

## Rosenson, Valerie

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**From:** Casolo, Louis  
**Sent:** Friday, April 22, 2016 4:04 PM  
**To:** Rosenson, Valerie; Zelinsky, John; Mahoney, Dennis; Ryan, Kieran; McMullen, J.R.; Coppola Jr., Joseph; Skigen, Randall; Day, Harry  
**Cc:** Orgera, Ernie; Emmett, Kathryn; Rosenberg, Burt; Ginotti, Paul; Pollard, Michael  
**Subject:** Response to BOR inquires - Merriebrook Lane  
**Attachments:** Merriebrook Lane Bridge - Land Transfer Documents to BOR-4-22-16\_R1.pdf; merriebrook-lane-docs.pdf

Ms. Rosenson:

This is in response to Representative Ryan, Mahoney, and McMullen's inquires yesterday and today regarding the status of Merriebrook Lane.

Please feel free to send it to other BOR members as you see fit.

Representative Mahoney observes in his email below that Merriebrook Lane is listed as an unaccepted road on the City's list of roads, and has inquired as to the differences between a private road and an unaccepted road. I wish to explain the status of Merriebrook Lane and to explain why I stated at the Operations Committee meeting last night that Merriebrook Lane is a public road.

As a general proposition, an unaccepted road is a public road which has not been accepted by the City as it was built or designed some time ago in a manner that does not meet City standards. As you will see from the explanation which follows, Merriebrook Lane actually lies on City property.

Merriebrook Lane west of the Merriebrook Bridge leads to the sole entrance in Stamford to the Mianus River Park. As you can see from the attached deed documentation and graphical maps that have been prepared and attached in 1972 ([refer to first attachment](#)), the City of Stamford and the Town of Greenwich acquired the land of the Mianus River Park. Millions of dollars of federal, state and local funds were used to acquire the land which comprises the Mianus River Park for passive recreation. In connection therewith, on 9-5-72, the City acquired three parcels of property from Mianus Valley Trails, Inc. Included in the purchase was a Second Parcel which was described as "Merriebrook Lane (Private Road) Parcel C Area = 2.754 Acres" ... "Said road right of way is fifty (50) feet in perpendicular width and extends from Westover Road across the Mianus River Bridge approximately to the Stamford-Greenwich town line."

As Mr. Ginotti stated at Wednesday night's meeting of the Operations Committee, the City owns the property upon which Merriebrook Road lies. His remarks are based on the documentation noted above. Since the road is City property, the City has the obligation to maintain Merriebrook Lane and has historically done so.

We return to the [principle](#) that an unaccepted road is a public road that has not been accepted by the City. It would be accurate to call Merriebrook Lane a public road for this reason alone. However, in this case, there is additional support for the conclusion that Merriebrook Lane is a public road: because it lies within property owned by the City. Based upon the foregoing facts, the representation which I made last night to the Operations Committee as to the status of Merriebrook Lane is entirely accurate.

Attached are land records (deed and map) of the 1972 transfer of land, including Merriebrook Lane, to the City. Also included is a Legal Opinion in regards to the rights of this public way.

**From:** Mahoney, Dennis  
**Sent:** Thursday, April 21, 2016 10:14 AM  
**To:** Holzweiss, Sheila; BOR\_Operations  
**Subject:** RE: Reminder: Operations Committee meeting tonight, 7:00pm

Chairman Coppola and Acting Chairman (Last night) Zelinsky,

Can you please request a clarification of the Merriebrook Lane Item on our agenda last night? I would like to understand further what it means to be a private road and/or an unaccepted road. I have a list which designates Merriebrook as Unaccepted, but last night it was stated that it was a public road and would like to understand the differences. I appreciate your assistance.

Dennis

**From:** J.R. McMullen [mailto:jrmcmullen.stamford18@gmail.com]  
**Sent:** Friday, April 22, 2016 3:16 PM  
**To:** Adams, Terry; Liebson, Alice; Buckman, Brien; Coppola Jr., Joseph; Coleman, Elise; Giraldo, Willy; Mahoney, Dennis; McMullen, J.R.; Zelinsky, John  
**Cc:** Ryan, Kieran; Rosenberg, Burt; Casolo, Louis; Emmett, Kathryn  
**Subject:** Re: legal memo re Merrybrook lane

Hi John,

As acting Chairperson for the Operation Committee this month, would you mind asking our operations department or the City's legal staff how we are able to determine definitively whether or not any particular piece of infrastructure (road way, bridge, building, telephone pole, etc) within Stamford's borders belongs to the City ? I am surprised there is so much confusion regarding Merriebrook Lane and, assuming the Private Road sign is not an aberration, the pedestrian use only (for City Residents) bridge found at the end of it.

