

95 Summer Street  
Acton, MA 01720

22 November 2006

To: Town of Acton Planning Board  
and Acton Conservation Commission

Re: Planning Application for Spring Farm Circle Residential Compound  
(Town Atlas Map F-2, Parcels 110 and 110-1)

At a public meeting on 23 May 2006 and in a letter of the same date, I registered objections to the proposed construction of Spring Farm Circle Residential Compound. Subsequent to this meeting Stamski and McNary Inc. (Stamski) performed further site investigations as an Agent for the Applicants.

On 11 July 2006 two men entered the rear of our property without providing prior notice or obtaining prior permission. Since they were carrying machetes, my wife was frightened by their presence and called the Police. They were found to be employees of Stamski. Following my complaint (see attached letter 12 July 2006), my neighbor Jane Gruber (one of the applicants) apologized verbally. Stamski provided a written apology (see attached letter 20 July 2006) which cited that notification had not been provided due to a failure of communication with its client. The letter did not respond to my inquiry regarding Stamski's legal right to enter my property.

Subsequent to this incident I contacted Mr and Mrs Proodian on whose land the wetlands inspection and surveys were being conducted. They confirmed that they too had not been provided any notification or request for permission to enter and perform work on their property by either the Applicants or their Agent (see attached letter 7 August 2006).

At a public meeting on 15 November 2006, Stamski presented the Applicants' plans to the Conservation Commission. I notified the Commission of my previous objections and those of Mr and Mrs Proodian (the Commission did not appear to be aware of these previously submitted letters) and explained my concern that site investigations be performed in a legal manner.

I then specifically asked the Stamski representative to explain the legal right by which it could enter private property to perform survey or wetlands mapping. He simply reiterated that an apology had been provided and notification would be given in the future. Essentially he was unresponsive regarding his legal right of entry onto private property.

The Commission noted that they would provide notification prior to performing their investigation work (and later did so by phone), but also appeared uncertain as to a planning applicant's right to enter adjacent private property. In the course of registering my complaints I researched the laws pertaining to land access as it applies to professional land surveying and discovered the following:

"Massachusetts General Laws - Crimes Against Property - Chapter 266, Section 120C

Whenever a land surveyor registered under chapter one hundred and twelve deems it reasonably necessary to enter upon adjoining lands to make surveys of any description included under "Practice of land surveying", as defined in section eighty-one D of said chapter one hundred and twelve, for any private person, excluding any public authority, public utility or railroad, the land surveyor or his authorized agents or employees may, **after reasonable notice**, enter upon lands, waters and premises, not including buildings, in the commonwealth, within a reasonable distance from the property line of the land being surveyed, and such entry shall not be deemed a trespass. Nothing in this act shall relieve a land surveyor of liability for damage caused by entry to adjoining property, by himself or his agents or employees." [emphasis added]

It appears to me that this law was established to specifically address and prevent the kind of incident that occurred on 12 July. The law appears to enable surveyors the right to access land to perform work, *but only on the condition that "reasonable notice" is provided prior to entering property.*

With this in mind I wish to formally protest the continuation of the subject planning application and request it be rejected for the following reasons:

(1) Before any development has even taken place, the Planning Applicants (and their Agent) have failed to observe the law, illegally entered and negatively impacted abutting property. Such a history brings into question the Applicants' ability to control its Agents, comply with the law and assure that future work does not disrupt, impact or trespass onto abutting land. This doubt necessarily extends to the Applicants' ability to comply with whatever restrictions may be imposed upon it as part of the planning process.

(2) The Planning Applicant's Agent represents itself as a technical expert in the field of land development, engineering, planning and surveying. However, in my opinion, the initial actions of the Agents' field personnel (badgering my wife even in the presence of the Police) demonstrated both a lack of common sense

and respect for the right to privacy of property owners. Its later explanation that there was a mistake due to a simple failure to communicate with its client is worrisome with respect to its ability to plan work and exercise managerial control. Its lack of response in explaining its legal rights of entry (both in its letter and again at the public meeting) suggests to me it lacks knowledge of the State Law that governs its own field of practice. On this evidence I conclude and suggest to the Board that in general its reliability and responsiveness to technical, procedural and legal matters is equivocal and questionable.

(3) The Planning Application contains information that was not gathered in accordance with Massachusetts General Law. Having been obtained illegally, such information can not be considered in the due process of administering the Application.

I respectfully reiterate my request that the application be rejected and that the Board provide a formal written response.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Geoffrey Hughes', written in a cursive style.

