

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

MATERIAL SERVICE CORP.,)	
)	
Plaintiff,)	
)	
v.)	16 CH 9007
)	
VILLAGE OF LA GRANGE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Plaintiff Material Services Corporation has filed a Motion for Summary Judgment pursuant to 735 ILCS 5/2-1005.

I. Background

In October of 1925, the engineer for the Village of LaGrange (“the Village”) presented plans to the Village for the construction of a system of sanitary and storm water sewers. The Village passed an ordinance approving the plan and construction began in 1926.

As part of the project, the Village acquired certain easements. The Village contends that these easements included one over land now occupied by a quarry (“the Quarry”) operated by Material Service Corporation (“MSC”). The Village asserts that the easement agreement entered into by the Village and George and Helen Louise Hannauer granted the Village the right to construct, operate and maintain a 54-inch in diameter storm sewer on the property now owned by MSC (“Easement Agreement”).

The Village states that it believes that the original easement agreement was lost or destroyed. The Village contends that Easement Agreement was memorialized in a February 1941 resolution adopted by the Village Board granting Electro-Motive Corporation the right to connect a storm sewer pipe to the Village’s 54-inch storm sewer pipe.

The Village contends that it continuously used the pipe until 1992. The Village asserts that although the pipe was no longer part of the combined sewer system after 1983, the Village continued to use the pipe to carry stormwater to the McCook Ditch.

In 1992, MSC cut and removed a long length of the pipe. MSC contends that any easement held by the Village was abandoned when MSC severed the pipe and the Village failed to take action. MSC alleges that it reached an agreement with the Village in 1992 that MSC would allow a certain amount of water from the severed pipe onto its property.

