

Office of the Secretary of State  
Rules and Regulations Filing Form

NAME and ADDRESS OF AGENCY

Coastal Resources Management Council  
4808 Tower Hill Road  
Wakefield, RI 02879

TITLE OF THE RULES AND REGULATIONS

Right-of-Way Determination

STATUTORY SOURCE OF AUTHORITY TO ISSUE THESE RULES

46-23

TYPE OF RULES AND REGULATIONS

- (a) ' new rules and regulations XXX  
(b) ' amendments \_\_\_\_\_  
(c) ' technical revisions \_\_\_\_\_

If yes to (b) or (c) above, identify the amended sections or rule number(s),  
and please identify the original date of filing:

PURPOSE OF NEW RULES AND REGULATIONS OR AMENDMENTS

ROW Determination #Y-1 Tuckerman Avenue between lots 104 & 105,  
Middletown

5. TYPE OF FILING

- (A) EMERGENCY: \_\_\_\_\_  
(B) Pursuant to 42-35 5-11-93  
(C) Date of Public Hearing 1-27-93  
(D) Date of Public Notice 9-28-92

7. DOCUMENTS FILED

- (A) New Rules and Regulations ROW Determination  
(B) Amendmended Rules & Regs \_\_\_\_\_  
(C) Only Amendments to R & R \_\_\_\_\_  
(D) Technical Revisions \_\_\_\_\_

8 AGENCY CODE

9. CERTIFICATION I hereby certify that the attached rules and regulations were adopted in accordance  
with the Administrative Procedures Act (42-35), and that they are true copies of this department, attest:

George J. Lupat  
Name

Executive Director

Title

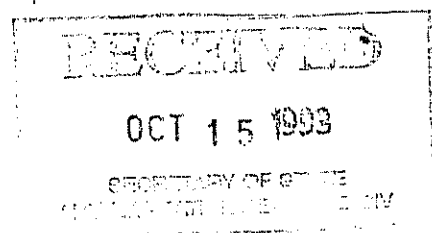
William J. Morsini  
Notary Public

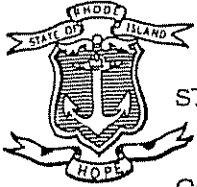
My Commission Expires July 30, 1995

Subscribed and sworn to before me this 14th day of October, 1993.

David D. Clark  
Received by: Office of the Secretary of State

FILING DATE:





STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL  
Oliver H. Stedman Government Center  
4808 Tower Hill Road  
Wakefield, R.I. 02879-1900  
(401) 277-2476

Date: September 1, 1993

To Whom It May Concern:

Attention is invited to the provisions of Section 42-35-15 of the Administrative Procedures Act whereby a final decision in a contested case may be subject to judicial review provided a complaint is filed in the Superior Court of Providence County within thirty (30) days after the mailing of the decision. This thirty (30) day period for the \_\_\_\_\_

MIDDLETOWN ROW NO. Y-1 - TUCKERMAN AVE. BETWEEN LOTS 104 & 105  
case expires on October 1, 1993

Signed,

Grover J. Fugate jmm  
Grover J. Fugate, Executive Director  
Coastal Resources Management Council

GJF/jmm

080

STATE OF RHODE ISLAND

COASTAL RESOURCES MANAGEMENT  
COUNCIL  
O. H. Stedman Government Center  
Tower Hill Road  
Wakefield, RI 02879

DECISION

TOWN OF MIDDLETOWN:

An Unnamed Right-of-Way Off of Tuckerman Avenue Between  
Lots 104 and 105

DESCRIPTION

Located on Tax Assesor's Plate 116SE, this 30 foot wide right-of-way to the Atlantic Ocean lies between Lots 104 and 105. The way runs over 400 feet to the Atlantic Ocean.

TRAVEL:

A duly appointed Subcommittee of the Coastal Resources Management Council held a public hearing pursuant to the Administrative Procedures Act on January 27, 1993, at the Middletown Town Council Chambers, 350 East Main Road, Middletown, Rhode Island. At that time, evidence was submitted and comments were received from interested parties; in addition, an attorney's review was received from legal counsel to the Coastal Resources Management Council. All evidence was incorporated into the administrative record. Further, all evidence so submitted to the Council has been and is available to all interested parties at the office of the Coastal Resources Management Council, O. H. Stedman Government Center, Tower Hill Road, Wakefield, Rhode Island.

After deliberation upon all the evidence, testimony and the entire record pending before it, the Subcommittee at a meeting on April 27, 1993 recommended to the entire Council that this parcel be designated as a public right-of-way to the shore.

