

E. 1 Hearing to consider U-19-8, a Minor Use Permit to allow a 10-foot tall, low voltage perimeter fence to be installed at 6565 Smith Avenue. The property is zoned General Industrial (GI)– from Deputy Community Development Director Interiano. (RESOLUTION)

Background/Discussion- An application has been made by Electric Guard Dog LLC to install a 10-foot tall electric fence at 6565 Smith Avenue. Equipment Share, a construction equipment supplier, currently leases the General Industrial (GI) zoned property. The tall electric fence is requested for security reasons.

Per Section 17.17.040 (A)(2) a request for a fence taller than 6 feet on a nonresidential property may only be approved by the Community Development Director through a Minor Use Permit (MUP). A hazardous fence may only be permitted if the Planning Commission approves per the Zoning Code Section 17.17.040 (B)(1) which states:

Prohibition on Hazardous Fencing Materials. The use of barbed wire, razor wire, ultra-barrier, electrified, and other hazardous fencing is not permitted unless such fencing is required by any law or regulation of the City, the State of California, Federal Government, or other public agency.

- a. *Exception.* The Planning Commission may approve an exception to this standard for sites in Employment Districts, provided the hazardous fencing materials are located at the top portion of a fence which is at least six feet in height where the Planning Commission finds such fencing is necessary for security purposes.

The fence is proposed to be installed around the entire 5 acre property, approximately 6-12 inches within the existing chain link fence (see attached site plan). The property at 6565 Smith Avenue is surrounded by Industrial zoned properties and is located in a street which ends in a cul-de-sac. There are five other properties, which are located in the cul-de-sac of Smith Avenue, and three of those properties have a 6 ft. tall chain link fence with barbed wire. The property without barbed wire is adjacent to the subject property. The existing chain link fences with barbed wire are considered legal nonconforming since they were in place before the new zoning regulations went into effect in 2018.

As part of the adopted 2018 Zoning Ordinance, there was a concerted effort to amend the development regulations to reduce visual impacts of all types of uses including industrial uses by measures such as prohibiting chain link fences, barbwire and restricting the use of hazardous materials on fences. Also, the language in section 17.17.040 (B)(1) is reserved for conforming fences which are 6 feet tall and the hazardous materials may be allowed on top of that fence, therefore the request does not conform to the regulations. In regards to the height, Section 17.17.040 (A)(2), the Director may only approve additional fence height that is in compliance with the Materials Section A(1)(a)(i)(3) and the Required Findings of A(1)(a)(ii) which states:

- i. Maximum Height.
 - (1) Front Yards and within Four Feet of a Street Lot Line. Fences within the front yard and fences within four feet of a street lot line on a lot adjacent to a nonresidential use may be up to six feet in height.
 - (2) Outside Front Yards and More than Four Feet from a Street Lot Line. Fences located outside of a required front yard and more than four feet from a street lot line may be up to eight feet in height.
 - (3) Materials. The Director may only approve additional fence height for fences made of masonry block, precast concrete, wood, or metal wrought iron. Vertical or horizontal extensions to an existing fence or wall shall be of the same material and design as the existing fence or wall.
- ii. Review and Required Findings. In approving additional fence height, the Director shall make the following findings.
 - (1) The additional fence height will not impair the provision of adequate light, air, circulation, and visual openness around adjacent residential structures.
 - (2) The additional fence height will not detract from the overall appearance of the neighborhood.
 - (3) The additional fence height is not detrimental to the health, safety, and welfare of people living in the neighborhood.

Staff has not historically approved heights over 6 feet, with the exception of 8 foot tall walls along arterial roadways for noise related mitigation. The applicant is proposing a 10 tall electrical fence which would detract from the overall appearance of the area and would be contrary to the Materials Section and Required Findings.

In addition to concerns regarding aesthetics and setting a precedent, staff has received concerns from the Police Department that an electrical fence would pose an unnecessary and unsafe condition for our firefighters, officers, and other first responders during calls for service to the location.

Due to the uniqueness of this request, in the sense that it must meet the required findings of both Section 17.35.060 (Use Permit) and Section 17.17.040 (Fences and Freestanding Walls), staff has prepared a resolution which provides all findings associated with the noted sections.

Given the reasons stated above and the lack of supporting documentation demonstrating that there is a need to install the proposed fence at this location, staff recommends that the application for U-19-8 not be supported.

CEQA- This project is not considered a “project” under CEQA regulations therefore CEQA does not apply.

Action – It is recommended that the Planning Commission deny Application U-19-8, in that the application has not demonstrated the all the required findings related to Sections 17.35.060 & 17.17.040 could be met.

Attachment

1. Resolution
2. Site Plan
3. Site Photos
4. Guard Dog Justification Letter
5. Guard Dog Informational Packet

RESOLUTION XXXX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK DENY U-19-8, A MINOR USE PERMIT TO ALLOW A 10-FOOT TALL ELECTRICAL FENCE AT 6565 SMITH AVENUE. (APN: 092A-2300-021)

WHEREAS, Keith Kaneko, representative of Electric Guard Dog, has filed with the Planning Commission of the City of Newark an application for U-19-8, a minor use permit, to allow a 10-foot tall fence (Hazardous Fencing Material per N.M.C. 17.17.040 (A)(2)) at 6565 Smith Avenue; and

PURSUANT to Newark Municipal Code (“NMC”) Section 17.31.060, a public hearing notice was published in The Tri City Voice on October 29, 2019 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on November 12, 2019 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to NMC Chapter 17.35 (Use Permits), the Planning Commission has determined that it cannot make the required findings pursuant to Newark pursuant to NMC Section 17.35.060 to grant the minor use permit; per the following:

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code
Comment: The proposal does not comply with section 17.17.040(A)(2) in that the hazardous fencing materials are not located on top of a conforming fence.
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;
Comment: The proposed electrical fence may delay an emergency response by first responders.
- E. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this Ordinance;
Comment: The fence materials do not comply with the zoning regulations therefore the specific finding of section 17.17.040 must be met. Due to the fence materials not being consistent with the height and materials requirements.
- F. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
Comment: There are no known electric fences on this street or within the City, therefore the fence would not be compatible with what is typically allowed.

