

1. REQUESTED MOTION:

ACTION REQUESTED: Accept a Petition to Vacate a 12-foot wide Public Utility Easement located at 1223 Fitch Ave., Lehigh Acres, Florida, and adopt a resolution, setting a Public Hearing for 5:00 PM on the 11th day of January, 2005. (Case No. VAC2004-00058)

WHY ACTION IS NECESSARY: To build a single-family residence on the combined lots. The vacation of this easement will not alter existing utility conditions and the easement is not necessary to accommodate any future utility requirements.

WHAT ACTION ACCOMPLISHES: Sets the time and date of the Public Hearing.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 5

04
C4A

3. MEETING DATE:

12-21-2004

4. AGENDA:

5. REQUIREMENT/PURPOSE:
(Specify)

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

- STATUTE F.S. Ch. 177
- ORDINANCE
- ADMIN. CODE 13-1
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Community Development
- C. DIVISION Development Services
- BY: [Signature] 12/01/04

Peter J. Eckenrode, Director

7. BACKGROUND:

The completed petition to vacate, VAC2004-00058 was submitted by Daniel and Wendy Smitley.

LOCATION: The site is located at **1223 Fitch Ave., Lehigh Acres, FL 33972** and its strap number is 13-44-27-03-00010.0220. Petition No. VAC2004-00058 proposes to vacate a 12-foot wide Public Utility Easement centered on the common lot line between Lots 22 and 23; both in Block 10, Unit 3, Plat of Section 13, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, as recorded in Plat Book 15 at Page 15 of the Public Records of Lee County, Florida; **LESS and EXCEPT** the easterly six feet and westerly six feet thereof.

Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

There are no objections to this Petition to Vacate. Staff recommends the scheduling of the Public Hearing.

Attached to this Blue sheet is the Petition to Vacate, Resolution to set Public Hearing, Notice of Public Hearing and Exhibits.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager
					OM	Risk	GC	
<u>Man Gibbs</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>[Signature]</u>	<u>[Signature]</u> 12/7/04	<u>[Signature]</u> 12/7/04	<u>[Signature]</u> 12/7/04	<u>[Signature]</u>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 12/2/04
Time: 11:35
For Forwarded To:
Admin
12/5/04 1:37 pm

RECEIVED BY
COUNTY ADMIN: 10
12/6/04
3:15 pm SL
COUNTY ADMIN
FORWARDED TO: [Signature]
12/8/04
RAM

**RESOLUTION NO. _____ TO SET PUBLIC HEARING
FOR PETITION TO VACATE** Case Number: VAC2004-00058

WHEREAS, a Petition to Vacate was filed with the Board of County Commissioners;
and

WHEREAS, the Petitioner seeks to abandon, discontinue, close or vacate a portion
of a plat, easement, parcel or right-of-way legally described in the attached Exhibit "A".

WHEREAS, under Florida Statute and the Lee County Administrative Code, the
Board must hold a Public Hearing in order to grant a vacation affecting a public easement,
public right-of-way or platted lands.

BE IT THEREFORE RESOLVED by the Board of County Commissioners of Lee
County, Florida, as follows:

1. A Public Hearing on Petition to Vacate No. VAC2004-00058 is set for the
_____ in the Lee County Commission Chambers.
2. A Notice of Public Hearing on this Petition to Vacate will be published in
accordance with the Lee County Administrative Code.

THIS RESOLUTION passed by voice and entered into the minutes of the Board of
County Commissioners of Lee County, Florida this _____

ATTEST
CHARLIE GREEN, CLERK

Deputy Clerk Signature

Please Print Name

BOARD OF COUNTY
COMMISSIONERS OF
LEE COUNTY, FLORIDA

Chairman Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

EXHIBIT "A"
Petition to Vacate
VAC2004-00058

Legal Description of the Public Utility Easement to be Vacated:

The twelve-foot (12') wide Public Utility Easement centered on the common lot line between Lots 22 and 23; both in Block 10, Unit 3, Plat of Section 13, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, as recorded in Plat Book 15 at Page 15 of the Public Records of Lee County, Florida;

LESS and EXCEPT the easterly six feet and westerly six feet thereof.

