

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

PAUL E. ROSE,
WATERFORD FOUNDATION, INC.,
a Virginia nonstock Corporation,

and

LINDA L. LANDRETH,
KEVIN C. CHADWICK,
and
ROBERT C. THOMPSON,
Trustees of the
WATERFORD UNION CEMETERY

v.

PARTIES UNKNOWN, Heirs, representatives, assigns,
devisees, administrators, and successors in interest to
the estate of Lewis Cole (COALE), deceased,

and

PARTIES UNKNOWN, Heirs, representatives, assigns,
devisees, administrators, and successors in interest to
the estate of David Janney, deceased,

and

J.W. BOYD,
HENRY JAMES,
JAMES LEWIS,
JOHN MALLORY,
GEORGE DEAN,
CHARLES COATES, Trustees of "colored burying
ground in Waterford, Virginia,

and

GEORGE W. DEAN,
JAMES LEWIS
CHARLES COATES, Trustees of cemetery "to be used
by the colored people" in Waterford, Virginia,

Civil No. 41144

and

PARTIES UNKNOWN, Any other persons who may
have an interest in the subject matter of this suit.

Respondents.

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FINAL DECREE

This case came on August 29, 2006, to be heard on the Petition to Quiet Title, upon process served upon the Respondents by order of publication, and they failing to appear, plead, answer or demur by August 21, 2006, as stated in the order of publication entered June 26, 2006; upon the evidence taken before this Court in the case of John E. Divine, et al., Trustees v. Parties Unknown, Chancery No. 10375, ore tenus sometime between June 2, 1987 and March 29, 1988; upon the findings and rulings in the aforesaid case made by Carleton Penn, Judge Designate, in the opinion letter dated March 29, 1988, a copy of which is attached hereto and made a part hereof; and upon the evidence presented ore tenus on August 29, 2006.

And it appearing to the Court that the aforesaid case of Divine et al., Trustees v. Parties Unknown, Chancery No. 10375 was dismissed from the docket under the "two year rule" of Va. Code § 8.01-335 by order entered September 3, 1991, without a final decree being entered pursuant to Judge Penn's opinion letter of March 29, 1988, because the Petitioners did not want to pay for a survey of the cemetery land, which is the subject matter of both the aforesaid case and this case.

And the Court being of the opinion that the dismissal of Chancery No. 10375 was not a dismissal on the merits, but that the case was merely removed from the docket without a final decree on the merits.

And the Court being further of the opinion that the opinion expressed by Judge Penn in the March 29, 1988 opinion letter is a judicial determination involving the subject cemetery land

(being the subject of both this case and Chancery No. 10375) that the Petitioners have title by adverse possession of the land of the Waterford Union Cemetery as contained within the fences as they existed in 1987 and 1988.

And the Court finds that the fences as shown on the plat prepared by Horton, Erickson & Taylor, Inc., dated September 3, 2003, of a Boundary Survey, Land of Waterford Union Cemetery, a copy of which is attached hereto and made a part hereof, are in the same location now as they were in 1987 and 1988.

And it appearing to the Court that all persons who may have an interest in the land which is the subject matter of this case, as more fully described below, are properly before the Court; that the Court has jurisdiction over the subject matter of this case; that the Petitioners and their predecessors in title to the land described below have for a period of over fifteen years, i.e., since at least 1964 had exclusive and continuous possession of the land and have used and exercised dominion over the land by maintaining and caring for the land as a cemetery; that such possession has been actual, exclusive, continuous, hostile, open, visible, and notorious under claim of right; that the inability to determine any out conveyance of the portions of the subject property as described below constitutes a defect in or cloud upon the title of the Petitioners; and that the Petitioners are entitled to have the cloud upon their title removed and title perfected in them by virtue of adverse possession.

It is, therefore, ORDERED that title to that certain parcel of land containing 0.9552 acre or 41,609 square feet located on the south side of Fairfax Street in the Village of Waterford, Loudoun County, Virginia, as shown on the plat prepared by Bobby D. Horton, Land Surveyor, Horton, Erickson & Taylor, Inc., dated September 3, 2003, being the same land described in the following conveyances:

- (a) Lots 10 and 11 as conveyed by David Janney and Elizabeth Janney, his wife, to Lewis Cole (or Coale), by deed dated September 15, 1818, and recorded in Deed Book 2Y at Page 12 in the Clerk's Office of this Court;
- (b) One quarter of an acre conveyed by Amos Gibson and Hannah Gibson, his wife, to David Janney, by deed dated April 2, 1816, and recorded in Deed Book 2T at Page 359 in the aforesaid Clerk's Office;
- (c) Approximately one eighth of an acre conveyed by Robert Walker and Eliza Walker, his wife, to J.W. Boyd, Henry James, James Lewis, John Mallory, George Dean and Charles Coates as trustees of the "colored burying ground" by deed dated December 30, 1898, of record in the aforesaid Clerk's Office in Deed Book 7Q at Page 364;
- (d) Approximately one-sixteenth of an acre conveyed by Robert Walker and Eliza Walker, his wife, to George W. Dean, James Lewis and Charles Coates as Trustees of a parcel "to be used by the colored people for a burying ground or place of interment for the dead" by deed dated September 6, 1921, of record in the aforesaid Clerk's Office in Deed Book 9N at Page 141;

is declared to be vested in Paul E. Rose, Waterford Foundation, Inc., a Virginia nonstock corporation, Linda L. Landreth, Kevin C. Chadwick and Robert C. Thompson, Trustees of the Waterford Union Cemetery, duly appointed by order of this Court entered May 19, 2000, at Law No. 23530, their successors and assigns.

And, in order to remove any cloud upon the title to the subject property described herein,
it is further ORDERED

1. That any conveyance by Lewis Cole (Coale), his heirs, successors or assigns of the property conveyed to the said Lewis Cole (Coale) by the Deed of David Janney dated September 15, 1818 and recorded in Deed Book 2Y, Page 12, is hereby declared null, void and of no effect because adverse possession for the prescribed period has perfected title in Petitioners and;
2. that any conveyance by David Janney, his heirs, successors or assigns of the property conveyed to the said David Janney by the Deed of Amos and Hannah Gibson dated April 2, 1816 as recorded in the Deed Book 2T, Page 359, is hereby declared null, void and of no effect because adverse possession for the prescribed period has perfected title in Petitioners and;
3. that any conveyance by J.W. Boyd, Henry James, James Lewis, John Mallory, George Dean and Charles Coates as Trustees of the "colored burying ground", or their heirs, successors or assigns of the property conveyed to the said trustees by the Deed of Robert and Eliza Walker dated December 30, 1898 and recorded in Deed Book 7Q, Page 364 is hereby declared null, void and of no effect because adverse possession for the prescribed period has perfected titled in Petitioners and;
4. that any conveyance by George W. Dean, James Lewis, and Charles Coates as Trustees of a parcel "to be used by the colored people for a burying ground or place in interment for the dead", or their heirs, successors or assigns of the property conveyed to the said trustees by the deed from Robert and Eliza Walker dated September 6, 1921 as recorded in Deed Book 9N, Page 141 is hereby declared null, void and of no effect because adverse possession for the prescribed period has perfected title in Petitioners.

(being the subject of both this case and Chancery No. 10375) that the Petitioners have title by adverse possession of the land of the Waterford Union Cemetery as contained within the fences as they existed in 1987 and 1988.

And the Court finds that the fences as shown on the plat prepared by Horton, Erickson & Taylor, Inc., dated September 3, 2003, of a Boundary Survey, Land of Waterford Union Cemetery, a copy of which is attached hereto and made a part hereof, are in the same location now as they were in 1987 and 1988.

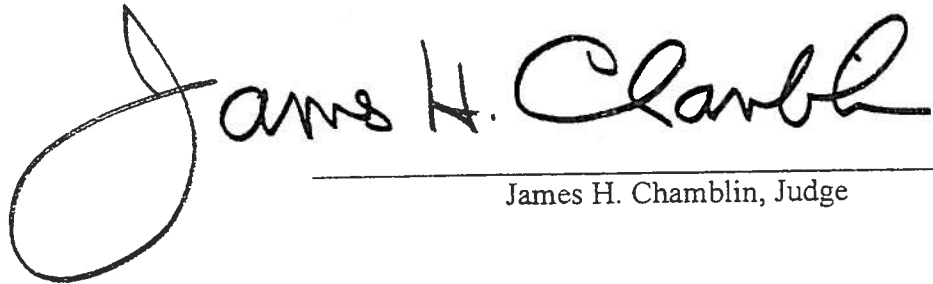
And it appearing to the Court that all persons who may have an interest in the land which is the subject matter of this case, as more fully described below, are properly before the Court; that the Court has jurisdiction over the subject matter of this case; that the Petitioners and their predecessors in title to the land described below have for a period of over fifteen years, i.e., since at least 1964 had exclusive and continuous possession of the land and have used and exercised dominion over the land by maintaining and caring for the land as a cemetery; that such possession has been actual, exclusive, continuous, hostile, open, visible, and notorious under claim of right; that the inability to determine any out conveyance of the portions of the subject property as described below constitutes a defect in or cloud upon the title of the Petitioners; and that the Petitioners are entitled to have the cloud upon their title removed and title perfected in them by virtue of adverse possession.

