

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH COUNTY
NORTHERN DISTRICT, SS

SUPERIOR COURT

Goffstown Residents Association

v.

Town of Goffstown, School District

**INITIAL RESPONSE AND OBJECTION OF THE GOFFSTOWN SCHOOL
DISTRICT TO THE PETITION FOR A TEMPORARY,
PRELIMINARY AND PERMANENT INJUNCTION**

NOW COMES, the Town of Goffstown School District, by and through its counsel, Wadleigh Starr & Peters, P.L.L.C., and states as follows:

1. For many years the Goffstown School District ("School District"), being one of the only school districts in the United States not to have public kindergarten, has been seeking to obtain authority to construct a kindergarten. At the March, 2004 Town Meeting, the voters of Goffstown authorized an appropriation for the purpose of constructing a public kindergarten. After several years of analyzing alternative locations for the kindergarten, the School District initially proposed to construct a kindergarten on a site on Tirrell Hill Road which was being donated to the Town as part of a residential subdivision. After abutters commenced litigation with respect to the subdivision, the School District abandoned this site due to the fact that construction needed to commence quickly because of escalating costs.

2. After again studying the alternative sites in Goffstown, the School District commenced discussions with the Board of Selectmen about the possibility of obtaining a portion of the Town land which is the subject of the Petition brought by the Goffstown Resident Association ("GRA"). Being aware of the restriction applicable to this property that it "be used for public purposes only," the School District obtained an opinion of counsel to the effect that a use for school purposes fell within the definition of "public purposes." (See Exhibit 1.)

3. The Board of Selectmen agreed to transfer the property to the School District, but being aware of discussions that had occurred in the 1970s when this property was acquired by the Town from the New Hampshire Water Resources Board ("WRB") relating to its use for recreational purposes, the Selectmen determined that they would place the question of whether or not to convey the property to the School District before the voters on the March 2005 Town Warrant rather than to proceed through the public hearing process pursuant to RSA 41:14-a.

4. Prior to proceeding further, the School District also wrote to Mr. Michael M. Walls, Assistant Commissioner of Environmental Services at the Department of Environmental Services (Successor to the WRB) to determine whether or not that department had any objections to the proposed transfer to the School District. (See Exhibit 2.) Mr. Walls responded by letter dated February 7, 2005, to the effect that the proposed transfer to the school district fell within the intent of the deed and was a public purpose. (See Exhibit 3.)

5. In addition, the Board of Selectmen felt it appropriate to confirm with the U.S. Department of Housing and Urban Development ("HUD") that it had no objection to the proposed transfer since the funds used to acquire the property resulted from a Federal Community Action Block Grant. Accordingly, the Town Administrator, Susan Desruisseaux, contacted HUD and received confirmation that the deed controlled and that the property was available for use for any public purpose.

6. The School District also placed the question of whether it should acquire the subject property on the 2005 School District Warrant. Thus, the voters of the Town of Goffstown have twice overwhelmingly approved the transfer of the property by the Town and its acquisition by the School District.

7. The School District agrees that during the 1970s there was much discussion about the acquisition of this property being used for recreation and related purposes. However, it is believed that these discussions were primarily focused on that portion of the property which borders on Glen Lake and provides an area for public swimming, picnicing and boat launching. This is not the portion of the property that is being acquired by the School District and the recreational uses being made of that portion of the property will continue. The intent of all parties with respect to the restrictions upon and the use of this property is clearly controlled by the explicit language in the deed.

8. The original deed to the Town of Goffstown clearly limits the use of the property to "public purposes only." There is no other restriction in the deed (See Exhibit 4 attached hereto – third from final paragraph on the third page.) The deed from the Town of Goffstown to the Goffstown School District contains the same restriction and a further restriction that the grantee construct a public school on the premises. (See Exhibit 5.)

9. The School District will be irreparably harmed if work is not allowed to proceed as construction costs continue to escalate and the School District is working on fixed appropriations. The children of Goffstown will also be irreparably harmed as a public kindergarten will not be possible for the Fall of 2006.