**Reponse to Representative Zelinsky's costing request made during the Operations Committee Meeting:**

Final Design – Initial      \$87,880  
Design Change Order      \$61,430 based on unforeseen conditions associated with footings and abutment walls  
Total Design                  \$149,310

If he asks for total cost:

Inspection and Load Rating	\$8,000
Final Design – Original Scope for simple bridge	\$87,880
Design Change Order – Change in Foundations	\$61,430
Construction	\$1,074,000
Inspection	\$179,700
<b>Total Estimated Project Cost</b>	<b>\$1,411,010</b>

All design and inspection costs are cost-plus not to exceed.

**Response to email inquiry from Kieran Ryan sent Thursday, April 21, 2016 1:08 PM and general discussion by Committee**

Here is a list of those dependent upon the bridge for vehicle access (other than the Brownstein's, the private property owner):

- City staff empty garbage cans and do other maintenance inside the park, driving through the main entrance to the park and using the fire road.
- The bridge is the only access for emergency vehicles into the park.
- The State stocks the river with trout twice a year – in early spring and in the fall.
- The Friends of Mianus River Park regularly deliver plants and other materials to do restoration plantings & trail work. For example, they will be in the park with Aquarion volunteers next week doing a big fencing and planting project.
- The Board of the Friends of MRP & Trout Unlimited (TU) got an EPB permit to do river restoration work along the river's edge over the next few years, which requires getting heavy machinery and boulders into the park. For example, TU was in there last week finishing the first phase of the work.
- The Friends hire Eastern Land Management to bring a watering truck into the park to periodically water their various native plant installations.

From: Ryan, Kieran  
Sent: Thursday, April 21, 2016 1:08 PM  
To: BOR\_Operations; Casolo, Louis; Rosenberg, Burt  
Subject:

Regarding bridge discussed last night - as soon as you cross the bridge a sign greets you with the notice "private road." See pics below. Also, parking for the public to use the park (essentially a series of remote hiking trails), is indeed provided before you get to the bridge.

This email is intended to distribute information in the public domain, and this email is not meant to start an email response-discussion.

Thanks. Kieran.

**Response to email inquiry from Representative Mahoney sent Thursday, April 21, 2016 3:39pm PM**

As we discussed, bridge rehabilitation projects are funded utilizing citywide bridge accounts. The account requests are based and prioritized on the structural condition of the bridge that can change from year to year. It was noted in the 16/17 budget request that the balance of funds in the account will be utilized for the Merriebrook Lane Bridge project.

**Response to a general comment that arose during the Operations Committee meeting:**

In regards to your concern over attracting only one bid, my office spoke to another contractor who attended the pre-bid walkthrough and intended to bid but choose not to. The outcome of that conversation was that had they bid, their cost would have been substantially higher than the sole bidder (on the order of \$500k more).

I trust that I have fully answered the Representatives questions.

Regards,

Louis Casolo  
City Engineer



CITY OF STAMFORD

CITY OF STAMFORD

CITY OF STAMFORD

CITY OF STAMFORD

MERRIEBROOK LN

STATE OF CT

BRIDGE

359 MERRIEBROOK LANE  
PRIVATE PROPERTY

STAMFORD/  
GREENWICH  
BORDER

STATE OF CT

**REPLACEMENT OF  
MERRIEBROOK LANE BRIDGE  
PROPERTY OWNER MAP**

APRIL 22, 2016



0 40 80 160 240 320  
Feet



TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE that MIANUS VALLEY TRAILS, INCORPORATED, a corporation organized and existing under and by virtue of the laws of the State of Connecticut and having a principal place of business in the City of Stamford, County of Fairfield and State of Connecticut, acting herein by HAROLD P. GOODBODY, its President, hereunto duly authorized, for the consideration of FIVE HUNDRED THOUSAND ONE HUNDRED THIRTY TWO DOLLARS (\$500,132) received to its full satisfaction of THE CITY OF STAMFORD, a municipal corporation of the State of Connecticut, lying in the County of Fairfield and State of Connecticut, does hereby grant and release unto the said CITY OF STAMFORD, its successors and assigns forever,

