

No. 39904

ALEXANDER D. FORGER, Trustee w/d/t
dated January 16, 1978 and recorded
with Dukes Deeds, Book 353, Page 467

PETITIONER

PETITION

Dated May 18, 1978

*Accepted & recorded
Henry T. Foster
Real Estate Trustee
28 State Street - Rm 2100
Boston, MA 02109
523-5700*

For Petitioner

Allan van Gestel, Esq.,
Goodwin, Procter & Hoar
28 State Street
Boston, MA 02109
523-5700

FILED
JUN 23 1978

REC'D \$ 168 60
6/30/78
LCP

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGES OF THE LAND COURT:

The undersigned petitioner* hereby applies to have the land herein described brought under the operation and provisions of Chapter 185 of the General Laws, and to have title therein registered and confirmed. And the petitioner declares:

(1) That the petitioner is the owner in fee simple of a certain parcel of land with buildings thereon situated in Gay Head in the County of Dukes and the Commonwealth of Massachusetts, more particularly described as follows: (A brief bounding description of the land claimed according to the plan filed herewith, naming the present adjoining owners in their relative location, irrespective of former deed descriptions, is required.)

that parcel of vacant land shown on a plan entitled "Plan of Land in Gay Head, Mass. Surveyed for Alexander D. Forger, Trustee" dated April 28, 1978 by Dean R. Swift, R.L.S. and filed with the Engineering Office of the Land Court in Boston, said parcel being bounded and described according to said plan as follows:

NORTHWESTERLY by land of Alexander D. Forger, Trustee (Lot 577), 473 feet;
NORTHEASTERLY by lands of Moses Strock and Alvin Strock (Lot 580), Hilda Wortman (Lot 589), and Heirs of Thirza Cole (Lot 591), 793.04 feet;

NORTHWESTERLY by the Cole land, 361.71 feet;
EASTERLY by land of Alexander D. Forger, Trustee, et al (Lot 253 Southerly half), 320.63 feet;

SOUTHEASTERLY by land of said Forger (L.C. 15114A), 198.08 feet;
NORTHEASTERLY by said Forger land, 1055.25 feet;
NORTHWESTERLY by said Forger land by two bounds measuring together 191 feet, more or less;

EASTERLY by the shoreline of Squibnocket Pond (a great pond);
SOUTHWESTERLY by land of the Cape Cod Company (L.C. 12591A), 250 feet, more or less;

EASTERLY by said Cape Cod Company land, 104.23 feet, these last two bounds being coincident with the Gay Head/Chilmark town line;

SOUTHWESTERLY 201.06 feet;
SOUTHEASTERLY 473 feet;
NORTHEASTERLY 264 feet; and
NORTHWESTERLY 416.08 feet, the last four bounds being by land of Forger (L.C. 14769A);

EASTERLY by said Cape Cod Company land (L.C. 12591A) and land of Squibnocket Associates, Inc. (L.C. 12591B) by a line coincident with the Gay Head/Chilmark town line, by two bounds respectively measuring 810.91 feet and 500 feet, more or less;

SOUTHWESTERLY by the Atlantic Ocean;
NORTHWESTERLY 125 feet, more or less;
SOUTHWESTERLY 264 feet; and
SOUTHEASTERLY 180 feet, more or less, these last three courses being by land shown on the plan as Lot 615 and designated "Heirs of Betsey Dodge;"

SOUTHWESTERLY by the Atlantic Ocean;
NORTHWESTERLY by land of Russell Wright, 240 feet, more or less;
NORTHEASTERLY 263.87 feet; and
NORTHWESTERLY 472.20 feet, these two bounds being by land formerly of Robert W. Frederick;

NORTHEASTERLY 264 feet; and
NORTHWESTERLY 473 feet, these two bounds being by land (Lot 603) formerly of Benjamin and Ernest Mayhew; and

SOUTHWESTERLY by the Mayhew land and lands of Frank Nuovo (Lot 598), Jerome Moore (Lot 593), Alexander D. Forger, Trustee (Lot 587) and Alexander & Barbara Stevenson (Lot 582), by four bounds together measuring 1320.41 feet.

Containing, according to said plan, 91 acres, more or less.

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGES OF THE LAND COURT:

The undersigned petitioner* hereby applies to have the land herein described brought under the operation and provisions of Chapter 185 of the General Laws, and to have title therein registered and confirmed. And the petitioner declares:

(1) That the petitioner is the owner in fee simple of a certain parcel of land with buildings thereon situated in Gay Head in the County of Dukes and the Commonwealth of Massachusetts, more particularly described as follows: (A brief bounding description of the land claimed according to the plan filed herewith, naming the present adjoining owners in their relative location, irrespective of former deed descriptions, is required.)

.....
.....
.....
.....

(2) The petitioner claims as appurtenant to the above-described land rights or easements as follows:
The right to use for all purposes for which ways may be customarily used from
time to time in Gay Head, the way designated "dirt road" on the plan which
extends over Lots 587, 582 and 577 ^{FROM lots TO MOSHOPE ROAD}. The petitioner denies that there are any
rights of others in said dirt road or in any of those areas designated "vehicle
tracks" on the plan and seeks to have the same eliminated.

*The term "petitioner" includes both the singular and plural thereof.