WHEREFORE, a temporary and/or preliminary injunction should be denied because:

I. The Petitioner is unlikely to succeed on the merits of its claim

a. The Petitioner lacks standing to bring the Petition. The Petitioner is apparently an unincorporated association. It describes itself as “comprised of approximately 100 residents of the Town of Goffstown”. The Petitioner is not registered with the N.H. Secretary of State as a separate legal entity. The Petitioner does not even claim to have any formal structure, rules, operating agreement or the like. Although the matter has not been specifically decided by the N.H. Supreme Court, the Court’s most recent pronouncement on the subject tends to indicate that the Court, when given the opportunity to rule on the matter, will probably hold that an unincorporated association does not have the capacity to sue in the organizations’ own name “without an enabling or permissive statute or rule of practice” authorizing such a suit. Exeter Hospital Medical Staff v. Board of Trustees of Exeter Health Resources, 148 N.H. 492, 295 (2002). There is no enabling or permissive statute or rule of practice authorizing this Petitioner to bring this Petition.

b. Even if the Petition were brought by the individual members of the Petitioner, such persons would have no standing to bring the Petition. The Petitioners seek to enforce what they claim are limitations upon the use of the property in question which, although not memorialized in the deed thereto, were somehow imposed upon the property by what the Petitioners claim were the understandings of the State of New Hampshire (acting through the N.H. Water Resources Board) and the Town of Goffstown at the time that the property was conveyed by the former to the latter. Neither the Petitioner nor its members have been authorized to speak for or otherwise represent either the State or the Town, the two parties to the conveyance of the property in question. Presumably, the Petitioner does not even purport to speak for the State. As for the Town,

it has spoken through its legislative body, i.e., its voters, by virtue of its approval at the March 2005 Goffstown Town Meeting of Article 24, authorizing the Board of Selectmen to transfer ownership of the property in question to the Goffstown School District “for the purpose of building a school”. See Petition, para. 21. In the absence of a violation of law with respect to the construction of a school on this property, neither the Petitioner nor its individual members have any standing to raise any claim of a violation of the deed to the property or of some alleged understandings between the parties at the time of the property’s conveyance where neither of the parties to the conveyance, i.e., the State and the Town, are making any such claim.

c. Even if the Petitioner or its members had standing to sue in this matter, the Petition fails to adequately state a claim for reformation of the deed. All of the Petitioner’s claims of alleged understandings of the parties to the deed are merged in the language of the deed (which simply limits the use of the property in question to any public purpose) and evidence of such alleged contrary understandings is barred by the statute of frauds. The Petition alleges no fraud, coercion, undue influence or other basis for reformation of the deed.

d. The Petitioner’s only claim of a violation of law rests upon RSA 41:14-a, an inapplicable statute. RSA 41:14-a, I authorizes selectmen of a town to sell land owned by a town after they have held two public hearings thereon. It is apparent, however, that the statute is intended to be permissive and only applies where the town has not acted through its legislative body, i.e., the voters, to approve such a sale. The general rule in New Hampshire is that municipal property may not be sold or otherwise disposed of by the governing body of a town and that a vote of the legislative body is required. RSA

31:3; DeRochemont v. Holden, 99 N.H. 80 (1954). The purpose of RSA 41:14-a is to allow a town's governing body to avoid having to call a town meeting for the sale of land where (a) the town has adopted the provisions of RSA 41:14-a, and (b) the requisite to public hearings are held. In this case, however, the Town of Goffstown was not acting pursuant to RSA 41:14-a. On the contrary, the matter was presented to the voters at the March 2005 Town Meeting and the voters approved of the sale of the land to the Goffstown School District for the construction of a school. Accordingly, there was no necessity for the Board of Selectmen to have held the public hearings that are provided for in RSA 41:14-a and, thus, there is no violation of law in this case.

II. The Petitioner is not likely to suffer irreparable harm if a preliminary injunction is denied. The Petition requests an injunction against the School District's land clearing and site work on the property in question. Regardless of whether the Petitioner should ultimately succeed on the merits of this case, the Petitioner would have no right to prevent the land from being cleared. Even the Petition claims that the participants to the original conveyance of the property contemplated that it could be used for "recreational purposes", "recreational uses", "a public recreational facility" or "a community park and playground". Petition, paras. 1, 7, 11, 12, 13, 14, 15, 16, and 19. The only relief that the Petitioners would ever be entitled, if any, is that the property not be used as a school.

