

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

ELIZABETH REILLY, CAROL J. HALL,
DONALD HALL, HILARY SMITH,
DAVID SMITH, MEGAN FLEMING,
STEPHANIE A. MCCALLUM,
JASON A. BEARD, AMY BEARD,
SHANNON W. FLEMING, and
JANICE DOYLE,

Plaintiffs,

v.

TOWN OF HOPEDALE, LOUIS J.
ARCUDI, III, BRIAN R. KEYES,
GRAFTON & UPTON RAILROAD
COMPANY, JON DELLI PRISCOLI,
MICHAEL MILANOSKI, and
ONE HUNDRED FORTY REALTY
TRUST,

Defendants.

Civil Action No. 2185-cv-000238D

PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS

Pursuant to Superior Court Rule 9A and Mass. R. Civ. P. 12(c), Plaintiffs respectfully submit this Motion for Judgment on the Pleadings on all counts of their Verified Complaint against Defendants the Town of Hopedale ("Town"), by and through the Hopedale Board of Selectmen ("Board") and the Grafton & Upton Railroad Company ("Railroad")¹.

Plaintiffs rely on the Verified Complaint, Defendants' Answers and the Memorandum In Support of Judgment on the Pleadings filed in this action.

¹ Railroad defendants include, collectively, the Grafton & Upton Railroad, its owner, Jon Delli Priscoli, its president, Michael Milanoski, and the One Hundred Forty Realty Trust.

For the reasons set forth in Plaintiffs' Memorandum, Plaintiffs respectfully request that judgment enter in their favor against the Board and the Railroad Defendants on Counts I, II and

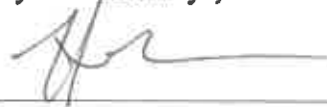
III. Specifically, Plaintiffs request that the Court:

1. enter a declaratory judgment that the Settlement Agreement is void as beyond the Board's authority;
2. permanently restrain all payments and transfers of property interests under the Settlement Agreement;
3. permanently restrain any alteration of the 130.13 acre Forestland or the 25-acre Wetlands from conservation and parkland use;
4. enter a declaratory order that the Town has an enforceable c. 61 option to the entire 130 acres of Forestland;
5. enter an order that the Town validly exercised its Option; and
6. enter an order requiring the transfer of the free and clear title of the 130-acre c. 61 Forestland and 25-acre Wetlands to the Town of Hopedale and for the Board to pay the Railroad \$1,175,000 and \$25,000 for them, respectively.

Respectfully submitted,

ELIZABETH REILLY, CAROL J. HALL,
HILARY SMITH, DAVID SMITH,
DONALD HALL, MEGAN FLEMING,
STEPHANIE A. MCCALLUM, JASON A.
BEARD, AMY BEARD, SHANNON W.
FLEMING, and JANICE DOYLE

By their attorneys,



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Dated: May 4, 2021

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 email on May 4, 2021.



Harley C. Racer

CERTIFICATE OF COMPLIANCE WITH SUPERIOR COURT RULE 9C

I hereby certify that I conferred with each attorney of record for each other party on May 4, 2021 and that counsel made a good faith effort to resolve or narrow the issues addressed by this motion.



Harley C. Racer