

Complaint Summary from the Owners of 1188 Lincoln Regarding Dumpster Placed on Driveway between 1188 and 1186 Lincoln Avenue (February 17, 2015)

According to a 2006 land survey (conducted by Sunde Land Surveying) of 1188 Lincoln Avenue, the driveway located between the two houses at 1188 and 1186 Lincoln Avenue is approximately 3 feet inside the east property line of 1188 Lincoln. Sunde surveyors replaced the survey monuments on the East line corners on February 2, 2015 as the original ones had disappeared. (See photos.)

We consulted with a real estate attorney in 2006. Because of prior use/access to the garage, it was determined that the owners of 1186 Lincoln had easement rights limited to the use of the driveway for ingress and egress purposes only. We did not then, nor do we now, contest the right of the owners of 1186 to drive in and out of the driveway to their garage or parking area. We were told that since there is no easement agreement, the owners of 1186 Lincoln are not allowed to park any vehicles and/or other temporary containers on the driveway.

The current owner of 1186 Lincoln states in his appeal to the City order that he "needs" to park the dumpster on the driveway and that they "own" the driveway because "it's been there many, many years". We disagree on both points. It is our understanding that there is no legal "hardship" that would justify issuance of any variance from city restrictions. And, the survey clearly shows that part of the driveway is on our property. We ask that the City order remain in place, and that no dumpster be allowed to be placed on the driveway, as it encroaches on our property. There is no shortage of on-street space for parking a dumpster on our street.

This issue has long term implications for us as well. One major concern of ours is the garage at 1186 Lincoln. Since the owners are letting it fall into disrepair, we assume that they intend to replace the garage in the near future. (See photo of garage.) We fear that they will improperly locate the garage when they build a new one, creating another potential encroachment and title defect.

Please note that in 2009 when the current owners of 1186 moved in, we informed them of the property line issue and asked them if they would be amenable to creating an easement/maintenance agreement. They declined.