



Blaise P. Berthiaume
Damien D. Berthiaume
Padgett D. Berthiaume

BERTHIAUME & BERTHIAUME
Formerly Igoe & Beaudette
ATTORNEYS AND COUNSELORS AT LAW

Ralph Igoe (1900-1962)
Arthur L. Beaudette (1920-1982)

March 16, 2021

Ware Board of Selectmen
126 Main Street
Ware, MA 01082

Ware Board of Assessors
126 Main Street
Ware, MA 01082

Ware Conservation Commission ✓
126 Main Street
Ware, MA 01082

Ware Planning Board
126 Main Street
Ware, MA 01082

State Forester
c/o Department of Conservation & Recreation
251 Causeway Street-#900
Boston, MA 02114

RE: Right of First Refusal

150 Old Gilbertville Road, Ware
Assessors' Ref : Map 36, Lots 2, 2-1, & 55

Dear Board Members:

Please consider this letter a "Notice of Intent" pursuant to the provisions of General Laws Chapter 61B section 14.

This office represents the Estate of Kenneth R. Root, Hampshire Probate Docket # HS20P0394EA. The late Kenneth R. Root (hereinafter "Decedent") was owner of property located at 150 Old Gilbertville Road, Ware consisting of 9.804 acres as described in a deed recorded with the Hampshire Registry of Deeds in Book 5673 Page 315, a copy of which is enclosed for your reference. The subject property also shows as Lot 1, Lot 2 and Parcel A on a plan filed with said deeds in Plan Book 179 Plan 239, which is also enclosed for your reference. Decedent submitted 7.801 acres for classification under General Laws Chapter 61B. The Recreational Tax Lien is recorded with said deed in Book 7052 Page 337 and is also enclosed for your reference, 2.003 acres surrounding the house being excluded.



Decedent's personal representative and heirs now wish to sell the entire 9.804 acres. Pursuant to the provisions of General Laws chapter 61B section 9, I have enclosed a copy of the fully executed purchase and sale agreement with an amendment reducing the sale price following a home inspection and an extension of dates upon which I have attested that it is a true and exact copy of the agreement between the parties.

This letter is written pursuant to the provisions of General Laws Chapter 61B section 9, under the provisions of which the Town of Ware has a first refusal option to meet a bona fide offer to purchase the land. In that regard, please consider this a statement of intent to sell that all of Decedent's property at 150 Old Gilbertville Road. I am informed by buyer's counsel that buyer does not intend to change the use of the property but requires that it be removed from classification under G. L. c. 61B. Decedent's Personal Representative is his surviving spouse, Carol Root, whose address is 150 Old Gilbertville Road, Ware and whose telephone number is (413) 967-5572.

For the convenience of the Selectmen, I have enclosed a proposed statement confirming the Town's non-exercise of its right of first refusal option.

Very truly yours,


Blaise P. Berthiaume

Enc.

QUITCLAIM DEED

We, **JEAN E. BROOM**, of Belchertown, Hampshire County, Massachusetts and **KENNETH R. ROOT**, of 150 Old Gilbertville Road, Ware, Hampshire County, Massachusetts

in consideration of * **LESS THAN ONE HUNDRED AND 00/100 Dollars** *

150 Old Gilbertville Road
grant to **KENNETH R. ROOT**, of Ware, Hampshire County, Massachusetts

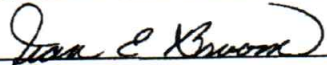
with *quitclaim covenants*


the land and buildings in said Ware, Hampshire County, MA more particularly bounded and described as follows:

See "EXHIBIT A" attached hereto and made a part of.

Being the same premises conveyed to the grantors by deed of Eleanor B. Kuras dated February 22, 1996 and recorded with the Hampshire County Registry of Deeds at Book 4830, Pages 0199-0201.

Executed as a sealed instrument this 27th day of April, 1999:


Jean E. Broom



Kenneth R. Root

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

April 27, 1999

Then personally appeared Jean E. Broom and Kenneth R. Root and acknowledged the foregoing instrument to be their free act and deed, before me,


Richard H. Maynard, Notary Public
My Commission Expires: December 14, 2001

150 Old Gilbertville Rd., Ware

"EXHIBIT A"

LOT 1

The land in Ware, Hampshire County, MA more particularly described as follows:

Beginning on the westerly side of a travelled way known as Sullivan Road (so called) and designated as Lot 1 as shown on a Plan of Land in Ware, MA owned by Eleanor B. Kuras, Trustee of the Hyde Realty Trust, dated June 22, 1995 by Moulton Land Surveying, Inc. and recorded with Hampshire County Registry of Deeds in Plan Book 179, Plan 239.