Thereafter the entire Council at a meeting held on May 11, 1993, at the Cannon Building, Providence, Rhode Island, took under

consideration the record, the evidence therein and the recommendation of the Subcommittee and after careful deliberation upon the same and after a roll call vote that all the evidence, record, and recommendation of the Subcommittee so submitted were read by the members of the council, the entire Council hereby finds:

FINDINGS OF FACT:

1. This right-of-way was previously considered by the Coastal Resources Management Council at a Subcommittee Hearing on August 28, 1980, and again by the full Council on May 14, 1981.

2. In 1981, the Council rendered a decision dated June 17, 1981, finding that the evidence presented at the Subcommittee Hearing indicated that a dedication had been made of the right-of-way to the public.

3. The 1981 Council decision was based on various deeds and plat maps which demonstrated that since at least 1897 in a deed from Helen L. Deas, widow of Zacharia L. Deas, to Clara V. M. Sweet dated December 28, 1897, and recorded in Land Evidence Records Book 17 at Page 576, the way had been dedicated to the public to gain access to the coastal bank, rocky shore and thence to the Atlantic Ocean.

4. The 1981 Council found both a dedication by deed as well as an incipient dedication by the recording of a Plat entitled "Plan showing Subdivision of Michael H. Murphy and Beatrice R. Murphy land, Tuckerman Avenue, Middletown, Rhode Island, scale 1 inch equals 30 feet, C. Robert Lynch, P.E., June 1945" (recorded in Plan Book 2 at Page 41).

5. In addition, at the previous subcommittee hearings held in 1980-81 many members of the public testified that the way had been

used for a long period of time to access the rocky shoreline and ocean.

6. Also, before the Subcommittee and Council in 1980-81, were a title report and survey description indicating the existence of a public right-of-way to the Atlantic Ocean.

7. The 1981 Council's decision was subsequently appealed to the Rhode Island Superior Court by the present owners of Lot 104, Robert A. Riesman and Marcia Riesman. In 1990 this matter was remanded to the CRMC for the holding of a new public hearing and the rendering of a new decision on the grounds that Mr. and Mrs. Riesman were not notified of the 1980-81 public hearings held in consideration of this right-of-way.

8. A review of the Land Evidence Records conducted in 1992 evinced that the right-of-way in question was dedicated by deed from Helen L. Deas widow of Zachariah L. Deas to Clara V. M. Sweet dated December 28, 1897 and recorded in Land Evidence Book 17 at Page 576, and by deed from Lucius Tuckerman, et al. to Mary J. Channing, dated September 5, 1892 and recorded in Land Evidence Records Book 12 at Page 171. The Deas to Sweet deed is in the chain of title for Lot 105. The Tuckerman to Channing deed is in the chain of title for Lot 104.

9. The Deas to Sweet deed references the way as follows: "bounded northerly on land now or lately of Mary J. Channing, said northern line being the center line of a way 30 feet wide running from Tuckerman Avenue to the Ocean". (emphasis added)

10. Likewise, in a deed from Mary J. Channing, Trustee to Annie L. K. Horton dated October 22, 1879, and recorded in Land Evidence Records Book 13 at Page 548, the right-of-way is referred to as follows: "said southerly boundary being the centre of a way and carriage turn, and so continued, running from Tuckerman Avenue to the Ocean, said way being 30 feet in width". (emphasis added)

11. Prior to the Channing to Horton deed, Lot 104 was conveyed on September 5, 1872, by Lucius Tuckerman and Eliza W. Tuckerman as Trustees for the other children of the late George Gibbs to Mary J. Channing. This deed, in addition to describing the southerly boundary being the center of the right-of-way running from Tuckerman Avenue to the Atlantic Ocean, referenced an annexed plat map entitled "Plat of Land Conveyed to Mary J. Channing, William Dame Surveyor, September 5, 1872".

12. This plat map recorded as part of the aforementioned deed in Land Evidence Records Book 12 at Page 171 shows the 30 foot wide right-of-way and carriage turn leading to the top of the bank.

13. Additionally, attached to the Channing to Horton deed is a plat entitled "Plat of Premises Conveyed by Mary J. Channing, Trustee to Annie L. K. Horton, October 22, 1879" and recorded in Land Evidence Records Book 13 between pages 548-549. This plat map also shows the way and carriage turn leading to the bank.

14. Further, in 1945 the City of Nashville as trustee under the will of Annie Horton conveyed Lot 104 to Michael H. and Beatrice R. Murphy by deed dated May 2, 1945 and recorded on May 10, 1945 in the Land Evidence Records of Middletown. This deed contains the same language as the Channing to Horton deed, and refers to a plat plan depicting the land so conveyed.

