

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20041368**

**1. REQUESTED MOTION.**

**ACTION REQUESTED:** Authorize: (1) approval of Easement Purchase Agreement for acquisition of Parcel 173, Gunnery Road Widening. Project 4055, in the amount of \$500.00; (2) Chairman, on behalf of the Board, to sign the Purchase Agreement; (3) payment of costs and fees to close; (4) Division of County Lands to handle and accept all documentation necessary to complete this transaction.

**WHY ACTION IS NECESSARY:** The Board must accept all real estate conveyances to Lee County.

**WHAT ACTION ACCOMPLISHES:** Allows the County to proceed with the project without resorting to Eminent Domain proceedings.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT**

**CLD**

**3. MEETING DATE:**

**11-23-2004**

**4. AGENDA:**

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

**5. REQUIREMENT/PURPOSE:  
(Specify)**

- STATUTE 125
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
  - B. DEPARTMENT Independent
  - C. DIVISION County Lands
- BY: *KLW*  
Karen L. W. Forsyth, Director

**7. BACKGROUND:**

**Negotiated for:** Department of Transportation

**Interest to Acquire:** Easement

**Property Details:**

Owner: Anthony Dyshanowitz and Catherine Dyshanowitz  
Address: 304 and 306 Gunnery Road, Lehigh Acres, FL 33971  
STRAP No.: 33-44-26-07-00007.0250 and .0260

**Purchase Details:**

Purchase Price: \$500.00  
Costs to Close: Approximately \$500.00

**Appraisal Information:** The easement interest has not been appraised. The cost of an appraisal is estimated to be \$400.00.

**Staff Recommendation:** Considering the costs associated with condemnation proceedings estimated to be between \$3,000 and \$5,000, excluding land value, Staff recommends the Board approve the Requested Motion.

**Account:** 20405518803.506110

20 - CIP; 4055 - Gunnery Road; 18803 - Impact Fees - Road - E Lee Co; 506110 - Land

**Attachments:** Easement Purchase Agreement; Slope/Restoration Easement and Temporary Construction Easement; Title Search

**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
<i>KLW</i>			<i>DAO</i> <i>4/14/04</i> <i>11/19/04</i>	<i>[Signature]</i>	OA	OM	Risk	GC	<i>HS</i> <i>11/9/04</i>
					<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by CoAtty**  
 Date: **11/8/04**  
 Time: **11:50**  
 Forwarded To:  
*[Signature]*  
**11/8/04 3:45pm**

RECEIVED BY  
 COUNTY ADMIN  
**11/8/04**  
**4:10 PM**  
 COUNTY ADMIN  
 FORWARDED TO *[Signature]*  
**11/7/04**  
**5:00 PM**

Parcel: 173  
Project: Gunnery Road 4 Lane (SR 82 – Lee Blvd.), Project No. 4055  
STRAP No.: 33-44-26-07-00007.0250 and .0260

### EASEMENT PURCHASE AGREEMENT

This Agreement made and entered into this 4 day of OCTOBER, 2004, by and between **Anthony Dyshanowitz and Catherine Dyshanowitz**, husband and wife, whose address is 17355 Meadow Lake Circle, Fort Myers, FL 33912, hereinafter referred to as Owner, and **LEE COUNTY**, a political subdivision of the State of Florida, for the use and benefit of said County, hereinafter referred to as Purchaser.

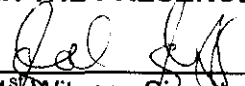
Whereas, Purchaser requires a perpetual, nonexclusive Slope/Restoration Easement and a Temporary Construction Easement located and described as set forth in Exhibit "C" and "D" attached to Exhibit "A". All Exhibits are attached hereto and made a part hereof by reference, in conjunction with the Gunnery Road Widening Project #4055.


- a) Owner will grant said easements to Purchaser for the sum of \$500.00; Purchaser to pay recording costs, documentary stamps and title insurance.
- b) Owner agrees that said easements will be granted to Purchaser by execution of the Non-exclusive Slope/Restoration Easement and Temporary Construction Easement in form and substance set forth in Exhibit "A".
- c) Purchaser will pay Owner the amount agreed upon in item (a) of this agreement by County Warrant within 60 days of the execution and acceptance of this Easement Purchase Agreement and the Perpetual and Temporary Easement instruments by Purchaser.
- d) Owner agrees that Purchaser, his successors and assigns will be allowed to use said easement areas as specified in the Easement document attached to Exhibit "A".
- e) Purchaser agrees to complete construction within the easement area in a timely manner.
- f) The land in Exhibit "C" and "D" is not and has never been the homestead of the Owner, nor is it contiguous to the homestead of the Owner.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their respective names on the date first above written.


**SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:**

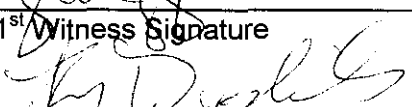
**Owner:**

  
\_\_\_\_\_  
1<sup>st</sup> Witness Signature

  
\_\_\_\_\_  
2nd Witness Signature

  
\_\_\_\_\_  
**Anthony Dyshanowitz**

  
\_\_\_\_\_  
1<sup>st</sup> Witness Signature

  
\_\_\_\_\_  
2nd Witness Signature

  
\_\_\_\_\_  
**Catherine Dyshanowitz**

**EASEMENT PURCHASE AGREEMENT**

**Gunnery Road 4 Lane (SR 82 – Lee Blvd.), Project No. 4055**

Page 2 of 2

**ATTEST:**

CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Chairman or Vice-Chairman

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Office of County Attorney

**This instrument prepared by:**

Lee County

Division of County Lands

Post Office Box 398

Fort Myers, Florida 33902-0398

ORIGINAL DOCUMENTS RETAINED IN

COUNTY LANDS FILES FOR HANDLING EXHIBIT "A"

UPON BOARD ACCEPTANCE.

Parcel: 173

Project: Gunnery Road 4 Lane (SR 82 – Lee Blvd.), Project No. 4055

STRAP No.: 33-44-26-07-00007.0250 and .0260

**SLOPE/RESTORATION EASEMENT and**  
**TEMPORARY CONSTRUCTION EASEMENT**

This INDENTURE, made and entered into this 4 day of October 2004, between Anthony Dyshanowitz and Catherine Dyshanowitz, husband and wife, whose address is 17355 Meadow Lake Circle, Fort Myers, FL 33912, (Grantor), and LEE COUNTY, a political subdivision of the State of Florida, whose address is PO Box 398, Fort Myers, Florida 33902-0398, (Grantee):

WITNESSETH:

1. For good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to the Grantee, its successors and assigns, a perpetual non-exclusive slope/restoration easement situated in Lee County, Florida, and located and described as set forth in attached Exhibit "C" (Easement Parcel).

2. Grantee, its successors and assigns, are granted the right, privilege, and authority to construct, replace, repair, remove, extend, and maintain a slope/restoration easement on the Easement Parcel to support, reinforce, and stabilize the adjacent public roadway.

3. The improvements that may be placed within the Easement Parcel for roadway slope/restoration purposes are not limited to a particular type, style, material or design. These improvements may include the use of foliage.

4. Grantor may not construct or place any structures within the Easement Parcel; however, Grantor may authorize the installation of utilities or may plant foliage within the easement area conveyed herein, provided such use does not interfere with or prevent the Grantee's use of the easement.

5. Title to the improvements constructed by the Grantee within the Easement Parcel will remain in the Grantee, its successors or assigns.

6. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, Grantors covenant they are lawfully seized and possessed of the real property described in Exhibit "C" and "D", have good and lawful right and power to convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and accordingly, Grantor will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.

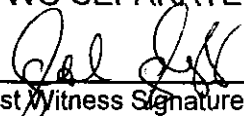
7. Grantee has a reasonable right of access across Grantor's property for the purposes of reaching the Easement Parcel on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon resulting from Grantee's use of this access right will be restored by the Grantee, to the condition in which it existed prior to the damage.

8. During the period of 7/1/05 through 12/31/06, the County will have permission to enter the following described lands in Exhibit "D" for purpose of ingress and egress to the Gunnery Road Widening Project where it abuts the above described property, by workmen, machinery and vehicles, the storing and/or stockpiling materials as needed for said construction; and then restoring the said property and thereby connecting all new construction resulting from the project to that existing prior to construction. The County will restore, as reasonably possible, the temporary construction area to a safe and aesthetic condition, as such existed prior to construction. The County will grade the lands to match the new construction at no cost to the Grantor.

