

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

LANOHA REAL ESTATE COMPANY, INC.,)	CASE NO.: CI 14-_____
)	
Plaintiff,)	
)	
v.)	COMPLAINT
)	(Equity)
)	
WINDSTREAM NEBRASKA, INC.,)	
)	
Defendant.)	

COMES NOW the Plaintiff Lanoha Real Estate Company, Inc. (Lanoha), by and through its attorneys Pansing Hogan Ernst & Bachman, LLP, and hereby states and alleges as follows as to its cause of action against the Defendant Windstream Nebraska, Inc.:

1. Plaintiff Lanoha, is a corporation organized and existing by virtue of the laws of the State of Nebraska, with its principal place of business in Omaha, Douglas County, Nebraska.

2. At all material times hereto, Plaintiff was and is the owner of real property located in Douglas County, Nebraska, legally described on Exhibit "A", (the "Premises") attached hereto and incorporated herein by reference.

3. Defendant, Windstream Nebraska, Inc., is a corporation organized and existing by virtue of the laws of the State of Delaware, and engaged in the business of supplying telecommunication services. Defendant conducts business in Omaha, Douglas County, Nebraska.

4. Venue is proper because the Premises is located in Douglas County, Nebraska.

5. During late spring 2014, Plaintiff began developing the Premises into a

residential subdivision called The Prairies identified as Sanitary and Improvement District No. 537 of Douglas County Nebraska.

6. Due to the development of SID 537, Defendant was requested to replace its existing aerial facilities with underground facilities.

7. Although initially agreeing to relocate the facilities underground, Defendant subsequently completed an aerial relocation of its facilities to a location which encroaches the Premises. Plaintiff has never given the Defendant permission, either directly or indirectly, to place its aerial facilities on the Premises.

8. Defendant has willfully and unlawfully physically invaded the Premises by causing or permitting its aerial facilities to be located upon the Premises, having knowledge and warning that Defendant did not have permission to allow its facilities to be located upon the Premises, without the benefit of an easement or appropriate authorization. Such action of the Defendant constitutes willful trespass as defined in Nebraska law, which includes Neb. Rev. Stat. §25-2130.

9. As a result of Defendant's willful and unlawful trespass to land, both the Plaintiff and Premises have been damaged.

10. Defendant's actions were done purposefully and intentionally, with a willful disregard of Plaintiff's legal rights and interest in the Premises. Plaintiff is entitled to have the facilities removed and an award of pecuniary damages, as well as other damages permitted under Nebraska law.

WHEREFORE, Plaintiff prays for judgment against Defendant, in an amount to be determined at trial, permanent injunctive relief ordering that Defendant remove the facilities

from Plaintiff's premises, relocate the facilities underground, reasonable attorney fees, its costs incurred herein and for such other relief as this Court deems just and appropriate.

Dated this 5 day of December, 2014.