15. The 1945 plan is entitled "Plan Showing Subdivision of

Michel H. Murphy and Beatrice R. Murphy Land, Tuckerman Avenue, Middletown, Rhode Island, scale 1 inch equals 30 feet, C. Robert Lynch, P.E., June 1945", and is recorded in Plan Book 2 at Page 41. This plat plan shows the right-of-way being 30 feet in width and travelling some 230 feet to a carriage turn.

16. A 1907 map of the Easton's Point area prepared by the City Engineer of the City of Newport depicts the right-of-way under consideration as travelling from Tuckerman Avenue in a generally westerly direction to the Atlantic Ocean.

17. Both the owners of the abutting lots, namely Lots 104 and 105 testified that they have considered the way to be private. The abutters also offered a title report which opined that the way is private.

18. The abutters also presented a copy of a deed pertaining to a nearby right-of-way dated August 26, 1872 from Lucius Tuckerman, et al. to Henry Asher Robbins which referred to a "carriage way shown on the easterly boundary 30 feet in width to be kept open for free access to the cliffs and the ocean." The abutters considered this deed language to be dispositive as the September, 1872 deed from Lucius Tuckerman, et al. to Mary Channing for Lot 104 did not contain the language "to be kept open for free access to the cliffs and the ocean."

19. Notwithstanding the abutters' assertions, the deeds for Lots 104 and 105 clearly state that the right-of-way in question is "30 feet wide running from Tuckerman Avenue to the Ocean" (emphasis added).

20. Various members of the public testified that the entire length of the way from Tuckerman Avenue to the tidal waters had been used continuously from at least the 1940s up to approximately 1980-81 when a fence was erected which blocked access. The way was

used by the public to reach the ocean primarily for fishing.

21. The former Fire Chief of the Town of Middletown testified that during World War II, the U. S. Army used the right-of-way to patrol the shoreline. The Chief also testified that the Town used the right-of-way for rescue missions until the fence blocked access in 1980-81.

22. A visual inspection in July, 1992 of the way revealed an approximately 30 foot wide chain fence with posts blocking entrance to an overgrown hedgerow and brambles. Signs stating "Private Property - No Trespassing" were fastened to the fence.

23. An attorney's report received by the Subcommittee concluded that this right-of-way was established in 1872 by dedication by deed of Lucius Tuckerman, et al. to Mary Channing which referred to the way and carriage turn running from Tuckerman Avenue to the Ocean, said way being 30 feet in width. This dedication by deed was further reinforced by the adjoining lot's deed from Helen L. Deas to Clara V. M. Sweet dated December 28, 1897, referring to a way 30 feet in width running from Tuckerman Avenue to the Ocean.

24. Although most of the recorded plats show the right-of-way leading to a carriage turn at the top of the bank, various members of the public testified that the way was used by the public to reach the tidal waters of the state.

25. The evidence of extensive long-time public use of the right-of-way to access the Atlantic Ocean is substantial, reliable and probative.

26. Therefore, it appears that the public long ago accepted the previous landowners' offer of dedication.

27. Based on the foregoing, substantial evidence exists to

designate this parcel as a public right-of-way to the shore of Rhode Island.

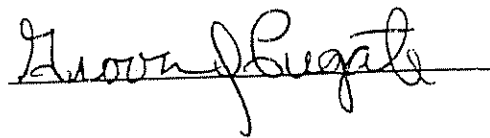
CONCLUSIONS OF LAW:

1. The Coastal Resources Management Council has been granted jurisdiction to designate public right-of-way by reason of Title 46, Chapter 23, of the General Laws of the State of Rhode Island, as amended.

2. The record reflects that the evidentiary burdens of proof have in fact been met for the designation of this parcel as a public right-of-way.

WHEREFORE, as a result of these Findings of Fact and Conclusions of Law, the Coastal Resources Management Council hereby designates this parcel as a public right-of-way. Y-1

By the Council,



Dated: 8/25/93

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

COASTAL RESOURCES MANAGEMENT  
COUNCIL, O. H. Stedman Government Center  
Tower Hill Road, Wakefield, RI 02879

RECOMMENDATION OF SUBCOMMITTEE

TOWN OF MIDDLETOWN:

An Unnamed Right-of-Way off of Tuckerman Avenue Between Lots 104 and 105

DESCRIPTION

Located on Tax Assessor's Plate 116SE, this 30 foot wide right-of-way to the Atlantic Ocean lies between Lots 104 and 105. The way runs over 400 feet to the Atlantic Ocean.