FIRST PARCEL

ALL THAT certain piece, parcel, or tract of land, situated in the City of Stamford County of Fairfield and State of Connecticut, bounded and described as follows:

Northerly 1,520.341 feet, more or less, by other land of the Grantee;  
 Generally Easterly 4,762.652 feet, more or less, by the center line of the Mianus River and being along land now or formerly of Mitchell Holloman, Stepanavicius, Johns, Gore, Langbein, the Estate of H. Augusta Goodbody and Estate of Robert Goodbody, each in part;  
 Southerly 985.463 feet, more or less, by land now or formerly of the Estate of Robert Goodbody, a private road known as Merriebrook Lane, being the Second Parcel described herein, and by land now or formerly of Reynolds, each in part;  
 Westerly 4,287.716 feet, more or less, by land now or formerly of Southgay Realty Corp. and land of the Town of Greenwich, each in part and being along the Stamford-Greenwich town line.

No Conveyance Tax collected  
 2-15-72 R. C. C. Jr.  
 Town Clerk of Stamford

Said property is more particularly shown and designated as "Parcel D Area = 81.791 Acres" on a certain map entitled "Map Showing Property to be Conveyed to the City of Stamford by Mianus Valley Trails, Inc., in Stamford, Conn. June 1972" certified Substantially Correct, William D. Sabia P.E. Stamford, Connecticut June 1972, which map is on file in the Town Clerk's office of the City of Stamford and numbered 9252,

reference thereto being had.

Said premises shall be used for park purposes only.

Said premises are conveyed together with all strips and gores of land, if any, lying between the easterly line being described as the center line of the Mianus River and the adjoining premises.

#### SECOND PARCEL

ALL THAT certain piece, parcel or tract of land, situated in the City of Stamford, County of Fairfield and State of Connecticut, shown and designated as "Merriebrook Lane (Private Road) Parcel C Area = 2.754 Acres" on a certain map entitled "Map Showing Properties to be Conveyed to The City of Stamford by Estate of Robert Goodbody and Estate of H. Augusta Goodbody in Stamford, Conn. May 1972" certified Substantially Correct, William D. Sabia P.E. Stamford, Connecticut, May 1972, which map is on file in the Town Clerk's Office of the City of Stamford and numbered 9251, reference thereto being had. Said road is fifty (50) feet in perpendicular width and extends from Westover Road across the Mianus River to approximately the Stamford-Greenwich town line.

Said parcel is conveyed together with all right, title and interest in and to Westover Road, upon which the premises abut.

Said parcel is conveyed subject to the rights of others to pass and repass for all lawful purposes, including the installation of public utilities and right to maintain the bridge crossing the Mianus River, as set forth in the following deeds:

1. The Merribrooke Corporation to Elizabeth Holman Reynolds dated December 16, 1936 and recorded in the Stamford Land Records in Book 459 at Page 125.
2. The Merribrooke Corporation to Robert Goodbody dated May 1, 1937 and recorded in said Land Records in Book 460 at Page 107.
3. Mianus Valley Trails, Incorporated to Robert Goodbody dated July 18, 1958 and recorded in said Land Records in Book 838 at Page 450.
4. The Merribrooke Corporation to Robert Tuttle Morris dated April 10, 1937 and recorded in said Land Records in Book 460 at Page 8.

Said premises are conveyed also subject to:

1. A Right of Way in favor of land shown and designated as "Tract 3 Area = 18.925 Ac" on a certain map entitled "Map Showing Properties To Be Conveyed To Land/Vest Properties, 1971 Limited Partnership Stamford, Conn." dated Aug. 31, 1972, which map is to be placed on file in the Stamford Land Records.
2. A Right of Way in favor of premises owned now or formerly by the Estate of H. Augusta Goodbody situated on Westover Road, Stamford, Connecticut.



BOTH OF SAID PARCELS Are conveyed subject to:

1. The exercise of any zoning or planning ordinances of the City of Stamford or any other restrictions, regulations, rights or powers imposed or to be imposed thereon by public authority.
2. Taxes of the City of Stamford next being due and payable, which taxes the Grantee shall pay, abate or otherwise dispose of.
3. Any state of facts a new accurate survey may disclose.
4. Riparian rights of others in and to the Mianus River.
5. Rights of the Greenwich Water Company in and to the Mianus River.