It is, therefore, ORDERED that title to that certain parcel of land containing 0.9552 acre or 41,609 square feet located on the south side of Fairfax Street in the Village of Waterford, Loudoun County, Virginia, as shown on the plat prepared by Bobby D. Horton, Land Surveyor, Horton, Erickson & Taylor, Inc., dated September 3, 2003, being the same land described in the following conveyances:

And it is further ORDERED that a certified copy of this order be recorded among the land records in the Clerk's Office of this Court, and indexed under the names of all parties hereto.

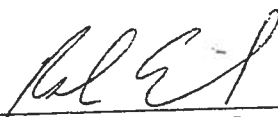
This order is FINAL.

ENTERED this 5th day of September, 2006.



James H. Chamblin, Judge

I ask for this:


Robert Evan Eurich, Esquire (VSB #71669)
SIMMS SHOWERS, LLP
305 Harrison Street, SE, Third Floor
Leesburg, Virginia 20175
703-771-4671
703-771-4681 (fax)

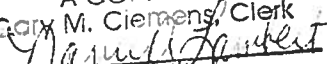
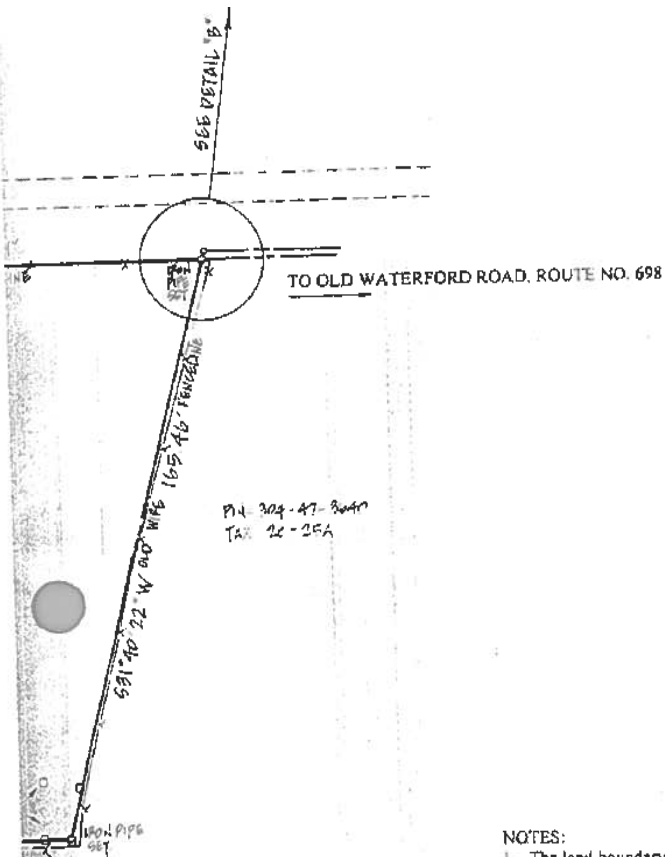
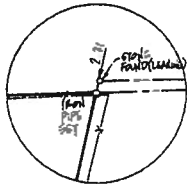
A COPY-TESTE
Gary M. Clemens, Clerk
By 
Deputy Clerk

EXHIBIT
A

DETAIL "B"
SCALE 1"=20'



PN 304-47-3040
TAX 22-25A

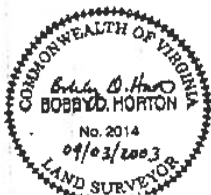
NOTES:

1. The land boundary survey shown is based on a current field survey by this office.
2. No distinct description of the subject property was provided to the surveyor. This survey is bounded by the descriptions of the adjoining properties.

