

# MSK

MURPHY  
SULLIVAN  
KRONK

*Via U.S. Mail*

April 8, 2016

Carmen Cote, COM  
Vermont Superior Court  
Chittenden Civil Unit  
175 Main Street  
PO Box 187  
Burlington, VT 05402-0187

**Re: Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman v.  
Town of Underhill, Docket No. 333-4-15 Cncv**

Dear Carmen:

Please find enclosed Defendant's Response to Plaintiff's Motion for Partial Reconsideration, for filing with the Court, along with a Certificate of Service, in the above-captioned matter.

Thank you.

Sincerely,



Hans G. Huessy, Esq.

Enclosures

cc: Town of Underhill (*via email*)  
Elizabeth M. Demas, Esq.

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STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
DOCKET NO. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living )  
Trust of Barbara S. Eastman, )  
 )  
Plaintiff )  
 )  
v. )  
 )  
Town of Underhill, )  
 )  
Defendant )

**CERTIFICATE OF SERVICE**

I certify that I have today delivered **Defendant's Response to Plaintiff's Motion for Partial Reconsideration** to all other parties to this case as follows:

- By first class mail by depositing it in the U.S. mail;
- By personal delivery to \_\_\_\_\_ or his/her counsel;
- Other. Explain: \_\_\_\_\_

The names and addresses of the parties/lawyers to whom the mail was addressed or personal delivery was made are as follows:

Elizabeth M. Demas, Esq.  
Clark Demas & Baker  
346 Shelburne Road, Suite 203  
PO Box 4484  
Burlington, VT 05406-4484.

Dated at Burlington, Vermont this 8<sup>th</sup> day of April, 2016.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Hans G. Hüessy, Esq. \_\_\_\_\_

Counsel for: \_\_\_\_\_ Defendant \_\_\_\_\_



STATE OF VERMONT

SUPERIOR COURT  
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Brianne E. Chase, Trustee of the Revocable Living )  
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) )  
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v. )  
) )  
Town of Underhill, )  
) )  
Defendant )

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION FOR PARTIAL RECONSIDERATION**

**NOW COMES** Defendant, the Town of Underhill, Vermont (the “Town”), by and through its attorneys, Murphy Sullivan Kronk, and respectfully submits the following Opposition to Plaintiff’s Motion for Partial Reconsideration.

1. In various filings, Plaintiff has alleged that its land abuts the Repa Trail (the “Trail”). *See Count II of Plaintiff’s Complaint (claiming abutter’s rights) and Plaintiff’s Statement of Undisputed Material Facts at 19 (“Plaintiff’s land abuts Repa Trail”).* As shown on the attached tax map (Exhibit A), Plaintiff’s land does not abut the Trail in the usual fashion, land that sits on one side or the other of the Trail, but rather owns land that adjoins the Trail’s terminus, and that contact is limited to the width of the Trail. In addition, Plaintiff’s claim is predicated on its alleged ownership of underlying fee with respect to the Goodrich Trail <sup>1</sup>and the Town of Westford’s right-of-way, otherwise it would not abut the Trail at all.

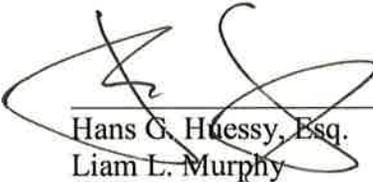
<sup>1</sup> The name given the former road on the Westford side of the Town boundary.

2. The Landowners identified by Plaintiff in its Motion, the Sengers and Menards, own land that abuts the Trail in the same fashion that the Plaintiff's land does. The Sengers and Menards own the land on either side of Repa Road where it terminates and becomes the Trail. *Exhibit A (Parcels RE100 and RE099)*. The Town holds a right-of-way over which the Road passes between the two properties and the Sengers and Menards each own the underlying fee to the middle of Repa Road.
3. Therefore, the Sengers and Menards abut the Trail in same fashion that the Plaintiff's land does, they own land that adjoins the Trail's other terminus.

Accordingly, the Court should deny Plaintiff's Motion for Partial Reconsideration.

Dated at Burlington, Vermont this 8<sup>th</sup> day of April, 2016.

MURPHY SULLIVAN KRONK



Hans G. Huessy, Esq.

Liam L. Murphy

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(802) 861-7000

Attorneys for Defendant Town of  
Underhill

**EXHIBIT**  
**A**

tabbles

Trust Property →

RE106

TRAIL

RE100

Repa Rd

Repa Rd

RE099

TC\_3-3

RE093

Repa Road

80 40 0 80 Feet



1 inch = 83 feet



For Planning Purposes Only.  
Scale and feature locations are approximate.  
Map created 4/4/2016