TO HAVE AND TO HOLD the above granted and bargained premises, with the privileges and appurtenances thereof, unto the said grantee, its successors and assigns forever, to their own proper use and behoof.

AND ALSO the grantor covenants that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

IN WITNESS WHEREOF, the grantor has hereunto set its corporate name and affixed its seal this 5th day of September, 1972.

Signed, sealed and delivered in the presence of:

MIANUS VALLEY TRAILS, INCORPORATED

M. Dean Montgomery  
M. Dean Montgomery  
Edward J. Enright  
Edward J. Enright

By Harold P. Goodbody  
Harold P. Goodbody  
Its President

STATE OF NEW YORK )  
COUNTY OF NEW YORK )

ss: New York, September 5, 1972

Personally appeared HAROLD P. GOODBODY, President of MIANUS VALLEY TRAILS, INCORPORATED, as aforesaid, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of MIANUS VALLEY TRAILS, INCORPORATED, before me.

Notary Public

The land affected hereby lies in Block 373 of the Stamford Block Map, Received for record Sept. 6, 1972 at 4:01 P.M. and recorded by

Louis A. Clapes, City and Town Clerk



TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE that we, HAROLD P. GOODBODY of the City of New York, County of New York and State of New York and THE UNION TRUST COMPANY, a banking corporation organized under the laws of the State of Connecticut and having its principal place of business in the City of Stamford, acting herein by GEORGE R. REID, its Vice President and Trust Officer, as executors of the Last Will and Testament of ROBERT GOODBODY, late of the City of Stamford, County of Fairfield and State of Connecticut, deceased, by virtue of the power and authority in said Will given to said executors as aforesaid, to sell and convey any and all real estate of which the decedent died seized, and in consideration of the sum of FIFTY SEVEN THOUSAND EIGHT HUNDRED FIFTEEN DOLLARS (\$57,815) received to our full satisfaction of THE CITY OF STAMFORD, a municipal corporation of the State of Connecticut, lying in the County of Fairfield and State of Connecticut do give, grant, bargain, sell and confirm unto the said CITY OF STAMFORD, all the right, title, interest, claim and demand which the said ROBERT GOODBODY had at the time of his decease, or which we, as executors as aforesaid, have or ought to have in and to:

FIRST PARCEL

ALL THAT certain piece, parcel or tract of land, together with the buildings thereon, situated in the City of Stamford, County of Fairfield and State of Connecticut, shown and designated as "Parcel E-1 Area = 3.262 Ac" on a certain map entitled "Map Showing Properties to be Conveyed to The City of Stamford by Estate of Robert Goodbody and Estate of H. Augusta Goodbody in Stamford, Conn. May 1972", certified Substantially Correct William D. Sabia P.E. Stamford, Conn. May 1972, which map is on file in the Town Clerk's Office of the City of Stamford and numbered 9251, reference there-to being had, and in accordance with which map said premises are bounded as follows:

Northerly 387.805 feet by land of the Estate of H. Augusta Goodbody;  
Easterly 421.031 feet by other land of the Grantee;

"No Conveyance Tax collected"

Town Clerk of Stamford

Southerly 403.000 feet by a private road known as Merriebrook Lane;  
 Westerly 340.892 feet by the center line of the Mianus River.

#### SECOND PARCEL

ALL THAT certain piece, parcel or tract of land, situated in the City of Stamford, County of Fairfield and State of Connecticut, shown and designated as "Parcel B-2 Area = .967 Ac" on the above described map, in accordance with which map said premises are bounded as follows:

Northerly 136.60 feet by land of Mianus Valley Trails, Inc.;  
 Easterly 340.892 feet by the center line of the Mianus River;  
 Southwesterly 422.670 feet by a private road known as Merriebrook Lane.

#### THIRD PARCEL

ALL THAT certain piece, parcel or tract of land, situated in the City of Stamford, County of Fairfield and State of Connecticut, shown and designated as "Parcel B-3 Area = .168 Ac" on the above described map, in accordance with which map said premises are bounded as follows:

Northeasterly 147.90 feet by a private road known as Merriebrook Lane;  
 Southerly 121.5 feet by land now or formerly of Anne H. Cutler;  
 Westerly 124.5 feet by the center line of the Mianus River.