Commonwealth of Massachusetts

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The undersigned petitioner* hereby applies to have the land herein described brought under the operation and provisions of Chapter 185 of the General Laws, and to have title therein registered and confirmed. And the petitioner declares:

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NORTHWESTERLY	by land of Alexander D. Forger, Trustee (Lot 577), 473 feet;
NORTHEASTERLY	by lands of Moses Strock and Alvin Strock (Lot 580), Hilda Wortman (Lot 589), and Heirs of Thirza Cole (Lot 591), 793.04 feet;
NORTHWESTERLY	by the Cole land, 361.71 feet;
EASTERLY	by land of Alexander D. Forger, Trustee, et al (Lot 253 Southerly half), 320.63 feet;
SOUTHEASTERLY	by land of said Forger (L.C. 15114A), 198.08 feet;
NORTHEASTERLY	by said Forger land, 1055.25 feet;
NORTHWESTERLY	by said Forger land by two bounds measuring together 191 feet, more or less;
EASTERLY	by the shoreline of Squibnocket Pond (a great pond);
SOUTHWESTERLY	by land of the Cape Cod Company (L.C. 12591A), 250 feet, more or less;
EASTERLY	by said Cape Cod Company land, 104.23 feet, these last two bounds being coincident with the Gay Head/Chilmark town line;
SOUTHWESTERLY	201.06 feet;
SOUTHEASTERLY	473 feet;
NORTHEASTERLY	264 feet; and
NORTHWESTERLY	416.08 feet, the last four bounds being by land of Forger (L.C. 14769A);
EASTERLY	by said Cape Cod Company land (L.C. 12591A) and land of Squibnocket Associates, Inc. (L.C. 12591B) by a line coincident with the Gay Head/Chilmark town line, by two bounds respectively measuring 810.91 feet and 500 feet, more or less;
SOUTHWESTERLY	by the Atlantic Ocean;
NORTHWESTERLY	125 feet, more or less;
SOUTHWESTERLY	264 feet; and
SOUTHEASTERLY	180 feet, more or less, these last three courses being by land shown on the plan as Lot 615 and designated "Heirs of Betsey Dodge;"
SOUTHWESTERLY	by the Atlantic Ocean;
NORTHWESTERLY	by land of Russell Wright, 240 feet, more or less;
NORTHEASTERLY	263.87 feet; and
NORTHWESTERLY	472.20 feet, these two bounds being by land formerly of Robert W. Frederick;
NORTHEASTERLY	264 feet; and
NORTHWESTERLY	473 feet, these two bounds being by land (Lot 603) formerly of Benjamin and Ernest Mayhew; and
SOUTHWESTERLY	by the Mayhew land and lands of Frank Nuovo (Lot 598), Jerome Moore (Lot 593), Alexander D. Forger, Trustee (Lot 587) and Alexander & Barbara Stevenson (Lot 582), by four bounds together measuring 1320.41 feet.

Containing, according to said plan, 91 acres, more or less.

(3) That said land at the last assessment for taxation was assessed at \$ 18,600.00.....
and the buildings at\$ none.....
.....total assessment, \$ 18,600.00.....

(4) The petitioner does not know of any mortgage or encumbrance affecting said land or of any other person having an estate or interest therein, legal or equitable, in possession, remainder, reversion or expectancy other than as follows:

✓ NONE. The petitioner denies that there are any rights of others in said dirt road or in any of those areas designated "vehicle tracks" on the plan and seeks to have the same eliminated.....

(5) That the petitioner obtained title by deed from The Cape Cod Company.....

dated January 16, 1978 and recorded in the Registry of Deeds for the county of Dukes Book 353 Page 469.....

* (6) That said land is subject to the following recorded lease or leases or notices thereof:

.....BookPage
.....NONE.....

* (7) That the names in full and addresses so far as known to the petitioner of the owners of all lands

~~(8) That the petitioner claims to own in fee simple the land within the limits of the highway or public way to the middle line thereof by which the land described in paragraph (1) is bounded, subject to the right of the public to use the same and desires to have the line of said public way determined. (Strike out if not claiming.)~~

~~* (9) That the petitioner claims to own in fee simple the land within the limits of the private way to the middle line thereof by which said land is bounded, subject to the easement therein of the adjoining owners and desires to have the line of said private way determined. (Strike out if not claiming.)~~

(10) That the petitioner shall be deemed to have elected to proceed notwithstanding an adverse report of the Examiner under the provisions of G. L. 185 § 37 unless the petitioner files a withdrawal in writing within 15 days after being notified by the Recorder of the filing of the Examiner's adverse report.

For a Petitioner not a Resident of the Commonwealth:

(11) ~~That the petitioner~~ provisions of G. L. 185, § 35 the party named below and hereby agrees that the service of any legal process in proceedings under or growing out of this petition shall be of the same legal effect if made on said agent as if made on the petitioner within the Commonwealth:

Agent: ... Allan van Gestel, Esq. ... Address: ... 28 State Street ... Boston, MA 02109

(12) That the full name, residence and post office address of the petitioner is as follows:

Alexander D. Forger
74 Magnolia Ave., Larchmont, New York, 10538

Dated this 18th day of May in the year 1978

(If the petitioner is a non resident, the petition must be signed by each petitioner under oath.

If the petitioner is a resident, the petition may be signed by the petitioner, or his attorney, under oath.)

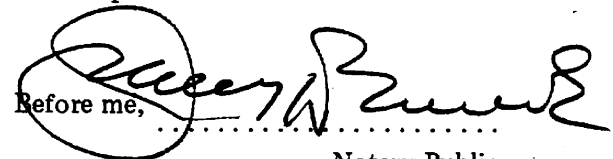

Alexander D. Forger, Trustee

STATE OF NEW YORK
COMMONWEALTH OF MASSACHUSETTS

New York, ss. May 18 1978.

Then personally appeared the above-named Alexander D. Forger

known to me to be the signer of the foregoing petition, and made oath that the statements made therein as far as made of his own knowledge are true, and so far as made upon information and belief that he believes them to be true.