LANOHA REAL ESTATE COMPANY, INC.,
Plaintiff

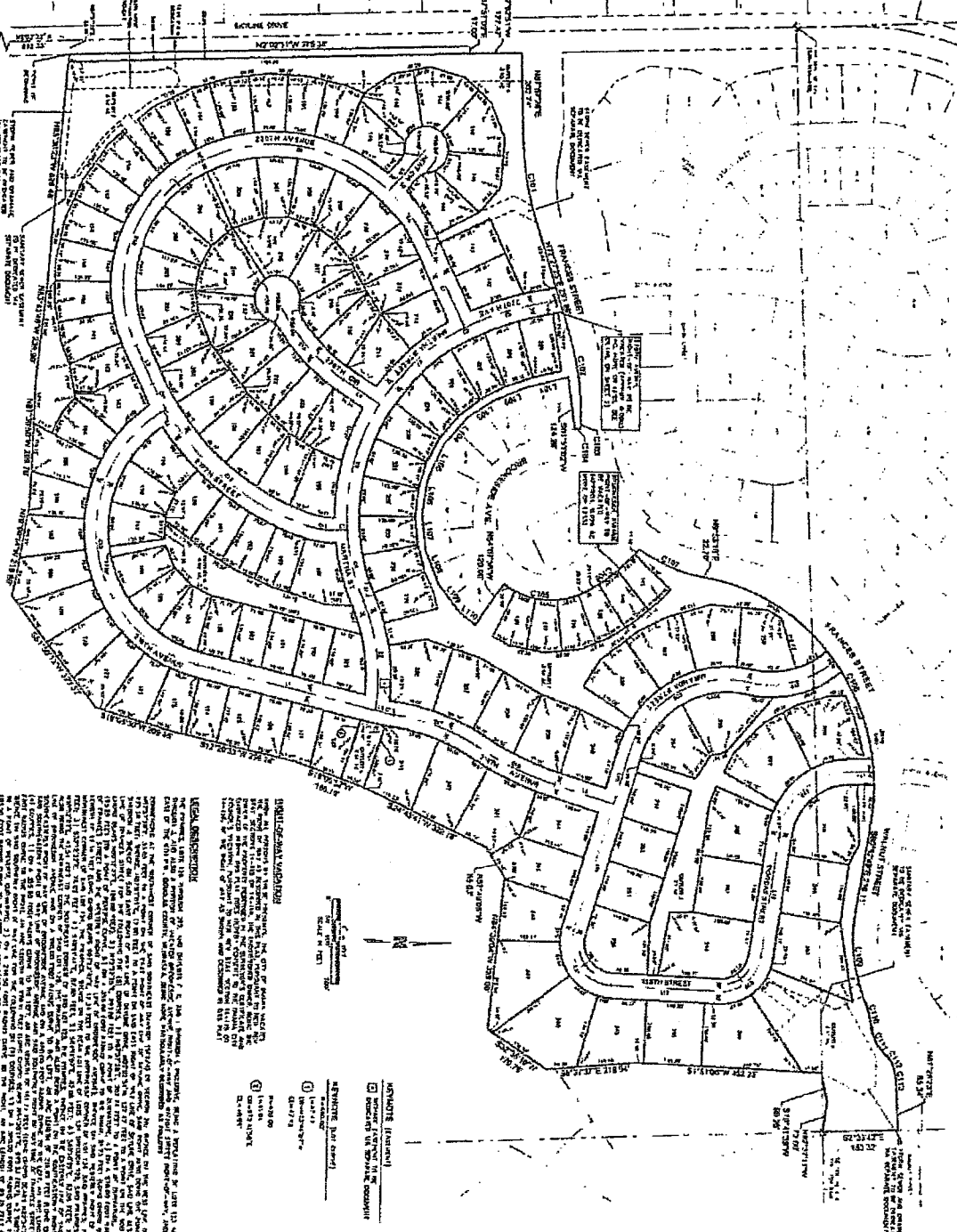


PANSING HOGAN ERNST & BACHMAN
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By: David L. Welch, #18881
Ashley E. Dieckman, #23454
Attorneys for Plaintiff

THE PRAIRIES

LOTS 136 THRU 269 AND OUTLOTS F, G AND I THRU L INCLUSIVE
BEING A REPLATING OF THE PRAIRIES LOTS 123 AND 124, OUTLOTS F, G, I, J AND ALSO A PORTION OF VACATED
BROOKSIDE AVENUE RIGHT-OF-WAY AND WALNUT STREET RIGHT-OF-WAY, AND AN UNPLATTED TRACT OF LAND
LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF
SECTION 26, TOWNSHIP 15 NORTH, RANGE 70 EAST OF THE 8TH P.M., DOUGLAS COUNTY, NEBRASKA



LEGAL DESCRIPTION:
Lots 136 through 269 and Outlots F, G and I through L, inclusive, being a replating of the Prairies Lots 123 and 124, Outlots F, G, I, J and also a portion of vacated Brookside Avenue right-of-way and Walnut Street right-of-way, and an unplatted tract of land located in the southeast quarter of the northeast quarter, and the southeast quarter of section 26, township 15 north, range 70 east of the 8th p.m., Douglas county, Nebraska.

