

COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT

SEP 30 2009

RECORDERS OFFICE  
HOPKINTON, MA

CIVIL ACTION

MISC. NO. 412848

cc Bos  
Town Council  
Mary Rose  
DeCristo  
HWA

CRAIG R. NATION and LYNDESE APRIL NATION  
\_\_\_\_\_, Plaintiff(s)

v.

TOWN OF HOPKINTON  
\_\_\_\_\_

*TMS*  
A TRUE COPY ATTEST

\_\_\_\_\_, Defendant(s)  
DEPUTY SHERIFF  
Middlesex County

SUMMONS

9-30-09  
DATE OF SERVICE

To the above-named Defendant:

You are hereby summoned and required to serve upon Joseph L. McQuade, Esquire

Plaintiff's attorney, whose address is 1000 Worcester Road, Framingham, MA 01702, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Recorder of this court at 226 Causeway Street, Boston, MA 02114 either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, KARYN F. SCHEIER, Chief Justice, at Boston, on September 29, 2009

*Deborah T. Patterson*

Recorder

NOTES

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) EQUITY — (2) OTHER

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Land Court at the address herein provided.

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT  
LAND COURT DEPARTMENT

MIDDLESEX, SS.

MISC. 412848

CRAIG R. NATION and )  
LYNDSE APRIL NATION )  
 )  
Plaintiffs )  
 )  
vs. )  
 )  
 )  
TOWN OF HOPKINTON )  
 )  
Defendant )

COMPLAINT TO ESTABLISH TITLE  
BY ADVERSE POSSESSION

1. The Plaintiffs are Craig R. Nation and Lyndse April Nation, Husband and Wife of 279 Wood Street, Hopkinton, Massachusetts who are the owners of the property at 279 Wood Street, Hopkinton, Massachusetts who acquired title from Wood St. Realty Trust by a deed dated August 7, 2007 recorded in Middlesex South District Registry of Deeds in Book 49945, page 413 .
2. The Town of Hopkinton is a municipal corporation with a principal place of business at 18 Main Street, Hopkinton, Massachusetts and is the owner of a certain parcel of land located on the Northerly side of 279 Wood Street abutting 279 Wood Street Hopkinton, Massachusetts under a deed from Wood St. Realty Trust, dated October 31, 2006, and recorded in the Middlesex South District Registry of Deeds in Book 48448 , page 554.
3. Summary of the Title History
  - A. For the purposes of this Complaint the title was acquired on April 30, 1954 by Charles Reed and Miriam P. Reed from Alice M. McIntire and Eva W. White by deed recorded in Middlesex South District Registry of Deeds in Book 8248, Page 221.

B. In 1970, Schofield Brothers Engineering created a plan of the area which showed the lot in question and the general area and the frontage of the Reed parcel to be 274.43 feet, which plan was recorded in Middlesex South District Registry of Deeds as Plan No. 25 of 1970. Copy attached. Exhibit "A". This Plan was a survey on the ground.

C. In 1979, J.D. Marquedant and Associates prepared a plan dividing the Reed lot into two lots showing Parcel A containing 13.06 acres and 100 feet of frontage on Wood Street, and Parcel B (279 Wood Street), containing 51,906 square feet with 174.43 feet of frontage on Wood Street. Plan 569 of 1979 Book 13711, page 9. Copy attached Exhibit "B". This was a compiled plan using the Schofield Plan for the perimeter.

D. Parcel A containing 13.06 acres was conveyed to Robert C. and Elizabeth A. Shepard in January 1979, in Middlesex South District Registry of Deeds, in Book 13711, page 009, which left the Reed's owning Parcel B (279 Wood Street), with 174.43 feet of frontage.

E. Miriam Reed as the Joint Survivor of Charles Reed who died on May 31, 1981, deeded Parcel B off the plan of land in Hopkinton by J.D. Marquedant and Associates to Barry E. Camille by deed, dated October 26, 1994, and recorded in Middlesex South District Registry of Deeds, in Book 24961, Page 103.

F. Barry E. Camille deeded the property to Ronald Nation, Trustee of Wood St. Realty Trust by deed dated August 16, 2004, and recorded in Middlesex South District Registry of Deeds, in Book 43527, page 302, also following the Marquedant Plan.

G. Wood St. Realty Trust sub divided Lot B by a Plan by Precision Land Surveying, Inc. of Southborough, Mass. as Plan No. 879, of 2007, creating Lots B-1, and B-2. Lot B-1 contained 51,204 square feet, and contained a house, garage and most of the land. Lot B-2, contained 702 square feet, and was a strip of land at the rear of the lot which is not an issue in this case, and was conveyed to Christopher Nation, et al.

H. Lot B-1 was conveyed to Craig R. Nation and Lyndse April, now Lyndse April Nation, the Plaintiffs, on August 7, 2007, by a deed recorded in Middlesex South District Registry of Deeds in Book 49945, page 413, following the Precision Land Surveying Plan.

4. At all times prior to 1954, the property was known as 279 Wood Street and along its frontage on Wood Street it had a granite wall to the area near the present intersection of Lots A and B, on the Marquedant plan. The wall had three steps at the front door on Wood Street as the front lawn area was 3 - 4 feet above the grade of Wood Street. At the corner of the wall, there is a granite marker approximately 12 inches square, and 6 feet in height. Along approximately the northern boundary between Lots A and B, the granite wall is approximately 4 feet in height at the Street end, and gradually tapers down to approximately 2 feet to its termination, which is approximately 100 feet from the granite marker. That wall also has three steps to reach the lawn area. Further to the east, along the approximate boundary line between Lots A and B, there exists on Lot B, a small automobile garage, and a hot-top driveway that crosses the boundary line and onto Lot A that was used for access to the one-car garage on Lot B.