Before me, 

JEFFREY K. BRINCK Notary Public
NOTARY PUBLIC, State of New York
No. 61-6452079
Qualified in New York County
Commission Expires March 30, 1990

*1 See Chap. 185 § 29 of General Laws.

No. Reg. 39904

12/21

apc

Alexander D. Forger, Trustee
PETITIONER

Citation, Orders and Returns

Dated December 13, 1979

Returnable January 14, 1980

Attorney For Petitioner:

Allan van Gestel, Esquire
Goodwin, Procter & Hoar
28 State Street
Boston, Massachusetts 02109

FILED
JAN 7 1980
LAND COURT

Reg. 39904

COMMONWEALTH OF MASSACHUSETTS**LAND COURT****DEPARTMENT OF THE TRIAL COURT**

To the Commonwealth of Massachusetts; To the Town of Gay Head, a municipal corporation, located in the County of Dukes, and said Commonwealth; To the Town of Chilmark, a municipal corporation, located in the County of Dukes, and said Commonwealth; To the County Commissioners in Dukes County; Moses Strock, Alvin Strock, and Julia O. Manning Andrada, all of Tisbury, County of Dukes, and said Commonwealth; Hilda Wortman, of said Chilmark; Frank J. Nuovo, of Barnstable, County of Barnstable, and said Commonwealth; Milton Weissberg and Thelma Weissberg, Trustees of Weissberg Realty Trust, Beatrice V. Gentry, Bertha V. Giles, C. Earl Vanderhoop, Alfred Vanderhoop, and Yvette Eastman, all of said Gay Head; Charles W. Vanderhoop, Jr., of New Bedford, County of Bristol, and said Commonwealth; Joanne V. Robey, of Boston, County of Suffolk, and said Commonwealth; Richard F. Perkins, of Stow, County of Middlesex, and said Commonwealth; Alexander Stevenson, and Barbara Stevenson, both of Bethesda, State of Maryland; Jerome Moore, of Detroit, State of Michigan; Robert W. Frederick, of Albany, State of New York; Russell Wright, of New York, State of New York; Eloise V. Page, of Harrisburg, State of Pennsylvania; Beulah V. Lee, of Pittsburg, State of Pennsylvania; Lewis Colby and Ida Colby, both of Cranston, State of Rhode Island; Barbara V. Taylor, of Seattle, State of Washington; Jestina Ann Held, of Timonium, State of Maryland; Robert MacDiarmid, of Big Chimney, State of West Virginia; Raymond Jackson, William I. Lee, Jr., Ella Jackson and Robert G. McGuire, Jr., of Washington, D. C.; Cape Cod Company, having an usual place of business in said Boston; Squibnocket Associates, Inc., a duly existing corporation, having an usual place of business in said Boston; Striped Bass Fund, Inc. a duly existing corporation, having an usual place of business in Oak Bluffs, County of Dukes, and said Commonwealth; Benjamin Mayhew, Ernest Mayhew, Isaac Cooper, and Rosabella M. Manning, all deceased; Betsey Dodge and Thirza Cole, all residences unknown; or their heirs, devisees and legal representatives; and to all whom it may concern:

Whereas, a petition has been presented to said Court by Alexander D. Forger, Trustee, of Larchmont, State of New York, to register and confirm his title in the following described land:

A certain parcel of land with the buildings thereon, situate in said Gay Head, bounded and described as follows:

Southwesterly by the Atlantic Ocean 2280 feet, more or less; Northwesterly, Southwesterly and Southeasterly by land now or formerly of the Heirs of Betsey Dodge 125 feet, more or less, 264 feet and 180 feet, more or less, respectively; Southwesterly by the

A certain parcel of land now known as _____
thereon, situate in said Gay Head, bounded and described as follows:

Southwesterly by the Atlantic Ocean 2280 feet, more or less; Northwesterly, Southwesterly and Southeasterly by land now or formerly of the Heirs of Betsy Dodge 125 feet, more or less, 264 feet and 180 feet, more or less, respectively; Southwesterly by the Atlantic Ocean 790 feet, more or less; Northwesterly by land now or formerly of Russell Wright 240 feet, more or less; Northeasterly and Northwesterly by land now or formerly of Robert W. Frederick 263.87 feet and 472.20 feet, respectively; Northeasterly and Northwesterly by land now or formerly of the Estate of Benjamin Mayhew and the Estate of Ernest Mayhew 264 feet and 473 feet, respectively; Southwesterly by land now or formerly of the said Estate of Benjamin Mayhew and Estate of Ernest Mayhew, by land now or formerly of Frank Nuovo, by land now or formerly of Jerome Moore, by land now or formerly of Alexander D. Forger, Trustee and by land now or formerly of Alexander Stevenson and Barbara Stevenson 528.15 feet, 264.07 feet, 264.11 feet and 264.08 feet, respectively;

Northwesterly by land now or formerly of Alexander D. Forger, Trustee 473 feet; Northeasterly by land now or formerly of Moses Strock and Alvin Strock, by land now or formerly of Hilda Wortman and by land now or formerly of the Heirs of Thirza Cole 528 feet and 265.04 feet, respectively; Northwesterly by land now or formerly of said Heirs of Thirza Cole 361.71 feet; Easterly, Southeasterly, Northeasterly and Northwesterly by land now or formerly of Alexander D. Forger, Trustee, 84.77 feet, 73.26 feet, 162.60 feet, 198.08 feet 1055.25 feet, 110.87 feet and 80 feet, more or less, respectively; Easterly by Squibnocket Pond 1300 feet, more or less; Southwesterly and Southeasterly by land now or formerly of the Cape Cod Company 250 feet, more or less and 104.23 feet, respectively; Southwesterly, Southeasterly, Northeasterly and Northwesterly by land now or formerly of Alexander D. Forger, Trustee 201.06 feet, 473 feet, 264 feet and 416.08 feet, respectively; Northeasterly by land now or formerly of the Cape Cod Company 810.91 feet and 500 feet, more or less, respectively;

Petitioner claims as appurtenant to the above described land rights or easements as follows:

The right to use for all purposes for which ways may be customarily used from time to time in Gay Head, the way designated "dirt road" on the plan which extends over Lots 587, 582 and 577, from locus to Moshope Road.

