



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

SCOTT STROUGH, et al.,

Plaintiff(s)

against

INCORPORATED VILLAGE OF WEST HAMPTON DUNES,
et al.,

Defendant(s)

Index No. 06-29678
Date purchased 10/25/06

Plaintiff(s) designate(s) Suffolk

County as the place of trial.

The basis of the venue is Plaintiffs'
County of residence.

Summons

Plaintiff(s) reside(s) at
116 Hampton Road
Southampton, NY 11968
County of Suffolk

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated, Melville, New York
October 25, 2006

Defendant's address:

INCORPORATED VILLAGE OF WEST HAMPTON
DUNES
4 Arthur Street
West Hampton Beach, NY 11978

Mayor Gary Vegliante
c/o Incorporated Village of West
Hampton Dunes
4 Arthur Street
West Hampton Beach, NY 11978

(see attached list)

CAHN & CAHN, LLP

Attorney(s) for Plaintiff(s)

Office and Post Office Address

445 Broadhollow, Suite 332
Melville, NY 11747
(631) 752-1600

By: *Richard C. Cahn*
Richard C. Cahn

CLERK OF
SUFFOLK COUNTY

2006 OCT 25 PM 2:25

FILED

SERVICE LIST

(continued)

FM Dune View Designs, LLC
792 Dune Road
West Hampton Beach, NY 11968

Fran Moss
790 Dune Road
West Hampton Beach, NY 11968

Aldona McCarthy
788 Dune Road #A
West Hampton Beach, NY 11968

V.L.L., LLC
786 Dune Road
West Hampton Beach, NY 11968

Ariane V. Amsz
Alexandre N. Amsz
784 Dune Road
West Hampton Beach, NY 11968

Natalie Rose Fusco
Emily J. Russo
Francine Maiorana
782 Dune Road
West Hampton Beach, NY 11968

Michael McCormack
Tammy McCormack
780 Dune Road
West Hampton Beach, NY 11968

Gene Stream
Ilene Stream
12 Crystal Drive
Great Neck, NY

Harvey Gessin
Marilyn Tune Gessin
5 Cow Lane
Kings Point, NY 11024

Claire Vegliante
26 Seaside Drive
Belle Terre, New York 11777

Ettore Mancini
79-60 267th Street
Glen Oaks, NY 11004-1317

Laura Fabrizio
772 Dune Road
West Hampton Beach, NY 11968

Stuart Schechter
111 Myrtle Drive
Great Neck, NY 11021

Robert Cervoni
4 Guys Lane
Old Westbury, NY 11568

Robert A. Nyholm
16 Amber Court
Hauppauge, NY 11788

Michael Rossi
750 Dune Road
West Hampton Beach, NY 11968, and P.O. Box 1189, Westhampton Beach, NY 11978

John W. Skudrna
118 Greenway East
New Hyde Park, NY 11040

Peter D. Fenner & Nancy R. Fenner Living Trust
742 Dune Road
and
738 Dune Road
West Hampton Beach, NY 11968

Kevin Nathan
136 Lincoln Drive
Glastonbury, CT 06033

Eric E. Nathan
Private Row
West Hampton Beach, NY 11968, and P.O. Box 301, Waccabuc, NY 10597

Lynn Macrone
115 East 9th Street
New York, NY 10003

Walter Raizner
Im Finkenschlag 35
70563 Stuttgart, Germany

Joseph Scotto
247 E. 28th Street
Apt. 14D
New York, NY 10016-8544

Riccardo Riva
425 E. 8th Street, #18A
New York, NY 10022

690 Dune Road LLC
690 Dune Road
West Hampton Beach, NY 11968

David Berkowitz
Nadine Berkowitz
11 Cobblestone Drive
Upper Saddle River, NJ 07456

Spencer Glanz
Florence Glanz
686 Dune Road
West Hampton Beach, NY 11968

684 Dune Road Corp.
c/o Richard Blancata
303 South Broadway, Suite 310
Tarrytown, NY 10591

682 Dune Road Corp.
162 West 34th Street
New York, NY 10001

Salvatore Mattoli
Theresa Mattoli
76 Bertha Place
Staten Island, NY 10301

Stanley Vickers
Diane Vickers
678 Dune Road
West Hampton Beach, NY 11968

Albert Telese
Susan Telese
176 Maple Avenue
Westbury, NY 11590

Peter Baselice
Gloria Baselice
23 Bronson Avenue
Scarsdale, NY

Carolyn Meinwald
142 West 44th Street
New York, NY

Michael Craig
Mary Craig
34 Cambridge Street
Rockville Center, NY 11570

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----x
SCOTT STROUGH, JON S. SEMLEAR,
FRED HAVEMYER, ERIC L. SHULTZ and
EDWARD J. WARNER, JR, individually, and as
Trustees of the Freeholders and Commonalty of the
Town of Southampton, and THE TOWN OF
SOUTHAMPTON,

