

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

TOWN OF HOPEDALE,)	
)	
Plaintiff,)	
)	
v.)	SINGLE JUSTICE
)	NO. 2022-J-0146
JON DELLI PRISCOLI and MICHAEL R.)	LAND COURT
MILANOKSI, as Trustees of the ONE)	NO. 20 MISC 000467 (DRR)
HUNDRED FORTY REALTY TRUST, and))	
GRAFTON & UPTON RAILROAD)	
COMPANY,)	
)	
Defendant.)	

AFFIDAVIT OF BECCA SOLOMON

Now comes Becca Solomon, who on oath deposes and says as follows:

1. My name is Becca Solomon. I am the Chair of the Town of Hopedale’s Conservation Commission (“ConComm”), as well as the Chair of the Town’s Open Space Committee and the Town’s Tree Warden. I submit this Affidavit in support of the Hopedale Citizens’ Emergency Motion to Preserve Status Quo and Protect the Forestland Pending Land Court Appeal. For the reasons set forth below, acquisition and development by the Grafton & Upton Railroad (“Railroad”) of the c. 61 Forestland that is at issue in this case would cause irreparable harm to the Town of Hopedale and its residents.

2. Along with the other members of the ConComm, I have been intensely involved in efforts to protect the 130 acres of c. 61 forestland (“Forestland”) and 25 acres of wetlands (“Wetlands”) at 364 West Street, Hopedale, on behalf of the Town of Hopedale and the public since [2019]. Most recently, I presented on behalf of the ConComm its recommendation and reasoning against approval of Warrant Article 8 at the Special Town Meeting held on March 26, 2022. Article 8 would have authorized purchase of only 40 of the 130 acres of Forestland, a so-called Parcel A as set forth in the Settlement Agreement between the Town and the Railroad. The ConComm strongly believes that acquisition of all 130 acres of Forestland is necessary and appropriate to protect wetlands resources and the environment. Its reasoning is summarized below.

3. Ownership by the Town of Parcel A alone would not achieve the goal of protecting the watershed, nor the wetlands, nor the forest. Ownership of wetlands alone does not guarantee its health, and the existing laws accomplish the same goals of protection as ownership. The health of a wetland system is determined largely by the health of the surrounding uplands. The purchase of Parcel A does not secure those uplands. In purchasing Parcel A, and not a surrounding upland buffer, the development proposed will continue to threaten the wetlands and consequently the watershed they protect. The forest that was sought for preservation is not protected in Parcel A.

4. The upland areas of 364 West Street contain four types of forest habitat. The forest type which makes up the vast majority of the property (interior dry-mesic oak forest), does not occur in any part of Parcel A. This particular forest type occurs in only 1% of Massachusetts' forests. The particular wildlife habitats provided support a wide range of endangered, threatened and near threatened species, although the property has not been surveyed to determine whether such species in fact exist there. None of this habitat, which does include areas mapped by the Natural Heritage Endangered Species Program as "Core Habitat Species of Conservation Concern", occurs on Parcel A.

5. The Mill River abuts and is connected to the wetlands on Parcel A, with the rest of the Forestland at 364 West Street upland of the river. The Mill River itself is fed by several tributaries which are spread throughout the property of 364 West Street, most of which do not pass through Parcel A, but do occur in the area where development would be planned. If the area were to be developed, anything entering the water on the upland part of the property would ultimately make its way downstream to the Mill River, and in turn to the rest of the watershed and connecting watersheds. Those include, but are not limited to, the Blackstone River Watershed, The Charles River Watershed, and the Narraganset Bay Watershed, with Mill River itself flowing continuously from 364 West Street to Woonsocket, Rhode Island, and further south to Pawtucket. Along that route are


other ponds, and water supplies both private and public, as well as the groundwater fed by the river. The very forest which exists in the uplands of the 364 West Street, is mature vegetative communities which are responsible for the filtration of the water entering the watershed. The roots of the vegetation slow and hold ground water, allowing pollutants to be pulled out. Further, the roots create air pockets in the soil for surface water to seep through, reducing risk of flooding, and causing less disturbance of potential surface pollutants. When these types of mature forests are cleared, and later replaced with impervious surfaces from development, the water is not held as long. It causes higher risk of flooding during large rain storms, and as the water is not held by the vegetation, it is followed by higher risks of drought, something which the Town already struggles with. As the water continues flowing without being held by vegetation, it becomes more saturated with nitrogen and phosphorous, which is usually filtered out by trees and understory plants. This filtration system is not being protected by the purchase of Parcel A.

6. Clearcutting the upland Forestland presents substantial risk. In most situations where such development is proposed, it comes with oversight by the Conservation Commission and MassDEP (DEP). There's an expectation that

before any work, including cutting trees, is started, a thorough plan is approved by both ConComm and DEP, which would include stormwater systems that would artificially slow and filter the surface water. These systems would usually be installed in phases along with any land clearing. Without these stormwater systems, the cleared areas will typically result in significant run-off filled with sediments, and consequently, erosion of the hillside, wetlands, and banks of the river it flows into. Yet without any of this oversight, the Railroad has already altered wetland resource area on the property, witnessed by the ConComm and representatives of DEP during a site visit last September, as well as the reconstruction of a bridge over the Mill River. The latter of which typically requires an extensive plan filed with a Notice of Intent per 310 CMR 10.24(10) for stream crossings. The work described has recently been resumed until it was enjoined by this court.

7. In sum the Town will be unable to adequately protect its wetland and water resources, including the Mill River, without acquiring control of all of the Forestland at 364 West Street.

/s/ Becca Solomon


Becca Solomon

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above document was served upon the attorney of record for each other party by efile and email on April 7, 2022.

/s/ Harley C. Racer
Harley C. Racer