

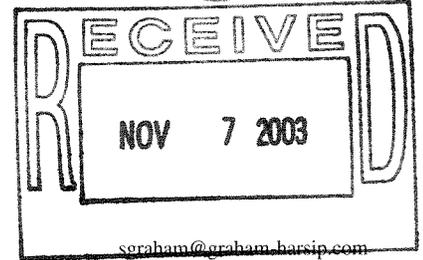
GRAHAM & HARSIP, P.C.

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STEVEN R. GRAHAM  
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November 6, 2003

Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720

Re: Massachusetts General Laws Chapter 61A  
Property Located at 214 Newtown Road, Acton

Ladies and Gentlemen:

Enclosed herewith is a detailed letter from my clients, Thomas H. Williams, Jr. and Kathleen M. Williams, Trustees of the Williams Newtown Realty Trust, and which has been signed by them to serve as a Notice pursuant to the provisions of Section 14 of Chapter 61A. The letter is self-explanatory.

Should you need any additional information, please feel free to contact me. Your help acting on this as quickly as possible would be appreciated.

Very truly yours,

GRAHAM & HARSIP, P.C.

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

Steven R. Graham

SRG/jm

Enclosure

cc: Acton Board of Assessors  
Acton Planning Board  
Acton Conservation Commission  
Client

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED  
AND REGULAR MAIL TO ALL TOWN BOARDS

Thomas H. Williams, Jr., Trustee  
Kathleen M. Williams, Trustee  
Williams Newtown Realty Trust  
214 Newtown Road  
Acton, Massachusetts 01720

November 5, 2003

Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720

Re: Massachusetts General Laws Chapter 61A  
Property Located at 214 Newtown Road, Acton

Ladies and Gentlemen:

The undersigned are the current owners of the above-noted property which is also shown as Lot C-2 on a plan of land entitled "Plan of Land in Acton, Mass., Owned by Isabelle V. Choate" dated November 22, 1994, prepared by Acton Survey & Engineering, which plan was recorded as Plan No. 1261 of 1994 on December 19, 1994 in Book 25066, Page 235 and which is shown on the Acton Town Assessor's Maps as Parcel 5-8, Sheet D-3. We purchased the above-noted property from Parmley Corp. on May 28, 1997, by a deed which was recorded with the Middlesex South District Registry of Deeds in Book 27331, Page 151. We subsequently transferred title to the property to ourselves as Trustees of the Williams Newtown Realty Trust on May 27, 1999, by a deed which was recorded with said Deeds in Book 30290, Page 117.

We are presently attempting to sell our home and have entered into a Purchase and Sale Agreement with prospective buyers.

The land in question was conveyed by Isabelle V. Choate to Parmley Corp. by a deed dated December 20, 1996, recorded with said Deeds in Book 26925, Page 167. The land was submitted to the provisions of M.G.L.A. Chapter 61A for the fiscal year commencing July 1, 1991 as a portion of a larger parcel of land. The Office of Board of Assessors recorded an "Agricultural or Horticultural

Land Tax Lien" on December 12, 1990 in Book 20910, Page 407. A Release of the Municipal Lien for Agricultural/Horticultural Land was signed by the Board of Assessors on September 11, 1995 and was subsequently recorded at the Middlesex South District Registry of Deeds in Book 25914, Page 524.

We have been advised that the record title to our property may be defective in that an affidavit by a Notary Public has not been recorded at the Registry of Deeds indicating that he/she mailed the Notices of Ms. Choate's intent to convert the property to the Board of Selectmen, the Board of Assessors, the Planning Board and the Conservation Commission as required by M.G.L.A. Chapter 61A, Section 14. This apparently was not done in that the land owner at the time did the necessary mailing in compliance with Section 14. Since, however, she was not a Notary Public and the mailing was not done by a Notary Public, the owner did not technically comply with the Statute.