9. This easement runs with the land and is binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, the Grantor, has caused this document to be signed on the date first above written.

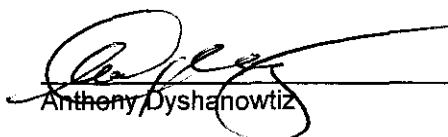
TWO SEPARATE WITNESSES:

  
1st Witness Signature

Danielle Dyshanowitz  
Printed name of 1st Witness

  
2nd Witness Signature

Anthony Dyshanowitz  
Printed name of 2nd Witness

  
Anthony Dyshanowitz

  
1st Witness Signature

Danielle Dyshanowitz  
Printed name of 1st Witness

  
2nd Witness Signature

Anthony Dyshanowitz  
Printed name of 2nd Witness

  
Catherine Dyshanowitz

STATE OF  
COUNTY OF

The foregoing instrument was acknowledged before me this 10-04 day of 2004 October,  
20 04, by Anthony Dyshanowitz. He ~~is~~ is personally known to me or who has produced  
(name of person acknowledged)

[Signature] as identification.

Virginia Ann Milsap  
(Signature of Notary Public)

Virginia ANN Milsap  
(Name typed, printed or stamped)  
(Title or Rank)  
(Serial Number, if any)

STATE OF  
COUNTY OF

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of October,  
2004, by Catherine Dyshanowitz. He/she ~~is~~ is personally known to me or who has produced  
(name of person acknowledged)

Catherine Dyshanowitz as identification.

Virginia Ann Milsap  
(Signature of Notary Public)

Milsap ANN Milsap  
(Name typed, printed or stamped)  
(Title or Rank)  
(Serial Number, if any)

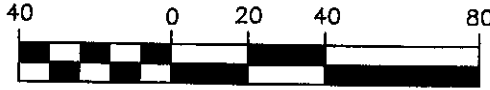
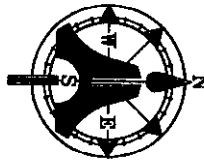
L:\Gunnery 4055\Slope-Temp Easement.doc/le 9/16/04



Virginia Ann Milsap  
Commission # DD171414  
Expires Dec. 12, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

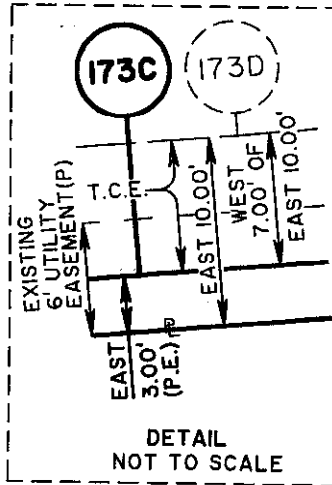
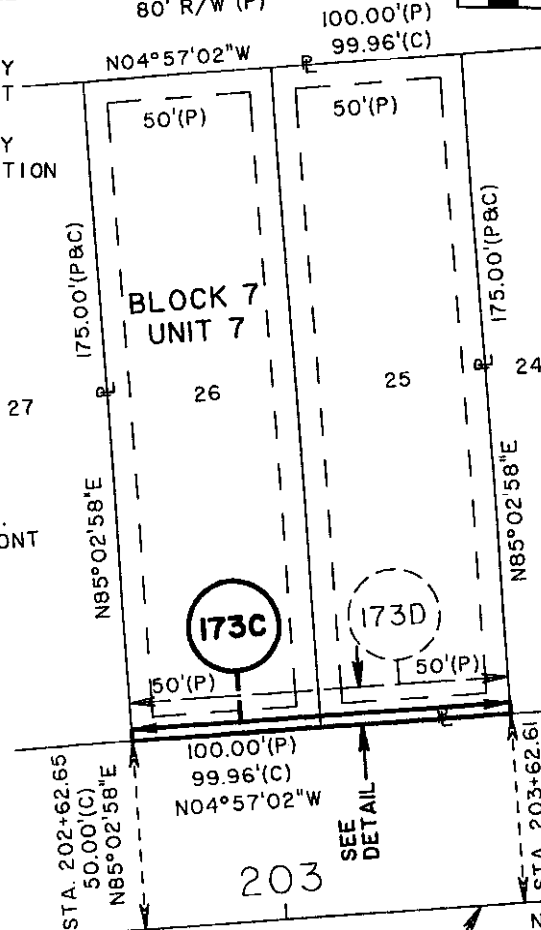
LEGEND  
 (C) = CALCULATED  
 (F) = FIELD  
 (P) = PLAT  
 C.B. = CHORD BEARING  
 CH = CHORD  
 ESMT. = EASEMENT  
 L = LENGTH  
 M.O.L. = MORE OR LESS  
 P.B. = PLAT BOOK  
 PG. = PAGE  
 P. = PARENT TRACT  
 PROPERTY LINE  
 R = RADIUS  
 RT. = RIGHT  
 R/W = RIGHT OF WAY  
 S.F. = SQUARE FEET  
 STA. = STATION  
 T.C.E. = TEMPORARY  
 CONSTRUCTION  
 EASEMENT  
 P.E. = PERPETUAL  
 EASEMENT