NOTICE OF PUBLIC HEARING FOR PETITION TO VACATE

Case Number: VAC2004-00058

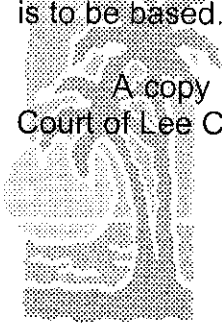
TO WHOM IT MAY CONCERN:

Notice is hereby given that on the 11th day of January 2005 @5:00 PM in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A".

Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of the Clerk of the Circuit Court of Lee County, Florida, Minutes Office, 2115 Second Street, Fort Myers, Florida.



LEE COUNTY

CHARLIE GREEN, CLERK

S O U T H W E S T F L O R I D A

Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

EXHIBIT "A"
Petition to Vacate
VAC2004-00058

Legal Description of the Public Utility Easement to be Vacated:

The twelve-foot (12') wide Public Utility Easement centered on the common lot line between Lots 22 and 23; both in Block 10, Unit 3, Plat of Section 13, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, as recorded in Plat Book 15 at Page 15 of the Public Records of Lee County, Florida;

LESS and EXCEPT the easterly six feet and westerly six feet thereof.



PETITION TO VACATE (AC 13-1)

Case Number: VAC2004-00058

Petitioner(s), Daniel + Wendy Smitley requests the Board of County Commissioners of Lee County, Florida, to grant this Petition to Vacate and states as follows:

- 1. Petitioner(s) mailing address, 2912 9th St. West, Lehigh Acres, FL 33971
2. In accordance with Florida Statute (F.S.) Chapter 177 and Lee County Administrative Code (LCAC) 13-1, Petitioner desires to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit "A".
3. A sketch showing the area the Petitioner desires to vacate is attached as Exhibit "B".
4. Proof Petitioner paid all applicable state and county taxes is attached as Exhibit "C".
5. Petitioner is fee simple title holder to the underlying land sought to be vacated.
6. Petitioner did provide notice to all affected property owners concerning the intent of this Petition in accordance with the LCAC 13-1.
7. In accordance with letters of review and recommendation provided by various governmental and utility entities, it is apparent if the Board grants the Petitioner's request, it will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

Wherefore, Petitioner respectfully requests the Board of County Commissioners adopt a Resolution granting the Petition to Vacate.

Respectfully Submitted by:

[Handwritten signature]
Petitioner Signature

Wendy Smitley
Petitioner Signature

Daniel Smitley
Printed Name

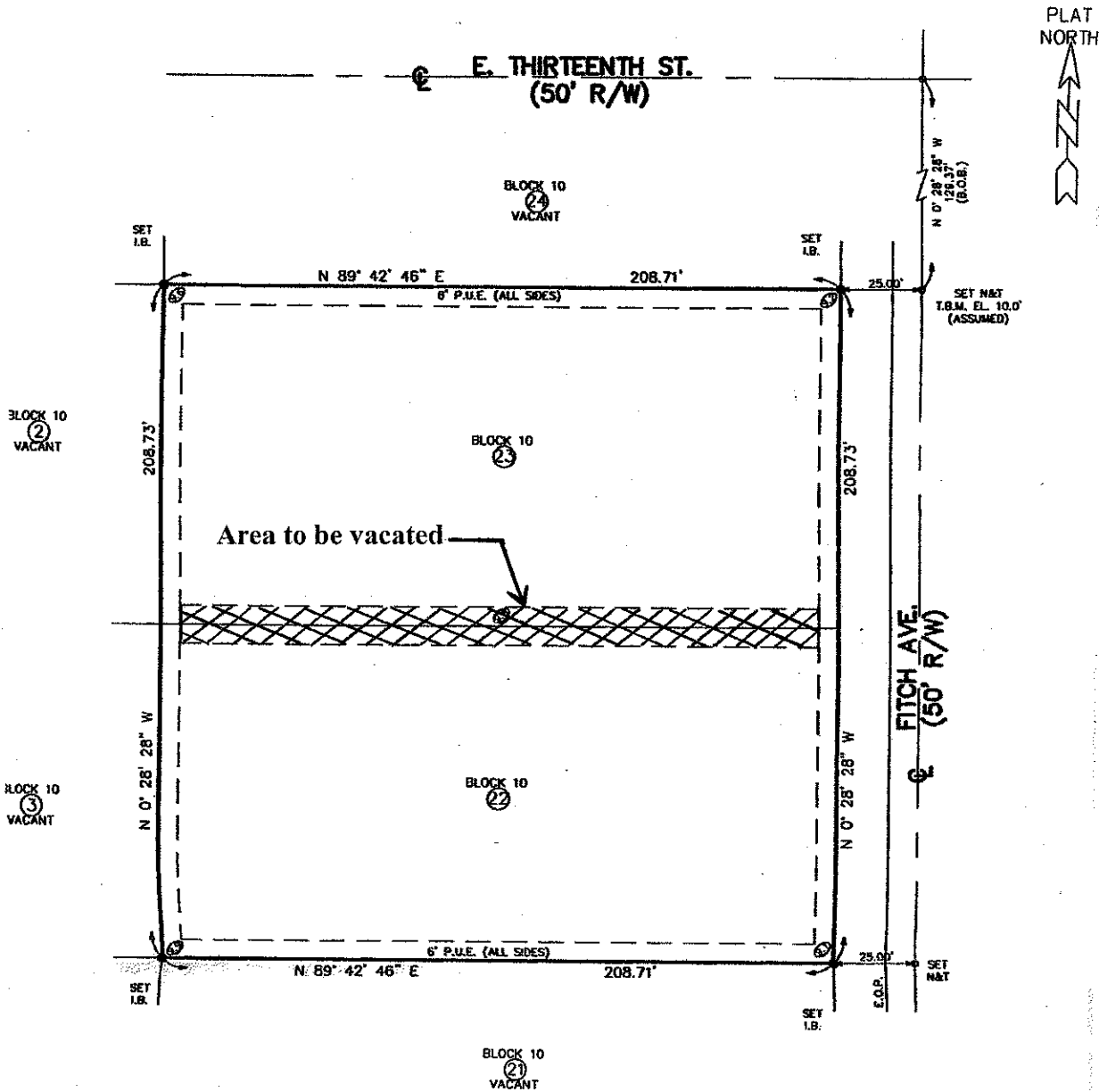
Wendy Smitley
Printed Name

EXHIBIT "A"
Petition to Vacate
VAC2004-00058

Legal Description of the Public Utility Easement to be Vacated:

The twelve-foot (12') wide Public Utility Easement centered on the common lot line between Lots 22 and 23; both in Block 10, Unit 3, Plat of Section 13, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, as recorded in Plat Book 15 at Page 15 of the Public Records of Lee County, Florida;

LESS and EXCEPT the easterly six feet and westerly six feet thereof.



BOUNDARY SURVEY
 1223/1225 FITCH AVENUE
 LOTS 22 & 23, BLOCK 10, UNIT 3
 SECTION 13, TOWNSHIP 44 SOUTH, RANGE 27 EAST
 LEHIGH ACRES, LEE COUNTY, FLORIDA
 RECORDED IN PLAT BOOK 15, PAGE 15, AND
 PLATTED FEBRUARY 15, 1956, OF THE
 OFFICIAL RECORDS OF LEE COUNTY, FLORIDA

Exhibit "B"
Petition to Vacate
VAC2004-00058
 [Page One of One]

NOTE: Location of underground utilities and/or structures NOT located NOT VALID without the signature and the original raised seal of a Florida Licensed Surveyor and mapper. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.

Robert M. Still

3-17-04

ROBERT M. STILL, REGISTERED LAND SURVEYOR NO. 3695
 CHRISTOPHER B. STILL, REGISTERED LAND SURVEYOR NO. 5941
 S.T.A.R. SURVEYING, INC. LB5449
 1130-E LEE BLVD., LEHIGH ACRES, FL. 33936
 (239) 368-7400 FAX.(239) 368-7685

FIELD SURVEY: 2-28-04

REVISION:

DRAWN BY: B.J.P.