Findings B, D, and G are not applicable to this determination.

WHEREAS, the Planning Commission has determined that it could not make the necessary findings pursuant to NMC Section 17.17.040 (Fences and Freestanding Walls).

Materials Section A(1)(a)(i)(3):

- (3) Materials. The Director may only approve additional fence height for fences made of masonry block, precast concrete, wood, or metal wrought iron. Vertical or horizontal extensions to an existing fence or wall shall be of the same material and design as the existing fence or wall.

Comment: The proposed electrical fence does not meet the requirements due to the hazardous fencing materials not being placed on top of a conforming fence as required by the regulations.

Required Findings Section A(1)(a)(ii):

- ii. Review and Required Findings. In approving additional fence height, the Director shall make the following findings.

1. The additional fence height will not impair the provision of adequate light, air circulation, and visual openness around adjacent residential structures.

Comment: The proposed fence would impair adequate light, air circulation and visual openness around adjacent residential structures. This finding can be made in the affirmative.

2. The additional fence height will not detract from the overall appearance of the neighborhood.

Comment: The proposed 12 gage electrical wire on the 10 foot tall fence would detract from the appearance of the property and the neighborhood as it is not a common material used for security in the City.

3. The additional fence height is not detrimental to the health, safety, and welfare of people living in the neighborhood.

Comment: The additional electrical fence height may be detrimental to those who are not aware that the fence is electrical. The electrical fence will likely reduce the response time from first responders.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby denies this application for an MUP.

The Commission could not make the findings prescribed in Newark Municipal Code Sections 17.35.060 & 17.17.040, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk.

This Resolution was introduced at the Planning Commission's November 12, 2019 meeting by _____, seconded by _____, and passed as follows:

AYES:

NOES:

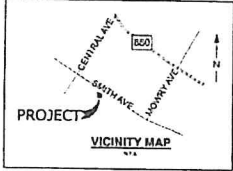
ABSENT:

STEVEN TURNER, Secretary

WILLIAM FITTS, Chairperson

LEGEND

	PROPERTY LINE
	SECURITY FENCE
	CHAIN LINK FENCE
	EXISTING WROUGHT IRON FENCE
	BUILDING
	GATE
	EXISTING PERIMETER FENCE
	EXISTING CHAIN LINK FENCE TO REMAIN
	EXISTING WROUGHT IRON TO REMAIN



SHEET INDEX

SHEET NO.	SHEET NAME
C-1	SITE PLAN
C-2	TYPICAL DETAILS
C-3	TYPICAL DETAILS

PROJECT DATA
 APN: 92A-2300-21
 ZONED: G1
 ACRES: 5.47

PROPERTY OWNER
 FERRARI ENTERPRISES NEWARK LLC
 4614 2ND ST #5
 DAVIS, CA 94518

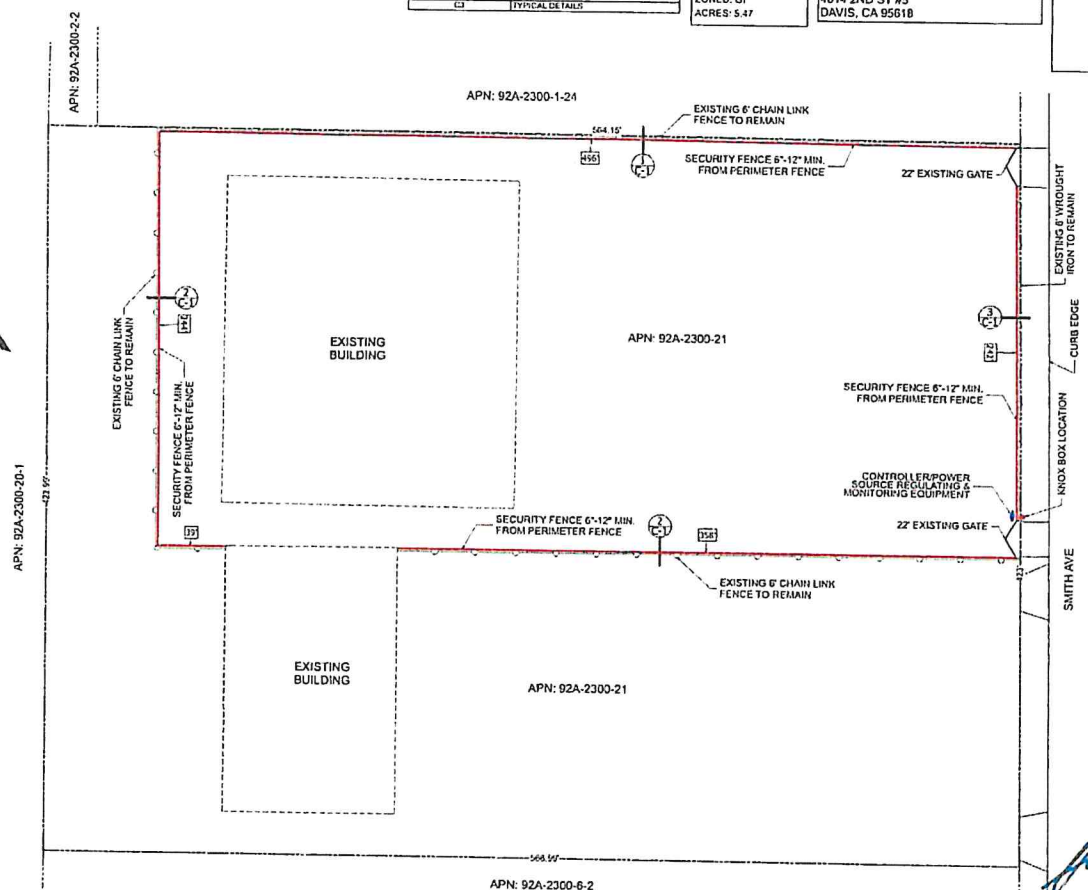
SITE PLAN REQUEST TO AUTHORIZE A SECURITY SYSTEM FOR: EQUIPMENT SHARE 6565 SMITH AVE NEWARK CA 94560