However, your records clearly indicate, as evidenced by correspondence sent to each of the above-noted Departments, that appropriate notice was sent by Isabelle V. Choate to the Board of Selectmen and other Boards indicating her evidence to convert the subject property to a use other than agricultural/horticultural and that this was done by letters dated July 6, 1994. As a result of said notice, the Town of Acton had an option to purchase said land at full and fair market value to be determined by an appraiser. The statutory period (120 days) for the Town to exercise its option expired on November 3, 1994. By letter dated April 20, 1995, the Town Manager, Donald P. Johnson, indicated that the Board of Selectmen did on July 26, 1994 vote an official position on what they considered to be a "preliminary offer". The vote further indicated that "the Board would take no action at Market Value at said time, reserving the right, if the price drops substantially, to again consider its options."

Our attorney, Steven R. Graham, has indicated that the correspondence confuses the Town's right of first refusal under Section 14 which the Town has when a bona fide offer has been made to purchase the land with the Town's right to exercise its option to purchase the land at an appraised value, when a notice of conversion is sent to the Board.

The land was sold by Ms. Choate to Parmley Corp. at market value (\$150,000) as noted hereinabove.

Our attorney has advised, and the prospective buyers have agreed, that a letter from the Board of the Selectmen indicating

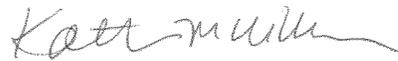
that the Town waived its option to purchase the property at market value at its meeting of July 26, 1994 will correct the record, and has suggested that a letter in the form attached hereto so indicating and reaffirming its waiver of any option it may still have (with a current vote) will correct the record title to the property. This letter and the cover letter from my attorney are being mailed by certified mail and by him as a Notary Public as required by the Statute.

We would appreciate the Board's help in resolving this matter.

Very truly yours,



Thomas H. Williams, Jr.,  
Trustee



Kathleen M. Williams,  
Trustee

**Christine Joyce**

---

**From:** Don Johnson  
**Sent:** Thursday, November 13, 2003 1:20 PM  
**To:** Christine Joyce  
**Cc:** John Murray  
**Subject:** FW: Chapter 61A Issue, 214 Newtown Road

Chris:

Please pull a copy of the original vote by the BOS, along with the letter we sent to Belle, and attach them to Steve's letter addressed to me (it has all of the other documents attached). Tentatively, let's place this as numbered mail for Monday. (Give it 5 minutes.)

-----Original Message-----

**From:** Don Johnson  
**Sent:** Thursday, November 13, 2003 1:17 PM  
**To:** Brian McMullen; Roland Bartl; Kristin Alexander; Tom Tidman  
**Cc:** John Murray; Christine Joyce  
**Subject:** Chapter 61A Issue, 214 Newtown Road

We are in receipt of a letter dated November 6, 2003, from Attorney Steve Graham, on behalf of his client at 214 Newtown Road. Mr. Graham's letter is self-explanatory and indicates that your departments received copies. I forwarded a copy to each of you last Friday seeking comments. If possible, I would like to put this in front of the Selectmen next Monday (11/17). Please pull your records and simply indicate back to me what action/recommendation your committee made with respect to the original notice.

Don

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (508) 264-9612  
Fax (508) 264-9630

**FILE COPY**

Don P. Johnson  
Town Manager

April 20, 1995

Ms. Isabella V. Choate  
225 Newtown Road  
Acton, MA 01720

Subject: Chapter 61A Land Offer,  
Part of Parcel D3-5 (known as Lots B-1 & B-2),  
208-226 Newtown Road

Dear Ms. Choate:

In your letter of March 20, 1995, you seek an "official written response" to your earlier letter of July 5, 1994 (copies of both are attached). We had previously provided copies of the official vote of the Selectmen in this regard; however, I understand that your legal counsel does not consider this to be adequate for discharge of the Chapter 61A lien. I trust that this letter will suffice for those purposes.

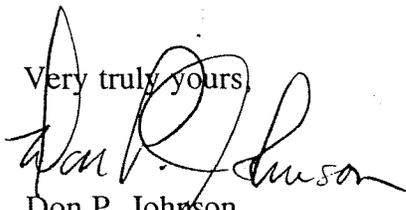
On July 7, 1994, I wrote you regarding your notice of the planned removal of a portion of your land from the provisions of Chapter 61A and advised that the Board of Selectmen did not consider an "asking price" to be a bona fide offer or Purchase and Sales agreement (copy attached). I further indicated that I would be placing your letter before the Board for their consideration.

