

RESOLUTION NO. 251 - 2020

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN EASEMENT RELEASE AND MODIFICATION AGREEMENT, RELEASING A UTILITY EASEMENT ON THE PROPERTY LOCATED AT 1739 LAKEWOOD LANE.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an Easement Release and Modification Agreement, which is attached hereto and incorporated herein by reference, releasing a utility easement on the property located at 1739 Lakewood Lane.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

Rinda Gorton
MAYOR

ATTEST:

Mackenzie Summers
Deputy CLERK OF URBAN COUNTY COUNCIL
486-20:MSC:X:\Cases\WATER-AIR\20-LE0002\LEG\00686008.DOCX



**Lexington-Fayette Urban County
Government
File Summary**

200 E. Main St
Lexington, KY 40507

File Number	Title	Current Status
0486-20	Resolution	Second Reading

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Easement Release and Modification Agreement, releasing a utility easement on the property located at 1739 Lakewood Ln. [Div. of Water Quality, Martin]

Introduced: 5/15/2020

Controlling Body: Urban County Council


Meeting Date: 6/11/2020

Department: Water Quality

Drafter: LaDonna Roberts



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: May 13, 2020

SUBJECT: RELEASE AND GRANT OF AN UTILITY EASEMENT AT 1739 LAKEWOOD LANE

Request

The purpose of this memorandum is to request a resolution authorizing the Mayor on behalf of the Lexington-Fayette Urban County Government to execute a release and grant of an utility easement, releasing and granting easement at 1739 Lakewood Lane.

Purpose of Request

The easement is no longer needed because there are no facilities in the easement.

Project Cost in FY20

There is no projected cost.

Project Cost Impact for Future Budget Years

There is no projected cost.

Are Funds Budgeted

No funds are budgeted.

Law Review

M. Cravens, 05/06/2020.

Martin/Albright

DRB

cc: Debbie R. Barnett
Rod Chervus, PE



EASEMENT RELEASE AND MODIFICATION AGREEMENT

THIS EASEMENT RELEASE AND MODIFICATION AGREEMENT, hereinafter, "Agreement", is made and entered into on this 12th day of June 2020, by and between PRESTIGE PROPERTIES OF THE BLUEGRASS, LLC, a Kentucky limited liability company with its principal office at 1884 Honey Spring Place, Lexington, KY 40502, hereinafter, "First Party"; and the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, 200 East Main Street, Lexington, Kentucky, 40507, hereinafter, "Second Party."

WITNESSETH

WHEREAS, First Party is the owner of a tract of real property known as 1739 Lakewood Lane, Lexington, Kentucky, which is more particularly described as:

1739 Lakewood Lane, Lexington, KY 40502

Parcel 1:

All that tract or parcel of land in the County of Fayette and State of Kentucky, situated on the Northeast side of Lot 8, Unit 6, of the Lake View Acres Subdivision and being more fully described as follows, to-wit:

Beginning at an iron pin in the Northeast corner of Lot 8; thence with the east line of Lot 8 extended N 53-14 E. 186 feet more or less to a stake, corner to the C. F. Glenn property; thence in a Northwest direct 152 feet more or less to a stake; thence S 53-14 W, 150 feet to an iron pin the Northwest corner of Lot 8; thence with the North line of Lot 8, S 36-46, 150 feet to the point of beginning.

Parcel 2:

All that tract or parcel of land situated on Lakewood Drive North near the City of Lexington in Fayette County, Kentucky, and being more fully described as follows, to-wit:

All of Lot 8, Unit 6 of Lake View Acres Subdivision to the City of Lexington as shown by plat thereof made by W. E. Rowe, Civil Engineer, now of record in the Fayette County Court Clerk's Office in Plat Cabinet D, Slide 14, and to which plat reference is hereby made for a more particular description of said lot.

Being the same property conveyed to Prestige Properties of the Bluegrass, LLC, a Kentucky limited liability company, by Deed dated February 28, 2019, and recorded on February 28, 2019, in Deed Book 3650, Page 281, in the Fayette County Clerk's Office.