DATE / DESCRIPTION

NOTES

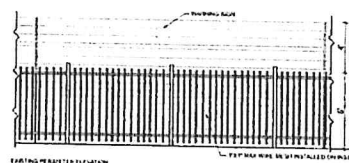
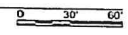
POLE LOCATIONS: STEEL POLES TO BE LOCATED APPROXIMATELY ON EACH SIDE OF GATE(S) & EVERY 90' (OR GREATER) TURN IN FENCE LINE. FIBERGLASS/WHITEREMED POLES TO BE LOCATED APPROXIMATELY EVERY 30'

DISCLAIMER: POLE LOCATIONS MAY SLIGHTLY DEVIATE FROM STIPULATIONS ABOVE DUE TO ON-SITE CONDITIONS

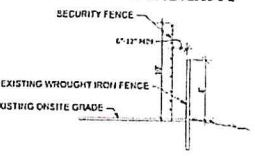


5-1-19

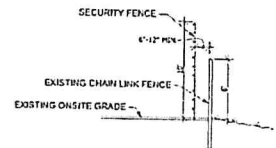
SITE PLAN
 SCALE: 1" = 30'



3 C-1 EXISTING PERIMETER FENCE SECTION
 NTS.



2 C-1 EXISTING PERIMETER FENCE SECTION
 NTS.



1 C-1 EXISTING PERIMETER FENCE SECTION
 NTS.

PROJECT: EQUIPMENT SHARE
 6565 SMITH AVE
 NEWARK, CA 94560

DATE: 5/1/2019
 SCALE: SEE PLAN

SHEET

C-1
 of 3

Electric Guard Dog
 550 Assembly St., 5th Floor
 Columbia, SC 29201
 PHONE: 803-706-5373
 FAX: 803-706-5378





The #1 Theft Deterrent Service in the U.S.

**550 Assembly St., 5th Floor
Columbia, SC 29201**

May 6, 2019

City of Newark
37101 Newark Boulevard
Newark CA 94560

FORMAL REQUEST FOR ADDITIONAL HEIGHT PER NEWARK CODE SECTION 17.17.040 (1)(A)

Please accept this letter as our formal request to allow for the installation of a 10-foot tall, low voltage, battery powered (12V DC) 10' tall, monitored, perimeter security systems (i.e. electric fence) per CA Civil Code Section 835 which will be safely located inside of an existing perimeter barrier to secure the business during non-business hours. The security system has proven to be the most effective theft deterrent for businesses across the country. Even in cases where businesses were experiencing theft frequently, the installation of the security system immediately results in the cessation of any further attempted break-ins.

This additional height is essential for preserving substantial property rights possessed by other similarly zoned properties in the area - the right to protect and secure property, equipment, product, and, most importantly, the safety and interests of employees (employment, personal vehicles, etc.). It will not constitute a special privilege inconsistent with the limitations on other properties classified in the same zoning district. It is one of material effect on the property owner's right to reasonably use and protect its property for its intended zoned use.

The additional height will not be materially detrimental to public welfare, injurious to property or improvements in the vicinity or district where the property is located. It is installed completely inside the existing perimeter fence and therefore not exposed to the public. To encounter the security system, one would have to be intentionally trespassing and illegally entering the property.

The general safety and welfare of the public is also maintained, crime is prevented, and the City can redirect law enforcement resources toward crime other than property break-ins and theft. Security cameras record crime and don't prevent it, guards are unreliable (don't show up for work, sleep on the job, and at times are complicit in the criminal action), and typical alarm systems only monitor buildings.

We look forward to working with the City of Newark Staff. Please let us know if there are any additional questions.

Sincerely,



**#Relentlessly
Protecting**



Carol Bausinger
Compliance Manager

Electric Guard Dog, LLC
803-404-6189
cbausinger@electricguarddog.com
electricguarddog.com

Follow us:





The #1 Theft Deterrent Service in the U.S.