TRAVEL:

A duly appointed Subcommittee of the Coastal Resources Management Council held a public hearing pursuant to the Administrative Procedures Act on January 27, 1993, at the Middletown Town Council Chambers, 350 East Main Road, Middletown, Rhode Island. At that time, evidence was submitted and comments were received from interested parties; in addition, an attorney's review was received from legal counsel to the Coastal Resources Management Council. All evidence was incorporated into the administrative record. Further, all evidence so submitted to the Council has been and is available to all interested parties at the office of the Coastal Resources Management Council, O. H. Stedman Government Center, Tower Hill Road, Wakefield, Rhode Island.

After deliberation upon all the evidence, testimony, and the entire record pending before it, the Subcommittee at a meeting on April 27, 1993 recommended to the entire Council that this parcel be designated as a public right-of-way to the shore.

Thereafter the entire Council at a meeting held on May 11, 1993, at the Cannon Building, Providence, Rhode Island, took under consideration the record, the evidence therein and the recommendation of the Subcommittee and after careful deliberation upon the same and after a roll call vote that all the evidence, record, and recommendation of the Subcommittee so submitted were read by the members of the Council, the entire Council found the parcel should be designated as a public right-of-way to the shore. Subsequently, the decision was appealed to the Superior Court by the abutting property owners. After a motion was filed with the Court to remand the matter for the taking evidence, the Superior Court entered an Order remanding the matter for the taking of additional evidence. Specifically, the abutting property owners, through counsel, took the deposition of Ronald C. Markoff, Esquire and that deposition was presented to the Rights of Way Subcommittee along with other additional evidence on November 9, 2000.

Thereafter, after deliberation upon all the evidence, testimony, and the entire record pending before it, the Subcommittee at a workshop on April 23, 2001 voted to recommend to the entire Council to find as a matter of fact:

FINDINGS OF FACT:

1. This right-of-way was previously considered by the Coastal Resources Management Council at a Subcommittee Hearing on August 28, 1980, and again by the full Council on May 14, 1981.

2. In 1981, the Council rendered a decision dated June 17, 1981, finding that the evidence presented at the Subcommittee Hearing indicated that a dedication had been made of the right-of-way to the public.

3. The 1981 Council decision was based on various deeds and plat maps which demonstrated that since at least 1897 in a deed from Helen L. Deas, widow of Zacharia L. Deas, to Clara V. M. Sweet dated December 28, 1897, and recorded in Land Evidence Records Book 17 at Page 576, the way had been dedicated to the public to gain access to the coastal bank, rocky shore and thence to the Atlantic Ocean.

4. The 1981 Council found both a dedication by deed as well as an incipient dedication by the recording of a Plat entitled "Plan showing Subdivision of Michael H. Murphy and Beatrice R. Murphy land, Tuckerman Avenue, Middletown, Rhode Island, scale 1 inch equals 30 feet, C. Robert Lynch, P.E., June 1945" (recorded in Plan Book 2 at Page 41).

5. In addition, at the previous subcommittee hearings held in 1980-81 many members of the public testified that the way had been used for a long period of time to access the rocky shoreline and ocean.

6. Also, before the Subcommittee and Council in 1980-81, were a title report and survey description indicating the existence of a public right-of-way to the Atlantic Ocean.

7. The 1981 Council's decision was subsequently appealed to the Rhode Island Superior Court by the present owners of Lot 104, Robert A. Riesman and Marcia Riesman. In 1990 this matter was remanded to the CRMC for the holding of a new public hearing and the rendering of a new decision on the grounds that Mr. and Mrs. Riesman were not notified of the 1980-81 public hearings held in consideration of this right-of-way.

8. A review of the Land Evidence Records conducted in 1992 evidenced that the right-of-way in question was dedicated by deed from Helen L. Deas, widow of Zachariah L. Deas to Clara V. M. Sweet dated December 28, 1897 and recorded in Land Evidence Book 17 at Page 576, and by deed from Lucius Tuckerman, et al. to Mary J. Channing, dated September 5, 1892 and recorded in Land Evidence Records Book 12 at Page 171. The Deas to Sweet deed is in the chain of title for Lot 105. The Tuckerman to Channing deed is in the chain of title for Lot 104.