Plaintiffs,

- against -

INCORPORATED VILLAGE OF WEST HAMPTON
DUNES, GARY VEGLIANTE, in his official capacity as
Mayor of the Incorporated Village of West Hampton Dunes;
FM DUNE VIEW DESIGNS, LLC; FRAN MOSS; ALDONA
McCARTHY; V.L.L., LLC; ARIANNE V. AMSZ and
ALEXANDRE N. AMSZ; NATALIE ROSE FUSCO, EMILY J.
RUSSO and FRANCINE MAIORANA, and JOSEPHINE M.
RUSSO, Life Tenant; MICHAEL McCORMACK and TAMMY
McCORMACK; GENE STREAM and ILENE STREAM;
HARVEY GESSIN and MARILYN TUNE GESSIN; CLAIRE
VEGLIANTE; ETTORE MANCINI; LAURA FABRIZIO;
STUART SCHECTER; ROBERT CERVONI; ROBERT A.
NYHOLM; MICHAEL ROSSI; JOHN W. SKUDRNA; PETER
D. FENNER & NANCY R. FENNER LIVING TRUST; KEVIN
NATHAN; ERIC E. NATHAN; LYNN MACRONE; WALTER
RAIZNER; JOSEPH SCOTTO; RICCARDO RIVA; 690 DUNE
ROAD LLC; DAVID BERKOWITZ and NADINE BERKOWITZ;
SPENCER GLANZ and FLORENCE GLANZ; 684 DUNE ROAD
CORP.; 682 DUNE ROAD CORP.; SALVATORE MATTOLI and
THERESA MATTOLI; STANLEY VICKERS and DIANE
VICKERS; ALBERT TELESE and SUSAN TELESE; PETER
BASELICE and GLORIA BASELICE; CAROLYN MEINWALD;
MICHAEL CRAIG and MARY CRAIG,

Defendants.
-----x

Index No. 2006-

**VERIFIED
COMPLAINT**

FILED
2006 OCT 25 PM 2:25
CLERK OF
SUFFOLK COUNTY

Plaintiffs, Scott Strough, Jon S. Semlear, Fred Havemeyer, Eric L. Shultz and
Edward J. Warner, Jr., individually, and as Trustees of the Freeholders and Commonalty of the

Town of Southampton, and the Town of Southampton (collectively, “Plaintiffs”), by their attorneys, Cahn & Cahn, LLP, complaining of the Defendants, respectfully allege as follows:

Parties

1. The individual Plaintiffs, Scott Strough, Fred Havemeyer, Eric L. Shultz, Jon S. Semlear and Edward J. Warner, Jr., are residents of the Town of Southampton and duly elected members of the Board of Trustees of the Plaintiff Freeholders and Commonalty of the Town of Southampton, New York, a body politic created in the year 1686 for the purpose of owning and holding certain lands for the general use and benefit of the residents of the Town of Southampton (“the Trustees”). The Trustees have a principal place of business at Southampton Town Hall, 116 Hampton Road, Southampton, New York 11968, within the County of Suffolk. The Trustees own and have the right to regulate, the lands that are the subject of this action.

2. Plaintiff Town of Southampton (“the Town”) is a municipal corporation duly organized and existing under the laws of the State of New York, with its principal place of business at 116 Hampton Road, Southampton, New York 11968. The lands that are the subject of this action lie within the jurisdictional boundaries of the Town, and outside of the boundaries of the Incorporated Village of West Hampton Dunes.

3. The Defendant Incorporated Village of West Hampton Dunes (“the Village”) was incorporated on November 19, 1993 pursuant to Article 2 of the Village Law of the State of New York, and has its principal place of business at 4 Arthur Street, P.O. Box 728, West Hampton Beach, New York 11978, within the County of Suffolk. The Village was carved out of territory of the unincorporated area of the Town, as depicted on the map (Exhibit A) attached to the incorporation petition filed with the Supervisor of the Town and thereafter filed with the Office of the Secretary of State, showing the official boundaries of the Village.

However, the Village purports to exercise certain regulatory authority, control and jurisdiction over the lands outside of its boundaries (“the disputed lands”).

4. The Defendant Gary Vegliante is the Mayor of the Village.

Properties in Section 2

5. Upon information and belief, the Defendant FM Dune View Designs, LLC is the purported owner of real property located at 792 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-30.1 (“Section 2, Lot 30.1”);

6. Upon information and belief, the Defendant Fran Moss is the purported owner of real property located at 790 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-30.2 (“Section 2, Lot 30.2”);

7. Upon information and belief, the Defendant Aldona McCarthy is the purported owner of real property located at 788 Dune Road #A, and designated on the Suffolk County Tax Map as SCTM #907-2-2-32.3 (“Section 2, Lot 32.3”);

8. Upon information and belief, the Defendant V.L.L., LLC is the purported owner of real property located at 786 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-33 (“Section 2, Lot 33”);

9. Upon information and belief, the Defendants Ariane V. Amsz and Alexandre N. Amsz are the purported owners of real property located at 784 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-34 (“Section 2, Lot No. 34”);

10. Upon information and belief, the Defendants Natalie Rose Fusco, Emily J. Russo and Francine Maiorana, and Josephine M. Russo, Life Tenant are the purported owners of real property located at 782 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-35 (“Section 2, Lot No. 35”);

11. Upon information and belief, the Defendants Michael McCormack and Tammy McCormack are the purported owners of real property located at 780 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-2-2-36 (“Section 2, Lot No. 36”);

12. Upon information and belief, the Defendants Gene Stream and Ilene Stream are the purported owners of real property located at 778 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-2-2-37 (“Section 2, Lot 37”).

13. Upon information and belief, the Defendants Harvey Gessin and Marilyn Tune Gessin are the purported owners of real property located at 776 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-2-2-38 (“Section 2, Lot 38”).

14. The Defendant Claire Vegliante, upon information and belief, is Gary Vegliante’s wife and the purported owner of real property located at 774 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-2-2-39.1 (“Section 2, Lot 39.1”).

15. Upon information and belief, the Defendant Ettore Mancini is the purported owner of real property located at 774 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-2-2-39.2 (“Section 2, Lot 39.2”).

16. Upon information and belief, the Defendant Laura Fabrizio is the purported owner of real property located at 772 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-2-2-40 (“Section 2, Lot 40”).