Petitioner denies that there are any rights of others in said dirt road or in any of those areas designated "vehicle tracks" on the plan and seeks to have the same eliminated.

The above described land is shown on a plan filed with said petition and all boundary lines are claimed to be located on the ground as shown on said plan.

If you desire to make any objection or defense to said petition you or your attorney must file a written appearance and an answer under oath, setting forth clearly and specifically your objections or
495
in the office of the Recorder of said Court in Boston (at the Court

feet and 50 feet, more or less and
Road 1200 feet, respectively; Southwesterly, Southeasterly, Northeasterly
and Northwesterly by land now or formerly of Alexander D. Forger, Trustee
201.06 feet, 473 feet, 264 feet and 416.08 feet, respectively; North-
easterly by land now or formerly of the Cape Cod Company 810.91 feet
and 500 feet, more or less, respectively;

Petitioner claims as appurtenant to the above
described land rights or easements as follows:

The right to use for all purposes for which
ways may be customarily used from time to time in Gay Head, the way
designated "dirt road" on the plan which extends over Lots 587, 582
and 577, from locus to Moshope Road.

Petitioner denies that there are any rights
of others in said dirt road or in any of those areas designated "vehicle
tracks" on the plan and seeks to have the same eliminated.

The above described land is shown on a plan
filed with said petition and all boundary lines are claimed to be
located on the ground as shown on said plan.

If you desire to make any objection or defense to said petition you or your attorney must file a
written appearance and an answer under oath, setting forth clearly and specifically your objections or
defense to each part of said petition, in the office of the Recorder of said Court in Boston (at the Court
House), or in the office of the Assistant Recorder of said Court at the Registry of Deeds at.....
Edgartown in the County of Dukes where a copy of the
plan filed with said petition is deposited, on or before the fourteenth day
of January next.

Unless an appearance is so filed by or for you, your default will be recorded, the said petition
will be taken as confessed and you will be forever barred from contesting said petition or any decree
entered thereon.

WITNESS, WILLIAM I. RANDALL, ESQUIRE, Chief Justice of said Court, this thirteenth
day of December in the year nineteen hundred and seventy-nine.

Attest with Seal of said Court.