9. The Deas to Sweet deed references the way as follows: “bounded northerly on land now or lately of Mary J. Channing, said northern line being the center line of a way 30 feet wide running from Tuckerman Avenue to the Ocean”. (emphasis added)

10. Likewise, in a deed from Mary J. Channing, Trustee to Annie L. K. Horton dated October 22, 1879, and recorded in Land Evidence Records Book 13 at Page 548, the right-of-way is referred to as follows: “said southerly boundary being the center of a way and carriage turn, and so continued, running from Tuckerman Avenue to the Ocean, said way being 30 feet in width”. (emphasis added)

11. Prior to the Channing to Horton deed, Lot 104 was conveyed on September 5, 1872, by Lucius Tuckerman and Eliza W. Tuckerman as Trustees for the other children of the late George Gibbs to Mary J. Channing. This deed, in addition to describing the southerly boundary being the center of the right-of-way running from Tuckerman Avenue to the Atlantic Ocean, referenced an annexed plat map entitled “Plat of Land Conveyed to Mary J. Channing, William Dame Surveyor, September 5, 1872”.

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13. Additionally, attached to the Channing to Horton deed is a plat entitled “Plat of Premises Conveyed by Mary J. Channing, Trustee to Annie L. K. Horton, October 22, 1879” and recorded in Land Evidence Records Book 13 between pages 548-549. This plat map also shows the way and carriage turn leading to the bank.

14. Further, in 1945 the City of Nashville as Trustee under the will of Annie Horton conveyed Lot 104 to Michael H. and Beatrice R. Murphy by deed dated May 2, 1945 and recorded on May 10, 1945 in the Land Evidence Records of Middletown. This deed contains the same language as the Channing to Horton deed, and refers to a plat plan depicting the land so conveyed.

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16. A 1907 map of the Easton’s Point area prepared by the City Engineer of the City of Newport depicts the right-of-way under consideration as traveling from Tuckerman Avenue in a generally westerly direction to the Atlantic Ocean.

17. Both the owners of the abutting lots, namely Lots 104 and 105 testified that they have considered the way to be private. The abutters also offered a title report which opined that the way is private.

18. The abutters also presented a copy of a deed pertaining to a nearby right-of-way dated August 26, 1872 from Lucius Tuckerman, et al. to Henry Asher Robbins which referred to a "carriage way shown on the easterly boundary 30 feet in width to be kept open for free access to the cliffs and the ocean." The abutters considered this deed language to be dispositive as the September, 1872 deed from Lucius Tuckerman, et al. to Mary Channing for Lot 104 did not contain the language "to be kept open for free access to the cliffs and the ocean."

19. Notwithstanding the abutters' assertions, the deeds for Lots 104 and 105 clearly state that the right-of-way in question is "30 feet wide running from Tuckerman Avenue to the Ocean" (emphasis added).

20. Various members of the public testified that the entire length of the way from Tuckerman Avenue to the tidal waters had been used continuously from at least the 1940s up to approximately 1980-81 when a fence was erected which blocked access. The way was used by the public to reach the ocean primarily for fishing.

21. The former Fire Chief of the Town of Middletown testified that during World War II, the U.S. Army used the right-of-way to patrol the shoreline. The Chief also testified that the Town used the right-of-way for rescue missions until the fence blocked access in 1980-81.

22. A visual inspection in July, 1992 of the way revealed an approximately 30 foot wide chain fence with posts blocking entrance to an overgrown hedgerow and brambles. Signs stating "Private Property – No Trespassing" were fastened to the fence.

23. An attorney's report received by the Subcommittee concluded that this right-of-way was established in 1872 by dedication by deed of Lucius Tuckerman, et al. to Mary Channing which referred to the way and carriage turn running from Tuckerman Avenue to the Ocean, said way being 30 feet in width. This dedication by deed was further reinforced by the adjoining lot's deed from Helen L. Deas to Clara V. M. Sweet dated December 28, 1897, referring to a way 30 feet in width running from Tuckerman Avenue to the Ocean.

24. The Subcommittee has considered the testimony of Ronald C. Markoff, Esquire presented in the form of a deposition. While Mr. Markoff may have qualified his initial opinion to the Council, said opinion is merely a portion of the evidence presented to this Subcommittee.

25. The Subcommittee finds that the deposition of Mr. Markoff does not amount to a substantive change in the record evidence before the Subcommittee.

26. Although most of the recorded plats show the right-of-way leading to a carriage turn at the top of the bank, various members of the public testified that the way was used by the public to reach the tidal waters of the state.

27. The evidence of extensive long-time public use of the right-of-way to access the Atlantic Ocean is substantial, reliable and probative.