BOUNDARY SURVEY
LAND OF

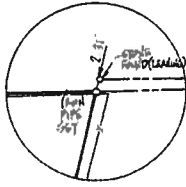
WATERFORD UNION CEMETERY

TOWN OF WATERFORD
LOUDOUN COUNTY, VIRGINIA
SCALE 1"=30'
SEPTEMBER 3, 2003

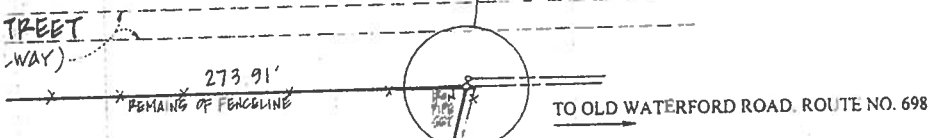


HORTON, ERICKSON & TAYLOR, INC.
LAND SURVEYING
15-A LOUDOUN STREET, S.W.
P.O. BOX 301

DETAIL "B"
SCALE = 1" = 20'



1-0549
-I-14
580
HASTMAN
HASTMAN
DED IN PLAT
LOT 281 PG 9



PIN: 303-17-8429
TAX: 28A-1-I-11
41,609 \$
0.9552 AC.

PIN: 304-47-3247
TAX: 2C-25A

GRAVE PLOT
MARKERS

WIDE FENCELINE 241.15' IRON PIPE SET

EXCHANGE
2260 AND
1996 DEED BOOK
17 CABINET A

NOTES:

1. The land boundary survey shown is based on a current field su
2. No distinct description of the subject property was provided to bounded by the descriptions of the adjoining properties.

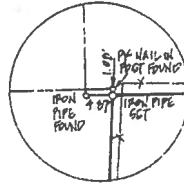
BOUNDARY SURVEY
LAND OF
WATERFORD UNION CI
TOWN OF WATERFORD
LOUDOUN COUNTY, VIRGINIA
SCALE 1"=30'
SEPTEMBER 3, 2003



HORTON, ERICKSON & TAYLOR, INC.
LAND SURVEYING
15-A LOUDOUN STREET, S.W.
ROANOKE, VA

NOTED FROM THE PLAT
RECORDED IN PLAT
CABINET A SLOT 69 PG 3

DETAIL "A"
SCALE 1" = 20'



PIN: 303-17-4967
TAX: 28A-1-I-12
DB: 463-965
WATERFORD FOUNDATION,
INCORPORATED

PIN: 303-18-0549
TAX: 28A-1-I-14
DB: 1807-1580
DAVID A. HASTMAN
VALERIE T. HASTMAN
PLAT RECORDED IN PLAT
CABINET E SLOT 281 PG 9

SEE DETAIL "A"

FAIRFAX STREET
(8' DEPT TRAVELWAY)

TO HIGH STREET, ROUTE NO. 665

97°04'11" E

BOARD FENCELINE

REMAINING

PIN: 304-47-3640
TAX: 28-25A

LOT 10
DB 2"Y"-12

LOT 11
DB 2"Y"-12

PIN: 303-17-84
TAX: 28A-1-I-
41,609 \$
0.9552 AC.

IRON
PIPE
SET

N 20° 11' 35" E

163.76'