23. Upon information and belief, the Defendant Kevin Nathan is the purported owner of real property located at Private Row, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-9 (“Section 3, Lot 9”);

24. Upon information and belief, the Defendant Eric E. Nathan is the purported owner of real property located at Private Row, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-10 (“Section 3, Lot 10”);

25. Upon information and belief, the Defendant Lynn Macrone is the purported owner of real property located at 734 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-11 (“Section 3, Lot 11”);

26. Upon information and belief, the Defendant Walter Raizner is the purported owner of real property located at 732 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-12 (“Section 3, Lot 12”);

27. Upon information and belief, the Defendant Joseph Scotto is the purported owner of real property located at 730 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-13 (“Section 3, Lot 13”);

28. Upon information and belief, the Defendant Riccardo Riva is the purported owner of real property located at 728 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-14 (“Section 3, Lot 14”);

29. Upon information and belief, the Defendant 690 Dune Road LLC is the purported owner of real property located at 690 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-3-1-33 (“Section 3, Lot 33”);

Properties in Section 3

17. Upon information and belief, the Defendant Stuart Schecter is the purported owner of real property located at 756 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-2 ("Section 3, Lot 2");

18. Upon information and belief, the Defendant Robert Cervoni is the purported owner of real property located at 754 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-3 ("Section 3, Lot 3");

19. Upon information and belief, the Defendant Robert A. Nyholm is the purported owner of real property located at 752 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-4 ("Section 3, Lot 4");

20. Upon information and belief, the Defendant Michael Rossi is the purported owner of real property located at 750 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-5 ("Section 3, Lot 5");

21. Upon information and belief, the Defendant John W. Skudrna is the purported owner of real property located at 748 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-6 ("Section 3, Lot 6");

22. Upon information and belief, the Defendant Peter D. Fenner & Nancy R. Fenner Living Trust is the purported owner of real property located at 742 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-7 ("Section 3, Lot 7"); and of real property located at 738 Dune Road, and designated on the Suffolk County Tax Map as SCTM # 907-3-1-8 ("Section 3, Lot 8");

30. Upon information and belief, the Defendants David Berkowitz and Nadine Berkowitz are the purported owners of real property located at 688 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-3-1-34 (“Section 3, Lot 34”);

Properties in Section 4

31. Upon information and belief, the Defendants Spencer Glanz and Florence Glanz are the purported owners of real property located at 686 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-1 (“Section 4, Lot 1”);

32. Upon information and belief, the Defendant 684 Dune Road Corp. is the purported owner of real property located at 684 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-2 (“Section 4, Lot 2”);

33. Upon information and belief, the Defendant 682 Dune Road Corp. is the purported owner of real property located at 682 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-3 (Section 4, Lot 3”);

34. Upon information and belief, the Defendants Salvatore Mattoli and Theresa Mattoli are the purported owners of real property located at 680 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-4 (“Section 4, Lot 4”);

35. Upon information and belief, the Defendants Stanley Vickers and Diane Vickers are the purported owners of real property located at 678 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-5 (“Section 4, Lot 5”);

36. Upon information and belief, the Defendants Albert Telese and Susan Telese are the purported owners of real property located at 676 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-6 (“Section 4, Lot 6”);

37. Upon information and belief, the Defendants Peter Baselice and Gloria Baselice are the purported owners of real property located at 666 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-11 (“Section 4, Lot 11”);

38. Upon information and belief, the Defendant Carolyn Meinwald is the purported owner of real property located at 664 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-12 (“Section 4, Lot 12”);

39. Upon information and belief, the Defendants Michael Craig and Mary Craig are the purported owners of real property located at 662 Dune Road, and designated on the Suffolk County Tax Map as SCTM #907-4-1-13 (“Section 4, Lot 13”).

The Subject Lands

40. The properties of the individual Defendants for the most part abut the north side of Dune Road, a public road that runs in an easterly/westerly direction within the Village, and the properties properly claimed by the individual Defendants lie within the official boundaries of the Village as depicted on Exhibit A.

41. However, without any basis in fact or law, each of the individual Defendants also claims, or appears to claim, title to additional lands lying to the north, as more particularly defined in Paragraphs 46 and 47 hereof. Those additional lands are owned by the Trustees, and lie outside of the boundaries of the Village within the unincorporated area of the Town.

Facts

42. On December 6, 1686, Thomas Dongan, Captain, General Governor in Chief and Vice Admiral in and for the Provinces of New York and territories dependent thereon, by the authority of King James II of England, issued a Charter or Patent (“the Dongan Patent” or

“the Patent”), which (1) conveyed to the Trustees, and their successors forever, all right, title and interest over certain lands, territories and waters of the Town, to hold for the sole use and benefit and on behalf of the freeholders and inhabitants of the Town in fee title absolute, and (2) created the Trustees as a body politic, with full and complete authority to govern and regulate with respect to all lands conveyed to them, to the exclusion of any other officer, board, agency or body.

43. Among the lands conveyed by the Patent to the Trustees were all of the lands lying beneath the waters of Moriches Bay, and surrounding lands up to the high-water mark thereof (“the Trustee lands”).

44. Continuously since 1686, the Trustees have owned and possessed and exercised, and still possess and exercise the authority to regulate the use of the Trustee lands.

45. Continuously since its creation by the New York State Legislature in 1788 (Laws of 1788, Ch. 64), the Town has exercised statutory and regulatory authority, and its police powers as delegated by the Legislature, over lands lying within its geographical boundaries.