28. Additionally, it appears that the public long ago accepted the previous landowners' offer of dedication.

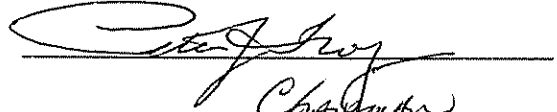
29. Based on the foregoing, substantial evidence exists to designate this parcel as a public right-of-way to the shore of Rhode Island.

WHEREFORE, as a result of these Findings of Fact, the Subcommittee recommends to the Coastal Resources Management Council that it designates this parcel as a public right-of-way.

By the Council,

Dated: \_\_\_\_\_

7/24/01

  
\_\_\_\_\_  
Chairman  
CRMC ROW.

C.R.M.C. FILE ENTRY SHEET

FILE NO: 00-10-70 CATEGORY AB PROJECT TYPE 76

PGP: CATEGORY 1 2 IP N/A Water Type: \_\_\_\_\_ Area: \_\_\_\_\_

Freshwater Type: \_\_\_\_\_ Conservation Easement Acres: \_\_\_\_\_

FIRST NAME: Middletown R-O-W

LAST NAME: \_\_\_\_\_

PROJECT LOCATION ADDRESS: Tuckerman Ave.

TOWN: Middletown

PLAT(S): 1165E LOT(S) 104 d 105

**CRMC ACCEPTANCE DATE:** 10/23/00

BIOLOGIST: _____	DATE: _____	BIOLOGIST: _____	DATE: _____
ENGINEER: _____	DATE: _____	ENGINEER: _____	DATE: _____
WATER QUALITY: _____		I.S.D.S: _____	
HP.H.C.PENDING: _____		H.P.H.C _____	

**STAFF REPORTS MAILED TO APPLICANT:** 1. \_\_\_\_\_ 2. \_\_\_\_\_

**PUBLIC NOTICE:** 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

SUBSTANTIVE OBJECTIONS: YES \_\_\_\_\_ NO \_\_\_\_\_ DATE: \_\_\_\_\_

HEARINGS: 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_

**DOCK SUB-COMMITTEE DECISION:** DATE: \_\_\_\_\_ APPROVED: YES: \_\_\_\_\_ NO: \_\_\_\_\_

NOV:# _____	DATE: _____	C&D:# _____	DATE: _____
ASSENT ISSUED: _____		CANCELLATION: _____	
MODIFICATION: _____		30 DAY COUNCIL DECISION: _____	
DENIAL: _____		30 DAY TO CANCEL LETTER: _____	
EXTENSIONS: FROM: _____		FROM: _____	
	TO: _____	TO: _____	TO: _____

**ENCLOSED**

APPLICATION: _____	
APPLICATION FEE: _____	
I.S.D.S. STAMPED PLAN: _____	
PROOF OWNERSHIP: _____	CARD: _____
BUILD. PERMIT APPROVAL: _____	
SITE PLANS: _____	



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL  
Oliver H. Stedman Government Center  
Tower Hill Road  
Wake Field, R.I. 02879

**ENTRY OF APPEARANCE**

Before the Rhode Island Coastal Resources Management Council

IN THE MATTER OF:

FILE NO.

TUCKERMAN AVE. BETWEEN LOTS 104-105, MIDDLETOWN

(Name of Applicant)

I, ROBERT D. FINE hereby enter my appearance as attorney of record on behalf of ROBERT A. RIESMAN, File No.         .  
Withdrawal of appearance may only be granted by leave of the Chairman or Executive Director.

Robert D. Fine

(Signature)

LICHT AND SEMONOFF

1 PARK ROW

(Business address)

PROVIDENCE R.I. 02903

DATE: 1/5/93

421-8030

(Phone number)

State of Rhode Island and Providence Plantations  
COASTAL RESOURCES MANAGEMENT COUNCIL

60 DAVIS STREET  
PROVIDENCE, R.I., 02908

DATE: June 17, 1981  
FILE NO: ROW 142

To Whom It May Concern:

Attention is invited to the provisions of Section 42-35-15 of the Administrative Procedures Act whereby a final decision in a contested case may be subject to judicial review provided a complaint is filed in the Superior Court of Providence County within thirty (30) days after the mailing of the decision. This thirty (30) day period for the MIDDLETOWN ROW NO. 142 case expires on July 17, 1981.

  
\_\_\_\_\_  
CHAIRMAN  
COASTAL RESOURCES MANAGEMENT COUNCIL

RECEIVED

STATE OF RHODE ISLAND  
PROVIDENCE, Sc.