OLD WIRE FENCELINE

OLD WIRE FENCELINE

N 73° 53' 52" W

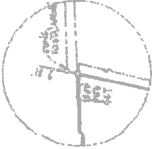
BOARD FENCELINE

OLD WIRE FENCELINE 241.15

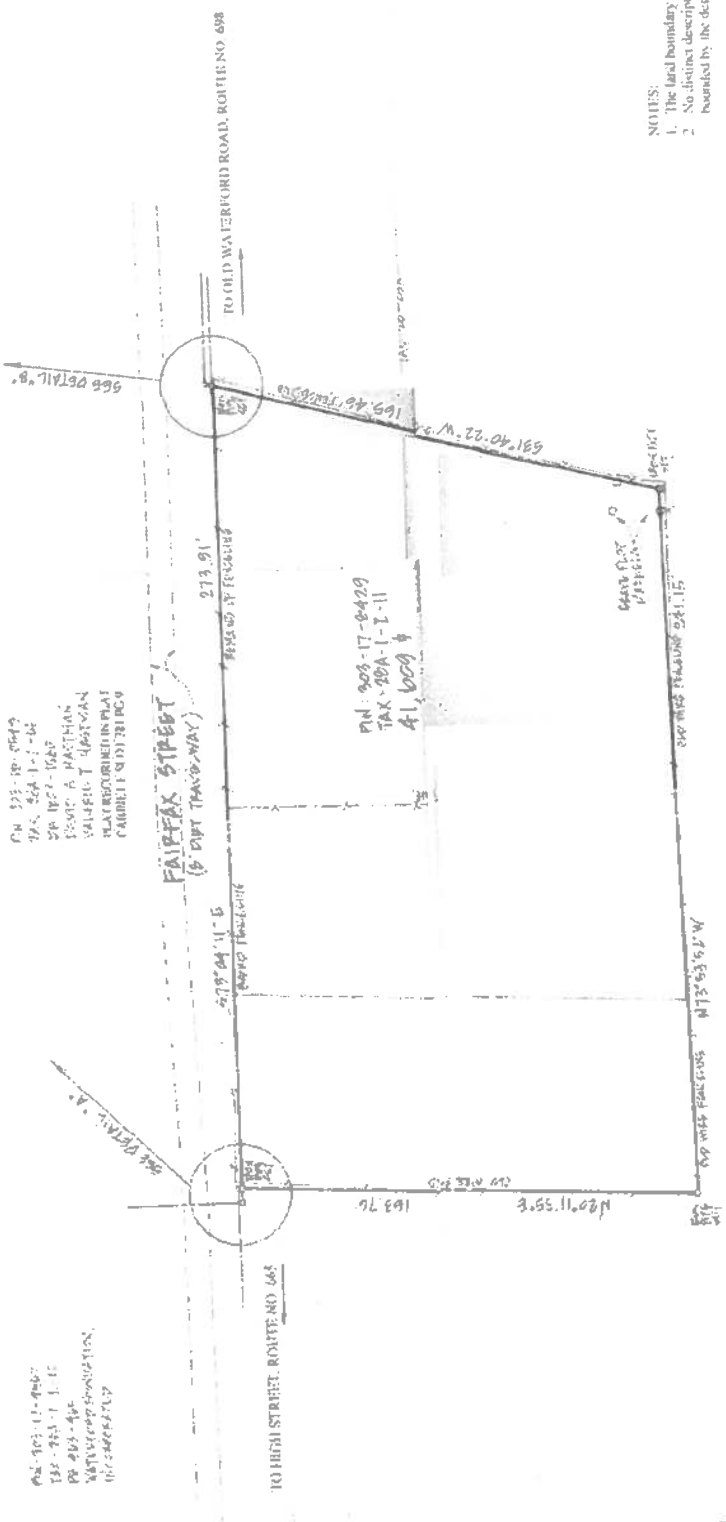
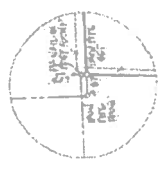
GRAV
MAI

PIN: 304-47-3640
TAX: 28-25A
CONSTRUCTION INTERMEDIARY EXCHANGE
CORP. (55.91%) DEED BOOK 1888-2260 AND
VIRGINIA MCGEEHEE FRIEND (44.09%) DEED BOOK
2113-328. PLAT RECORDED IN PLAT CABINET A
SLOT 609 PG 1

DETAIL "B"
SCALE: 1" = 20'



DETAIL "A"
SCALE: 1" = 20'



ON 573-18-0549
TAX: 20A-1-1-01
SR 1821-1628
ESQ: A. MASTIAN
VALUER: T. HANCOCK
PLAT RECORDS IN PLAT
CABINET A SLOT 609 PG 1

PIN: 209-17-0429
TAX: 20A-1-1-11
A1, 6000

THE 573-18-0549
155 28-25A
CONSTRUCTION (INTERMEDIARY EXCHANGE)
CORP. 155 28-25A DEED BOOK 188-200 AND
VIRGINIA MICHIGNE FRIEND (14 000) PLAT BOOK
211-32 PLAT RECORDED IN PLAT CHANGE A
SLOT 609 PG 1

NOTES:
1. The land boundary survey shown is based on a current field survey by this office.
2. No distinct description of the subject property was provided to the surveyor. This survey is bounded by the descriptions of the adjoining properties.

BOUNDARY SURVEY
LAND OF
WATERFORD UNION CEMETERY
TOWN OF WATERFORD
LOUDOUN COUNTY, VIRGINIA
SCALE 1" = 40'
SEPTEMBER 3, 2014

HORTON, ERICKSON & TAYLOR, INC.
LAND SURVEYING
15 ALLOUAIN STREET, 5 W
P.O. BOX 301
LEESBURG, VIRGINIA 20180-0101

