

SPECIALIZING IN LAND TITLES

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December 29, 1997

Attorney Francis B. Fennessey
27 Main Street, P.O. Box 183
Charlton, Massachusetts 01507

Dear Attorney Francis B. Fennessey,

I have examined the Record Title to the premises shown on Plan of Right of Way for Brian Johnson dated February 17, 1997, DWG. Number 91058 by Jalbert Engineering Inc. Specifically, I have examined the right of access to the parcel shown as land n/f Johnson Book 6649, page 373, as shown on said plan.

The existing R.O.W. as shown on said plan is also shown on plan of land in Holland Mass made from plan of survey for Wendell Blodgett dated September 3, 1977 by R. Para land surveyor, Revised September 9, 1978 to show relocation of Right of Way by N.E. Leathers recorded in Hampden County Registry of Deeds in Book of Plans 180, page 87.

Cart roads are shown on the Johnson plan westerly of the "Existing R.O.W." on land shown as n/f David A. Gibson, John R. Merrill and Robert J. Wilson. One of these cart roads extends northwesterly in to said land of Johnson. It is this examiner's position that said cart road extending in to land of Johnson is an implied right of way over land of Gibson etals in favor of said Johnson. In 1823 both parcels were in common ownership by Lemuel Coburn. On September 10, 1823 he sold the Johnson piece to Loring Webber without mention of a right of way. On the same day with the next deed he sold the Gibson piece to Esra Webber with no mention of the right of way. A right of way by necessity or implication arose when Coburn separated the Johnson from access by the Gibson piece. See Eno and Hovey Massachusetts Practice Series Volume 28 Section 8.7. An examination of the parcels involved back to the early 1800's revealed no other record access for the Gibson or Johnson pieces.

January 6, 1998

The owner of the Gibson piece may determine where the right of way shall be in order to minimize its effect on the Gibson piece. Otherwise the right to use, the Gibson will exist where it has traditionally been used, i.e., over the cart roads as shown on said map.

Enclosed, is a sketch of the Coburn deeds along with the material forwarded to me by your client.

Yours truly,

A handwritten signature in cursive script that reads "David Ugucioni". The signature is written in dark ink and is positioned above the printed name.

David Ugucioni