SUPERIOR COURT

RECEIVED  
JUL 9 1981  
DIVISION OF  
COASTAL RESOURCES

ROBERT A. FIESMAN and wife, :  
MARCIA RIESMAN :

v. :  
:

THE COASTAL RESOURCES MANAGEMENT :  
COUNCIL OF THE STATE OF RHODE :  
ISLAND :

No.

ORDER

This is a complaint for judicial review of a final decision of the Coastal Resources Management Council designating a portion of plaintiffs' premises in Middletown, Rhode Island, a public right of way and assigning to it number "Y-1" praying inter alia for a stay of the decision and its implementation. The complaint is sworn to.

Upon consideration thereof, it is

ORDERED, ADJUDGE and DECREED:

That the decision of the Coastal Resources Management Council declaring premises of the plaintiffs a public right of way is hereby stayed until further order of this court.

BY ORDER,

ENTER:

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

60 DAVIS STREET

PROVIDENCE, RI 02908

MARCH 30, 1981

In accordance with and pursuant to the provisions of the "Administrative Procedures Act", (Chapter 42.35 of the General Laws of Rhode Island) and the Rules and Regulations of the Coastal Resources Management Council and the Rules and Regulations of the Rights of Way Subcommittee of the Coastal Resources Management Council, a final, full Coastal Resources Management Council hearing will be held to receive new comments and new evidence from interested parties concerning possible designation of public rights of way to the tidal water areas of the State relative to Title 46, Chapter 23, Section 6E, of the Rhode Island General Laws of 1956, as amended.

The said rights of way are bounded and described as follows:

Town of Middletown, Number 142:

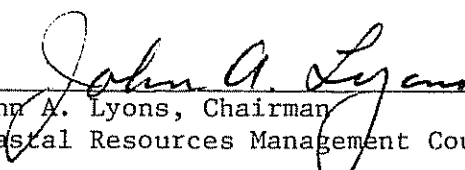
A right of way located between lots 104 and 105 on Plat 116 SE of the Middletown Assessor's Maps. Bounded northerly on land now or lately of Mary J. Channing, said northern boundary line being the center line of a way thirty (30) feet wide running from Tuckerman Avenue to Ocean; easterly partly on Tuckerman Avenue, partly on land now or lately of Henry A. Rubbins; southerly and westerly on Atlantic Ocean.

The hearing will be held at 7:30 p.m., on May 14, 1981, in the Middletown Town Hall, 350 East Main Road, Middletown, Rhode Island.

Parties interested in or concerned with the above mentioned matter are invited to be present and/or represented by counsel at the above mentioned time and place.

Oral statements will be heard and recorded, and statements may be submitted to the hearing officers at the time of the hearing.

Signed this 30th day of March, 1981,

  
\_\_\_\_\_  
John A. Lyons, Chairman  
Coastal Resources Management Council

JAL/lmc

ALAN J. GOLDMAN  
JOHN D. BIAFORE  
JOHN H. HINES, JR.  
DENNIS H. ESPOSITO

GOLDMAN & BIAFORE, LTD.  
Attorneys and Counsellors at Law  
72 South Main Street  
Providence, Rhode Island 02903  
(401) 274 - 1300

March 5, 1980

Mr. Joseph Turco  
209 High Street  
Westerly, Rhode Island

Re: Middletown Right-of-Way No. 142

Dear Joe:

I am enclosing herewith a copy of the title attorney's report on the proposed Right-of-Way in Middletown.

If you like, we can set up a hearing for this one. I might suggest that we wait because both Portsmouth and Newport are going to be coming in soon and we could probably have one hearing in Newport for the three areas.

In the meantime, if this is o.k. with you, let me know as I would like to send a copy of the survey and the attorney's report to the Town Administrator and the Town Clerk who have been pretty cooperative with us.

I await your word.

Very truly yours,

*B/Alan J. Goldman*  
ALAN J. GOLDMAN

AJG:SP  
Enclosures

✓cc; James Beattie

LETTS, QUINN & LIGHT

A Professional Corporation

ATTORNEYS AT LAW

1616 HOSPITAL TRUST TOWER

PROVIDENCE, RHODE ISLAND 02903

(401) 421-5650

FRANK LIGHT  
RICHARD F. CANNING  
DANIEL J. MURRAY  
ALAN S. FLINK  
RICHARD A. LIGHT  
ROBERT N. HUSEBY  
JOSEPH DEANGELIS  
FRANK N. RAY  
ROBERT D. FINE

IRA LLOYD LETTS  
(1889-1947)  
ANDREW P. QUINN  
(1894-1973)  
GEORGE R. BEANE  
COUNSEL

June 3, 1981

Mr. John Lyons, Chairman  
Coastal Resources Management Council  
83 Park Street  
Providence, Rhode Island 02903

Re: Right of Way in Middletown, Rhode Island  
No. 142 Tuckerman Avenue to Ocean

Dear Mr. Lyons:

We represent Robert A. Riesman of Providence, Rhode Island who recently purchased from Elizabeth D. Hyatt the land on the north side of the proposed right of way.