Said Parcels are conveyed together with a right of way to pass and repass over Merriebrook Lane for all lawful purposes, including the installation of public utilities and the right to maintain the bridge crossing the Mianus River.

Said parcels are conveyed subject to:

1. The exercise of any zoning or planning ordinances of the City of Stamford or any other restrictions, regulations, rights or powers imposed or to be imposed thereon by public authority.
2. Taxes of the City of Stamford next becoming due and payable, which taxes the Grantee shall pay, abate or otherwise dispose of.
3. Any state of facts a new accurate survey may disclose.
4. Riparian rights of others in and to the Mianus River.
5. Rights of the Greenwich Water Company in and to the Mianus River.
6. Restrictions set forth in a deed from The Merribrooke Corporation to Elizabeth Holman Reynolds dated December 16, 1936 and recorded in said Land Records in Book 459 at Page 125.



7. Rights of others in and to Merriebrook Lane.

8. Said premises shall be used for park purposes only, except for the residential use of the existing buildings on the First Parcel.

TO HAVE AND TO HOLD the above granted and bargained premises, with the privileges and appurtenances thereof, unto the said grantee, its successors and assigns forever, to their own proper use and behoof.

AND ALSO we the said executors do hereby covenant with the said grantee, its successors and assigns, that we have full power and authority as executors as aforesaid to grant and convey the above described premises in manner and form aforesaid and for ourselves and our successors do further covenant to WARRANT AND DEFEND the same to the said grantee, its successors and assigns, against the claims of any person or persons whomsoever, claiming by, from or under us as such executors as aforesaid.

IN WITNESS WHEREOF said HAROLD P. GOODBODY and the UNION TRUST COMPANY, acting herein by GEORGE R. REID, its Vice President and Trust Officer, as executors as aforesaid, have hereunto set their hands and seals this 5th day of September, 1972.

Signed, sealed and delivered in the presence of:

M. Dean Montgomery  
M. Dean Montgomery

Edward J. Enright  
Edward J. Enright

Eve Saroff  
Eve Saroff

Gloria Duffy  
Gloria Duffy

ESTATE OF ROBERT GOODBODY

By Harold P. Goodbody  
Harold P. Goodbody  
Its Executor

and THE UNION TRUST COMPANY

By George R. Reid  
George R. Reid  
Its Executor





STATE OF NEW YORK ) VOL 1294 PAGE 68  
COUNTY OF NEW YORK ) ss: New York

SEP 6 1972

Personally appeared HAROLD P. GOODBODY, Executor of the Estate of Robert Goodbody, as aforesaid, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed as such executor, before me.

*[Signature]*  
Notary Public  
V. 1294 PAGE 68  
Notary Public  
Notary Public  
Notary Public  
Notary Public

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD ) ss: Stamford

Personally appeared THE UNION TRUST COMPANY, acting herein by GEORGE R. REID, its Vice President and Trust Officer, as Executor of the Estate of Robert Goodbody, as aforesaid, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed as such Executor, before me.

*[Signature]*  
Notary Public  
Notary Public  
Notary Public  
Notary Public

The land affected hereby lies in Block 373 of the Stamford Block Map. Received for record Sept. 6, 1972 at 4:02 P.M. and recorded by

Louis A. Clapes, City and Town Clerk

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Map.



BLOCK 373

ZONE RA-1

Map No. 9251

MAP SHOWING  
PROPERTIES  
TO BE CONVEYED TO  
THE CITY OF STAMFORD  
BY  
ESTATE OF ROBERT GOODBODY  
AND  
ESTATE OF H. AUGUSTA GOODBODY  
IN  
STAMFORD, CONN.  
MAY 1972