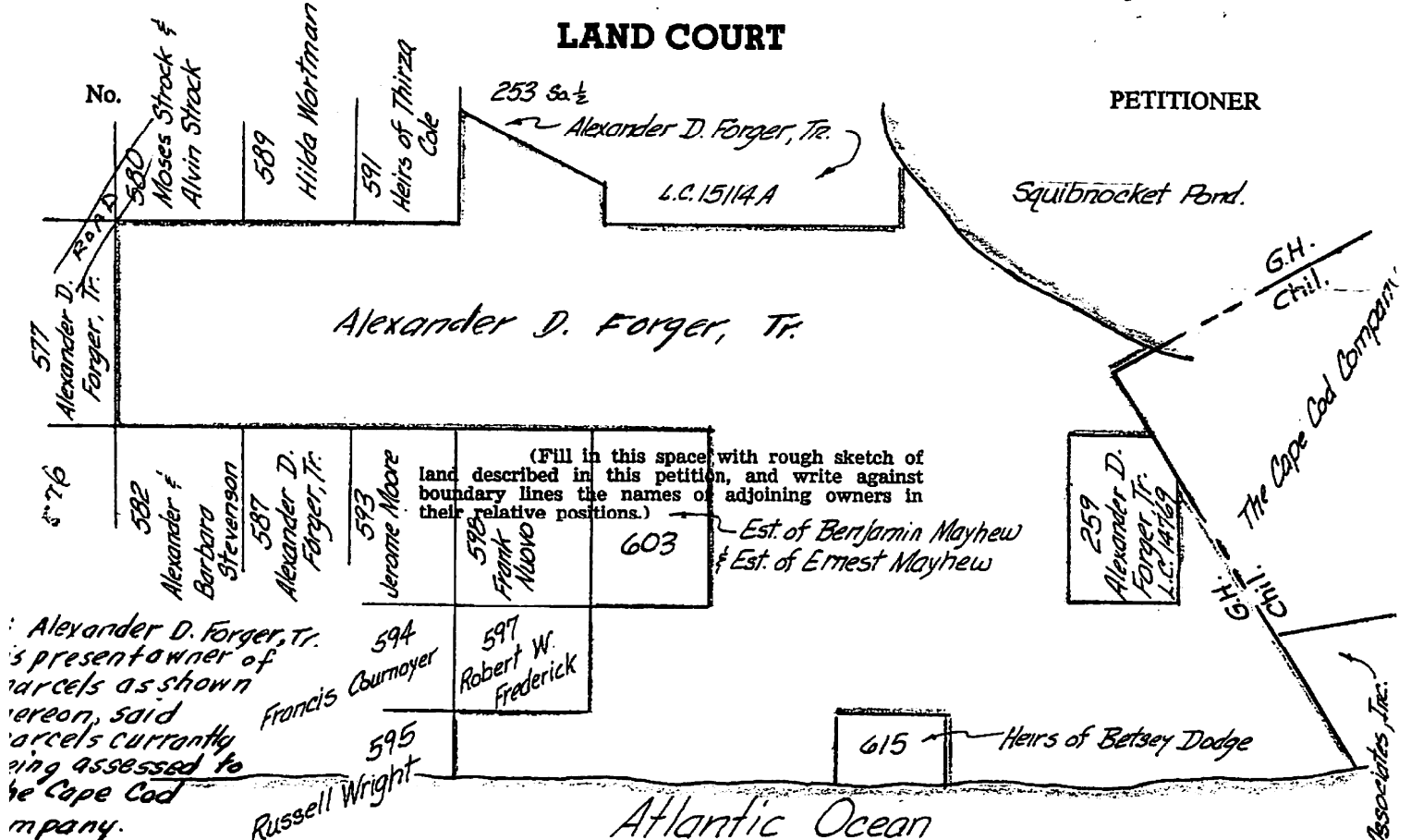
Jeanne M. Mahoney
Deputy Recorder

COMMONWEALTH OF MASSACHUSETTS

39904

LAND COURT

PETITIONER



Alexander D. Forger, Tr. is present owner of parcels as shown hereon, said parcels currently being assessed to the Cape Cod Company.

This is to certify that at the time of the last assessment for taxation made by the

Assessors of Gay Head

the names of the parties assessed as adjoining owners to the parcel of land shown above were as above written, except as follows:

Dated 5-17-78

Assessor
W. J. Conner

LAND COURT

JAN 14 1980

FILED

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss.

Land Court
Case No. 39904, Reg.

_____)
ALEXANDER D. FORGER, TRUSTEE,)
)
	Petitioner)
)
	v.)
)
ALEXANDER STEVENSON and)
BARBARA H. STEVENSON,)
)
	Respondents)
_____)

ANSWER OF RESPONDENTS ALEXANDER STEVENSON
AND BARBARA H. STEVENSON

1. Respondents are residents of Bethesda, Maryland, and are the record owners in fee simple of a parcel of land with a residence thereon situated in Gay Head, Dukes County, Massachusetts, known as Lot 582, which adjoins land sought to be registered by the petitioner.

2. Respondents have and are entitled to a right of way, for access and egress and for utility service, as appurtenant to said Lot 582, extending between said Lot 582 and Moshup's (or Moshope) Trail, a public way, over lands known as Lot 581 and Lot 577.

3. Said Lot 581 is a portion of the land sought to be registered by petitioner in the within petition, and said Lot 577 is land identified in the within petition and on the plan filed therewith as also land of the petitioner.

4. The right of way to which respondents are entitled is over a dirt road which is shown and marked in red on Exhibit A attached hereto and made a part hereof, being a copy of a portion of petitioner's plan.

5. Respondents are so entitled to said right of way over said dirt road by grant made in and by an Agreement by and between respondents and Cape Cod Company, Inc., dated April 8, 1974, recorded with Dukes Registry of Deeds, Book 316, Page 295, a copy of which is attached hereto as Exhibit B and made a part hereof.

6. Respondents are also so entitled to said right of way over said dirt road by prescription.

7. Petitioner has in paragraphs 2 and 4 of the within petition wrongfully denied that there are any rights of others in said dirt road.

8. Petitioner has in paragraph 2 of the within petition wrongfully claimed as appurtenant to the land sought to be registered the right to use said dirt road over said Lots 587, 582 and 577 for all purposes for which ways may be customarily used from time to time in Gay Head.

9. Respondents allege that if petitioner has any right to use said dirt road over said Lots 587, 582 and 577, such right is limited to the purposes and subject to the conditions set forth in said Agreement attached hereto as Exhibit B, and respondents further allege that petitioner's right to use the portion of said dirt road on said Lot 581 is also so limited and subject.

10. Said Agreement attached hereto as Exhibit B is reported in Sheet 179 and referred to at Sheet 1-S of the Examiner's Report in the within case. (In the abstract of said Agreement at Sheet 179, the reference at the end of paragraph 1 to Lot 481 is erroneous, and should be Lot 581.)

11. Respondents allege that the Examiner's Certificate of Opinion in the within case errs in stating that petitioner has a good title as alleged and proper for registration, in that said Agreement at Sheet 179 and the Examiner's statement with respect thereto at Sheet 1-S are contrary to the claims of petitioner, above referred to, in paragraphs 2 and 4 of the within petition.

Wherefore respondents pray

1. That any decree of registration in the within case register petitioner's title subject to the rights of respondent as appurtenant to said Lot 582 in and with respect to said dirt road over said Lot 581.

2. That any decree of registration in the within case register petitioner's title subject to the provisions of said Agreement attached hereto as Exhibit B.

3. For such other and further relief as the Court may deem meet and just.

By their attorneys,



Edward C. Mendler, Jr.
Nutter, McClennen & Fish
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210