SCALE: 1" = 40'

SHEET: 1 OF 1

FILE NO: 0449

Exhibit "C"
Petition to Vacate
VAC2004-00058
 [Page One of One]

Lee County Tax Collector - Print Results



Real Property Information

Account	Tax Year	Status
13-44-27-03-00010.0220	2004	PAID
Original Account	Book/Page	
13-44-27-03-00010.0220	4253/2422	
Physical Address	Mailing Address	
SMITLEY DANIEL + WENDY 1223 FITCH AVE LEHIGH ACRES FL 33972	SMITLEY DANIEL + WENDY 2912 9TH ST WEST LEHIGH ACRES FL 33971 USA	
Legal Description		
LEHIGH ACRES UNIT 3 BLK 10 DB 254 PG 85 LOT 22		
Outstanding Balance as of 12/2/2004		\$0.00

Lee County Tax Collector - Print Results



Real Property Information

Account	Tax Year	Status
13-44-27-03-00010.0230	2004	PAID
Original Account	Book/Page	
13-44-27-03-00010.0230	4253/2422	
Physical Address	Mailing Address	
SMITLEY DANIEL + WENDY 1225 FITCH AVE LEHIGH ACRES FL 33972	SMITLEY DANIEL + WENDY 2912 9TH ST WEST LEHIGH ACRES FL 33971 USA	
Legal Description		
LEHIGH ACRES UNIT 3 BLK 10 DB 254 PG 85 LOT 23		
Outstanding Balance as of 12/2/2004		\$0.00

Corporate Warranty Deed



This Indenture, made this 24 day of March, 2004, A.D. Between CKR PROPERTIES, LLC., a Florida Limited Liability Company, whose post office address is: 9131 COLLEGE PKWY, STE 13B BOX 110, FORT MYERS FL 33919, Grantor, and

INSTR # 6218110 OR BK 04253 Pg 2422; (1pg) RECORDED 04/12/2004 08:18:11 AM CHARLIE GREEN, CLERK OF COURT LEE COUNTY, FLORIDA RECORDING FEE 6.00 DEED DOC 252.00 DEPUTY CLERK D Shaw

DANIEL SMITLEY and WENDY SMITLEY, Husband and Wife, whose post office address is: 2912 9TH STREET WEST, LEHIGH ACRES, FL 33971, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Lee, State of Florida, to wit:

Lot(s) 22 & 23, Block 10, Unit 3, LEHIGH ACRES SUBDIVISION, Section 13, Township 44 South, Range 27 East, according to the plat thereof, as recorded in Plat Book 15, Page(s) 15, inclusive, in the Public Records of Lee County, Florida.

Subject To taxes for the calendar year 2004, covenants, restrictions and easements of record, if any. Parcel Identification Number: 13-44-27-03-00010.0220 & 0,

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And, the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written.

Signed and Sealed in Our Presence: TWO Separate Witnesses Required

CKR PROPERTIES, LLC.

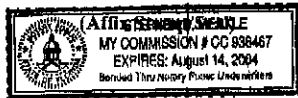
Witness Signature: Jeffrey D. Merkle Printed Name: Jeffrey D. Merkle

By: J. CRAIG REITAN Its, MANAGING MEMBER

Witness Signature: Stephen D. Merkle Printed Name: Stephen D. Merkle

State of FL County of LEE

The foregoing instrument was acknowledged before me this 24 day of March, 2004, by J. CRAIG REITAN, MANAGING MEMBER of CKR PROPERTIES, LLC., a Florida Limited Liability Company, on behalf of the company. He/She is personally known to me or has produced a as identification.



Notary Public Signature Notary Printed Name: Stephen D. Merkle My Commission Expires:

Prepared by: Jeffrey Merkle, an employee of CAPE CORAL TITLE INSURANCE AGENCY, INC., 1307 Cape Coral Parkway East Cape Coral, Florida 33904 File Number: 39142

BOARD OF COUNTY COMMISSIONERS

479-8585

Writer's Direct Dial Number: _____

Bob Janes
District One

November 29, 2004

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Daniel & Wendy Smitley
2912 9th St. West,
Lehigh Acres, FL 33971

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Re: **VAC2004-00058 - Petition to Vacate** a 12-foot Public Utility Easement located centered on the common lot line between Lots 22 and 23; both in Block 10, Unit 3, Plat of Section 13, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, as recorded in Plat Book 15 at Page 15 of the Public Records of Lee County, Florida; **LESS and EXCEPT** the easterly six feet and westerly six feet thereof.

