

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT
C.A. NO. 2185CV00238D

ELIZABETH REILLY, CAROL J. HALL,
DONALD HALL, HILLARY SMITH, DAVID
SMITH, MEGAN FLEMING, STEPHANIE A.
MCCALLUM, JASON A. BEARD, AMY
BEARD, SHANNON W. FLEMMING, 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.

DEFENDANTS TOWN OF
HOPEDALE AND HOPEDALE
BOARD OF SELECTMEN'S
RESPONSE TO G&U DEFENDANTS'
SUPPLEMENTAL OPPOSITION

The defendants Town of Hopedale and Louis J. Arcudi, III and Brian R. Keyes, named in their capacity as members of the elected Hopedale Board of Selectmen (hereinafter "Town" or "Board"), are in receipt of the January 13, 2022 "G&U Defendants' Supplemental Opposition" to the Town's pending Emergency Motion to Extend Injunction Order. The Town disputes the G&U Defendants' claim that the Emergency Motion is now moot as a result of the Land Court's status conference on January 12. The Land Court entered the following on the case docket:

Subject: RE: Town of Hopedale v. Jon Delli Priscoli, Trustee of the One Hundred Forty Realty Trust, Land Court Civ. Action No. 20 MISC 000467 [DRR]

January 12, 2022. "Status conference held via videoconference. Attorneys Peter Durning and Peter Vetere appeared on behalf of the plaintiff and Attorneys Andrew DiCenzo and Donald Keavany appeared on behalf of the defendants. Attorneys David Lurie and Harley Racer also attended, as counsel for the citizens of Hopedale in the related Superior Court case. Court notes that a Motion to Vacate Stipulation of Dismissal was filed December 30, 2021, with no opposition filed, but that this status conference pertains only to

scheduling issues and not to the merits of the motion. Counsel provided some background on the related Superior Court case (Case No. 2185CV00238), particularly that there is an injunction in place prohibiting the railroad from clearing trees or performing site work, but the injunction is set to expire on January 31, 2022. Attorney Durning advised that counsel for the Town has filed an emergency motion for an extension of the injunction, which is currently pending in Superior Court. Plaintiff's counsel to notify the court as to any decision on that emergency motion. Court encouraged the parties to attempt to reach a new settlement, given the time, expense, and risk involved in litigating this matter in the event that the motion to vacate is allowed. In light of the request by the parties that the motion to vacate be resolved expeditiously, and if possible before the January 31, 2022 expiration of the injunction, Defendants to file any oppositions to the motion to vacate by January 18, 2022, with hearing scheduled for January 24, 2022 at 2:00 P.M." (Rubin, J.) *(emphasis added)*

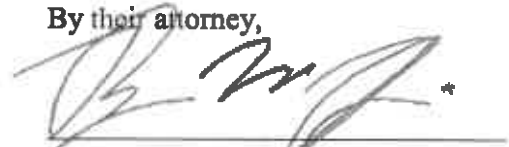
While the Land Court has scheduled a hearing on the Town's Motion to Vacate Stipulation of Dismissal for January 24, that Court (Rubin, J.) did not state whether it would be possible for a ruling on the Town's motion to be issued before January 31st, or whether the Court would automatically issue its own injunction if the motion was granted. In fact, Judge Rubin specifically requested that the Land Court be notified of any ruling of this Court on the Town's Emergency Motion. This was due, at least in part, so Judge Rubin would be able reschedule the Land Court motion if the urgency of the January 31st expiration of the injunction was no longer a factor. It is uncertain at best, therefore, whether the Land Court proceeding on the Town's motion will be adjudicated on or before January 31st, and the Town's Emergency Motion is not moot. In the event that, at some future date, the Land Court itself issues an injunctive order on this subject, the Town can request that this Court dissolve any order as may be equitably necessary for all parties.

WHEREFORE, the Town respectfully requests that the Court approve its Emergency Motion for Further Extension of Injunction Order, prohibiting the G&R Defendants from performing any clearing or other site work on the subject property until May 1, 2022 or until the

Land Court issues its own injunctive order, whichever occurs first.

Defendants,
TOWN OF HOPEDALE, LOUIS J.
ARCUDI AND BRIAN R. KEYES,

By their attorney,

A handwritten signature in black ink, appearing to read "B. Riley", is written over a horizontal line. A small asterisk is visible at the end of the signature.

Brian W. Riley (BBO# 555385)
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Dated: January 13, 2022
794930/HOPD/0145

CERTIFICATE OF SERVICE

I, Brian W. Riley, hereby certify that on the below date, I served a copy of the foregoing Response to G&U Defendants' Supplemental Opposition, by first class mail and electronic mail, to the following counsel of record:

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Brian W. Riley

Dated: January 13, 2022