III. The Petitioner is not entitled to a preliminary or temporary injunction because it and its members are guilty of laches in not having brought the Petition until the very day that land clearing began. The Petitioner has known since at least March, 2005 that the Town intended to convey the property in question to the School District and that the School District intended to build a school on it. The Petitioner and its members have sat

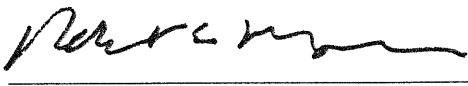
on whatever rights they may have had and, by their own delay, have created the "emergency" of which they complain.

IV. The Petitioner is not entitled to an injunction of any kind without the posting of a bond which it has not offered to do.

V. Granting a preliminary or temporary injunction would not be in the public interest. If work on this school is not permitted to proceed, the children of Goffstown will be educationally disadvantaged for yet another year.

Respectfully submitted,

Goffstown School District
By its attorneys,
Wadleigh, Starr & Peters, P.L.L.C.

By: 
Robert E. Murphy, Jr.

46360\2005\litigation

WADLEIGH, STARR & PETERS, P.L.L.C.

THEODORE WADLEIGH (Of Counsel)
WILLIAM C. TUCKER
EUGENE M. VAN LOAN III
JOHN E. FRIBERG, Sr.
JAMES C. WHEAT
JOHN A. LASSEY
RONALD J. LAJOIE
KATHLEEN N. SULLIVAN
JEFFREY H. KARLIN
DONALD J. PERRAULT
MARC R. SCHEER
GREGORY G. PETERS

Attorneys At Law
95 Market Street
Manchester, New Hampshire 03101
Telephone (603) 669-4140
Facsimile (603) 669-6018

INTERNET: WWW.WADLEIGHLAW.COM

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ROBERT E. MURPHY, Jr.
DEAN B. EGGERT
MICHAEL R. MORTIMER
KATHLEEN C. PEHL
RICHARD THORNER
CHARLES F. CLEARY
CHRISTINE DESMARAIS-GORDON
JENNIFER L. MURPHY (Of Counsel)
TODD J. HATHAWAY
STEPHEN J. JUDGE
STEPHEN L. BOYD
GREGORY M. SARGENT

December 13, 2004

Town of Goffstown School District
11 School Street
Goffstown, New Hampshire 03045

Ladies and Gentlemen:

In connection with a school building proposed to be located on land deeded by the New Hampshire Water Resource Board to the Town of Goffstown (Book 2561, Page 78), you have asked our opinion as to whether the construction of a school would be classified as a "public purpose". Specifically, the language of the Quitclaim Deed states that, "the Grantee by the acceptance of this Deed covenants and agrees with the Grantor that the above-described premises will be used for public purposes only and will revert to the State of New Hampshire if used for any other purposes." (emphasis added) Based upon review of New Hampshire case law, it is our opinion that the construction of a school on the subject property would be considered as used for a public purpose.

The New Hampshire Supreme Court has held that a public school is for the public's benefit. "The furtherance of education is universally regarded as a public purpose and the Constitution expressly imposes upon legislators the duty . . . to cherish the interests of literature and sciences, and all seminars and public schools, and to encourage private and public institutions." Opinion of the Justices, 102 N.H. 123, 125 (1959) (emphasis added) (citations omitted). In Merrill v. Manchester (127 N.H. 234), the New Hampshire Supreme Court held that certain land could only be condemned for redevelopment purposes if it were put to use for a direct benefit to the public. The Merrill Court held that a school was one purpose that would have been for a direct benefit to the public. The New Hampshire Supreme Court has even held that secondary school pupils are a matter of legitimate concern and that expenditures toward secondary education are done for a public purpose. Opinion of the Justices, 108 N.H. 268, 276-77 (1967).

WADLEIGH, STARR & PETERS, P.L.L.C.

December 13, 2004

Page 2.

Therefore, based upon our review of New Hampshire case law, it is our opinion that the construction of a school on the subject property would be regarded as a public purpose use and therefore would be permissible under the restriction contained in the deed to the Town of Goffstown.