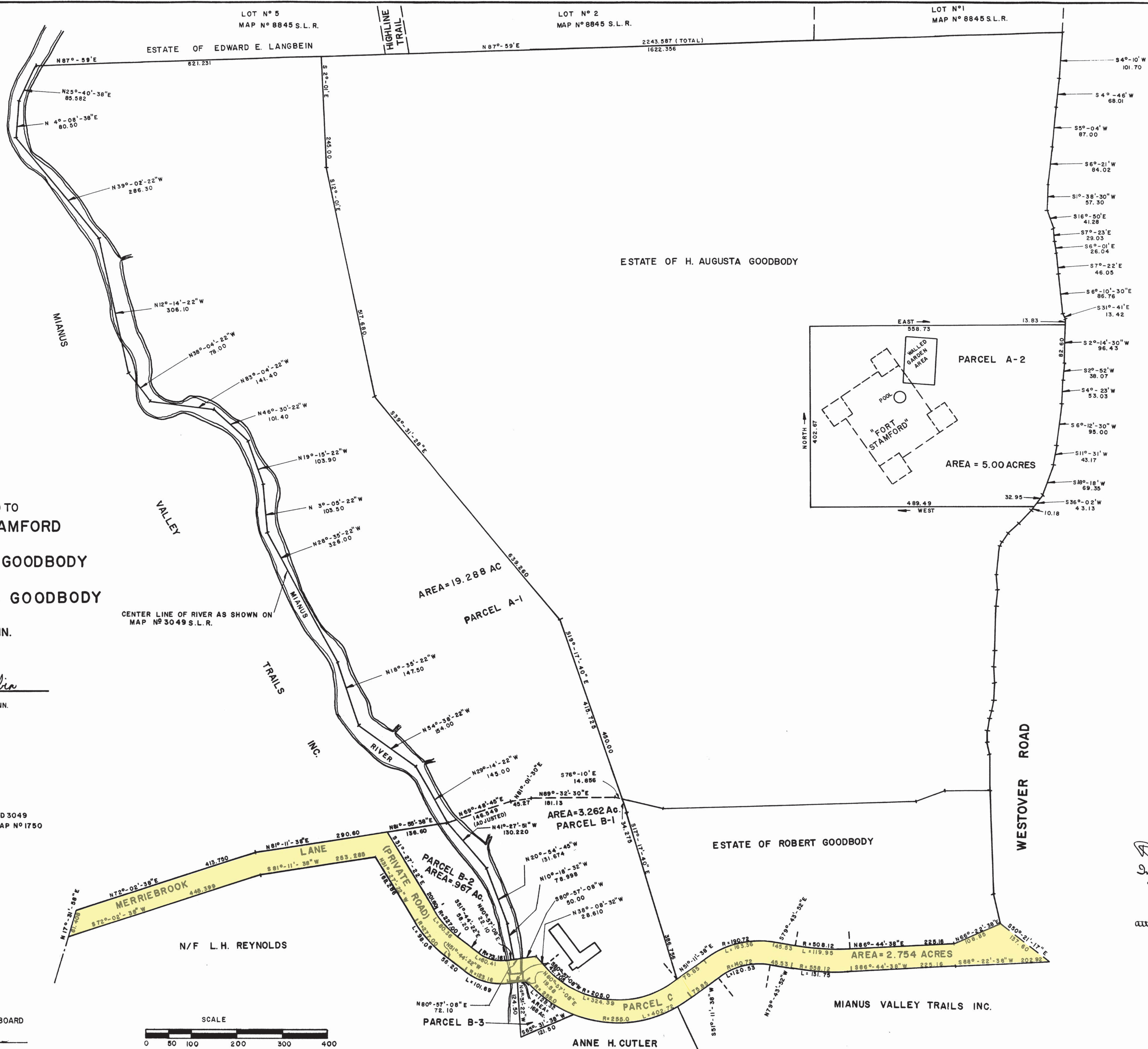
*William D. Sabin*  
CITY ENGINEER  
P.E. LIC. N° 6303 CONN.

NOTE:  
REFER TO MAP N° 1465, 1466 AND 3049  
STAMFORD LAND RECORDS AND MAP N° 1750  
GREENWICH LAND RECORDS.

REVISED JUNE 2, 1972

APPROVED BY THE STAMFORD PLANNING BOARD  
FOR FILING PURPOSES  
DATE *August 25, 1972*  
*Walter A. Walker*  
PLANNING & ZONING DIRECTOR

SCALE  
0 50 100 200 300 400  
1" = 100'



*Received on File  
In Town Clerk's Office  
Stamford, Conn.  
Aug 31, 1972  
attest, Paul J. L. Shults, Town Clerk*

CERTIFIED SUBSTANTIALLY CORRECT  
*William D. Sabin* P.E.  
STAMFORD, CONN. MAY 1972





# MEMO

January 10, 2005

To: Tom Cassone, Corporation Council

From: Robin Stein

Re: Merriebrook Lane entrance to Mianus River Park

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The owner of Treetops at 359 Merriebrook Lane, Don Brownstein, has had several conversations with this office about his right to restrict use of Merriebrook Lane west of the Merriebrook Lane bridge. This portion of road happens to lead to the sole entrance in Stamford to Mianus River Park. It is unclear who has what rights here, and I am therefore in need of your legal opinion. We briefly consulted with Jim Minor about this matter last November. Subsequently, City staff met with Don Brownstein and his attorney Anthony Fraulo on December 2, 2004 at Merriebrook Lane to discuss the matter.

