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January 20, 2022

By U.S. Mail

Hon. Jeffrey A. Locke
Chief Justice of the Trial Court
Executive Office of the Trial Court
One Pemberton Square
Boston, MA 02108

RE: Request for Interdepartmental Judicial Assignment and transfer of **Town of Hopedale v. Jon Delli Priscoli, et al.**, Land Court No. 20-MISC-000467 to Worcester County Superior Court and for consolidation with **Reilly, et al. v. Town of Hopedale, Grafton & Upton Railroad, et al.**, No. 2185-cv00238

Dear Chief Justice Locke:

On behalf of Elizabeth Reilly and ten more citizens of the Town of Hopedale (“Citizen Plaintiffs”) in the action styled Reilly, et al. v. Town of Hopedale, Grafton & Upton Railroad, et al., No. 2185-cv-00238 in Worcester Superior Court (“Citizen Action”), I write to supplement and update our request that the action styled Town of Hopedale v. Jon Delli Priscoli, et al., Land Court No. 20-MISC-000467 (“Land Court Action”) be transferred to Worcester Superior Court to be consolidated with the Citizen Action and/or specially assigned to Hon. Karen L. Goodwin to promote speedy disposition, judicial economy and afford complete and permanent relief to the parties. Our original Request was made to your predecessor, Hon. Paula M. Carey, by letter dated January 13, 2022. The Railroad Defendants opposed the Request by letter dated January 14, 2022, and the Town of Hopedale, by letter dated January 19, 2022, provided important context to guide any decision on the Request but took no position on the Request.

Today, the Citizen Plaintiffs filed a Motion for Leave to Intervene in the Land Court Action (the “Motion to Intervene”). A copy of the Motion is included herewith (without exhibits or the Intervenor-Complaint). The Motion to Intervene further justifies the Request to transfer the Land Court Action to be consolidated with the Citizen Action and specially assigned to Hon. Karen L. Goodwin because the Intervenor-Complaint will add the Citizens Plaintiffs as parties and because standing is based, in part, on M.G.L. c. 40, § 53. As discussed at note 10 of the Citizen Plaintiff’s Motion to Intervene, by filing in the Land Court Action, the Citizen Plaintiffs are following the lead of, and joining, the Town of Hopedale, which filed its Motion to Vacate the Stipulation of Dismissal in the Land Court even though to the extent standing is based on c. 40, § 53, ten taxpayers lawsuits are to be brought in the Superior Court. The Citizen Plaintiffs did this to promote judicial efficiency and economy and to avoid opening yet another action in the Superior Court. However, as noted, to the extent any jurisdictional issue is created, it is

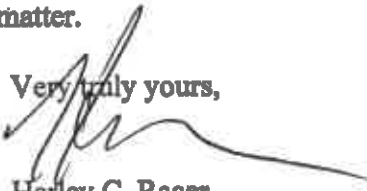
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readily cured by transfer of the Land Court Action to the Superior Court and consolidation in the Citizen Action and/or special assignment to Hon. Karen L. Goodwin, as the Citizen Plaintiffs have Requested.¹

The Land Court Action should be transferred and assigned to Judge Goodwin in the Superior Court regardless of the Citizen Plaintiffs' intervention, but by filing the Motion to Intervene, the Railroad Defendants' primary ground for opposition to the Request is rendered moot – that the Citizen Plaintiffs are not parties to the Land Court Action. At any rate, the G&U Defendants' Opposition to the Request gets much wrong, including a complete misunderstanding and misrepresentation of Judge Goodwin's Orders. Judge Goodwin ruled, without equivocation in the December 21, 2021 Order that "the Settlement Agreement is not effective." Order at 2 (emphasis added). The G&U Defendants spuriously claim that this is "dicta" or, even worse, that Judge Goodwin lacked jurisdiction over the G&U Defendants. Regardless, their fury over the interpretation and effect of Judge Goodwin's Orders only proves the point – this dispute should remain with Judge Goodwin in the Superior Court.

Thank you for your attention to this matter.

Very truly yours,

Harley C. Racer

Enclosure

cc: Hon. Heidi E. Brieger
Chief Justice the Superior Court Department
Hon. Gordon H. Piper (by email)
Chief Justice of the Land Court
Hon. Diane Rubin (by email)
Justice of the Land Court
Hon. Karen Goodwin (by U.S. mail)
Justice of the Superior Court
Peter Durning, Esq. (by email)
Brian Riley, Esq. (by email)
Don Keavany, Jr., Esq. (by email)
Andrew DiCenzo, Esq. (by email)
David E. Lurie, Esq. (by email)
Elizabeth Reilly (by email)

¹ In the alternative, the Citizen Plaintiffs would request that Hon. Diane R. Rubin be designated as a Superior Court judge by interdepartmental assignment to hear the Citizen Plaintiffs' claims. See, e.g., Ritter v. Bergmann, 72 Mass. App. Ct. 296, 301, n. 9 (2008).