING UNDESIRABLE TILES IN ORIGINAL FIELD
 NOTE: 12000 LINEAL FEET OF LATERALS IN NEW
 ORIGINAL FIELD.
 1. X INDICATES WHERE LATERAL PIPE
 SYSTEMS DOWN.
 2. --- EXIST. GRADE CONTOURS
 3. - - - EXIST. GRADE SPOT ELEVATIONS
 4. R-92.7 EXIST. GRADE FLOW LINE (FL) ELEVATIONS
 5. 92.4 NEW GRADE FLOW LINE (FL) ELEVATIONS



AS-BUILT DRAWING
 HILLCREST LATERAL
 FIELD JUNE 20, 1974



1675

IN THE DISTRICT COURT OF LANCASTER COUNTY,
NEBRASKA.

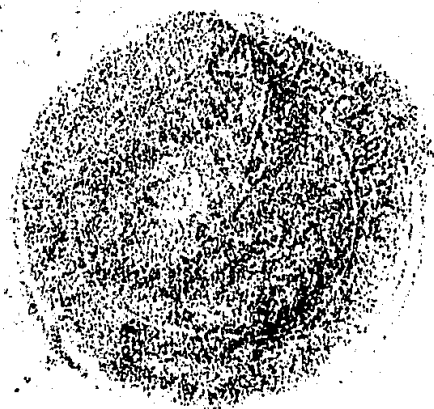
STATE OF NEBRASKA, }
COUNTY OF LANCASTER, } ss.

KANDRA HAHN

I, OTIS E. NELSON, Clerk District Court, Third Judicial District of Nebraska within and for the County of Lancaster, do hereby certify that the above and foregoing is a true, correct and complete copy of _____ CONSENT DECREE _____

with all endorsements thereon filed on the 11th day of February, 1975 in a cause in said court wherein EAST "O" REALTY COMPANY, A CORPORATION is Plaintiff and KENNETH C. SCHWEITZER AND MABEL M. SCHWEITZER, HUSBAND AND WIFE, AND HILLCREST COUNTY CLUB, A CORPORATION are Defendants

as the same appears fully upon the records and files of said court and now in my charge remaining as Clerk aforesaid.



WITNESS my hand and the seal of said court at Lincoln, Nebraska, this 11th day of February 1975

Kandra Hahn
CLERK DISTRICT COURT

By _____
DEPUTY

INDEXED
MICRO-FILED
GENERAL

2C-566
misc

LANCASTER COUNTY, NEBR.
Kenneth L. Ferguson
REGISTER OF DEEDS
1975 FEB 11 PM 4:05 ✓

ENTERED ON
NUMERICAL INDEX
FILED FOR RECORD AS:

INST. NO. 75- 1675

#21 25

*Percy, Percy, Withhoff & Duthoy
1806 1st N. W. Bl. Bldg.
(08)*