On July 26, 1994, the Board did vote an official position on what they considered to be a preliminary offer. Their vote, as recorded in the attached copy of the minutes from that meeting, was to "... take no action at Market Value at this time, reserving the right if the price drops substantially to again consider options." The vote of the Board was unanimous.

I trust that the sale price has not dropped substantially such that the Selectmen might reconsider their options?

Please accept my apology for not having previously provided a more official response. If I may be of further assistance, please feel free to call.

Very truly yours,



Don P. Johnson  
Town Manager

cc: Board of Selectmen

DPJ:355

policy be submitted to the Town for their liquor license file and warned that any other violations could result in a suspension or revocation of their license. DORE' HUNTER - Move to direct the Town Manager to send a letter to the license holder of Papa Gino's expressing the Board's displeasure with what happened and warning that if it happened again, there would be a revocation or suspension of the license. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

A copy of a written Liquor Policy as well as the Corporation's policy on training and regulations for the Town file and the proper name and address of the Corporation and contact person was also requested.

#### CONSENT CALENDAR

F. DORE' HUNTER - Moved to accept the Consent Calendar with the addition of accepting a check in the amount of \$25.00 for the Acton Emergency Management Agency. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

#### SELECTMEN'S BUSINESS

61A CHOATE LAND - The Board discussed the proposed offer. Don outlined the issues surrounding this preliminary offer. The Board after reading staff comments and discussing the options decided that the Town would not be interested at this time at full market rate. NANCY TAVERNIER - Moved to take no action at Market Value at this time, reserving the right if the price drops substantially to again consider options. DORE' HUNTER - Second. UNANIMOUS VOTE.

KELLY'S CORNER - Nancy Tavernier and Wayne Friedrichs volunteered to participate. In the event that only one member is allowed, Nancy will serve as an alternate to Wayne.

COMMUTER LOT - Nancy updated the Board on her recent conversations with Hugh Lauer from Concord regarding the Commuter Line. She was very excited with his proposal to use already owned State land in Littleton for the parking facility and his urging to update the current tracks from Acton to Littleton instead of second tracking. Nancy asked Don to expand on the issues surrounding the S.A. Bridge. Don said that to put a grade crossing at that location would require tremendous construction and leave many homes up on cliffs in order to achieve the correct grade. In addition, approximately 22,000 vehicles cross that bridge daily and would conflict with the commuter trains.

#### TOWN MANAGER'S CONCERNS

Draft Tip - Don updated the Board on the status of the draft. We have received confirmation that the South Acton Bridge will be in the FY95 category. Wetherbee Street Bridge, signalization of High are also listed. DORE' HUNTER - Moved to support the draft. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

TAG GRANT - Don updated the Board on the recent rejection received from ACES regarding the Town's joint participation in the grant application for DEP Tag Grant Funds.

LOTTERY AID - Dore' asked for a translation of the recent document received from DOR. Don felt that they are reducing their take of the funds from the Lottery Aid, however, they will take away from other sources to balance the aid.

**EXECUTIVE SESSION**

The Board voted to go into Executive Session for the purpose of discussing possible litigation and strategy.

Roll call was taken - All AYES

The Board adjourned into Executive Session at 9:00 P.M.

Nancy E. Tavernier  
Clerk  
8/30/94  
Date

Christine M. Joyce  
Christine M. Joyce  
Recording Secty.  
cmjW11-(542)

JULY 22, 1994

TO: Board of Selectmen  
FROM: NORMAN D. LAKE, Chairman  
SUBJECT: SELECTMEN'S REPORT

#####

AGENDA

ROOM 204

JULY 26, 1994

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

1. 7:35 CONSERVATION COMMISSION INTERVIEW - ANDREW DURHAM - Enclosed please find Mr. Durham's Citizen Resource Sheet and Information forwarded from VCC for Board review.
2. 8:45 PAPA GINO'S - Liquor license violation review.