PARCEL 173C (PERPETUAL EASEMENT)  
 PROPERTY OWNER: ANTHONY DYSHANOWTIZ AND CATHERINE DYSHANOWTIZ  
 STRAP NO. 33-44-26-07-00007.0250  
 STRAP NO. 33-44-26-07-00007.0260  
 AREA OF PARENT TRACT: 17,493 S.F., M.O.L.  
 AREA OF TAKE: 300 S.F., M.O.L.



"EXHIBIT C"

GRETCHEN AVENUE (F)  
 GERALD AVENUE (P)  
 80' R/W (P)



ALL LOTS ARE  
 SUBJECT TO A  
 6' UTILITY ESMT.  
 BOTH SIDES, FRONT  
 AND BACK. (P)

P.O.T. STATION 128+63.13  
 PARKER-KALON NAIL  
 & DISK "AIM ENG. LB 3114"

SURVEY BASE LINE  
 GUNNERY ROAD  
 GUNNERY ROAD S. (F)  
 BUCKINGHAM COUNTY ROAD (P)  
 100' R/W (P)

P.I. STA. 217+61.38  
 BRIDGE SPIKE  
 & BOTTLE CAP  
 NO ID

ARCEL 173C  
 PERPETUAL EASEMENT)

3.00 FOOT WIDE PERPETUAL EASEMENT BEING  
 THE EAST 3.00 FEET OF LOTS 25 AND 26, BLOCK  
 7, UNIT 7, LEHIGH ESTATES, A SUBDIVISION OF  
 LEHIGH ACRES, SECTION 33, TOWNSHIP 44 SOUTH,  
 RANGE 26 EAST, AS RECORDED IN PLAT BOOK 15  
 PAGE 87, OF THE PUBLIC RECORDS, LEE COUNTY,  
 FLORIDA.

ALL ADJACENT LANDS CONTAIN 300 SQUARE FEET, MORE  
 OR LESS.

NOTE:  
 BEARINGS SHOWN HEREON ARE BASED UPON THE  
 SURVEY BASE LINE OF GUNNERY ROAD HAVING A  
 BEARING OF N 04°57'02" W FROM P.O.T. STATION  
 128+63.13 BEING A PARKER-KALON NAIL AND DISK  
 "AIM ENG. LB 3114" TO P.I. STATION 217+61.38 BEING  
 A BRIDGE SPIKE AND BOTTLE CAP NO ID.

PREPARED BY:  
 AIM ENGINEERING & SURVEYING, INC.

BOB L. POTTER, P.S.M.  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5688

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL  
 RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND  
 MAPPER.

AIM Engineering & Surveying, Inc.

5300 LEE BLVD.  
 P.O. BOX 1235  
 LEHIGH ACRES  
 FLORIDA 33970  
 239/332-4569  
 FX:239/332-8734

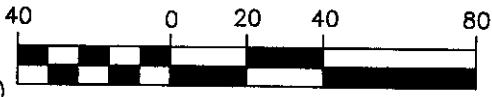
THIS IS NOT A SURVEY SHEET 1 OF 1

PROJECT NUMBER: 99-7504	DESCRIPTION: LEGAL AND SKETCH PARCEL 173C GUNNERY ROAD FROM S.R. 82 TO LEE BOULEVARD
DRAWN BY: LWC	CLIENT: LEE COUNTY
DATE: 6/16/04	SEC-TWP-RGE 33-44S-28E
FILE: 7504-173C	COUNTY: LEE COUNTY