46. Heretofore and during the span of several months, and particularly between December, 1992 and March, 1993, a series of unusually strong winter storms, or “Nor’easters,” caused one or more dramatic breaches in the barrier beach that separates Moriches Bay from the Atlantic Ocean. Millions of tons of sand and earth were deposited into Moriches Bay upon the Trustee lands, immediately north of the properties which at that time were owned by the individual Defendants or their predecessors. As a result of the storms and breaches, dry land between Dune Road and Moriches Bay extended rapidly from what had previously been approximately 200-300 feet, to approximately 700-800 feet, and the high-water mark of Moriches Bay shifted accordingly northward (“the new high-water mark”).

47. Upon information and belief, the additional land that was thus deposited upon the Trustee lands remained thereafter in place. The land so deposited, together with the underlying Trustee lands, are described herein as “the disputed lands.”

48. The sudden deposit of sand and earth, as a matter of law, had no effect upon the boundary line of the Trustee lands, and such boundary line remains to this date in its pre-December, 1992 position, and continues to run in a generally easterly/westerly direction 200 to 300 feet north of Dune Road, concurrently with the northerly boundary line of the Village.

49. On November 19, 1993, the Village was incorporated. The northern boundary of the proposed Village was described in the petition for incorporation as “the northern boundary of the properties ... with the Moriches Bay...,” which referred, and was intended to refer, among others, to the properties described in Paragraphs 5 through 39 hereof. Those properties did not include the disputed lands. The map of the territory (Exhibit A) included within the incorporation papers that were filed with the Town Supervisor and Secretary of State pursuant to Article 2 of the Village Law excludes the disputed lands. The territory of the Village as reported to the United States Census Bureau excludes the disputed lands.

50. In 2004, the Village, acting through its Mayor, Defendant Gary Vegliante, represented to the Trustees that it would take steps to enact legislation precluding development by any Village resident of lands within 100 feet of the new high-water mark of Moriches Bay.

51. Notwithstanding its Mayor’s representation to the Plaintiffs on its behalf, the Village has taken no steps to enact any such legislation, and, to the contrary, has entertained applications from some or all of the individual Defendants, or their predecessors, to subdivide and develop the disputed lands, including lands within 100 feet of the new high-water mark.

52. Upon information and belief, the individual Defendants claim to own the disputed lands and intend to develop the disputed lands without regard to the ownership thereof by the Trustees, and without regard to the fact that the disputed lands lie within the jurisdiction of the Town and not the Village.

53. The Town asserts that the disputed lands lie within its boundaries and jurisdiction, whereas the Village manifestly takes the position that they lie within the boundaries and jurisdiction of the Village.

FOR A FIRST CAUSE OF ACTION,
PLAINTIFFS RESPECTFULLY ALLEGE:
(Declaratory Judgment)

54. Repeat, reiterate and reallege each and every allegation set forth in Paragraphs 1 through 53 of this Complaint with the same force and effect as if more specifically set forth herein.

55. The Village does not possess jurisdiction or authority over lands that are not within its boundaries.

56. The Village boundaries as established pursuant to Article 2 of the Village Law do not include the disputed lands.

57. Accordingly, all municipal powers and jurisdiction, including zoning authority over the disputed lands, rest solely and exclusively with the Town, to the exclusion of the Village.

58. The Village is asserting jurisdiction over the disputed lands by, among other things, entertaining and granting applications for subdivision approval, variances and building permits with respect to the disputed lands.

59. Accordingly, there exists a justiciable controversy among the parties as to whether the disputed lands lie within the Village boundaries, and, accordingly, whether the Town or the Village has the right to exercise jurisdiction over the disputed lands; and, further, as to whether individual Defendants have the right to subdivide or construct improvements upon the disputed lands without obtaining the necessary permits from the Town. The Plaintiffs are entitled to judgment pursuant to CPLR § 3001 declaring the rights and relations of the parties, and declaring that the disputed lands lie within the jurisdictional boundaries of the Town.

FOR A SECOND CAUSE OF ACTION,
PLAINTIFFS RESPECTFULLY ALLEGE:
(Declaratory Judgment)

60. Repeat, reiterate and reallege each and every allegation set forth in Paragraphs 1 through 59 of this Complaint with the same force and effect as if more specifically set forth herein.

61. Because sand was deposited upon the underwater lands owned by the Trustees as the result of sudden, rapid and natural acts of avulsion, title to the disputed lands, including the Trustee lands upon which the sand was deposited, was never acquired by the individual Defendants.

62. Because of the activity described in Paragraph 61, the Trustees own and continue by law to retain the same ownership and regulatory rights to the underwater lands, as they have held for nearly 320 years.

63. Notwithstanding the foregoing, the individual Defendants claim title to the disputed lands, and the right to construct improvements upon such lands, without regard to the ownership rights of the Trustees, and without their consent.

64. Accordingly, there exists a justiciable controversy among the parties as to whether the individual Defendants have any right to subdivide or construct improvements upon the disputed lands, without the consent of the Trustees; and the Trustees are entitled to judgment pursuant to CPLR § 3001 declaring that they own and have the right to regulate the disputed lands, to the exclusion of the Village and the individual Defendants.

FOR A THIRD CAUSE OF ACTION,
PLAINTIFFS RESPECTFULLY ALLEGE:
(Injunctive Relief)

65. Repeat, reiterate and reallege each and every allegation set forth in Paragraphs 1 through 64 of this Complaint with the same force and effect as if more specifically set forth herein.