**550 Assembly St., 5th Floor
Columbia, SC 29201**

Justification for Additional Fence Height – Equipment Share @ 6565 Smith Avenue

Electric Guard Dog, LLC (EGD) on behalf of EQUIPMENT SHARE (EQUIPMENT SHARE), seeks to install a low voltage, battery powered (12V DC) 10' tall, perimeter security fence (i.e. electric fence) per CA Civil Code Section 835 which will be safely located inside of the existing perimeter barrier fencing to secure the property during non-business hours. The Electric Guard Dog system consists of the aforementioned security system and has proven to be the most effective theft deterrent for businesses across the country such as EQUIPMENT SHARE. Even in cases where businesses were experiencing theft frequently, the installation of our system immediately results in the cessation of any further attempted break-ins.

Summary of Height Proposal

- Proposed electrified security fence to be located running concurrent with the existing perimeter fence (6-12-inch separation between fences).
- Proposed electrified security fence height to be 10 feet tall inside the existing perimeter fence.

Below are the justifications for granting the requested Additional Fence Height:

- 1. The additional fence height will not impair the provision of adequate light, air, circulation, and visual openness around adjacent residential structures.***

The additional fence height will not impair the provision of adequate light, air, circulation and visual openness around adjacent residential structures. The business is located in an industrial park and is virtually impossible to see. The security fence is constructed of 12 gage wire, fiberglass and steel poles only. There is no flow impediment of a physical or visual nature.

- 2. The additional fence height will not detract from the overall appearance of the neighborhood.***

This additional fence height is essential for preserving substantial property rights possessed by other properties in the area. First and foremost, the right to protect and secure property, equipment, product, and, most importantly, the safety and interests of employees (employment, personal vehicles, etc). EQUIPMENT SHARE is maximizing the security of this property with the proposed EGD security system which effectively deters the criminal class.

Next, the additional fence height is justified to preserve the substantial property right to reasonably use this property for its intended zoned use – the outdoor storage and display of rental equipment.

The granting of the additional fence height will not constitute a special privilege inconsistent with the limitations on other properties classified in the same zoning district from which the additional fence height is sought. It is one of material effect on the property owner's right to reasonably use and protect its property for its intended zoned use.

The general safety and welfare of the public is also maintained, crime is prevented, and the City can redirect law enforcement resources toward crime other than property break-ins and theft. Cameras record crime and don't prevent it, guards are unreliable (don't show up for work, sleep on the job, and at times are complicit in the criminal action), and typical alarm systems only monitor buildings.

The EGD security system is the most reliable, economical, and safest perimeter security application available. The installation of the EGD system will secure the property, increase the security of the surrounding properties and the immediate area by deterring the criminal element from visiting the neighborhood.

3. ***The additional fence height is not detrimental to the health, safety, and welfare of people living in the neighborhood.***

The approval of the additional fence height will not be materially detrimental to public welfare, injurious to property or improvements in the vicinity or district where the property is located. It is installed completely inside the existing perimeter fence and therefore not exposed to the public. To come in contact with the EGD security system, one would have to be intentionally trespassing and illegally entering the property.

Next, positioning the electrified security fence concurrent with the existing perimeter fence offers a most visually obscured configuration. Conversely, setting the electrified security fence away from perimeter fence creates the obvious scenario of two separate stand-alone fences, resulting in an aesthetically obtrusive design.

The additional fence height is the necessary mechanism to relieve a practical difficulty and potential hardship which could be experienced by EQUIPMENT SHARE. Much more effective and reliable than other means of security, Electric Guard Dog will provide EQUIPMENT SHARE with an affordable means to protect their assets and employees.

In turn, this will allow them to invest financial resources into further growth, resulting in continued employment and an increased tax base for the community. The business is a reputable business, located in appropriate zoning and complies with all other local ordinances.

Based on the information and evidence presented above, we respectfully request the granting of this Administrative Additional fence height for EQUIPMENT SHARE. Much appreciated.

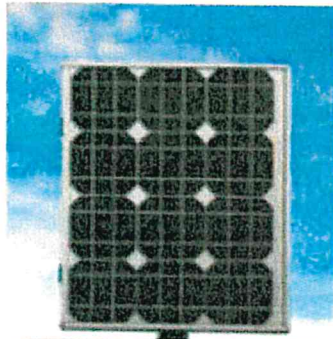


THE #1 THEFT DETERRENT IN THE U.S.