Very truly yours,

Wadleigh, Starr & Peters, P.L.L.C.

By: 

William C. Tucker

/sos

EXHIBIT 2

SCHOOL ADMINISTRATIVE UNIT #19
11 School Street
Goffstown, NH 03045-1908

Telephone (603) 497-4818 * FAX (603) 497-8425

Serving the Towns of Dunbarton, Goffstown, and New Boston

February 4, 2005

Mr. Michael M. Walls
Assistant Commissioner of Environmental Services
NH Department of Environmental Services
PO Box 95
Concord, NH 03302-0395

Dear Assistant Commissioner:

This letter is written in request of your assistance. Specifically, I am asking that you provide me with written documentation that your department (the state) does not have an issue (or issues) with the town of Goffstown conveying a piece of property to the school district.

Let me provide you with some background. The Goffstown School District has been searching for a piece of property to build a kindergarten for more than 4 years. Over the last few months the district has explored a 55-acre piece of property referenced as Map 5 Lot 14 in Goffstown. The property was found to be suitable. There are good soils, it is fairly level, there will be minimal wetlands disturbance, it has access to town water, is close to the most rapidly growing section of town, and best of all it would be transferred without cost. This property is owned by the town.

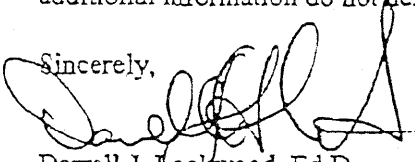
As a result of discussions with the Selectmen, the town of Goffstown has a warrant article requesting permission from Goffstown citizens to allow the Selectmen to convey 20 +/- acres of the piece of land on the Goffstown Back Road (Elm Street) to the Goffstown School District for the purpose of building a school. Unfortunately there have been suggestions by a town resident that the NHDES may have a concern over the conveyance of the land for this purpose and that this use might invoke the return of the property to the state. The town purchased this property in 1977 from the New Hampshire Water Resources Board.

Unfortunately, people will enter the voting arena focusing on this misinformation unless the town and district have something indicating that there is no objection by the state. This is the reason for my request.

Our research into the deed indicates specifically that the property may only be used for "public purposes." Attorneys for the district and town have indicated that in their opinion a kindergarten is a "public purpose." They have both cited case law to support their opinion.

I appreciate your attention to this matter and look forward to your response. Should you require additional information do not hesitate to contact me by phone at 497-4818 ext. 227.

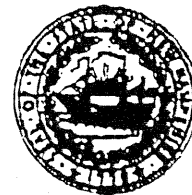
Sincerely,



Darrell J. Lockwood, Ed.D.
Superintendent of Schools



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

February 7, 2005

Darrell J. Lockwood, Ed.D.
Superintendent of Schools
School Administrative Unit #19
11 School Street
Goffstown, NH 03045-1908

Dear Dr. Lockwood:

Thank you for your letter of February 4, 2005, describing the Goffstown School District's interest in purchasing approximately 20 acres of a larger parcel owned by the Town of Goffstown. The Town's deed stipulates that the property can be used "for public purposes only" and that it will revert to the State of New Hampshire if used for any other purposes.

Your letter represents that the proposed use of the subject property is for a public kindergarten. You have also provided me with a copy of a legal opinion that cites N.H. Supreme Court case law in support of the proposition that the use of property for school purposes is a "public purpose", as that term is used in the deed.

Please be advised that the Department of Environmental Services agrees that the proposed use of the subject property for school purposes satisfies the deed requirement that the property continues to be used for a public purpose.

If you need additional information, or would like to discuss the matter further, please do not hesitate to contact me.