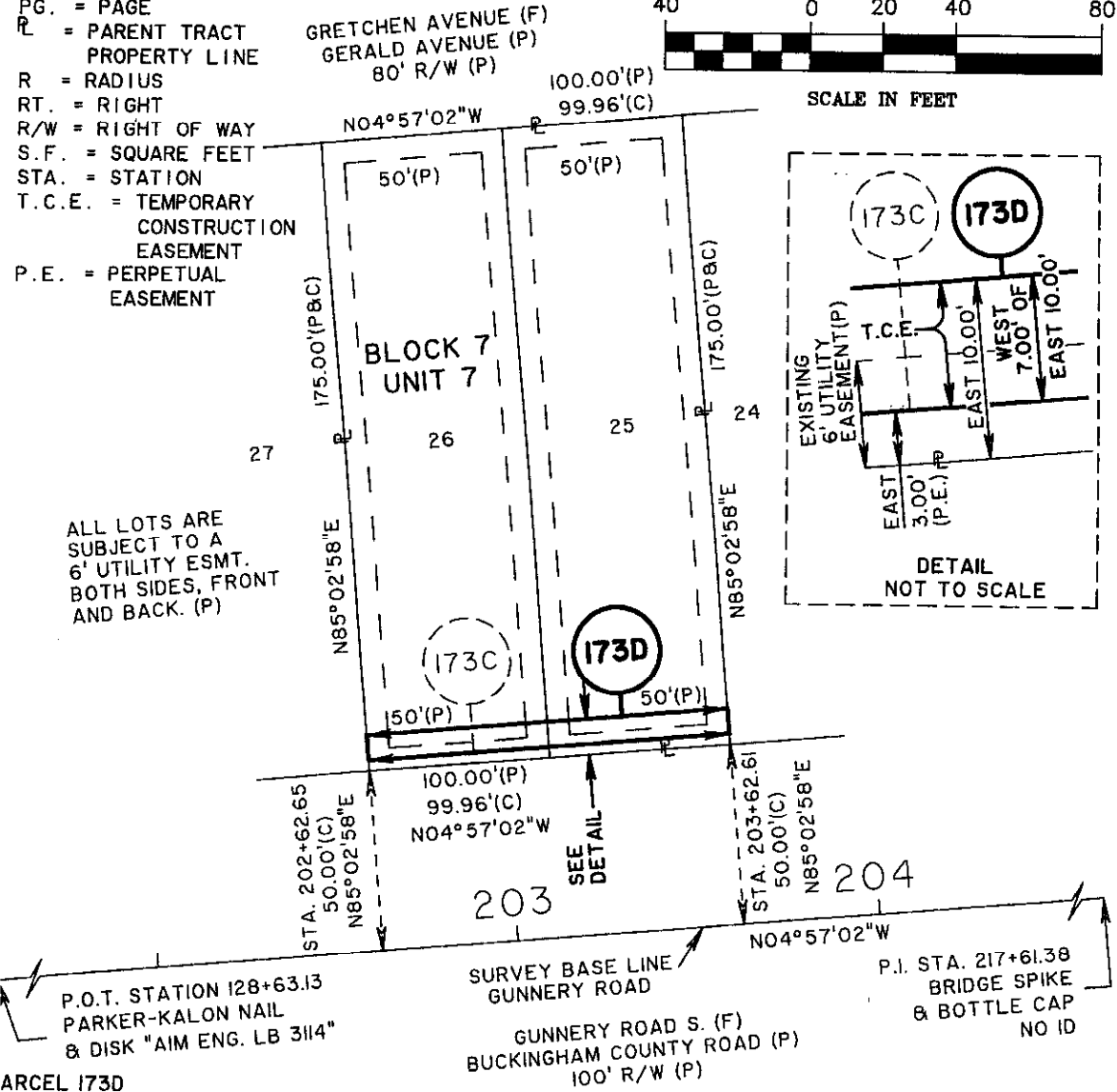
Florida License Number 3114

LEGEND  
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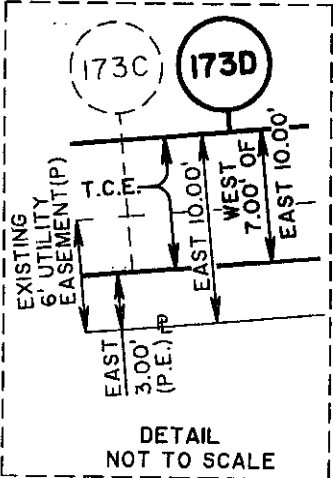
PARCEL 173D (TEMPORARY CONSTRUCTION EASEMENT)  
 PROPERTY OWNER: ANTHONY DYSHANOWTIZ AND CATHERINE DYSHANOWTIZ  
 STRAP NO. 33-44-26-07-00007.0250  
 STRAP NO. 33-44-26-07-00007.0260  
 AREA OF PARENT TRACT: 17,493 S.F., M.O.L.  
 AREA OF TAKE: 700 S.F., M.O.L.



"EXHIBIT D"



ALL LOTS ARE SUBJECT TO A 6' UTILITY ESMT. BOTH SIDES, FRONT AND BACK. (P)



ARCEL 173D (TEMPORARY CONSTRUCTION EASEMENT)

7.00 FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT BEING THE WEST 7.00 FEET OF THE EAST 10.00 FEET OF LOTS 25 AND 26, BLOCK 7, UNIT 7, LEHIGH ESTATES, A SUBDIVISION OF LEHIGH ACRES, SECTION 33, TOWNSHIP 44 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 15 PAGE 87, OF THE PUBLIC RECORDS, LEE COUNTY, FLORIDA.

NOTE: BEARINGS SHOWN HEREON ARE BASED UPON THE SURVEY BASE LINE OF GUNNERY ROAD HAVING A BEARING OF N 04°57'02" W FROM P.O.T. STATION 128+63.13 BEING A PARKER-KALON NAIL AND DISK "AIM ENG. LB 3114" TO P.I. STATION 217+61.38 BEING A BRIDGE SPIKE AND BOTTLE CAP NO ID.

WETLANDS CONTAIN 700 SQUARE FEET, MORE OR LESS.

PREPARED BY: AIM ENGINEERING & SURVEYING, INC.

BOB L. POTTER, P.E.M. DATE 6/17/04  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5688

M Engineering & Surveying, Inc.

5300 LEE BLVD.  
 P.O. BOX 1235  
 LEHIGH ACRES  
 FLORIDA 33970  
 239/332-4569  
 FX:239/332-8734  
 Licensed Business Number 3114

THIS IS NOT A SURVEY SHEET 1 OF 1