**ELECTRIC
GUARD
DOG**

HOW IT WORKS

Core Component Chart



SOLAR PANEL



BATTERY



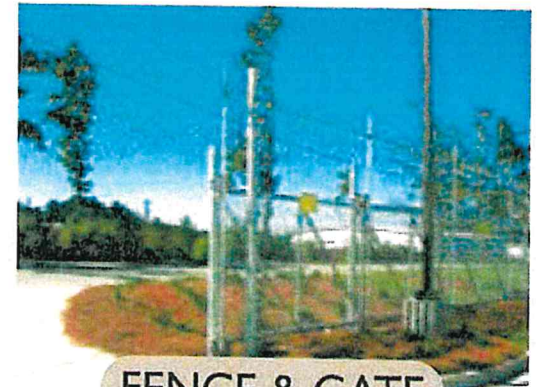
CONTROLLER



ALARM PANEL & CELL UNIT



KEYPAD

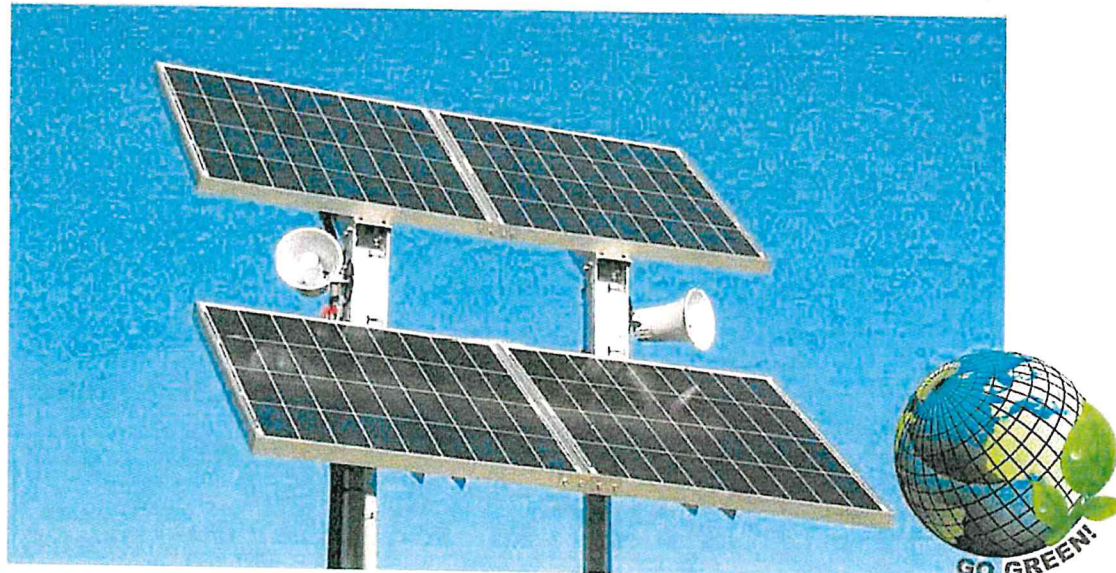


FENCE & GATE

**ELECTRIC
GUARD
DOG**

ALWAYS ON & GREEN

- Pulsed electricity
- Great addition to green strategy
- Vigilant - no power failures
- Non-metered
- Independent of the electrical grid

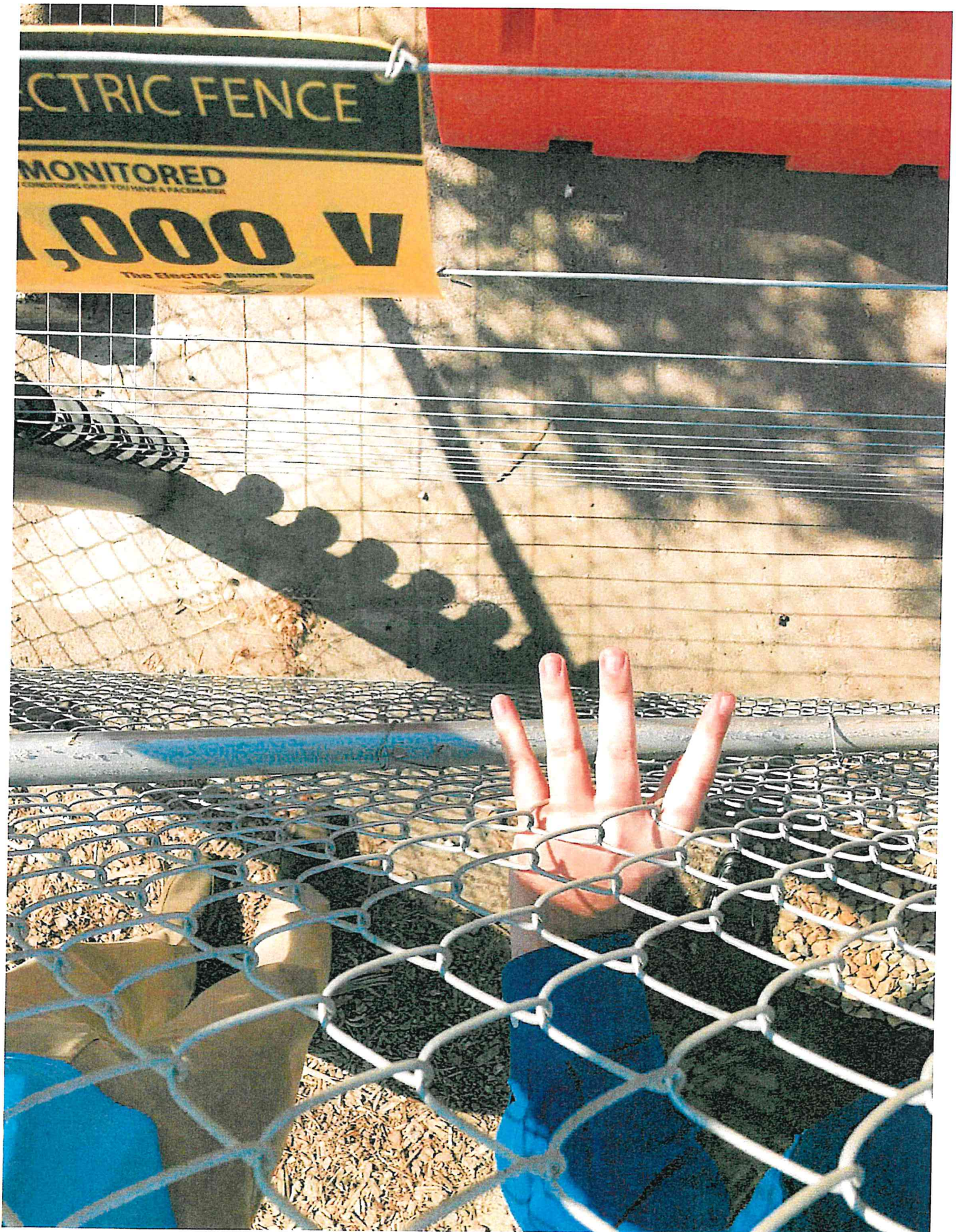


PHYSICAL DETERRENT

- **ONLY** built inside a non-electrified fence
- Perimeter fence is **NEVER** electrified
- Multi-lingual warning signs
- If someone touches our fence, they're trespassing