Very truly yours,

Michael J. Walls
Assistant Commissioner

MJW/hyv
cc: James Gallagher
Mark Stevens

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964
DES Web site: www.des.nh.gov

TOTAL P.02

KNOW ALL MEN BY THESE PRESENTS

That the New Hampshire Water Resources Board, a public corporation duly established by law and an agency of the State of New Hampshire, for consideration of thirty one thousand (\$31,000.00) dollars, grants to the Town of Goffstown, a municipal corporation duly established by law in the County of Hillsborough and State of New Hampshire, with quitclaim covenants, certain tracts or parcels of land situated in Goffstown, County of Hillsborough, State of New Hampshire bounded and described as follows:

I. A certain tract of land in Goffstown, located along the northerly line of the Goffstown Back Road, so-called, and shown on a plan entitled "Glen Lake and Greggs Falls Property, Goffstown, N. H. " Public Service Company of New Hampshire Engineering Department Scale 1"=200' dated August 9, 1967 R-3035-2.1 and recorded in the Hillsborough County Registry of Deeds, Plan No. 3705, Folder No. 345, and bounded and described as follows:

Beginning at a hub in the northerly line of the Goffstown Back Road at the point where the land of the Grantor abuts the southeasterly corner of land now or formerly of Lovel, Dyke and Summer; thence

- (1) North 9° 00' East three hundred fifteen (315) feet along the easterly line of said Lovel et al. to a point; thence
- (2) North 17° 00' West seven hundred fifty (750) feet along the easterly line of said Lovel et al. to its northeasterly corner abutting land now or formerly of Rust; thence
- (3) South 80° 30' East four hundred fifty (450) feet along the southerly line of said Rust to its southeasterly corner; thence
- (4) North 0° 30' West four hundred ten (410) feet along the easterly line of said Rust to a stone bound; thence
- (5) South 83° 30' East eight hundred twenty four (824) feet to a point; thence
- (6) South 84° 00' East eight hundred thirty six (836) feet to an iron pin; thence
- (7) North 86° 45' East three hundred seventy five (375) feet to a stone bound at the northeasterly corner of land of the Grantor abutting land now or formerly of Corey; thence

- (8) South $12^{\circ} 30'$ West one thousand seven hundred forty-five (1,745) feet along the westerly line of said Corey to a stone bound in the northerly line of the Goffstown Back Road; thence
- (9) Westerly by the northerly line of said Road two thousand one hundred two (2,102) feet to the place of beginning, containing sixty three (63) acres, more or less.

Be all said measures more or less.

II. A certain tract of land in Goffstown, located along the southerly line of the Goffstown Back Road, and bounded and described as follows:

Beginning at an iron pin in the southerly line of the Goffstown Back Road; thence

- (1) South $5^{\circ} 58'$ West one hundred forty-nine (149) feet to a point in the northerly shore of Glen Lake; thence
- (2) Easterly along the northerly shore of said lake nine hundred forty nine (949) feet to an iron pin at other land of the New Hampshire Water Resources Board; thence
- (3) Northerly seventy six and fifty five hundredths (76.55) feet by land of said Water Resources Board to an iron pin; thence
- (4) Continuing northerly twenty four and fifteen hundredths (24.15) feet on the same line by land of said Water Resources Board to an iron pin on the southerly line of said Goffstown Back Road; thence
- (5) Westerly eight hundred eighty (880) feet by the southerly line of said Goffstown Back Road to the point of beginning, containing two (2) acres, more or less.

Be all said measures more or less.

III. A certain tract of land in Goffstown, located along the southerly line of the Goffstown Back Road and bounded and described as follows:

Beginning at an iron pin in the southerly line of the Goffstown Back Road at the toe of the slope of the dike along the northerly shore of Glen Lake; thence

- (1) Southeasterly five hundred seventy five and sixty six hundredths (575.66) feet by the toe of the slope of said dike and land of said Water Resources Board to an iron pin at the corner of the dam; thence
- (2) Southwesterly seventy one and nine tenths (71.9) feet by the dam and land of said Water Resources Board to a corner of the dam at the top of the bank of the Piscataquog River; thence

- (3) Southeasterly along the top of the bank of said Piscataquog River to the Northwesterly limit of a Public Service Company of New Hampshire right-of-way for a future 33 KV transmission line that runs to Goffstown Sub-Station, at land of the State of New Hampshire Fish and Game Department; thence
- (4) Northeasterly by the northwesterly limit of said transmission line and land of said Fish and Game Department to a corner; thence
- (5) Northerly by the westerly limit of said transmission line and land of said Fish and Game Department to the southerly line of said Goffstown Back Road; thence
- (6) Westerly by the southerly line of said Goffstown Back Road to the point of beginning, containing five (5) acres, more or less.

