

SHAINES & McEACHERN, PA
Attorneys at Law

December 7, 2017

Maureen F. O'Neil, Clerk
Rockingham County Superior Court
PO Box 1258
Kingston NH 03848-1258

Re: *Robert Jesurum v. WBTS CC Limited Partnership, William H. Binnie, Trustee of the Harrison Irrevocable Trust, the Town of Rye, and the State of New Hampshire*
Docket # 218-2013-CV-00134

Dear Ms. O'Neil:

Enclosed, please find a *Motion for Restoration of Historic Marker* for filing with the Court in the above-referenced matter.

I hereby certify that copies of the enclosed have been forwarded to counsel of record.

Thank you for your attention to this matter.

Very truly yours,


Paul McEachern

PM/rlm
Enclosure

cc: Robert Jesurum
Michael L. Donovan, Esq.
Christopher Carter, Esq.
Rebecca L. Woodard, Esq.

The State of New Hampshire

ROCKINGHAM, SS

SUPERIOR COURT

Docket No. 218-2013-CV-00134

Robert Jesurum

v.

WBTS CC Limited Partnership, William H. Binnie, Trustee of the Harrison Irrevocable Trust, the Town of Rye, and the State of New Hampshire, through Joseph Foster, Attorney General of the State of New Hampshire

MOTION FOR RESTORATION OF HISTORIC MARKER

NOW COMES the Petitioner, Robert Jesurum, by his attorneys, Shaines & McEachern, PA, who moves that the Court Order the restoration of the historic marker “Sanders Poynt 1623” to its original location. In support hereof, Jesurum says:

1. On July 2003, the Town of Rye, by vote of its Selectmen, authorized the erection of a historic marker, “Sanders Poynt 1623” upon the land which is the subject of this action. Shortly following the Selectmen’s vote, the historic marker was erected within the public right of way abutting Sanders Point.
2. Said historic marker remained in place even after the alterations of the site by Defendant WBTS CC Limited Partnership (“WBTS CC” hereafter) in October, 2012. See photo, Exhibit A.
3. On August 15, 2017 Defendant WBTS CC submitted a plan of restoration (Plan B.4) which shows the continued existence of the historic marker within the public right of way at Sanders Point.

4. On August 17, 2017 this Court stated “the Court is satisfied with much of the conceptual plan as set forth in the more recently filed Plan B.4”. Wageling, J. Order, August 17, 2017 at 1. There was no dispute among the parties during the pendency of this action that the historic marker would continue to remain in place as shown on Plan B.4.
5. During reconstruction of the site, the historic marker was removed. Upon information and belief, the historic marker is in the possession of the Town of Rye.
6. The Plaintiff Robert Jesurum has requested the Town of Rye to restore the historic marker to its original site as shown on Plan B.4.
7. The Selectmen of the Town of Rye discussed the historic marker at their meeting of the Board of Selectmen on November 13, 2017. A copy of the minutes, headed “Sanders Point Sign” is attached hereto as Exhibit B.
8. The Town of Rye is clearly mistaken in its belief that the historic marker was previously located on private property. See excerpt of Plan B.4 showing the sign, and other improvements in the public right of way, attached hereto as Exhibit C.

WHEREFORE, Robert Jesurum respectfully prays that this Court:

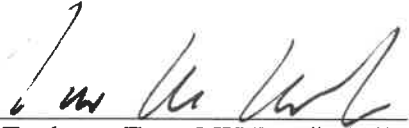
- A. Order the Town of Rye to repost the historic marker in its former position as shown on Plan B.4;
- B. Order the Town of Rye to pay Mr. Jesurum’s legal fees to pursue this Motion; and
- C. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ROBERT JESURUM

By his attorneys,
SHAINES & MCEACHERN, P.A.

Dated: December 7, 2017

By: 
Paul McEachern, Esq. (NH Bar #1679)
Jacob J.B. Marvelley, Esq. (NH Bar #20654)
282 Corporate Drive
Portsmouth, NH 03801
603-436-3110 (telephone)

CERTIFICATE OF SERVICE

I hereby certify that on this date I have sent via e-mail and regular mail a copy of the foregoing to the following parties:

Christopher Carter, Esq.
Hinckley Allen & Snyder LLP
11 South Main Street, Suite 400
Concord, NH 03301-4846

Rebecca L. Woodard Ross, Esq.
NH Department of Justice
33 Capitol Street
Concord, NH 03301

Michael L. Donovan, Esq.
PO Box 2169
Concord, NH 03302-2169

Dated: December 7, 2017




Paul McEachern, Esq.

Exhibit A



SANDERS
POINT
1623

Exhibit B

- **Sanders Point sign**

Chairman Musselman recused himself from the discussion, as he is a member of Wentworth by the Sea Country Club.

Town Administrator Magnant noted that he has spoken with Wentworth Country Club and they will not post the sign. He also spoke with Attorney Donovan who stated this is private property. There is a public easement and the public can park their cars there and cross the land. This does not mean the sign can be posted on private property. NH DOT will not put the sign in the right-of-way. He continued that Mr. Jesurum is correct. The sign was on the plans that went before the judge. He cannot say that she officially adopted the plan verbatim; however, the plan did show where the sign was going to be on the golf course land at the end of the fence. Attorney Donovan has said that the town or Mr. Jesurum could take the country club back to court to make them put the sign up.

Selectman Winslow stated he cannot see spending the taxpayers' money to take this back to court to put up a sign. There are parking signs there now, which direct the people where to park and it's obvious there is public access. This sign does not indicate there is public access.

Town Administrator Magnant commented that he can make an appeal to the DOT Commissioner on behalf of the Board of Selectmen.

Selectmen Winslow and Jenness agreed.

- **Safety Committee luncheon**

Town Administrator Magnant commended the Safety Committee for the luncheon they put on last week. It was very well attended and well received. As part of the luncheon, the committee held a hat and mitten drive. The hats and mittens collected were donated to a local charity. Most departments had an average of 70 hats and mittens donated. The Recreation Department won with the most donated.

ADJOURNMENT

Motion by Phil Winslow to adjourn at 10:12 p.m. Seconded by Priscilla Jenness. All in favor.

Respectfully Submitted, Dyana F. Ledger

Exhibit C

10.