WHEREAS, Second Party is the beneficiary of a 10-foot wide utility easement, which spans the 150-foot width of the aforesaid Parcel 1 adjacent to its boundary with Parcel 2, as more particularly shown on the Easement & Consolidation Minor Subdivision Record Plat attached hereto as Exhibit A.

WHEREAS, First Party desires to consolidate Parcel 1 and Parcel 2 and, in connection therewith, requests that Second Party agree to totally release the Second Party's interest in a portion of the above referenced utility easement, said portion being labeled the "***Easement Release Area***" on Exhibit A.

WHEREAS, in consideration of the Second Party's agreement to release its interest in the Easement Release Area, First Party agrees to grant a utility easement to Second Party in the location labeled the "*Modified Easement Area*" on Exhibit A.

WHEREAS, First Party is not requesting that Second Party release or modify any other beneficiary's interest in and or to the Easement Release Area or Modified Easement Area.

WHEREAS, First Party has obtained the written statement of properly designated representatives of all other beneficiaries of the Easement Release Area and Modified Easement Area pursuant to Lexington-Fayette Urban County Government Land Subdivision Regulation 3-5(c)(1) and provided said statement to the Division of Planning in case PLN-MNSUB-20-0002.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants herein contained, the receipt and sufficiency of consideration being hereby acknowledged, it is agreed by and between the parties hereto as follow:

Second Party hereby consents and does totally release it interest in the Easement Release Area as described above; provided, however, that it is expressly understood and agreed by First Party that the Second Party is only releasing its interest in the Easement Release Area described above, and is not releasing any interest in the Easement Release Area that may be held by any other beneficiary, nor is Second Party releasing any interest on behalf of any other beneficiaries of the Easement Release Area; and

First Party hereby grants Second Party a utility easement in the Modified Easement Area as described above.

First Party shall defend, indemnify and hold Second Party harmless from and against any claim by a beneficiary of the Easement Release Area of Modified Easement Area that this instrument released or modified the beneficiary's right in or to the Easement Release Area or Modified Easement Area.

[SIGNATURE AND NOTARY BLOCKS ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this the day and year first written above.

FIRST PARTY:
Prestige Properties of the Bluegrass, LLC, a
Kentucky limited liability company:

By: Delana Kaye Simpson
Delana Kay Simpson, its Manager/President

Commonwealth of Kentucky)
County of Fayette)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 24 day of ~~February~~ ^{April}, 2020, by Delana Kaye Simpson, the Manager/President of Prestige Properties of the Bluegrass, LLC, a Kentucky limited liability company, on behalf of the company.

Shary Dawn Collier - Shary Dawn Collier
Notary Public, State-At-Large
My commission expires: 4-25-2023 No. 625199

SECOND PARTY:
Lexington-Fayette Urban County Government

By: Linda Gorton
Its: Mayor

Commonwealth of Kentucky)
County of Fayette)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this ___ day of February 2020, by Linda Gorton, the Mayor of the Lexington Fayette Urban County Government, on behalf of the government.

Mackenzie Summers
Notary Public, State-At-Large
My commission expires: 11/7/2023

Prepared By: [Signature]

ID#: 635048
Fayette co.

Christopher P. Farris
Billings Law Firm, PLLC
145 Constitution Street
Lexington, Kentucky 40507

OWNER'S CERTIFICATION:
 I DO HEREBY CERTIFY THAT I AM THE ONLY OWNER OF RECORD OF THE PROPERTY PLATED HEREON, SAID PROPERTY BEING RECORDED IN DEED BOOK 3650, PAGE 281, IN THE FAYETTE COUNTY CLERK'S OFFICE; AND DO HEREBY ADOPT THIS AS MY RECORD PLAT FOR THIS PROPERTY.

OWNER: 1739 LAKEWOOD LANE, LEXINGTON, KY 40502

DATE: _____

LAND SURVEYOR'S CERTIFICATION:
 I DO HEREBY CERTIFY THAT THIS RECORD PLAT WAS PREPARED UNDER MY DIRECTION AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE BOUNDARIES OF THE PROPERTY BEING TRANSFERRED ARE TRUE AND ACCURATE.