Be all said measures more or less.

Excepting and reserving from Tract II, herein described, the right of flowage as high as the present dam will flow.

Also excepting and reserving, to the Grantor, the right to use and maintain a right-of-way and construction work area over Tract III, herein described, from Goffstown Back Road to the northerly shore of the Piscataquog River along the toe of the slope of the dike located on the northerly shore of Glen Lake, said right-of-way and construction work area to be 20 feet in width.

Also excepting and reserving from the above described tracts certain electric transmission rights-of-way as reserved in deed of Public Service Company of New Hampshire to the within grantor dated December 21, 1967 and recorded in Hillsborough County Registry of Deeds Book 1972, Page 415 and as shown on the plan referred to in Tract I, above.

The Grantee by the acceptance of this deed covenants and agrees with the Grantor that the above described premises will be used for public purposes only and will revert to the State of New Hampshire if used for any other purposes.

Meaning and intending to describe and convey all of Tract I., A and a portion of Tract I., B as described in quitclaim deed of Public Service Company of New Hampshire to the within grantor dated December 21, 1967 and recorded in Hillsborough County Registry of Deeds Book 1972, Page 415.

In Witness Whereof the New Hampshire Water Resources Board has hereunto set its hand and caused its Corporate seal to be affixed by George M. McGee, Sr., its Chairman on this *20th* day of *September*, 1977.

Witness:

New Hampshire Water Resources Board

By

George M. McGee, Sr.
Chairman

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 20th day
of September, 1977, by George M. McGee, Sr., Chairman of the New
Hampshire Water Resources Board.



James F. Carter
Notary Public/Justice of the Peace

My Commission expires on April 16, 1982

BK-2561 PGE-081

CERTIFICATION

The undersigned Secretary of the New Hampshire Water Resources Board (The Board) does hereby certify that at a meeting of The Board on August 10, 1976, said Board voted as follows:

- I. To convey seventy (70) acres of The Board land in Goffstown, New Hampshire, to the Town of Goffstown, for the sum of Thirty-One Thousand Dollars (\$31,000.00).
- II. To authorize George M. McGee, Sr., Chairman of The Board, to execute and deliver a deed to this land on behalf of The Board.

I further certify that the above votes are official and still in full force and effect and that George M. McGee, Sr. is Chairman of The Board as of the Twentieth (20th) day of September, 1977.

Witness:

[Signature]

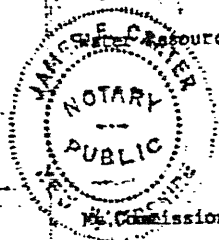
NEW HAMPSHIRE WATER RESOURCES BOARD

BY:

Michael Savchick
Secretary

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged by me this Twentieth (20th) day of September, 1977, by Michael Savchick, Secretary of The New Hampshire Water Resources Board.



[Signature]
Notary Public

#140 wadleigh

18.37

2

NOTS 20.37

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That the **TOWN OF GOFFSTOWN**, a municipal corporation duly established by law and having a mailing address of Town Hall, 16 Main Street, Goffstown, New Hampshire 03045, for consideration paid, grants to the **GOFFSTOWN SCHOOL DISTRICT**, a body corporate and politic, established pursuant to the laws of the State of New Hampshire and having a mailing address of 11 School Street, Goffstown, New Hampshire 03045, with quitclaim covenants:

A certain tract or parcel of land situated in Goffstown, County of Hillsborough, State of New Hampshire, and being Lot 5-14-1 as shown on plan entitled "Goffstown School District Subdivision, Tax Map 5, Lot 14, Elm Street, Goffstown, New Hampshire" dated May 31, 2005, prepared by True Engineering and being more particularly bound and described as follows:

Beginning at the southeast corner of the premises at a stone bound set on the northerly side of Elm Street; thence