REPLATING:
The replating of the Prairies Lots 123 and 124, Outlots F, G, I, J and also a portion of vacated Brookside Avenue right-of-way and Walnut Street right-of-way, and an unplatted tract of land located in the southeast quarter of the northeast quarter, and the southeast quarter of section 26, township 15 north, range 70 east of the 8th p.m., Douglas county, Nebraska, into the lots and outlots shown on this plat, is hereby approved by the Board of Commissioners of Douglas County, Nebraska, and the same shall be a part of the public record of said county.

RECORDING:
This plat is hereby recorded for the purpose of recording the same in the public records of Douglas County, Nebraska, and the same shall be a part of the public record of said county.

APPROVED:
By the Board of Commissioners of Douglas County, Nebraska, this 15th day of August, 2013.

WITNESSED:
My hand and seal of office, this 15th day of August, 2013.

NOTARY PUBLIC:
[Signature]

LEGEND:

- Lot
- Outlot
- Right-of-Way
- Street
- Utility
- Water
- Gas
- Electric
- Telephone
- Other

NOTES:

1. All lots are shown as being subject to the easements and encumbrances shown on this plat.
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9. All lots are shown as being subject to the easements and encumbrances shown on this plat.
10. All lots are shown as being subject to the easements and encumbrances shown on this plat.

REVISIONS:

NO.	DATE	REVISION
1	8/15/13	Initial Plat

Case Summary

In the District Court of Douglas County
 The Case ID is CI 14 0009670
 Lanoha Real Estate v. Windstream Nebrask
 The Honorable W. Mark Ashford, presiding.
 Classification: Injunctions
 Filed on 12/05/2014
 This case is Open as of 12/05/2014

Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Lanoha Real Estate Company Inc 19111 West Center Road Omaha NE 68130	David L Welch 10250 Regency Circle, Ste 300 Omaha NE 68114 402-397-5500
Defendant ACTIVE Windstream Nebraska Inc c/o CT Corporation System 5601 So. 59th Street Lincoln NE 68516	

Court Costs Information

Incurring By	Account	Date	Amount
Plaintiff	Petition	12/05/2014	\$35.00
Plaintiff	Filing Fee - State	12/05/2014	\$5.00
Plaintiff	Automation Fee	12/05/2014	\$8.00
Plaintiff	NSC Education Fee	12/05/2014	\$1.00
Plaintiff	Dispute Resolution Fee	12/05/2014	\$0.75
Plaintiff	Indigent Defense Fee	12/05/2014	\$3.00
Plaintiff	Uniform Data Analysis Fee	12/05/2014	\$1.00
Plaintiff	J.R.F.	12/05/2014	\$6.00
Plaintiff	Filing Fee-JRF	12/05/2014	\$2.00
Plaintiff	Legal Aid/Services Fund	12/05/2014	\$5.25
Plaintiff	Complete Record	12/05/2014	\$15.00
Plaintiff	Service Fees	12/12/2014	\$6.69

Financial Activity

No trust money is held by the court
 No fee money is held by the court

Payments Made to the Court

Receipt	Type	Date	For	Amount
163862	Electronic Trans	12/05/2014	Lanoha Real Estate Com	\$82.00
			Petition	\$35.00

Filing Fee - State	\$5.00
Automation Fee	\$8.00
NSC Education Fee	\$1.00
Dispute Resolution Fee	\$.75
Indigent Defense Fee	\$3.00
Uniform Data Analysis	\$1.00
J.R.F.	\$6.00
Filing Fee-JRF	\$2.00
Legal Aid/Services Fun	\$5.25
Complete Record	\$15.00

Register of Actions

- 12/12/2014 Return Summons/Alias Summons
The document number is 00295572
Served 12/10/2014, Certified Mail
Image ID N14346V7SD01
- 12/05/2014 Summons Issued on Windstream Nebraska Inc
The document number is 00295572
Summons e-mailed
Image ID D00295572D01
- 12/05/2014 Praecipe-Summons/Alias
This action initiated by party Lanoha Real Estate Company Inc
Image ID N14339GL8D01
- 12/05/2014 Complaint-Praecipe
This action initiated by party Lanoha Real Estate Company Inc
- Praecipe filed separate
Image ID N14339GL6D01