III. SELECTMEN'S BUSINESS

3. 61A Choate Offer - Enclosed please find staff comment regarding Ms. Choate's preliminary notification of her intent to remove land held by her from 61A status for Board discussion.
4. Kelley's Corner - The Planning Board seeks to have the Board of Selectmen represented on this Planning Committee

IV. CONSENT AGENDA

5. ACCEPT MINUTES - Enclosed Please find the Minutes from June 21st for Board approval.
6. ANTIQUE SHOW - Enclosed please find a request from the Acton from the Service League of the Acton Congregational Church for their Annual Antique Show to be held on October 14 and 15 for Board action.
7. ACCEPT GIFT - Enclosed please find a request from the Friends of the Acton Arboretum to accept a one hundred foot section of boardwalk at the Arboretum for Board action.
8. FEE WAIVER - Enclosed please find a request for Fee Waiver from the School Street Sidewalk Committee for Board action.

9. TAG GRANT APPLICATION - Please see enclosed correspondence from Anderson & Kreiger regarding ACE'S Tag Grant Application.
10. ACTON HOUSING AUTHORITY - Enclosed please find copies of the Housing Authority's renewal and cost amendment for Board review. Originals will be available Tuesday night for signature.

**V. TOWN MANAGER'S REPORT**

11. DRAFT TIP - The Town Manager will discuss the enclosed information with the Board and seek direction.

**VI. EXECUTIVE SESSION**

12. There will be a need for an Executive Session. Please see enclosed materials.

**MEETINGS**

**ADDITIONAL INFORMATION**

Enclosed please find additional correspondence which is strictly informational and requires no Board action.

**FUTURE AGENDAS**

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete agenda.

August 16 - Shell Oil Site Plan  
August 30

844 acs

T. Clerk

**SELECTMEN'S MEETING  
JULY 26, 1994**

The Board of Selectmen held its regular meeting on Tuesday, July 26, 1994 at 7:30 P.M. Present were Norman Lake, F. Dore' Hunter, Nancy Tavernier, Wayne Friedrichs, Town Manager Johnson, and Assistant Town Manager John Murray.  
{Representatives from cable were present}

**CITIZENS' CONCERNS**

Elisa Barry, a Stow Street resident asked the Board to consider placement of No Parking Signs on Stow Street. The commuters are parking on the street adjacent to her driveway and it makes it very dangerous to exit her drive. The Board directed the Town Manager to review this situation with the Police Chief and the Engineering Department for a satisfactory solution. The Board was troubled by commuters using side streets to avoid the meter charge at the lot. Nancy Tavernier urged Ms. Barry to leave a note to the violators advising them that "free" parking was available behind the South Acton Fire Station.

**PUBLIC HEARINGS AND APPOINTMENTS**

**ANDREW DURHAM  
CONSERVATION COMMISSION INTERVIEW**

Mr. Durham was present before the Board for the purpose of interviewing for an opening as a Full Member of the Conservation Commission. Chairman Lake thanked him for volunteering and stressed the importance of volunteers and elected officials in the operation of Town Government. Nancy asked about his field of expertise and experience with the Conservation Commission and its issues. He is an Organic Chemist and primarily works testing for heavy metals in ground water. He has been attending the Commission meetings for the last year. He was asked his opinion on mosquito spraying of conservation lands. He replied that while he had done research on this issue, and found that it is not harmful to humans, he supported the decision made by the Commission. DORE' HUNTER - Move to appoint Andrew Durham as a full member for a three year term to the Conservation Commission. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**PAPA GINO'S  
LIQUOR VIOLATION HEARING**

Papa Gino's representatives described what happened and how they failed to require the proper identification which resulted in the violation occurring. Chairman Lake expressed the Board's displeasure in the overall lack of current information about owners of Papa Gino's with regard to our notifications of hearings prior to his appearance. The General Manager said that he would be contacting the Town Manager's Office to update the addresses. The Board asked that a written Liquor

**RECEIVED & FILED**

DATE Sept. 7, 1994

Barbara Brown  
for TOWN CLERK, ACTON