Mr. Brownstein and Attorney Fraulo are under the impression that Merriebrook Lane west of the Merriebrook bridge is a City-owned, "private" road, but that the owner of Treetops has the right to restrict usage. Attorney Fraulo said he has done a title search that supports this claim. The road leads to the park entrance, to the Brownstein's driveway, and to a State of Connecticut owned parcel of land (please see enclosed GIS map). Attached are deeds we have reviewed which do not appear to support Attorney Fraulo's assertion.

Mr. Brownstein has had problems with park users who have driven up to the entrance of the park. Drivers discover that there is no parking on the west side of the bridge near Brownstein's driveway, and then turn around and hit his electronic gate. There is currently no adequate signage that guides people to the parking lot on the east side of the bridge, and the City intends to address this problem in the spring. Mr. Brownstein requested permission from the City to gate the road, and was denied (please see enclosed copies of the correspondence). In the meanwhile, however, Mr. Brownstein has posted "Private Road" signs on freestanding gates to restrict traffic. The gates have solved the car problem, but park users have made many complaints to this office about the signs. They resent the idea that a private property owner can claim control of the road to their park. The situation is



aggravated by the fact that many park users illegally let their dogs walk up the road without their leashes, and Mr. Brownstein and his wife Lisa Tannebaum continue to have frequent altercations with people about this.

Mr. Brownstein has agreed to change the signs, but will not omit the words "Private Road." The problem is that he believes that the public and the City use the road at his discretion. While this is merely awkward now, it may interfere with future park projects. For instance, we are currently working with the National Park Service and volunteers on plans to renovate the trailhead and make new signs.

I would appreciate your advice on how to proceed and about whether we will need to involve the Attorney General's office. I look forward to hearing from you.

Sincerely,

Robin Stein

MAYOR  
DANNEL P. MALLOY



CITY OF STAMFORD  
PLANNING BOARD  
LAND USE BUREAU  
888 WASHINGTON BOULEVARD  
P.O. BOX 10152  
STAMFORD, CT 06904-2152

DIRECTOR OF OPERATIONS  
TIM CURTIN

LAND USE BUREAU CHIEF  
ROBERT M. STEIN, JR., A.I.C.P.

Tel: (203) 977-4711  
Fax: (203) 977-5703  
Email: rstein@ci.stamford.ct.us

March 18, 2005

Mr. Don Brownstein  
359 Merriebrook Lane  
Stamford, CT 06902

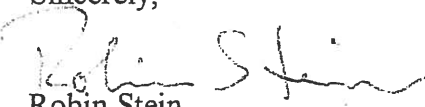
Dear Mr. Brownstein:

Subsequent to our meeting with you and your attorney on December 2, 2004, we requested an opinion from the Office of Legal Affairs regarding public access to Merriebrook Lane west of the bridge. As you are aware, we have also had concerns raised by members of the public regarding this issue.

Attached is a copy of the legal opinion prepared by Assistant Corporation Counsel, James Minor. In light of this opinion, I would hope that we can address your concerns while maintaining the public's right of access. I am instructing staff to prepare a signage plan as recommended by Mr. Minor for implementation by the City.

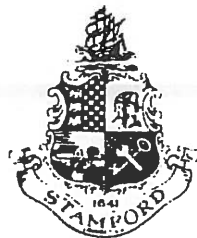
If you have any questions, feel free to contact Mr. Minor or me.