SHOCK DETERRENT

- Pulsed electricity
 - Medically safe
- Pulses every 1.3 seconds
- Pulse duration only .0001-.0004 of a second



**ELECTRIC
GUARD
DOG**

SAFE & EFFECTIVE

“Electric security fences are safe and do not lead to ventricular fibrillation due to the short 0.0003 second shock duration.”

Dr. John Webster

*Professor Emeritus of Biomedical Engineering
Nationally Recognized Expert in Pulsed Electricity*



WISCONSIN
UNIVERSITY OF WISCONSIN-MADISON

**ELECTRIC
GUARD
DOG**

SAFE & EFFECTIVE

“Nationally Recognized Testing Laboratories (NRTL) are third-party organizations recognized by OSHA as having the capability to provide product safety testing and certification services...”

NRTL certified means “...the product met the requirements of an appropriate consensus-based product safety Standard either by successfully testing the product itself, or by verifying that a contract laboratory has done so...”

--<https://www.osha.gov/dts/otpca/nrtl>

Certificate



Certificate no.

T 72171215 01

License Holder:

Electric Guard Dog LLC
550 Assembly St., 5th Fl
COLUMBIA SC 29201
USA

Manufacturing Plant:

Electric Guard Dog LLC
550 Assembly St., 5th Fl
COLUMBIA SC 29201
USA

Test report no.: USA-DN 31781025 001

Client Reference: Kristopher Brutscher

Tested to: EN 60335-1:2012+A11
EN 60335-2-76:2005+A1+A2

Certified Product: Charge Controller and Energizer

License Fee - Units

Model Designation: TUV-EF172, TUV-EF174, TUV-EF175,
TUV-EF177, TUV-EF178

7

Rated Voltage: DC 14.5-16.5V

Rated Current: 2.9A

Protection Class: III

Output Ratings DC: Charge Controller: 20A max.
Energizer: 9.9KV/zone

Special Remarks: Solely assessed per standards listed above.

7

Appendix: 1, 1-6

Licensed Test mark:



Date of Issue
(day/mo/yr)
04/08/2017

CIVIL CODE

SECTION 829-835

835. (a) As used in this chapter, "electrified security fence" means any fence, other than an electrified fence described in Section 17151 of the Food and Agricultural Code, that meets the following requirements:

(1) The fence is powered by an electrical energizer with both of the following output characteristics:

(A) The impulse repetition rate does not exceed 1 hertz (hz).

(B) The impulse duration does not exceed 10 milliseconds, or 10/10000 of a second.

(2) The fence is used to protect and secure commercial or industrial property.

(b) An owner of real property may install and operate an electrified security fence on his or her property subject to all of the following:

(1) The property is not located in a residential zone.

(2) The fence meets the 2006 international standards and specifications of the International Electrotechnical Commission for electric fence energizers in "International Standard IEC 60335, Part 2-76."

(3) The fence is identified by prominently placed warning signs that are legible from both sides of the fence. At a minimum, the warning signs shall meet all of the following criteria:

(A) The warning signs are placed at each gate and access point, and at intervals along the fence not exceeding 30 feet.

(B) The warning signs are adjacent to any other signs relating to chemical, radiological, or biological hazards.

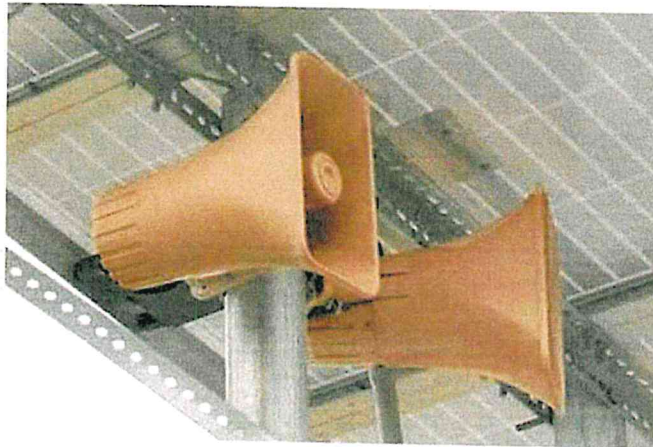
(C) The warning signs are marked with a written warning or a commonly recognized symbol for shock, a written warning or a commonly recognized symbol to warn people with pacemakers, and a written warning or commonly recognized symbol about the danger of touching the fence in wet conditions.

(4) The height of the fence does not exceed 10 feet and is located behind a perimeter fence that is not less than 6 feet in height.

(c) An owner of real property shall not install and operate an electrified security fence where a local ordinance prohibits that installation and operation. If a local ordinance allows the installation and operation of an electrified security fence, the installation and operation of the fence shall meet the requirements of that ordinance and the requirements of subdivision (b).