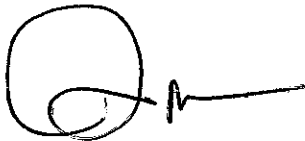
Dear Mr. & Mrs. Smitley:

You have indicated that in order to build a single-family residence on the combined lots, you desire to eliminate the Public Utility Easement located between your two (2) lots. The site is located at 1223 Fitch Ave., Lehigh Acres, Florida. Based on a review of the information provided and our subsequent research, this office has no objection to the proposed vacation.

Should you have any questions, please call me at the above telephone number.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division



Peter J. Eckenrode
Director

PJE/RSK

U:\200411\20040929.10219166250\DCDLETTER.DOC

DAN & WENDY SMITLEY

2912 9th Street West
Lehigh Acres, Fl. 33971
Phone: (239)-368-6781
Fax: (239)-368-6781

Department Of Community Development
Attn: Mr. Peter J. Eckenrode
Director Development Services

Dear Mr. Eckenrode,

We would like to vacate the easement between the following, Lot 22 & 23, Block 10, Unit 3, Section 13, Township 44 South, Range 27 East, Lehigh Acres, as recorded in Deed Book 254, Page 85, Lee County Land Records, Florida Parcel I.D. No. 13-44-27-03-00010.0220 and Parcel I.D. No. 13-44-27-03-0010.0230.

The reason for the request is that we wish to build a single family residence in the center of the combined lots.

Thank you in advance for your consideration.

Sincerely,





RUSS REED
CUSTOMER PROJECT MANAGER
2425 THOMPSON ST
FT MYERS, FL, 33917
PHONE 239-332-9167
FAX 239-332-9128

Dan & Wendy Smitley
2912 9th St W
Lehigh Acres, FL 33971

Re: Vacating of Easement

Florida Power & Light Co. has no objection to vacating the easement common to Lots 22 & 22 Block 10 Unit 3 less the north/east and south/west 6' thereof. These lots have the following strap numbers:

13-44-27-03-00010.0220

13-44-27-03-00010.0230

If I may be of further assistance, please do not hesitate to contact me at 239-332-9167.

Yours truly,

Russ Reed
Customer Project Manager



Customer Service Operations

Post Office Box 1530
LaBelle, Florida 33975-4613

July 7, 2004

Dan & Wendy Smitley
2912 9th St W
Lehigh Acres, FL 33971-5416

Re: Vacation of Public Utility Easement:
A 12 foot wide public utility and drainage easement
centered on the lot line common to lots 22 & 23,
Block 10, Unit 3, Section 13, Township 44S, Range 27E,
as recorded in DB 254, Page 85 of the Official Records of Lee County.

Dear Mr. & Mrs. Smitley:

Sprint-Florida Incorporated has reviewed the document for the above referenced information. Based on the review, we have no objection to the vacation of a portion of a public utility easement at the Lehigh Acres location.

If you should require additional information, please contact me at 863-452-3232.

Sincerely,

A handwritten signature in cursive script that reads "Sabrina Thompson".

Sabrina Thompson
Engineer



26930 Old US 41
Bonita Springs, FL 34135
Phone: 239-732-3805
FAX: 239-498-4483

October 28, 2004

Wendy Smitley
2912 9th Street West
Lehigh Acres, FL 33971

Re: Between 1223 & 1225 Fitch Av Lehigh Acres, Fl 33971
Vacate easement

Dear Wendy Smitley

This letter will serve to inform you that Comcast has no objection to your proposed vacation easement of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 732-3805.

Cordially,

A handwritten signature in black ink, appearing to read "Mark Cook".

Mark Cook
Design Coordinator



November 17, 2004

Wendy Smitley
2912 9th Street W
LeHigh Acres, Fla. 33971

RE: Vacation of easement between
1223 & 1225 Fitch Ave, Lehigh Acres, Fla.