At all times since 1954, Mr. and Mrs. Reed occupied the premises until Mr. Reed's death in 1981, and Mrs. Reed continued to occupy the premises until it was sold to Barry E. Camille in 1994. Mr. Camille occupied the premises until it was sold in 2004 to Wood St. Realty Trust.

The area along the boundary of Lot B-1 (the Plaintiff's land), consisted of a lawn within the granite walls, pine trees and other vegetation that was maintained by the occupants as part of their lawn.

The area to the east, where the driveway was located to the garage, was used and maintained by the occupants as access to the garage.

5. Recent surveys indicate that the frontage of Lot B consisting of 174.43 feet, measured along Wood Street, was 8.07 feet short of the granite marker at the corner and the granite wall along the approximate lot line.

6. The Plaintiff's claim to be the owner of the land within the granite wall by adverse possession commencing 1979, when Parcel A was deeded to Shepard and continuously through 1999, and to date, in an open notorious adverse possession of claim of right for a period of excess of 20 years, as well as the area further to the east for access to the garage all as shown on a plan by Precision Land Surveyors, Inc., Southborough, Mass. dated May 27, 2009, a portion of which is marked Exhibit "C".

7. The Defendant Town of Hopkinton, purchased Parcel A from the Wood St. Realty Trust in 2007, under a deed which described the land following a J.D. Marquedant plan, dated May 29, 1979, and the Wood St. Realty Trust retained Parcel B (279 Wood Street).

8. The Purchase and Sale Agreement between Wood St. Realty Trust and the Town of Hopkinton provided in Paragraph No. 2, that the Town agreed to purchase 20.06 acres being more particularly described as follows:

- a. "The parcel containing approximately 7 acres being shown on Hopkinton Assessors Map R11, Block 3 as Lot 0 and being described in a Deed recorded with the Middlesex South District Registry of Deeds in Book 47214, Page 97." The 7 acres of land contiguous to Parcel A and not an issue in this Complaint.
- b. "The parcel containing approximately 13.06 acres being shown on Hopkinton Assessors' Map U5, Block 42 as Lot A and being described in the deed recorded with said Deeds in Book 47214, Page 99.

The above parcels (a) and (b), are collectively referred to as the "Premises".

The "Premises" do not include the old brick house at 279 Wood Street which is on the parcel containing approximately 1.19 acres, and being shown on Hopkinton Assessors' Map U5, Block 42 as Lot 0 and being described in the deed recorded with said Deeds in Book 43527, Page 302."

9. The Plaintiffs' claim title to Parcel B-1 shown on the Precision Land Surveyors, Inc. Plan, Plan 879 of 2007, together with the land acquired by adverse possession shown on the Precision Land Surveying, Inc. Plan, it being the Plaintiffs' position that the Purchase and Sale Agreement excluded the "old brick house at 279 Wood Street", and it would include the land associated with the house acquired by adverse possession since 1999.

10. When Reed deeded to Shepard with 100 feet of frontage, and retained 174.43 feet of frontage, none of the plans in existence (Schofield Plan of 1970, and the J.D. Marquedant Plan of 1979), showed the granite wall along Wood Street, the 6 foot tall granite marker at the corner, and the granite wall rising on the "boundary line", 4 feet at the street line tapering to 2 feet at the termination, approximately 100 feet from the street line.

The first actual survey since the Schofield Plan was by Precision Land Surveying, Inc., in 2009, after the dispute between the parties arose.

A copy of that Plan "Exhibit Plan in Hopkinton, MA 1" = 30' May 27, 2009" is Exhibit C.

The Shepard lot, now the Defendant Town of Hopkinton's, measured at 100 feet, would go southerly 8.07 feet past the granite wall and the granite marker at the wall, leaving a distance of 91.93 feet of frontage between the granite wall and granite marker, and the southern boundary line of the Shepard lot.

11. A dispute over the ownership of the land between the Plaintiffs and the Defendant involves the land between the granite wall 8.07 feet into the Plaintiffs' land containing 830 square feet and further east along the boundary line containing a total area of 2,850 square feet (the "disputed area").

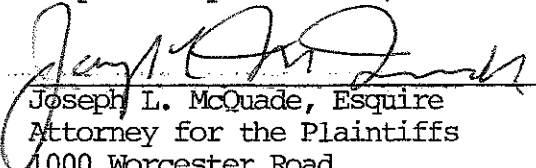
12. The Plaintiffs claim title to the disputed area (a) by adverse possession, and (b) by the exclusion of "the old brick house at 279 Wood Street" in the Purchase and Sale Agreement to the Defendant.

The Defendant claims title off the Marquedant Plan to include 8.07 feet beyond the granite marker and granite wall.

WHEREFORE, the Plaintiffs pray that the Court determine the

- (A) Correct boundary line; and
- (B) for such other judgment that is meet and just.

Respectfully submitted,

  
Joseph L. McQuade, Esquire  
Attorney for the Plaintiffs  
1000 Worcester Road  
Framingham, MA 01702  
508-879-4400  
BBO #340080