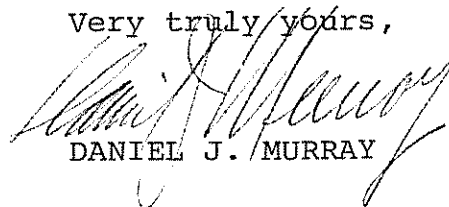
Mr. Riesman was not notified, although he was then the owner, of your May 14, 1981 public hearing on the right of way in question and, therefore, was unable to give the Council the benefit of his information concerning the alleged right of way. Mr. Riesman owns a residence situated on the east of his Hyatt purchase.

Mr. Riesman strenuously objects to your action in declaring this 30' strip a public right of way for that will lead to the area being used as a parking area where nuisances will be committed and for parkers to get to the private land of adjacent owners where they will commit nuisances and thus create substantial annoyance to the neighbors and the neighborhood. We have been instructed to protect Mr. Riesman's rights by appealing your decision.

We are advised that the matter is in the hands of your Council for preparation of a formal decision for adoption by the Council.

Please keep us informed of the progress of the matter so that we can appeal your decision within the time allowed by law.

Very truly yours,



DANIEL J. MURRAY

DJM:lc

Tuckerman  
104 4105

PARTRIDGE, SNOW & HAHN

COUNSELORS AT LAW

180 SOUTH MAIN STREET

PROVIDENCE, RHODE ISLAND 02903-7104

TEL (401) 861-8200

FAX (401) 861-8210

January 7, 1993

Mr. William Mosunic, Applications Coordinator  
Coastal Resources Management Corporation  
Oliver H. Steadman Government Center  
4808 Tower Hill Road  
Wakefield, Rhode Island 02879

RE: Right-of-Way Hearings -- Middletown, RI

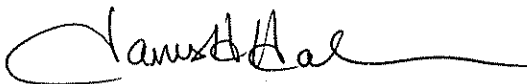
Dear Mr. Mosunic:

Please be advised that we represent the interests of Dr. Paul N. Gertman regarding the various right-of-ways along Tuckerman Avenue, which are currently the subject of hearings in the Town of Middletown.

Would you kindly include our firm and our client on your mailing list for any meetings or hearings to be held relating to these right-of-ways. Please address any such notices to my attention. Notices to our client should be sent to Dr. Paul N. Gertman, 13 Gypsy Trail, Weston, MA 02193.

If there are any problems relating to this request, please contact me upon receipt of this letter. Thank you.

Sincerely,



James H. Hahn

JHH/cp/zmt  
156CAP/257

cc: Dr. Paul N. Gertman



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL  
60 Davis Street  
Providence, R.I. 02908

July 6, 1981

John A. Lyons, Chairman  
Coastal Resources Management Council  
60 Davis Street  
Providence, RI 02908

Re: Right-of-Way Middletown Y-1

Dear Jack:

Per our earlier discussion of July 1, 1981, enclosed you will please find an Order that was entered by Judge Cresto, staying the implementation of the Coastal Resources Management Council decision until the appeal can be heard and decided. As I previously informed you, these stays have been routinely issued by the Court in these right-of-way matters.

Pursuant to the Administrative Procedures Act, would you kindly certify the entire administrative record, including transcripts, and deliver same to this office so that I may file it with the Court on or before July 16, 1981.

If you have any questions please call.

Very truly yours,

DENNIS H. ESPOSITO, Legal Counsel

DHE:cme  
Enclosure

TO: Alan J. Goffman, Esq.

FROM: Ronald C. Backoff, Esq.

DATE: March 24, 1980

SUBJECT: Rights of Way In Newport, Middletown, Tiverton and Portsmouth

In a foreward to my reports on the rights of ways in the various towns, this memorandum is incorporated by reference into each report.

Each right of way is subject to any state of facts which an accurate survey would disclose and subject to rights of other parties in possession. If abutters to the rights of ways have been determined from the assessor cards of the various Town Assessors. All conclusions made by me are general principles of law which may be altered by testimony at the different hearings on the rights of ways. I have not determined who the abutters are within 200 feet of the right of way.