66. The Village does not have any authority to regulate the use of the disputed lands.

67. Notwithstanding the foregoing, the Village is purporting to exercise such authority, by, among other things, entertaining applications by the individual Defendants to subdivide the disputed lands and construct improvements thereon. Upon information and belief, between December 5, 2001 and February 16, 2006 the Defendants Gessin applied to the Village for approval of a two-lot subdivision, an area variance, and for one or more building permits; between December 1, 2000 and February 22, 2005 the Defendant Fabrizio applied to the Village for approval of a two-lot subdivision, for an area variance, and for a building permit; and on May 5, 2005 the Defendant Vegliante applied for an area variance. The Defendants Gessin and Fabrizio also applied to the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and the Suffolk County Department of Health Services for permits for such subdivisions and have represented that they own the disputed lands.

**FOR A FOURTH CAUSE OF ACTION AGAINST THE INDIVIDUAL
DEFENDANTS, PLAINTIFFS RESPECTFULLY ALLEGE:**
(Quiet Title)

74. Repeat, reiterate and reallege each and every allegation set forth in Paragraphs 1 through 73 of this Complaint with the same force and effect as if more specifically set forth herein.

75. By reason of the foregoing, the individual Defendants are asserting rights to Trustee lands and claiming an estate or interest in real property adverse to the estates and interests of the Trustees, and the Trustees are entitled to a determination under Article 15 of the Real Property Actions and Proceedings Law quieting title to the Trustee lands, by making clear that title therein lies in the Trustees, and not in the individual Defendants.

76. Upon information and belief, all persons having or claiming an interest in the Trustee lands, and who have a right to be heard in this matter, have been joined as Plaintiffs or Defendants in this action.

77. No Defendant is unknown, and upon information and belief, no Defendant is or might be an infant, mentally retarded, mentally ill or an alcohol abuser.

WHEREFORE, Plaintiffs demand judgment (1) on the First Cause of Action, pursuant to CPLR § 3001, declaring the rights and relations of the parties and declaring that the disputed lands lie within the unincorporated area of the Town and are not within the incorporated boundaries of the Village, and that the Town has exclusive jurisdiction and authority over such lands as delegated to it by the New York State Legislature; (2) on the Second Cause of Action, pursuant to CPLR § 3001, declaring the rights and relations of the parties and declaring that the Trustees own, and have the exclusive right as conveyed by the Dongan Patent to regulate the use of, the disputed lands, to the exclusion of the Village, and that the individual Defendants have no

right to subdivide, or conduct unauthorized activities or construct improvements upon the disputed lands; (3) on the Third Cause of Action, for injunctive relief pursuant to CPLR Article 63, temporarily, preliminarily and permanently enjoining the Village from purporting to grant permits to the individual Defendants authorizing subdivision of, or construction upon, the disputed lands, and temporarily, preliminarily and permanently restraining and enjoining the individual Defendants from subdividing, or conducting unauthorized activities, including construction upon the disputed lands; and for such other injunctive relief as the Court deems appropriate; and (4) on the Fourth Cause of Action, for a judgment quieting title in the Trustees to the disputed lands, including the underlying Trustee lands, and each and every part thereof; and, on all causes of action, for the costs and disbursements of this action.

Dated: Melville, New York
August 17, 2006

Yours, etc.,

CAHN & CAHN, LLP
Attorneys for Plaintiffs

By: 


Richard C. Cahn

Office & P.O. Address
445 Broadhollow Road, Suite 332
Melville, NY 11747
(631) 752-1600

VERIFICATION

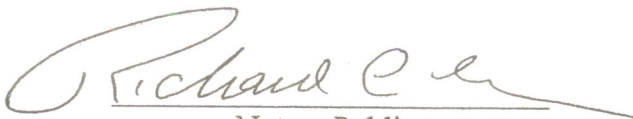
STATE OF NEW YORK)
 : ss.:
COUNTY OF SUFFOLK)

SCOTT STROUGH, being duly sworn, deposes and says: I am the President of the Board of Trustees of the Freeholders and Commonalty of the Town of Southampton, one of the Plaintiffs in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.



SCOTT STROUGH

Sworn to before me this
17th day of August, 2006.



Notary Public

RICHARD C. CAHN
Notary Public, State of New York
No. 02CA0533275
Qualified in Suffolk County 2009
Commission Expires July 31, _____



STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

NOV 19 1993

[Signature]
Secretary of State

KENNETH H. THOMMEN, TOWN CLERK

TOWN HALL, 116 HAMPTON ROAD
SOUTHAMPTON, NEW YORK 11968
(516) 283-6000, EXT. 214

REPORT OF INCORPORATION OF TERRITORY AS A VILLAGE

TO: Gail Schaffer, Secretary of State
H. Carl McCall, State Comptroller
State Board of Equalization and Assessment
County Clerk, County of Suffolk
County Treasurer, County of Suffolk

The undersigned, Town Clerk of the Town of Southampton, County of Suffolk, State of New York, does hereby report and certify, pursuant to Section 2-232 of the Village Law of the State of New York, as follows:

(1) On the 4th day of November, 1993, an election was held to determine whether certain territory within the Town of Southampton should be incorporated as the Village of West Hampton Dunes. At said election a majority of the votes were cast for incorporation.

(2) Annexed hereto is a copy of the certificate of said election certified by the Inspectors of Election.

(3) The time to institute a proceeding for a review of said election has expired and no such proceeding has been commenced.

(4) Annexed hereto is an outline map and a description of the territory within said Village of West Hampton Dunes.

(5) The population of the territory incorporated as the Village of West Hampton Dunes as it appears by the exhibit attached to the petition for incorporation is 517.