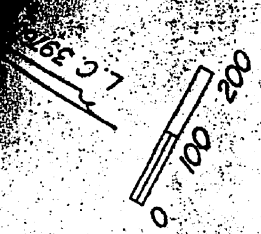
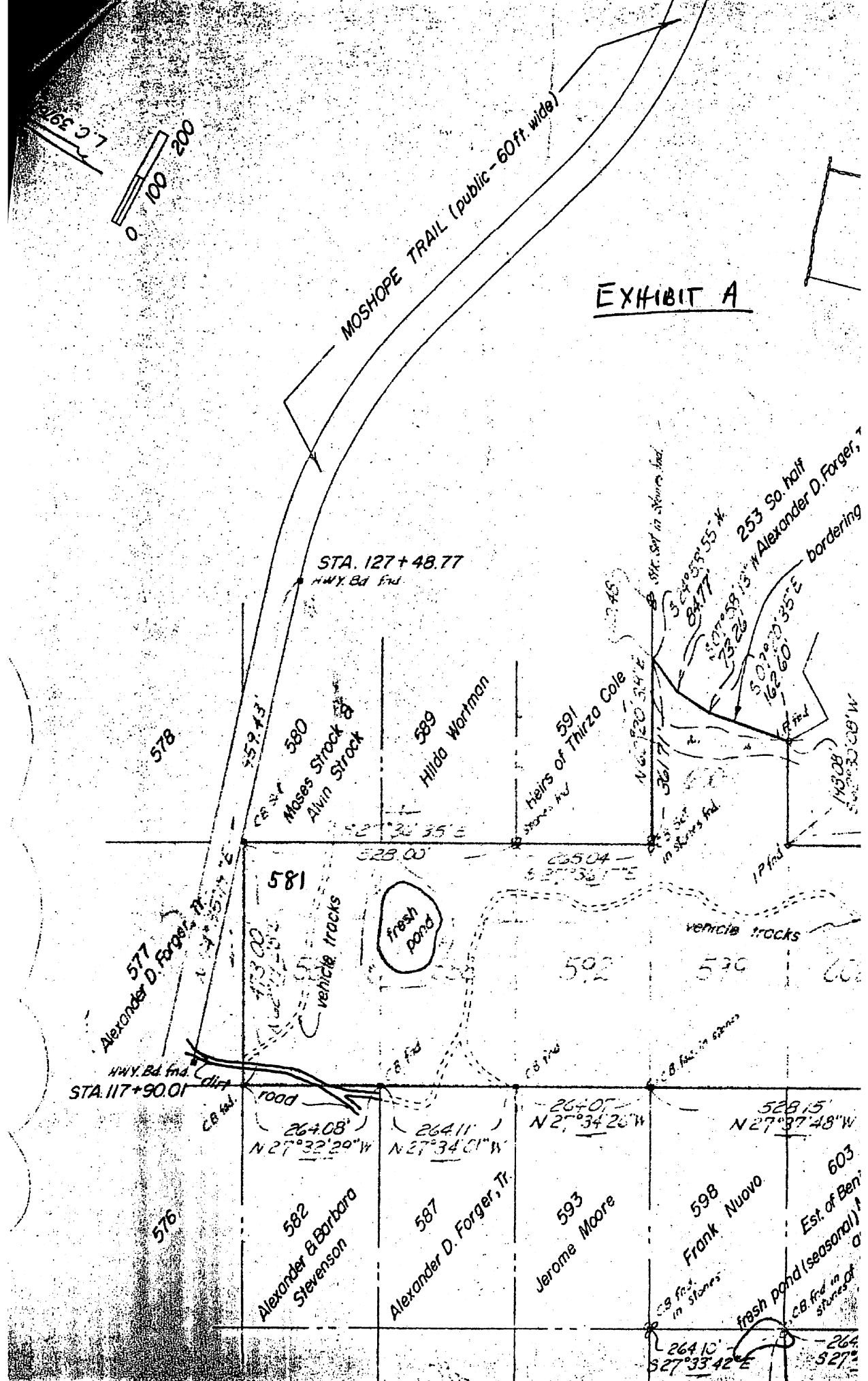


EXHIBIT A



BK 316, Pg 295

EXHIBIT B

AGREEMENT made this 8th day of April, 1974, by and between ALEXANDER STEVENSON and BARBARA H. STEVENSON, husband and wife of Bethesda, Maryland, (hereinafter called "Stevenson") and CAPE COD COMPANY, INC., a Massachusetts corporation having a usual place of business in Boston, Massachusetts (hereinafter called "Cape Cod").

WHEREAS, Stevenson is the owner of a certain parcel of land situated in Gay Head, Dukes County, Massachusetts, being Lot #582 drawn by Prudence Nevers, Census #146; and

WHEREAS, Cape Cod is the owner of certain other parcels of land situated in said Gay Head, including without limitation certain lots which adjoin said Lot 582 and other lots on the South Beach, all of which lots are shown on the plan filed in the Dukes County Registry of Probate by the commissioners appointed to set off and allot Indian Lands at said Gay Head; and

WHEREAS, there is an existing travelled way extending southerly from Moshup's Trail which crosses, and provides access both to said land of Stevenson and to some of Cape Cod's parcels, including certain of its South Beach lots;

WHEREAS, Stevenson and Cape Cod desire to confirm and establish their mutual rights in said way and to provide for maintenance and improvement thereof;

NOW, THEREFORE, Stevenson and Cape Cod hereby mutually covenant and agree as follows:

1. Stevenson and his successors and assigns shall have the right as appurtenant to said Lot #582 to use, for access to

and egress from one single-family residence on said Lot 582, and for utility service thereto, so much of said way as lies on said Lot 582 and extends therefrom over said Lots #577 and 581 to Moshup's Trail.

2. Cape Cod and its successors and assigns shall have the right, as appurtenant to its Gay Head lots, to use for access to and egress from all of said lots for residential purposes, for access to the South Beach, and for utility service thereto, all of said way, including without limitation the portion thereof situated on said Lot #582.

3. Cape Cod shall have the right to erect, maintain, repair, replace and use a gate or barrier across said way on or adjacent to the boundary line between said Lots #582 and 587, and to control and regulate the use of such gate or barrier.

4. Stevenson shall repair and maintain the roadway in serviceable condition from Moshup's Trail to the said gate; provided that Cape Cod shall have the right at its own expense and risk, to grade, fill and otherwise improve said way for vehicular use.

5. All utility lines installed in or within said way shall be placed underground.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day first above written.

s/Alexander Stevenson
Alexander Stevenson

s/Barbara H. Stevenson
Barbara H. Stevenson

CAPE COD COMPANY, INC.

