



MEMORANDUM

Council Agenda
Item No. XI. M
12/5/2023

The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: Craig Freeman, City Manager

1. Joint Resolution with the Oklahoma City Water Utilities Trust authorizing the Municipal Counselor's Office to initiate such actions at law and in equity against Timbercraft Homes, LLC, and any other liable or necessary party, to recover damages for public nuisance, trespass, and encroachment, and to enjoin encroachment and interference with the utility easement and the installation, operation, and maintenance of sanitary sewer facilities in Highland Point Phase 1, Oklahoma City, Oklahoma;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorneys concerning pending claim and investigation involving public nuisance, trespass, and encroachment related to the utility easement and sanitary sewer facilities in Highland Point Phase 1, Oklahoma City, Oklahoma, as authorized by 25 O.S. (2023 Supp.) §307(B)(4), because disclosure would seriously impair the ability of the public body to process the claim and conduct a pending investigation or pursue litigation in the public interest.

Background:

A platted utility easement was granted for the installation, operation, and maintenance of public utilities, including sanitary sewer facilities, in Highland Point Phase 1, Oklahoma City, Oklahoma. Timbercraft Homes, LLC constructed houses in the Highland Point Phase 1 development, including but not limited to the structure at 2502 NW 129th Street, Oklahoma City, Oklahoma. Certain structures along NW 129th Street, including but not limited to 2502 NW 129th Street, appear to encroach on the platted utility easement, which encroachment is a trespass and a public nuisance. The encroachment impairs and damages the property interests of The City of Oklahoma City and the Oklahoma City Water Utilities Trust and impairs and damages the ability to install, operate, maintain the sanitary sewer facilities, and responsibly and timely serve its customers.

Timbercraft Homes, LLC has requested the City Council adopt an ordinance closing all or a portion of the platted easement where the structure encroaches on the utility easement. Timbercraft Homes, LLC's request would not resolve the encroachment and would cause all the public utilities, current and future, to stack their facilities over each other and would impair the installation, operation, and maintenance of all facilities in the utility easement.

The Municipal Counselor's Office has conveyed to Timbercraft Homes, LLC, through its legal counsels, a proposed solution to the encroachment that would settle this issue, but the Municipal Counselor's Office has not received an affirmative response from Timbercraft Homes, LLC.

The closing ordinance has been deferred on multiple occasions but was denied on November 21, 2023.

Review:

Utilities Department

Recommendation: Joint Resolution be adopted.