Dated: Southampton, NY
November 16, 1993

[Signature]
KENNETH H. THOMMEN, TOWN CLERK
TOWN OF SOUTHAMPTON

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

NOV 19 1993


Secretary of State

**CERTIFICATE OF INSPECTORS OF ELECTION ON QUESTION OF
INCORPORATION OF VILLAGE**

We, the undersigned, do hereby certify that on the 4th day of November, 1993, between the hours of twelve o'clock noon and nine o'clock in the evening, an election was held at the Command Post, Dune Road, Westhampton Beach, NY, for the purpose of determining whether certain territory in the Town of Southampton shall be incorporated as the Village of West Hampton Dunes; that a true and correct canvass of the ballots cast at said election is as follows:

Whole number of ballots cast

87

Number of blank and void ballots

0

Number of ballots cast for incorporation

87

Number of ballots cast against incorporation

0

Dated: November 4, 1993

Herbert Hoffman

Eugene A. Hoffman

Norman S. McNamee
Fred. Thiele, Jr.

Inspectors of Election

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

NOV 19 1993


Secretary of State

Exhibit A

The territory herein proposed to be incorporated as the Village of West Hampton Dunes is described as follows;

The property located on both North and South sides of Dune Road, and including Dune Road and the connecting roads thereto, including Widgeon Way, Dune Lane, and Cove Lane, with an easterly boundary on the north side of Dune Road, of the easterly boundary of the properties known as 654 and 654A Dune Road, located on the northerly side of Dune Road, those lots otherwise being known as County of Suffolk and Town of Southampton Tax lot numbers District 0900, Section 391, Block 1, Lots 19 and 18, respectively, so that the territory shall include 654 and 654A Dune Road, and with an eastern boundary on the southerly side of Dune Road, of the easterly boundary of the property known as 659 Dune Road, otherwise known as County of Suffolk and Town of Southampton Tax lot number District 0900, Section 391, Block 2, Lot 17, located on the southerly side of the Dune Road, so that the described lot is included within the territory.

The westerly boundary on both the north and south sides of Dune Road and the roads connected thereto and contained therein, shall be the westerly boundary of the Town of Southampton adjoining the Town of Brookhaven, with the westerly boundary on the southerly side of Dune Road being the westerly boundary of the property being the most westerly property located in the Town of Southampton on the southerly side of Dune Road, and being otherwise known as County of Suffolk and Town of Southampton Tax lot number District 0900, Section 388, Block 2, and Lot 1.1, so that the described lot shall be included within the territory. The westerly boundary on the northerly side of Dune Road, and the connecting roads thereto shall be the westerly boundary of the properties forming the westerly boundary of the Town of Southampton, adjoining the Town of Brookhaven, and otherwise known as County of Suffolk and Town of Southampton Tax lot numbers District 0900, Section 388, Block 1 and lots 1.15, 1.14, 1.13, 1.9, 1.10, 1.11, 1.12, 1.6, and 1.5, so that those described properties shall also be included in the territory.

The northern boundary of the territory is the northern boundary of the properties on the aforementioned roads with the Moriches Bay, and the southern boundary of the territory is the southern boundary of the properties on the aforementioned roads

with the Atlantic Ocean.

The area comprising the territory to be incorporated herein also includes the property known as "Swan Island," being otherwise known as County of Suffolk and Town of Southampton Tax lot numbers District 0900, Section 388, Block 3, all lots inclusive.

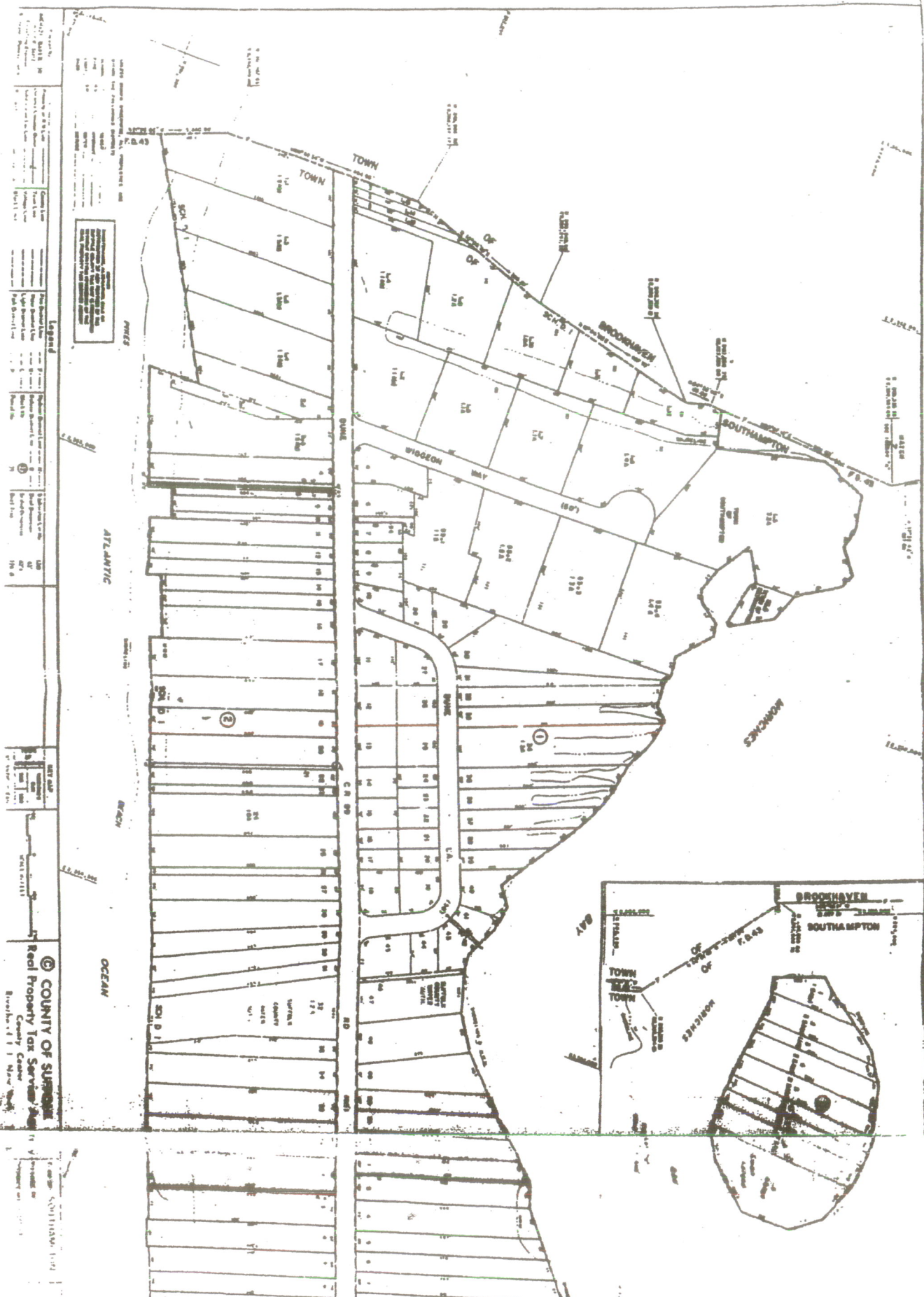
A map of the territory to be incorporated is annexed as Exhibit A-1 hereto.