By Ralph Hornblower, Jr.
Ralph Hornblower, Jr.
Vice President

2 LAND COURT

JAN 16 1980

FILED

Recorder of Deeds
Land Court
Boston, Mass 02108

157 Lincolnton Ave
Cranston R.I. 02905
Jan 12, 1980

Re: Land case # 39904
I object to the use of the above land
for all purposes.

I wish to reserve any
lands or rights which I have
inherited or otherwise come by for
the future use of my heirs and their
descendants.

When my rights are
taken away to use these dirt roads
or other roads are forfeited, than
it seems to me that we are
going back many years, when Hay Road
was taken for a mere pittance -
and I am sure my children and
their children would like to enjoy
their inheritance, without being
forced to accept something to
which my husband (Lewis F. Colby)
(over)

and I object to:

Very truly yours

Lewis F Colby

John Colby

2012

Shirley Stevenson

360 Warwick Ave.

Industrial Nat'l Bank

Warwick, R.I. 02806

HOPPE #

LAND COURT

JAN 10 1980

FILED

Q

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS.

LAND COURT
REGISTRATION NO. 39904

ALEXANDER D. FORGER, TRUSTEE
Petitioner

v.

ELEANOR FREDERICK
Respondent

APPEARANCE, ANSWER AND
OBJECTION OF
ELEANOR FREDERICK

Now comes the Respondent in the above-entitled matter and for answer states:

1. That she is lawful owner of Lot 597 situated in Gay Head, Massachusetts described in the foregoing petition as land now or formerly of Robert W. Frederick.

2. Respondent denies Petitioner's right to the exclusive use of dirt roads and ways and areas designated as vehicle tracks as shown on said plan filed with said petition.

3. Respondent asserts a prescriptive right to travel over certain roads, ways, paths, tracks and other areas of the land described in the petition.

Eleanor Frederick
By her attorney,



JAMES J. GILLIS, JR., ESQUIRE
Beach Road
Vineyard Haven, MA 02568
(617) 693-2662

JAMES J. GILLIS, JR.
BEACH ROAD
VINEYARD HAVEN, MASS.
02568
TEL. (617) 693-2662

Subscribed and sworn to before me this 8th day of January, 1980.



Notary Public

506 commission expires: November 20, 1981

LAND COURT
JAN 17 1980

Gay Head, Mass.
Jan. 14, 1980

FILED

Commonwealth of Mass.

Jury Court.

Edgartown, Mass.

RECEIVED-ENTERED
COUNTY of DUKES COUNTY
REGISTRY OF DEEDS
JAN 14 1980

BEVERLY W. KING
REGISTER

Regarding Jury Court Reg. # 39904

This is my written appearance
to object to the petition of

Alexander Jorger.

If it were allowed and my
heirs would be deprived of the access
to our land over the road which I
have used since childhood, now at the
age of fifty nine "59".

Yours truly

Alfred A. Vanderhoop

Commonwealth of Massachusetts

Dukes, SS

January 14, 1980

Then personally appeared the above named Alfred A. Vanderhoop and acknowledged the foregoing to be true to the best of his knowledge and belief, before me,

Beverly W. King
Notary Public
My Commission expires: 9/12/80

LAND COURT

JAN 17 1980

FILED

Gay Head, Mass.,
Jan. 14, 1979.

Commonwealth of Mass.,
Land Court,
Edgartown, Mass.

RECEIVED-ENTERED
COUNTY of DUKES COUNTY
REGISTRY OF DEEDS
JAN 14 1980

BEVERLY W. KING
REGISTRAR

Re regarding Land Court Reg. #39904.

This is my written appearance
to object to the Petition of Alexander
F. Fargin.

If it were allowed I and my
heirs would be deprived of the
access to our land over the road
which I have used since I was
a boy. now I am 72 years old.

yours Truly
C. Earl Vanderhoop

Comm. of Mass.
Dukes, SS

January 14, 1980

Then personally appeared C. Earl Vanderhoop and acknowledged the foregoing to be true,
to the best of his knowledge & belief, before me, ⁵⁰⁸ Beverly W. King, Notary Public. My Comm. Expires 9/12/80

LAND COURT

MAR 27 1980

COMMONWEALTH OF MASSACHUSETTS

FILED

LAND COURT

IN THE MATTER OF
ALEXANDER D. FORGER, TRUSTEE

LAND REGISTRATION
CASE NO. 39904

RESPONDENT ANN WRIGHT'S RESPONSE TO
PETITIONER'S MOTION FOR PRODUCTION OF DOCUMENTS

In response to Petitioner's Motion for Production of Documents as allowed by the Court on February 27, 1980, Respondent Ann Wright submits the following:

(1) Memorandum Concerning Gay Head Property
Prepared by Russell Wright dated August 29, 1973.

This memorandum is in Ann Wright's possession and was delivered to her by her father, Russell Wright, in advance of his conveyance of the subject parcel to her--the subject parcel being Lot 595 in the Division of Indian Lands at Gay Head made by Commissioners appointed to make such division and also shown as Lot 595 on the plan on file with the Engineering Office of the Court in this case ("the plan"), which lot was conveyed by the said Russell Wright to Ann Wright by deed dated April 24, 1974 recorded in Dukes County Deeds Book 316, Page 461.

Reference is made in this memorandum to the existence of "the right of way legally" to the subject parcel. From the time she took title, therefore, Ann Wright has understood that she had a right of access to her parcel. Recognizing that "the dirt road" and the "vehicle tracks" shown on the plan on file in this case constitute the only means of access to her parcel, she filed her answer to the Petitioner's Registration Petition objecting to Petitioner's allegation that there are no rights in others in the said "dirt road" and "vehicle tracks." Ann Wright has reason to believe that she, through her predecessors in title, has an easement by necessity over these existing access routes. She is undertaking research by way of title examination and other inquiry on the issue of her right of access.