Geoffrey Hughes

copy: Mr and Mrs R Proodian

95 Summer Street  
Acton, MA 01720

12 July 2006

Stamski and McNary, Inc.  
80 Harris Ave  
Acton, MA 01720

To the attention of Stamski & McNary's Principal Officers:

Be advised that two men representing Stamski and McNary Inc. yesterday entered our property without having obtained our permission or providing us prior notification.

In the mid-afternoon of 11 July 2006 my wife observed two unfamiliar men enter the rear of our back yard over the boundary fence. Seeing that the men were carrying machetes and being alone in the house, my wife called 911 for assistance and locked the doors and windows accessible from ground level. The Acton Police responded diligently and without delay.

Following the arrival of Officer Scott Howe, one of the men informed him that they were working on behalf of your company and had entered our back yard in order to perform work in the woods adjacent to the property. With the Police Officer present, my wife indicated that their presence had caused her to be frightened, that she did not want them on the property without the presence of her husband and expressed her wish that they leave immediately. The man then proceeded to protest in a vehement manner that they could perform the remainder of their work more readily by occupying the rear of our property. Being aware of my wife's distress and the apparently illegitimate presence of the men, the Officer was compelled to reiterate my wife's request, and instructed the men to leave. Thereafter they relented their complaint and left the property.

This incident and the attitude exhibited by your company's representative so upset my wife that she later visited the Police Station to confirm the man's story that he represented a legitimate company. Upon returning home from work later that day, I found my wife was still in an elevated degree of emotional distress and apprehension. She described the afternoon's events and we concluded that the men's presence was most likely associated with the survey and/or wetlands work being conducted for the "Spring Farm Circle Residential Compound" planning application.

We believe that your company has acted in a cavalier and unprofessional manner which has caused us significant emotional distress. Moreover this incident has left a residual impact by which our perception of safety and security within our own property has been seriously degraded. In addition to seeking your formal apology for this incident, we wish that you indicate by what legal means your company was authorized to enter and occupy our property without first obtaining our prior permission. We await your prompt written response.

Sincerely

Two handwritten signatures in black ink. The signature on the left is 'Manya Hughes' and the signature on the right is 'Geoffrey Hughes'. Both are written in a cursive, flowing style.

Geoffrey and Manya Hughes

# STAMSKI AND MCNARY, INC.

80 Harris Street  
Acton, Massachusetts 01720  
(978) 263-8585  
FAX (978) 263-9883

WILLIAM F. MCNARY, P.L.S.  
JOSEPH MARCH, P.E., P.L.S.

July 20, 2006

Geoffrey and Manya Hughes  
95 Summer Street  
Acton, MA 01720

Dear Mr. and Mrs. Hughes,

We sincerely regret and apologize for any distress our firm may have caused you in the course of conducting certain surveying tasks on behalf of our client, Jane Gruber, at 105 Summer Street.

As you are aware, the property at 105 Summer Street is being considered for subdivision into lots for new housing. During the public comment period for a Preliminary Subdivision Plan filed with the Planning Department, the accuracy and/or location of the wetlands boundary delineation was questioned. Additional "flagging" was done to extend the boundary of wetlands to the rear and to the east of your property.

Our survey crew was sent to measure the location of these additional "flags". While reconnoitering the location of this work to determine the best method to survey the "flag" locations, the survey crew entered upon the rear of your property. The survey crew was attempting to determine whether they could "see" with the survey instrument across your property to conduct the work. At this time the survey crew did not have their survey instruments with them and we believe that we did not cause any physical damage to your property.

We note that we were under the impression that our client had notified abutters regarding the entrance to properties for the need to survey the location of the wetlands delineation. We certainly would have made a more formal notification to owners of abutting properties if we realized that no notice had been made. We have been providing our services in the Acton area for more than twenty (20) years and believe that we have a superior public relations record.

We again apologize sincerely for any problems we may have caused you in the course of conducting our work.

Sincerely,

Stamski and McNary, Inc.



William F. McNary, P.L.S.  
President

cc: Jane Gruber

**SM-3511**

August 7, 2006

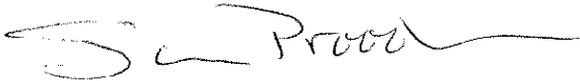
TO: Geoffrey Hughes  
95 Summer Street  
Acton, MA

FROM: Ronald & Scena Proodian  
361 Arlington Street

SUBJECT: G. Hughes Letter of 27 July 06

This is to notify you that no one from Stamski and McNary, Inc or the Town of Acton has contacted either myself or my husband to seek permission to access our land AT 361 Arlington Street to perform any work on the adjoining Gruber land.

Please give us a call in the evening at 978-263-6417 if you have any other questions.

A handwritten signature in black ink, appearing to read "Scena Proodian", with a long horizontal flourish extending to the right.

Scena Proodian