ALARM DETERRENT

- Audible & Monitored
- Activates if wires are spread or cut
 - 24-hour monitoring





Bureau of Security and Investigative Services
P.O. Box 989002
West Sacramento, CA 95798-9002
(916) 322-4000

ALARM COMPANY OPERATOR

License No. ACO7084

Valid Until: 11/30/2019

Receipt No. 1712

ELECTRIC GUARD DOG, LLC
121 EXECUTIVE CENTER DR #230
COLUMBIA, SC 29210

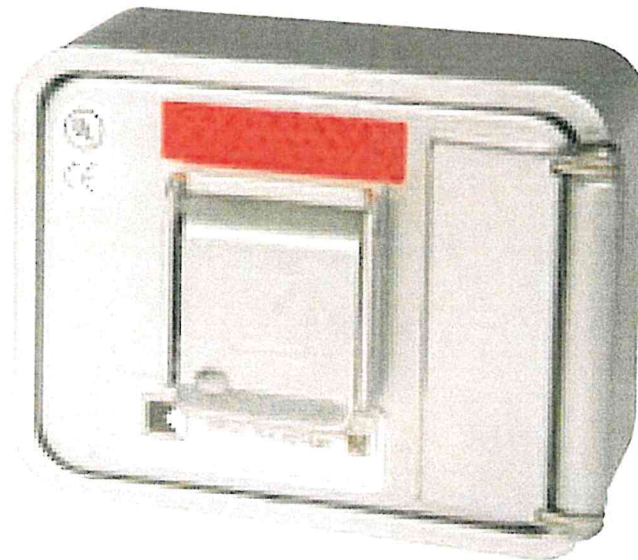
In accordance with the provisions of
Division 3, Chapter 118 of the Business
and Professions Code, the company
named hereon is issued an Alarm
Company Operator License Renewal.

----- NON-TRANSFERABLE ----- POST IN PUBLIC VIEW -----

WPIACO 10/2015

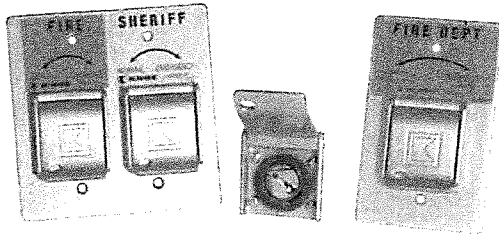
FAQ: EMERGENCY ACCESS?

- Knox box
- Allows emergency responders rapid access



**ELECTRIC
GUARD
DOG**

For Emergency Override



Gated communities, apartment complexes, parking garages, pedestrian gates and industrial receiving areas are just a few applications of the Knox® electric override key switch. It can be ordered with single or dual key options for fire, EMS and law enforcement access.

Features and Benefits

- Single or dual key switch
- Fire, EMS or law enforcement identification labels
- One position, two position or momentary switch
- Face plate and lock cover ensure weather resistant operation.

Electrical Data

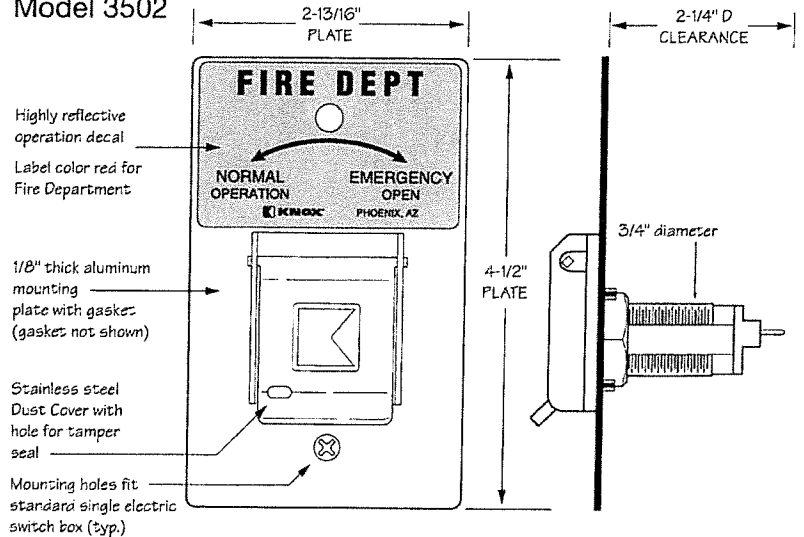
- SWITCH: SPDT or DPDT
- 7 A resistive, 4 A inductive, (sea level), 28 VDC.
- 7 A resistive, 2.5 A inductive, (50,000 ft.), 28 VDC.
- 7 A resistive or inductive, 115 VAC., 60 Hz.
- UL® and CSA listed: 7 A, 250 VAC.
- Temperature tolerance up to +180° F.