Sincerely,

  
Robin Stein

Cc. Erin McKenna, Senior Planner  
James Minor, Assistant Corporation Counsel  
Tim Curtin, Director of Operations

MAYOR  
DANNEL P. MALLORY



CITY OF STAMFORD  
OFFICE OF LEGAL AFFAIRS

888 WASHINGTON BOULEVARD  
P.O. BOX 10152  
STAMFORD, CT 06904-2152  
(203) 977-4081  
FAX (203) 977-5560

DIRECTOR OF LEGAL AFFAIRS  
AND CORPORATION COUNSEL  
THOMAS M. CASSONE

DEPUTY CORPORATION COUNSEL  
SYBIL V. RICHARDS

ASSISTANT CORPORATION COUNSEL  
JAMES V. MINOR  
JOHN W. MULLIN, JR.  
KENNETH B. POVODATOR  
BURT ROSENBERG  
MICHAEL S. TOMA

Robin Stein  
Erin McKenna  
Planning Board  
Stamford, CT

March 11, 2005

**Re: Rights of owner of 359 Merriebrook Lane to exclude members of public from "private drive" and the entrance to Mianus River Park**

Dear Robin-

You have requested an opinion as to whether the owner of Treetops at 359 Merriebrook Lane, Mr. Brownstein, has the right to restrict use of Merriebrook Lane west of the Merriebrook Lane bridge, which leads to the sole entrance in Stamford to Mianus River Park. Mr. Brownstein and his attorney, Mr. Fraulo, have stated that Merriebrook Lane west of the Merriebrook bridge is a City-owned, "private" road, but that the owner of Treetops has the right to restrict usage. This portion of the road leads to the Stamford park entrance, then to Mr. Brownstein's driveway, and then to a State of Connecticut owned parcel of land which may be the site of a future public parking lot.

**The answer is no. There is nothing in the deeds into 359 Merriebrook Lane that allows the owner to restrict public access to Merriebrook Lane. Also, any attempt to frustrate public usage would be contrary to the past history of use of public and private funds to create, expand and preserve public access to this park.**

I have reviewed the deeds into the property which do not support Attorney Fraulo's assertion that Mr. Brownstein has the right to restrict public access. These deeds all refer to the right to use the private road **along with others**.

Also, a review of the history of the acquisition of land in 1972 indicates that local (Greenwich and Stamford), State and federal funds were used, along with private funds, to purchase land that comprises Mianus River Park for passive recreation. Millions of federal, state and local taxpayer dollars were used to provide public access, and this would be frustrated if a private owner could erect signs that state "private road, authorized vehicles only." Use of freestanding gates may be permissible on a temporary basis, pending final plans for public access, to warn the public that there is no parking now available beyond the Mianus river bridge. But any attempt by a private owner to discourage public pedestrian access would be contrary to the expenditure of the public dollars to create a park open to the public.



Mr. Brownstein has had problems with park users who have driven up to the entrance of the park. Mr. Brownstein states that drivers discover that there is no parking on the west side of the bridge near Mr. Brownstein's driveway, and then turn around and hit his electronic gate. There is currently no adequate signage that guides people to the parking lot next to the Red Barn on the east side of the bridge, and the City intends to address this problem in the spring. Mr. Brownstein requested permission from the City to gate the road, and was denied. In the meanwhile, however, Mr. Brownstein has posted "Private Road" signs on freestanding gates to restrict traffic. The gates have solved the car problem, but park users have complained about the signs since they resent the idea that a private property owner can claim control of the road that is the sole accessway to the entrance to their park. The situation is aggravated by the fact that many park users illegally let their dogs walk up the road without their leashes, and Mr. Brownstein and his wife continue to have altercations with people about this.

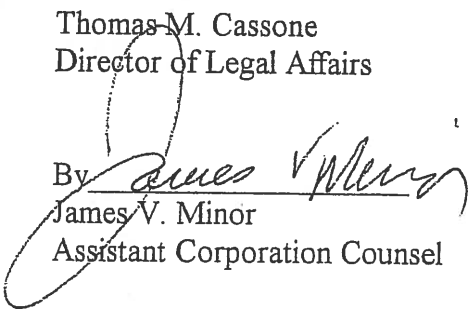
**I suggest that the freestanding gates be allowed to stay pending implementation of plans for signs as to public access, but any signs stating "private road" or "authorized vehicles only" be removed. Otherwise it may appear that the City condones the claim by private property owners to restrict the public from walking to the entranceway to their park.**

If this cannot be accomplished, I suggest that the Attorney General's office be contacted for assistance in determining the next appropriate legal steps.

Please do not hesitate to call if you have any questions.

Very truly yours,

Thomas M. Cassone  
Director of Legal Affairs

By   
James V. Minor  
Assistant Corporation Counsel