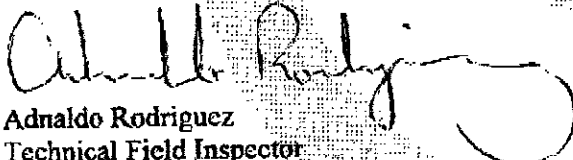
Dear Mr. Smitley:

The plat map sent to us for the above listed vacation of easement has been reviewed. At this time, Time Warner Cable has no facilities in this area and no future build is anticipated. Time Warner Cable has **NO CONFLICT** with this vacation of easement.

If you have any further questions or concern, please do not hesitate to contact me at (239) 772-2218, Ext. 79247.

Sincerely,

TIME WARNER CABLE


Adnaldo Rodriguez
Technical Field Inspector

AR/ss

AmeriGas

America's Propane Company

July 21, 2004

Dan & Wendy Smitley
2912 9th Street West
Lehigh Acres, Florida 33971

Dear Mrs. Smitley:

In reference to your fax/telephone call today, AmeriGas has no interest on right of way on the following parcel(s):

STRAP NO.: 13-44-27-03-00010.0220

STRAP NO.: 13-44-27-03-00010.0220

Please feel free to contact me at 239-334-2849, should you have further questions.

Sincerely,


Jim Riefstahl
Sales & Service Manager



FLORIDA GOVERNMENTAL UTILITY AUTHORITY

280 Wekiva Springs Road, Suite 203, Longwood, Florida 32779, Ph: (407) 629-6900, Fax: (407) 629-6963

August 24, 2004

Dan & Wendy Smitley
2912 9th St. W.
Lehigh Acres, FL. 33971

RE: Vacation of Easement for Lots 22 & 23 of Block 10, Unit 3, Section
13 in Lehigh Acres

Dear Mr. & Mrs. Smitley:

The FGUA Board met August 20, 2004 and determined that they do not presently hold any property rights over the address identified above other than the plat reservation. They also determined that the FGUA has no current utilities in the utility easement nor has any foreseeable need for utility placement in the easement to be vacated. Therefore, the Board approved the request for vacation of easement on August 20, 2004.

The vacation of easement was requested for the 6-foot wide utility and drainage easement lying on the north side of Lot 22 and the south side of lot 23, Block 10, Unit 3 in Lehigh Acres (excluding the eastern and western 6 feet). The request is made for the purpose of combining lots for new home construction. All lots in this subdivision have 6-foot utility easements on the front and rear portions of the properties.

Should you have any further questions in this matter, please do not hesitate to contact me at 407-629-6900.

Sincerely,

Florida Governmental Utility Authority

A handwritten signature in black ink, appearing to read 'Charles L. Sweat', is written over a horizontal line.