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

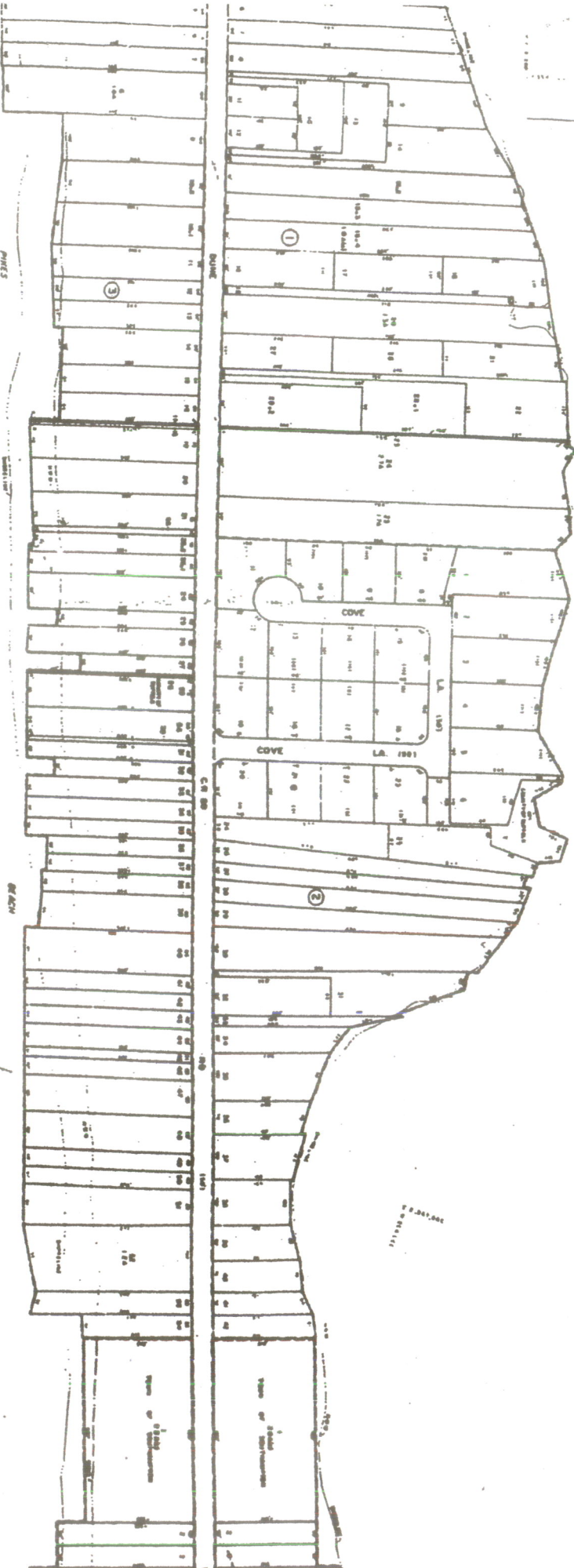
NOV 19 1993


Secretary of State



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Legend				Berthage				USE				COUNTY OF SUFFOLK				PROPERTY TAX			
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21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80
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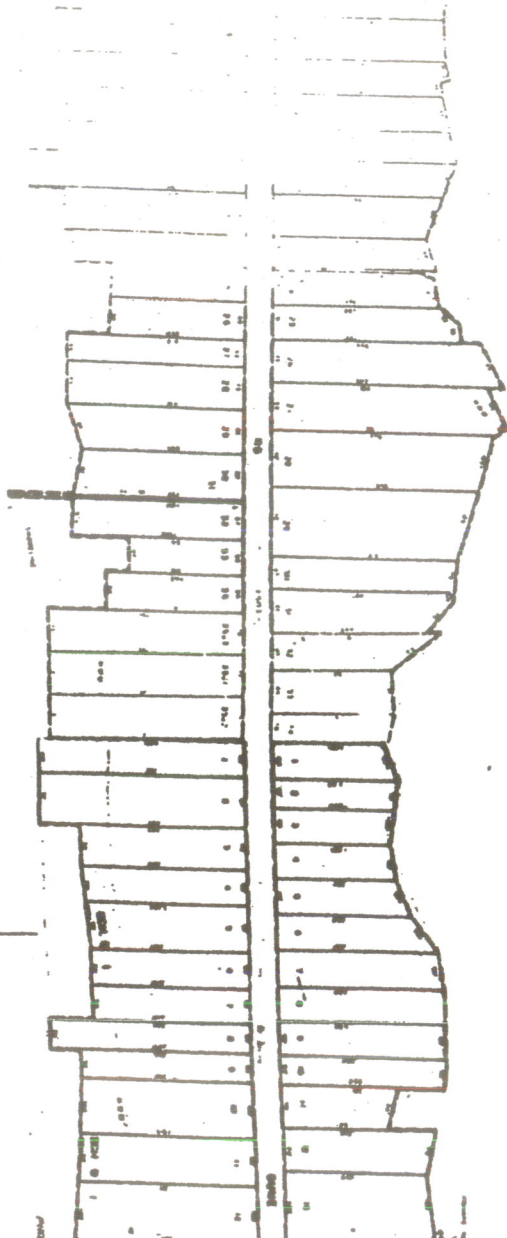
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Legend