1. South 75° 38' 12" West by the northerly side of Elm Street, 489.89 feet to a point at the end of the stone wall; thence
2. North 09° 27' 47" West by a stone wall, 191.51 feet to a rebar set in the wall; thence
3. North 08° 41' 58" West by a stone wall, 114.19 feet to a rebar; thence
4. North 31° 46' 01" West by a stone wall, 274.16 feet to a drill hole set in the wall;
thence
5. North 29° 55' 31" West by a stone wall, 151.43 feet to a drill hole set in the wall;
thence
6. North 35° 04' 03" West, 36.74 feet to a drill hole at the end of a wall; thence
7. North 31° 52' 34" West by a stone wall, 33.92 feet to a drill hole; thence
8. North 32° 03' 06" West by a stone wall, 90.93 feet to a drill hole; thence

BK 754,0PG0148

9. North 34° 12' 47" West by a stone wall, 40.97 feet to a rebar; thence
10. North 31° 58' 08" West by a stone wall, 116.51 feet to a drill hole at a corner of walls; thence
11. North 83° 20' 31" East, 448.72 feet to a rebar; thence
12. North 14° 37' 36" West, 398.31 feet to a concrete bound; thence
13. North 83° 00' 51" East by a stone wall, 173.02 feet to a drill hole; thence
14. North 81° 45' 32" East partially along a stone wall, 652.08 feet to a drill hole at a corner of walls; thence
15. South 01° 04' 13" East by a stone wall, 112.41 feet to a drill hole; thence
16. South 03° 02' 50" East by a stone wall, 175.24 feet to a drill hole; thence
17. South 03° 21' 54" East by a stone wall, 190.29 feet to a drill hole; thence
18. South 08° 09' 46" West by a stone wall, 42.01 feet to a drill hole; thence
19. South 16° 31' 55" West by a stone wall, 129.22 feet to a drill hole; thence
20. South 14° 29' 55" East 238.03 feet to a rebar; thence
21. South 30° 12' 38" West 569.23 feet to the point of beginning.

The above-described premises are conveyed subject to an electric transmission easement as reserved in deed of Public Service Company of New Hampshire recorded at Book 1972, Page 415.

This conveyance is made subject to the covenant set forth in deed from the New Hampshire Water Resources Board to the Grantor recorded at Book 2561, Page 78, that the within granted premises will be used for public purposes only and will revert back to the State of New Hampshire if used for any other purposes.

This conveyance is made on the condition that the Grantee construct a public school on the within granted premises and should construction of a public school on the said premises not be commenced by the Grantee within four (4) years from the date of this deed, the said premises will revert to the Town of Goffstown.

Meaning and intending to convey a portion of the premises conveyed to the Grantor by deed of the New Hampshire Water Resources Board dated September 20, 1977 and recorded in the Hillsborough County Registry of Deeds at Book 2561, Page 78.

IN WITNESS WHEREOF, the undersigned Selectmen of the Town of Goffstown have hereunto set their hands on this the 22 day of August, 2005.

Witness:

Karen Mullaney
Karen Mullaney
Karen Mullaney
Karen Mullaney
Karen Mullaney

THE TOWN OF GOFFSTOWN

By: Gossett W. McRae
Gossett W. McRae, Chairman

By: Robert L. Wheeler
Robert L. Wheeler, Selectmen

By: Philip A. D'Avanza
Philip A. D'Avanza, Selectmen

By: Barbara J. Griffin
Barbara J. Griffin, Selectmen

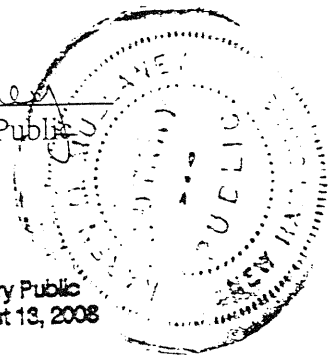
By: Bruce F. Hunter
Bruce F. Hunter, Selectmen

The State of New Hampshire
County of Hillsborough

The foregoing instrument was acknowledged before me, on this the 22 day of August, 2005, by Gossett W. McRae, Robert L. Wheeler, Philip A. D'Avanza, Barbara J. Griffin and Bruce F. Hunter, being the Selectmen of the Town of Goffstown, a municipal corporation, on behalf of the Town of Goffstown.

Karen Mullaney
Justice of the Peace/Notary Public
My Commission Expires:

KAREN M. MULLANEY, Notary Public
My Commission Expires August 13, 2008



BK 7540PG0150