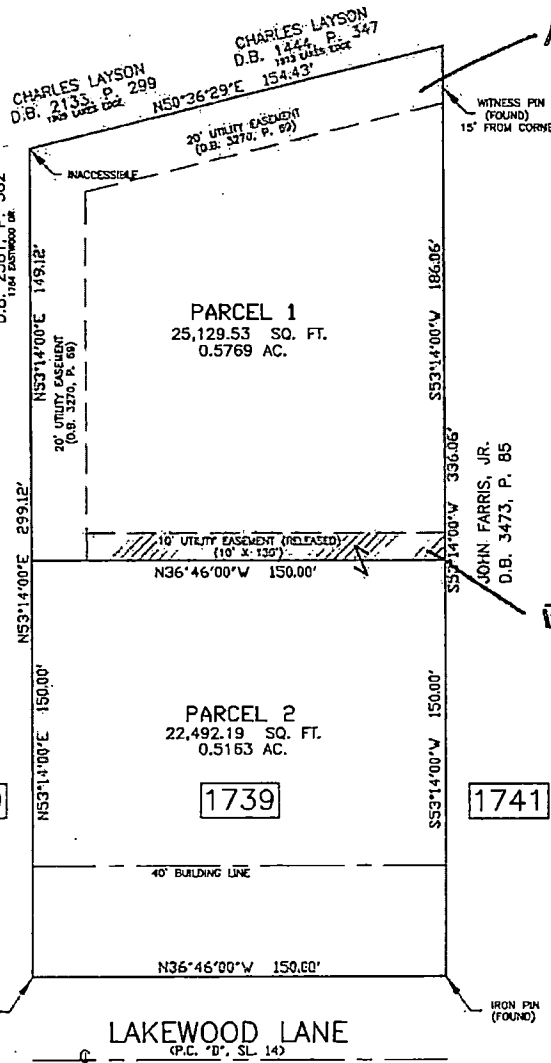
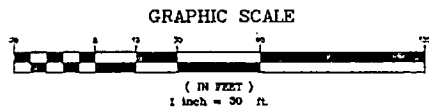
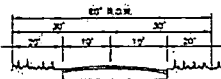
JOHN W. HILL DATE: _____

COMMISSIONER'S CERTIFICATION:
 I DO HEREBY CERTIFY THAT THIS RECORD PLAT HAS MET THE REQUIREMENTS ESTABLISHED BY THE SUPERVISOR REGULATIONS FOR A UNION PLAN, AND IS NOW ELIGIBLE FOR RECORDING.

PLANNING COMMISSION SECRETARY: _____ DATE: _____

NOTE:
 PARCEL 1 SHALL BE SOLD OR TRANSFERRED ONLY TO PARCEL 2 FOR CONSOLIDATION PURPOSES.

PURPOSE OF EASEMENT MINOR NOTE:
 THE PURPOSE OF THIS PLAT IS TO RELEASE A PORTION OF A 10' UTILITY EASEMENT AND DEPICT THE DELETED 20' UTILITY EASEMENT OF RECORD IN DEED BOOK 3270, PAGE 62.



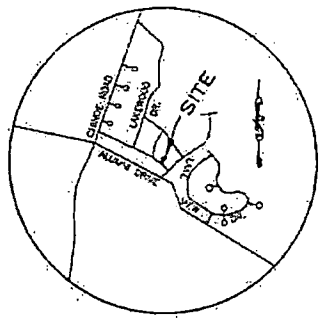
Modified Easement Area

Easement Release Area

SITE STATISTICS:

NUMBER OF LOTS:	1
NUMBER OF PARCELS:	2
AREA PARCEL 1:	0.5769 ACRE
AREA PARCEL 2:	0.5163 ACRE
ZONE:	R-1A
LENGTH OF STREETS: EXISTING (150.00')	

PLAT CAB. "___", SLIDE ___



SURVEY NOTES:

1. ANY MONUMENT IDENTIFIED AS AN "IRON PIN (SET)" IS A NUMBER 5 X 18 INCH LONG STEEL REINFORCING BAR HAVING A PLASTIC I.D. CAP AFFIXED TO THE UPPER END.
2. THE UNADJUSTED ERROR OF CLOSURE OF THE SURVEY, UPON WHICH THIS PLAT IS BASED WAS 1/21.454" AND THE BEARINGS AND DISTANCES HAVE BEEN ADJUSTED FOR CLOSURE.
3. THIS PLAT IS BASED UPON AN URBAN CLASS SURVEY WHICH WAS PERFORMED IN DECEMBER OF THE YEAR 2018.
4. BEARINGS ARE REFERRED TO THE BEARING OF LAKEWOOD LANE AS SHOWN ON PLAT RECORDED IN PLAT CABINET "D", SLIDE 14.
5. THE REAL PROPERTY REPRESENTED BY THIS PLAT IS SUBJECT TO ALL OF THE PERTINENT RESTRICTIONS PREVIOUSLY OF RECORD.

EASEMENT & CONSOLIDATION MINOR SUBDIVISION
 RECORD PLAT

OF
TRACTS 1 & 2
LAKEVIEW ACRES, UNIT 6
1739 LAKEWOOD LANE

RECORDED IN
D.B. 3650, P. 281 & P.C. "D", SL. 14

IN
LEXINGTON, FAYETTE COUNTY, KENTUCKY

SCALE: 1"=30' DATE: DECEMBER 28, 2019
 THIS PLAT REPRESENTS A BOUNDARY SURVEY AND COMPLIES WITH 201 KAR 18:150.

JOHN W. HILL, R.L.S.
 2488 MALLARDY WAY
 LEXINGTON, KY 40511
 PHONE: (502) 621-9155
 JWH@W3786@yahoo.com

LaDonna Roberts

From: Michael Cravens
Sent: Wednesday, May 6, 2020 11:13 AM
To: Debbie R Barnett; Ben Cornett; Brian Knapp; Gregory Lubeck; Stephen Parker (TE); Charles Martin; Traci Wade
Cc: Tracy Jones
Subject: RE: 1739 Lakewood Release and Easement Grant request

All,

I have reviewed this easement release and modification agreement, releasing LFUCG's interest in a utility easement located on the boundary of two parcels that are in the process of being consolidated by consolidation and easement minor amended plat (which is being separately reviewed by the Division of Planning). Written consent by the utilities having an interest in the existing utility easement has been provided in support of this request. The owner has also agreed to language in the release that makes it clear that LFUCG is only releasing its interest in the easement (not on behalf of any other beneficiary of the easement), and has agreed to indemnify, defend, and hold LFUCG harmless in connection with the proposed release.

Based on the foregoing, there are no legal issues with this release (provided that LFUCG otherwise consents to the release of the utility easement).

Happy to discuss.