PROJECT NUMBER: 99-7504	DESCRIPTION: LEGAL AND SKETCH PARCEL 173D GUNNERY ROAD FROM S.R. 82 TO LEE BOULEVARD
DRAWN BY: LWC	CLIENT: LEE COUNTY
DATE: 6/16/04	SEC-TWP-RGE: 33-44S-26E
	FILE: 7504-173D
	COUNTY: LEE COUNTY



**Division of County Lands**

**Updated Ownership and Easement Search**

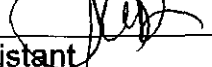
Search No. 33-44-26-07-00007.0250 & .0260

Date: October 22, 2004

Parcel: 173

Project: Gunnerly Road Widening Project 4055

To: Michael J. O'Hare, SRWA  
Property Acquisition Agent

From: Shelia A. Bedwell, CLS  
Property Acquisition Assistant 

STRAP: 33-44-26-07-00007.0250 & .0260

Effective Date: September 21, 2004, at 5:00 p.m.

**Subject Property:** Lots 25 and 26, Block 7, Unit 7, Lehigh Estates Subdivision, Section 33, Township 44 South, Range 26 East, according to the map or plat thereof on file in the office of the Clerk of the Circuit Court, recorded in Plat Book 15, Page 87, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

***Anthony Dyshanowitz and Catherine Dyshanowitz, Husband and Wife***

By that certain instrument dated December 20, 2001, recorded January 16, 2002, in Official Record Book 3559, Page 4492, Public Records of Lee County, Florida.

**Easements:**

1. Six foot utility easement along both sides, front and back of subject property, as recited on recorded plat of the subdivision.

NOTE(1): Declarations of Restrictions recorded in Official Record Book 84, Page 310 and Official Record Book 527, Page 29, Public Records of Lee County, Florida.

**Tax Status:** 2003 taxes have been paid in full.

*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**