Charles L. Sweat
Director of Operations

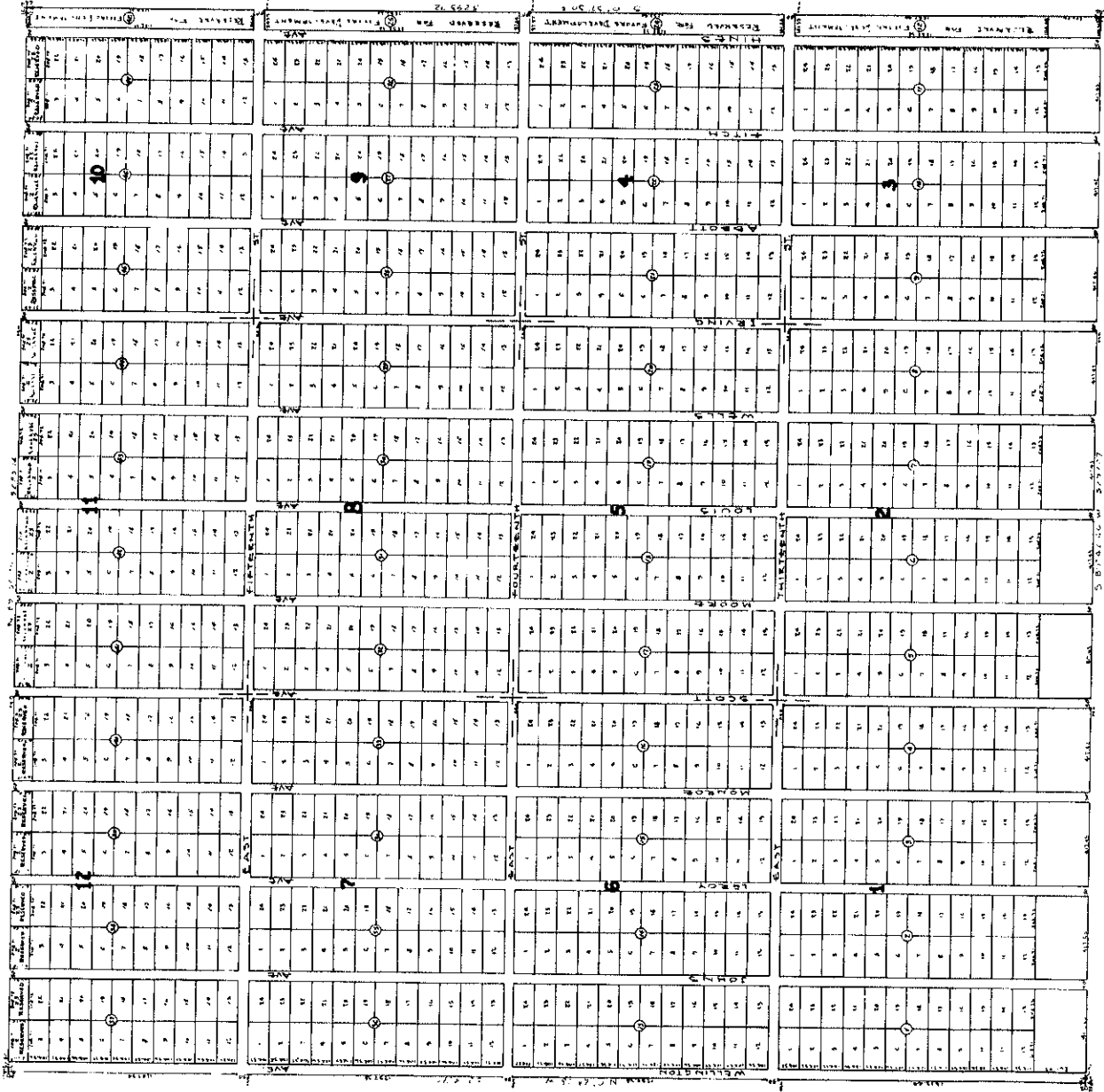
PLAT
of
SECTION 13
Twp. 44 S. RGE. 27 E

A SUBDIVISION OF
LEHIGH ACRES
LEE COUNTY, FLA.

LEE COUNTY LAND TITLE CO. DEVELOPER
SCALE 1" = 40' FEB. 10, 1936

CONSTITUTE AS SURVEY
THIS INSTRUMENT BEING MADE AND
FILED FOR RECORD IN COUNTY OF LEE, FLORIDA
FOR LAND PARTLY AND PART PARTMENT INTERESTS
HEREIN TO BE OWNED AS SHOWN
—Map of Lehigh Acres, Fla. 1/16
—Survey of Lee County, Florida

NOTE:
Dimensions Shown, Let and Last Lines of
Boundaries of Lehigh Acres, are as shown.



12	13	14
1	2	3
4	5	6
7	8	9
10	11	12
13	14	15
16	17	18
19	20	21
22	23	24
25	26	27
28	29	30
31	32	33

NOTE:
 ALL LOTS SUBJECT TO A GO UTILITY EMBEZZLEMENT
 ON ALL SIDES OF LOT.
 INTERIOR DIM'S ARE 4' x 4' x 24' CONCRETE.
 SECTION ONE DIM'S ARE 6' x 6' x 30' CONCRETE.
 ALL LOTS BEING 1/2 ACRE EXCEPT WHERE NOTED.

NOTE:
 DIMENSIONS, BEARINGS, LOT A
 DRAWING OF LATEST DATA.

RECORD FOR
 1234

00022 012B	00022 013A	00022 013B	00023 012A
00010 001B	00010 0240		00011 001A
00010 0020	00010 0220 HIGH AGRES		00011 0020
00010 0030			00011 0030
00010 0040	00010 0210		00011 0040
00010 0050	00010 0200		00011 0050



Area to be vacated