TOWN OF DURHAM

Office of the First Selectman
P. O. Box H
Durham, Connecticut 06422

SPECIAL BOARD OF SELECTMEN'S MEETING
January 18, 1989

The meeting was called to order at 8:43 a.m. Present: Maryann P. Boord, Francis E. Korn, Hugh A. Curley, Kenneth A. Antin (Town Counsel).

M. Boord moved to go into Executive Session for the purpose of discussing the David Road litigation; motion seconded by H. Curley; 3 ayes.

Motion at 9:20 a.m. by F. E. Korn to go out of Executive Session; seconded by M. Boord; 3 ayes.

At 9:21 a.m., F. Korn moved that the Board of Selectmen accepts the terms of the agreement* and authorizes the First Selectwoman to sign the agreement, to enter into a judgement based on the agreement, and to make minor modifications in the agreement on the advise of Town Counsel; motion seconded by H. Curley; 3 ayes.

Meeting adjourned at 9:25 a.m.

MPB:dda
*copy of agreement attached

RECD 1-20- 19 89 AT 8:40 A.M. P.M.
Mary B. D. Yeo TOWN CLERK
asst.

NO. 50836

J. BRUCE MASLAR	:	SUPERIOR COURT
VS.	:	J.D. OF MIDDLESEX
JOSEPH PLANETA, ET AL	:	JANUARY 18, 1989

STIPULATION

I. Preamble

(A) J. Bruce Maslar, William DeMartino and Barbara DeMartino, James Clementel and Robert J. Rebeschi, individually and as administrator for the Estate of Laurence J. Rebeschi, (collectively the plaintiffs) are plaintiffs in a suit entitled J. Bruce Maslar, et al v. Joseph Planeta, et al, docket number 50836, Superior Court for the Judicial District of Middlesex at Middletown. In Maslar v. Planeta, the plaintiffs have claimed that a portion of David Road in the Town of Durham extending from the northeasterly corner of property of the defendant, Joseph Planeta, to the southwesterly corner of property of the plaintiff, J. Bruce Maslar, (the disputed portion of David Road) is a public unimproved highway of the Town of Durham.

(B) The Town of Durham is a defendant in Maslar v. Planeta and has maintained that the disputed portion of David Road (a) was not dedicated and accepted as a public highway; and (b) if

dedicated and accepted as a public highway was abandoned by disuse.

(C) The plaintiffs and the Town of Durham desire to resolve the differences that have arisen between them over the disputed portion of David Road. In order to resolve those differences, and in consideration for the promises made to each other to resolve those differences, the plaintiffs and the Town of Durham stipulate as follows:

II. Conditions.

1. David Road is a public highway or town road of the Town of Durham running from its intersection with Parmelee Hill Road to a straight line that joins the following two points: (1) a point on the southerly boundary of land of the plaintiff Maslar 19.26 feet east of Maslar's southwesterly corner and (2) a point on the northerly boundary of land of the plaintiffs Rebeschi 529.83 feet west of Rebeschi's northeasterly corner, which is also the northwesterly corner of land shown as "Old Washington Trail." The highway lines of David Road, its specific dimensions, and all boundary lines and corners referred to in this condition are more specifically set forth in a certain map entitled "Map of survey showing street lines of a portion of a highway known as

David Road from Parmelee Hill Road southwesterly for a distance of 4,000' Scale 1" = 50' December 1, 1988 Bascom & Magnotta, Inc. Professional Engineers and Land Surveyors" in four sheets and marked as plaintiffs' Exhibit 2 in Maslar v. Planeta.

By referring to this map the parties do not agree, suggest or imply that any portion of David Road is or is not a public highway unless it is specifically described as such in this agreement.

2. That the plaintiffs will bear the entire cost of improving -- to the standards necessary for developing their properties under the Town of Durham's subdivision regulations -- so much of the disputed portion of David Road as is described in Condition 1.

3. That the plaintiffs release the Town of Durham from any claims that all or any of them may have because of actions that the Durham Board of Selectmen, Durham Planning and Zoning Commission, or any other Durham town agencies, boards, official, or employees have taken to date concerning the disputed portion of David Road and the attempt of any of the plaintiffs to subdivide their property that abuts the disputed portion of David Road; and that the plaintiffs will on or before January 25, 1989, provide the Town of Durham with written general releases for

claims arising through the date of this stipulation and specifically including the claims mentioned in this condition 3.

4. That the Town of Durham releases all or any of the plaintiffs from any claims it might have against them because of actions any of the plaintiffs have taken to date in connection with developing their properties that abut the disputed portion of David Road; that the Town of Durham by January 25, 1989, will provide each of the plaintiffs with a written release specifically including the claims mentioned in this condition 4.

5. This agreement shall run to the benefit of and be binding upon the successors and assigns of the parties hereto.

6. That the Superior Court may enter judgment in Maslar v. Planeta, docket number 50836, in accordance with the terms of this stipulation, and without costs to the plaintiffs or the Town of Durham.

Dated at Middletown, Connecticut, this 18th day of January, 1989.

We the undersigned parties state that our counsel have explained the terms of this stipulation to us, that we understand the terms of the stipulation, enter into it knowingly and willingly.

THE TOWN OF DURHAM

BY: _____
KENNETH H. ANTIN
Its Attorney

BY: _____
MARYANN P. BOORD, Its First Selectman

THE PLAINTIFFS CLEMENTEL, MASLAR & DeMARTINO

BY: _____
VINCENT T. McMANUS, JR..
Their Attorney

_____
James Clementel

_____
J. Bruce Maslar

_____
William DeMartino

_____
Barbara DeMartino

THE PLAINTIFFS REBESCHI

BY: _____
PAUL R. GOUIN,
Their Attorney

_____
Robert J. Rebeschi

ESTATE OF LAURENCE J. REBESCHI

BY: _____
Robert J. Rebeschi,
Administrator