Project Name	Project Number	Project Location	Project Status	Project Manager	Project Engineer	Project Designer	Project Architect	Project Contractor	Project Consultant	Project Client	Project Date
Project A	101	Project A Location	Project A Status	Project A Manager	Project A Engineer	Project A Designer	Project A Architect	Project A Contractor	Project A Consultant	Project A Client	Project A Date
Project B	102	Project B Location	Project B Status	Project B Manager	Project B Engineer	Project B Designer	Project B Architect	Project B Contractor	Project B Consultant	Project B Client	Project B Date
Project C	103	Project C Location	Project C Status	Project C Manager	Project C Engineer	Project C Designer	Project C Architect	Project C Contractor	Project C Consultant	Project C Client	Project C Date
Project D	104	Project D Location	Project D Status	Project D Manager	Project D Engineer	Project D Designer	Project D Architect	Project D Contractor	Project D Consultant	Project D Client	Project D Date
Project E	105	Project E Location	Project E Status	Project E Manager	Project E Engineer	Project E Designer	Project E Architect	Project E Contractor	Project E Consultant	Project E Client	Project E Date
Project F	106	Project F Location	Project F Status	Project F Manager	Project F Engineer	Project F Designer	Project F Architect	Project F Contractor	Project F Consultant	Project F Client	Project F Date
Project G	107	Project G Location	Project G Status	Project G Manager	Project G Engineer	Project G Designer	Project G Architect	Project G Contractor	Project G Consultant	Project G Client	Project G Date
Project H	108	Project H Location	Project H Status	Project H Manager	Project H Engineer	Project H Designer	Project H Architect	Project H Contractor	Project H Consultant	Project H Client	Project H Date
Project I	109	Project I Location	Project I Status	Project I Manager	Project I Engineer	Project I Designer	Project I Architect	Project I Contractor	Project I Consultant	Project I Client	Project I Date
Project J	110	Project J Location	Project J Status	Project J Manager	Project J Engineer	Project J Designer	Project J Architect	Project J Contractor	Project J Consultant	Project J Client	Project J Date

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© COUNTY OF SUFFOLK
Real Property Tax Service Agency

Richard, I. I. New York

How to Contact Us

390

PROPERTY MAP

Legend																																																		
	0 - 1	2 - 3	4 - 5	6 - 7	8 - 9	10 - 11	12 - 13	14 - 15	16 - 17	18 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 41	42 - 43	44 - 45	46 - 47	48 - 49	50 - 51	52 - 53	54 - 55	56 - 57	58 - 59	60 - 61	62 - 63	64 - 65	66 - 67	68 - 69	70 - 71	72 - 73	74 - 75	76 - 77	78 - 79	80 - 81	82 - 83	84 - 85	86 - 87	88 - 89	90 - 91	92 - 93	94 - 95	96 - 97	98 - 99
0 - 1	2 - 3	4 - 5	6 - 7	8 - 9	10 - 11	12 - 13	14 - 15	16 - 17	18 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 41	42 - 43	44 - 45	46 - 47	48 - 49	50 - 51	52 - 53	54 - 55	56 - 57	58 - 59	60 - 61	62 - 63	64 - 65	66 - 67	68 - 69	70 - 71	72 - 73	74 - 75	76 - 77	78 - 79	80 - 81	82 - 83	84 - 85	86 - 87	88 - 89	90 - 91	92 - 93	94 - 95	96 - 97	98 - 99	

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

SCOTT STROUGH, et al.,

Plaintiffs,

- against -

INCORPORATED VILLAGE OF WEST HAMPTON DUNES, et al.,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

CAHN & CAHN, LLP

Attorney(s) for

Plaintiffs

Office and Post Office Address, Telephone

445 BROADHOLLOW ROAD, SUITE 332

MELVILLE, NEW YORK 11747

(631) 752-1600

The undersigned, an attorney admitted to the practice of law in the State of New York, hereby certifies pursuant to 22 N.Y.C.R.R. § 130-1.1-a, that to the best of his/her knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the within papers and the contentions therein are not frivolous.

Dated:

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

Sir: Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

20

☐ NOTICE OF SETTLEMENT

that an order settlement to the HON.

of which the within is a true copy will be presented for one of the judges

of the within named Court, at on the day of

20

at

M.

Dated:

Yours, etc.

CAHN & CAHN, LLP

Attorney(s) for

Office and Post Office Address

445 BROADHOLLOW ROAD, SUITE 332

MELVILLE, NEW YORK 11747

(631) 752-1600

To

Attorney(s) for