Knox® Rapid Entry System

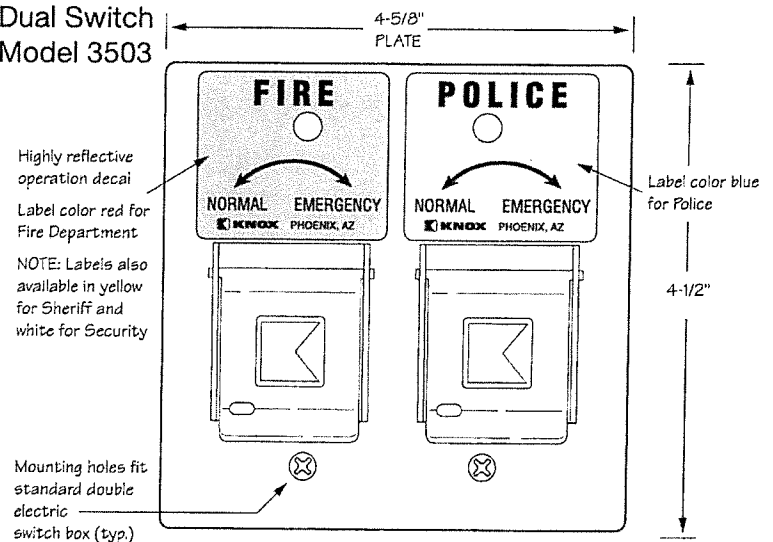
The Knox Company manufactures a complete line of high security products including KnoxBox key boxes, key vaults, cabinets, key switches, padlocks, locking FDC caps, plugs and electronic master key security systems. For more information or technical assistance, please call Customer Service at 1-800-



Single Switch Model 3502



Dual Switch Model 3503



Ordering Specifications

Dimensions: Requires 2 1/4" recessed depth x 3/4" diameter
 Switch: SPDT or DPDT; 7A resistive, 4A inductive., key removable two position.
 Mounting: Key switch is designed to be recess mounted.
 P/N: 3500 Series Knox Gate & Key Switch (mfr's cat. ID)
 Mfr's Name: **KNOX COMPANY**

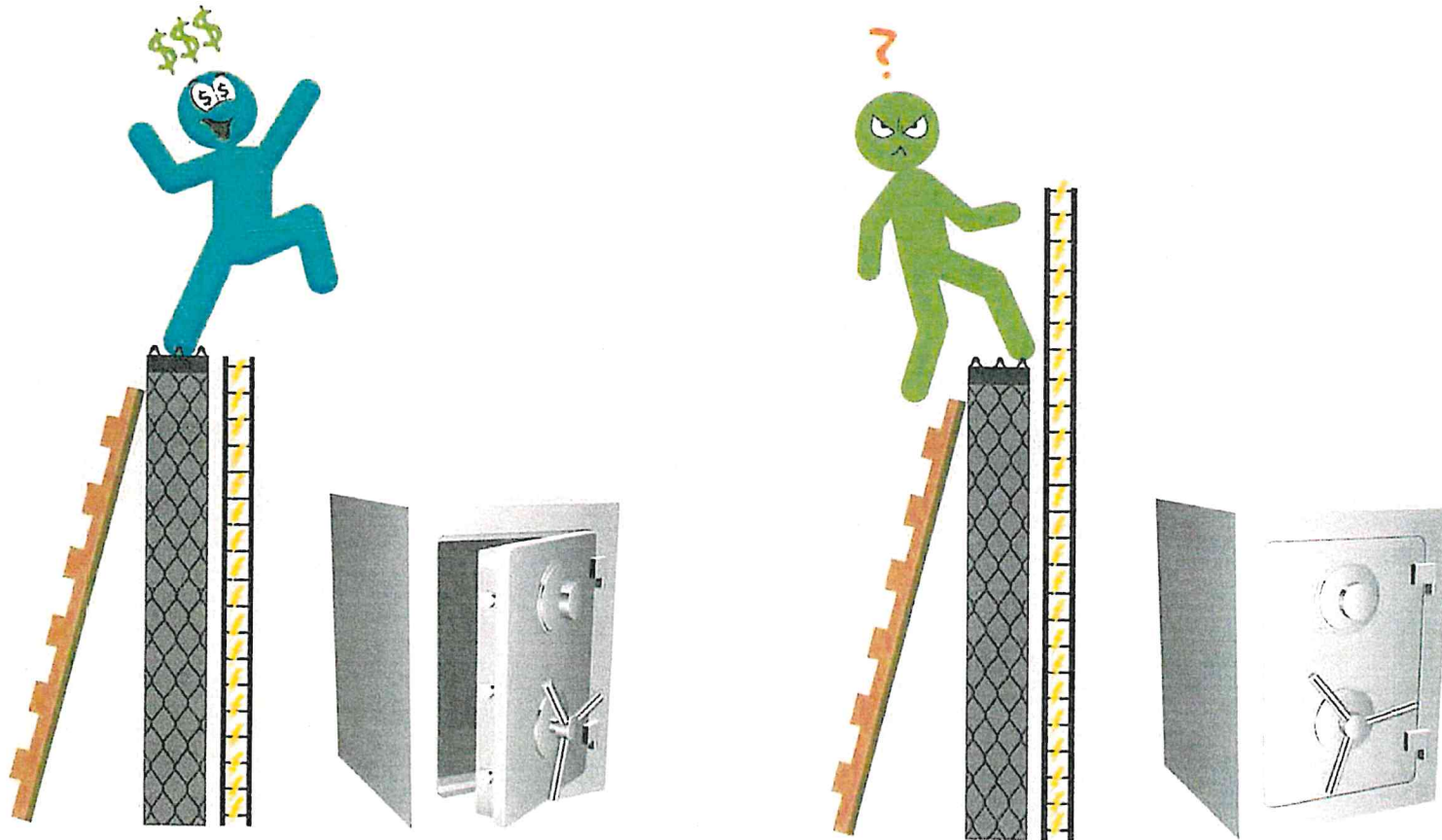
AESTHETICS



FAQ: WHY MUST OUR FENCE BE TALLER?

It's the difference between this...

And this...



**ELECTRIC
GUARD
DOG**