Michael Cravens
Attorney Senior
Department of Law

859.258.3500
MCravens@lexingtonky.gov
lexingtonky.gov

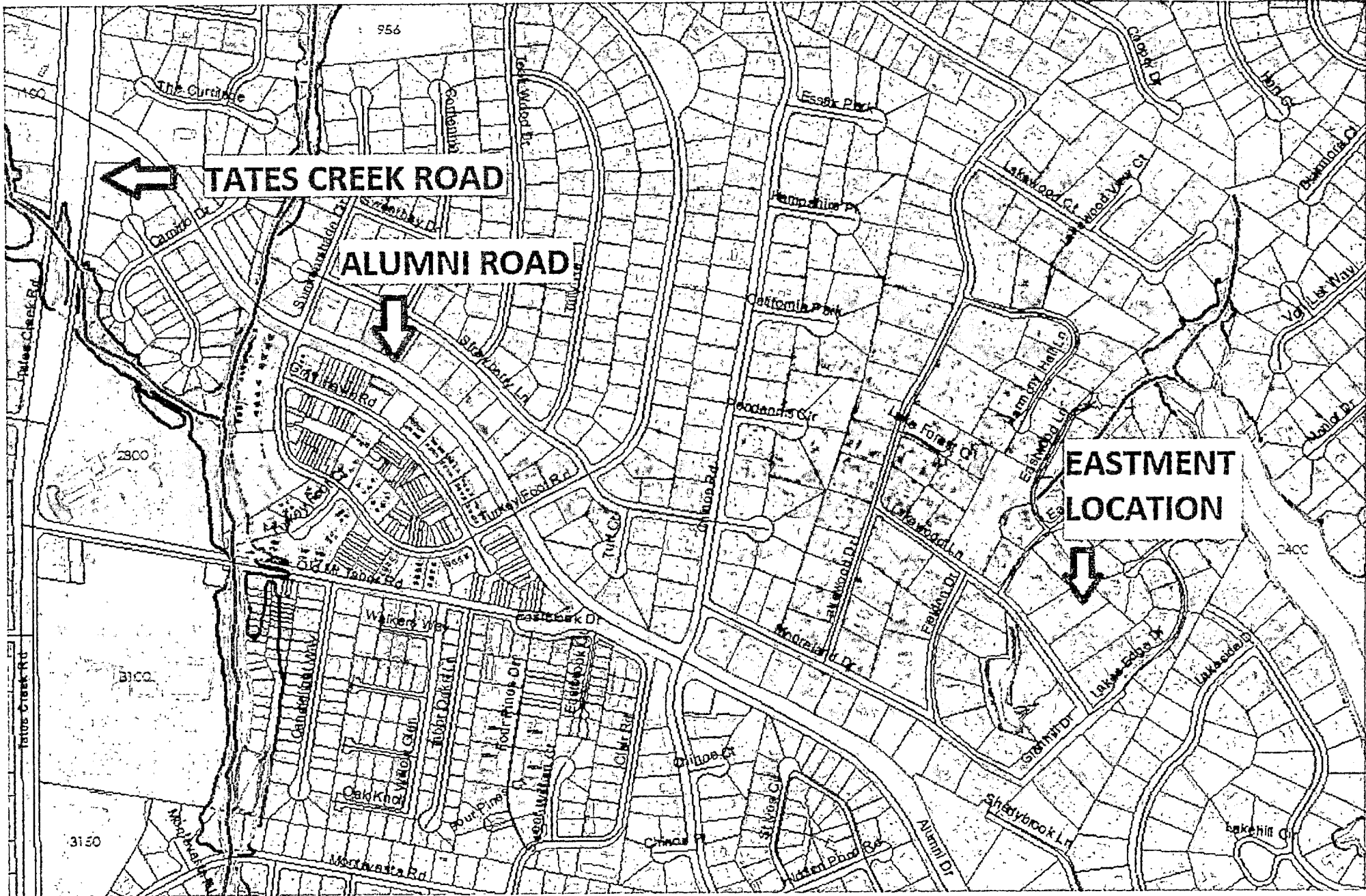


NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law, including but not limited to, Kentucky Rule of Evidence 503. Any legal opinion provided in this electronic mail transmission is provided in the course of my legal representation of the Lexington-Fayette Urban County Government and should not be disseminated to the public. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, delete it from your system without copying or forwarding it, and notify the sender of the error by replying via e-mail or by calling the Department of Law at (859) 258-3500, so that our address record can be corrected. Thank you.

From: Debbie R Barnett <dbarnett@lexingtonky.gov>
Sent: Thursday, April 30, 2020 2:22 PM
To: Ben Cornett <jcornett@lexingtonky.gov>; Brian Knapp <bknapp@lexingtonky.gov>; Gregory Lubeck <glubeck@lexingtonky.gov>; Michael Cravens <mcravens@lexingtonky.gov>; Stephen Parker (TE) <sparker@lexingtonky.gov>; Charles Martin <chmartin@lexingtonky.gov>; Traci Wade <twade@lexingtonky.gov>
Subject: 1739 Lakewood Release and Easement Grant request

RELEASE OF EASEMENT/ENCROACHMENT ROUTING



TATES CREEK ROAD

ALUMNI ROAD

EASTMENT
LOCATION