(2) Documents in Land Registration Case No. 17763
Relating to Lot 585.

Lot 585, which abuts Ann Wright's parcel, is now owned by the Petitioner. This lot was the subject of a land

registration petition that was consummated by the entry of a Registration Decree on October 1, 1941.

The title abstract in the aforesaid land registration case contains the following information.

As with Ann Wright's parcel, Lot 585 was established by a division of Indian common lands in the then new town of Gay Head by Commissioners duly appointed. The title examiner specifies that

An examination of the map prepared under the direction of the commissioners...discloses no road leading to or from this lot (Lot 585).

It is to be said, however, that the policy of the late Charles Thornton Davis was, in the Gay Head cases, to enter decrees subject to and with the benefit of rights of way legally existing. In all probability, Doctor King (the petitioner) and his abutters have ways leading to and from their properties. (emphasis added)

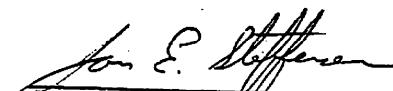
The registration decree in this case then states that "there is appurtenant to the land hereby registered any rights of way by necessity legally existing."

There is a notation on the decree that counsel for Ralph Hornblower, the petitioner's predecessor in title to Lot 585, had read the decree and assented to its issuance.

Ann Wright's parcel (Lot 595) abuts said Lot 585. The two lots are similarly situated with, we assume, similar title histories. Taking note of the aforementioned references to rights of way by necessity legally existing, and to the fact that the "dirt road" and "vehicle tracks" referred to in Petitioner's registration petition are the only existing means of access to Ann Wright's parcel, she again avers that she has reason to believe that she, through her predecessors in title, has an easement by necessity over these existing access routes.

Respectfully submitted,

Ann Wright
By her attorney,



Jon E. Steffensen
Goodhue, Colt & Steffensen
73 Tremont Street
Boston, MA 02108

ARTHUR W. DAVIS
ATTORNEY-AT-LAW
EDGARTOWN
MASSACHUSETTS

November 8, 1940

Recorder of the Land Court
Court House
Pemberton Square
Boston, Massachusetts

Dear Sir: In re: Petition of Stanley King,
No. 17763.

In the above entitled matter I desire to further reply to your communication of October 22. With reference to any ways to and from the petitioner's land.

The lot sought to be registered is Lot 585 upon the south shore of Gay Head. It is part of the set off of Indian Lands. As I understand it Judge Davis had a "stock clause" which he used in all these cases of registration at Gay Head. In looking over the report of the Commissioners who made the set off of lots, I cannot seem to find any provision for rights of way. I would suggest that Mr. Cummings look up some of Judge Davis' old cases with the idea of using the same form of decree.

Very truly yours,

Arthur W. Davis

P.S. This stock clause relating to rights of way. Names and addresses of abutters would be impossible.

RECEIVED-ENTERED

COUNTY of DUKES COUNTY
REGISTRY OF DEEDS

JAN 14 1980

BEVERLY W. K'
REG

LAND COURT

JAN 17 1980

FILED *Q*

*State Rd.
Gay Head, Mass
January 14, 1980*

*Commonwealth of Mass
Land Court
Reg. 39904*

*We hereby object to the above -
numbered petition submitted by Alexander
Forger. The road described in said
petition has been in use by Gay Head
people as long as anyone recalls. We
feel that we have a right to use
said road in order to reach property
to which we have aboriginal rights.*

*Thelma V. Weissberg
Milton Weissberg*

Commonwealth of Massachusetts

Dukes, SS

*Trustees of Weissberg Realty Trust
January 14, 1980*

Then personally appeared the above named Thelma V. Weissberg and acknowledged the foregoing statement to be true to the best of her knowledge and belief, before me,

Beverly W. King
Notary Public
My Commission expires 9/12/80

LAND COURT

JAN 17 1980

FILED

2

Registry of Deeds
County of Dukes
Edgartown, Mass.

Gay Head, Mass.
Jan 4, 1980

RECEIVED-ENTERED

COUNTY OF DUKES COUNTY
REGISTRY OF DEEDS

JAN 4 1980

BEVERLY W. KIRK

Regarding the petition of Alexander
D. Forger, Trustee, of Hackensack, New
York, and presented to the Commonwealth
of Mass. to the town of Gay Head. I,
Bertha V. Giles am heir to the land
involved subject to the petition.

1. I reserve the right to continue
to use the right of way to my
property

2. No one should deny that these
roads were always used by the
native people for access to their
lands involved here.

Bertha V. Giles

Signature

Bertha V. Giles

Bertha V. Giles

NOTARY PUBLIC

WASHINGTON COUNTY, ARKANSAS

Subscribed and sworn to before me, a Notary Public, in and for Washington County, Arkansas, this 7th day of January, 1980.

Jay James

Notary Public

Expiration date: 6/01/83

LAND COURT

JAN 9 1980

Appearance + Answer

FILED

①

January 9, 1979

Office of Recorder
Court House, Boston, Ma.

Dear Sir:

I wish to record the following
objections to petition Reg. no. 39904:

- 1- By closing this road, ^{would be destroying} an ancient "Way", ~~would be destroyed~~ "Dirt roads", (quilt) ^{and its history.} and stone walls are a part of Gay Head.
- 2- Doing away with this road would take away access to my property.
- 3- Only by protecting my interest in Gay Head lands can I assure my children of their Indian heritage.

Beatrice V. Tenley
State Road
Gay Head, Ma. 02535
645-9900

Sworn before me
John Woodbury
Notary Public

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