Beginning at a point on said westerly side of a travelled way known as Sullivan Road (so called) 30.88 feet from a 3/4" pipe set down 0.3' in a stone wall; thence 30.88 feet to the pipe;

Thence N. 82 degrees 04'00" W. 397.83 feet to a 3/4" pipe set up 0.5";

Thence turning and running S. 41 degrees 14'16" W. 653.77 feet, mostly along a barbed wire fence to a 3/4" pipe set up 0.4' in the corner of two stone walls;

Thence turning and running N. 80 degrees 24'10" W. 90.00 feet along a stone wall to a drill hole set;

Thence turning and running N. 24 degrees 57'35" E. 681.78 feet to a 3/4" pipe set in a corner of two stone walls;

Thence continuing N. 16 degrees 14'14" E. 269.93 feet to a 3/4" pipe set in a stone wall running along Stagecoach Road;

Thence turning and running S. 66 degrees 25'15" E. 536.68 feet along a stone wall running along Stagecoach Road to a 3/4" pipe set down 1';

Thence turning and running S. 39 degrees 00'36" E. 155.32 feet to a point;

Thence turning and running S. 03 degrees 54'31" W. 124.75 feet to the point of beginning.

Containing 6.663 acres.

LOT 2

The land located on Old Gilbertville Road and designated as Lot 2 as shown on a Plan of Land in Ware, MA owned by Eleanor B. Kuras, Trustee of the Hyde Realty Trust, dated June 22, 1995 by Moulton Land Surveying, Inc. and recorded with the Hampshire County Registry of Deeds in Plan Book 179, Plan 239.

Beginning on the westerly side of Old Gilbertville Road at a 3/4" pipe set in a stone wall;

Thence continuing along a curve in the stone wall with a radius of 18.00' and a length of 38.81' to a point in the stone wall;

Thence continuing along Sullivan Road N. 00 degrees 48'00" E. 143.04 feet to a pipe set up 0.7' in the stone wall;

Thence continuing N. 03 degrees 54'31" E. 246.71 feet to a 3/4" pipe set up 0.7' to a point and the end of a stone wall;

Thence turning S. 72 degrees 04'18" E. 34.17 feet to a point at the beginning of a stone wall;
Thence running S. 61 degrees 06'23" E. 141.50 feet along the stone wall and Old Stagecoach Road to a 3/4" pipe set in the edge of the stone wall, up 0.5';
Thence running S. 52 degrees 55'46" E. 192.79 feet to a 3/4" pipe set up 0.4' at the end of the stone wall;
Thence curving along a radius of 17.00' with a length of 34.24 and an arc of 115 degrees 24'59" to a drill hole set in the stone wall;
Thence S. 62 degrees 29'13" W. 104.68 feet to a 3/4" pipe set flush in the stone wall;
Thence S. 57 degrees 16'03" W. 244.96 feet to a 3/4" pipe set at the point of beginning.

Containing 1.725 acres.

PARCEL A

The land located off Old Stagecoach Road and designated as Parcel A as shown on a Plan of Land in Ware, MA owned by Eleanor B. Kuras, Trustee of the Hyde Realty Trust, dated June 22, 1995 by Moulton Land Surveying, Inc. and recorded with Hampshire County Registry of Deeds in Plan Book 179, Page 239.

Beginning on the easterly side of Old Stagecoach Road at a point in the beginning of a stone wall at a 3/4" pipe set up 0.7';
Thence running N. 05 degrees 55'49" E. 375.10 feet to a 3/4" pipe set flush in the corner of two stone walls;
Thence turning and running S. 79 degrees 53'26" E. 119.27 feet to a 3/4" pipe set flush in the intersection of two stone walls;
Thence turning and running S. 10 degrees 26'55" W. 143.36 feet to a 3/4" pipe set flush in the corner of two stone walls;
Thence turning and running S. 75 degrees 52'42" E. 90.76 feet to a pipe 3/4" set up 0.3' in the corner of two stone walls;
Thence turning and running S. 05 degrees 42'02" W. 169.11 feet to a 3/4" pipe set up 0.4' in the corner of two stone walls;
Thence turning and running S. 65 degrees 13'41" W. 152.32 feet to a 3/4" pipe set flush;
Thence turning and running N. 72 degrees 04'18" W. 40.17 feet to a point;
Thence turning and running N. 39 degrees 00'36" W. 39.51 feet to the point of beginning.

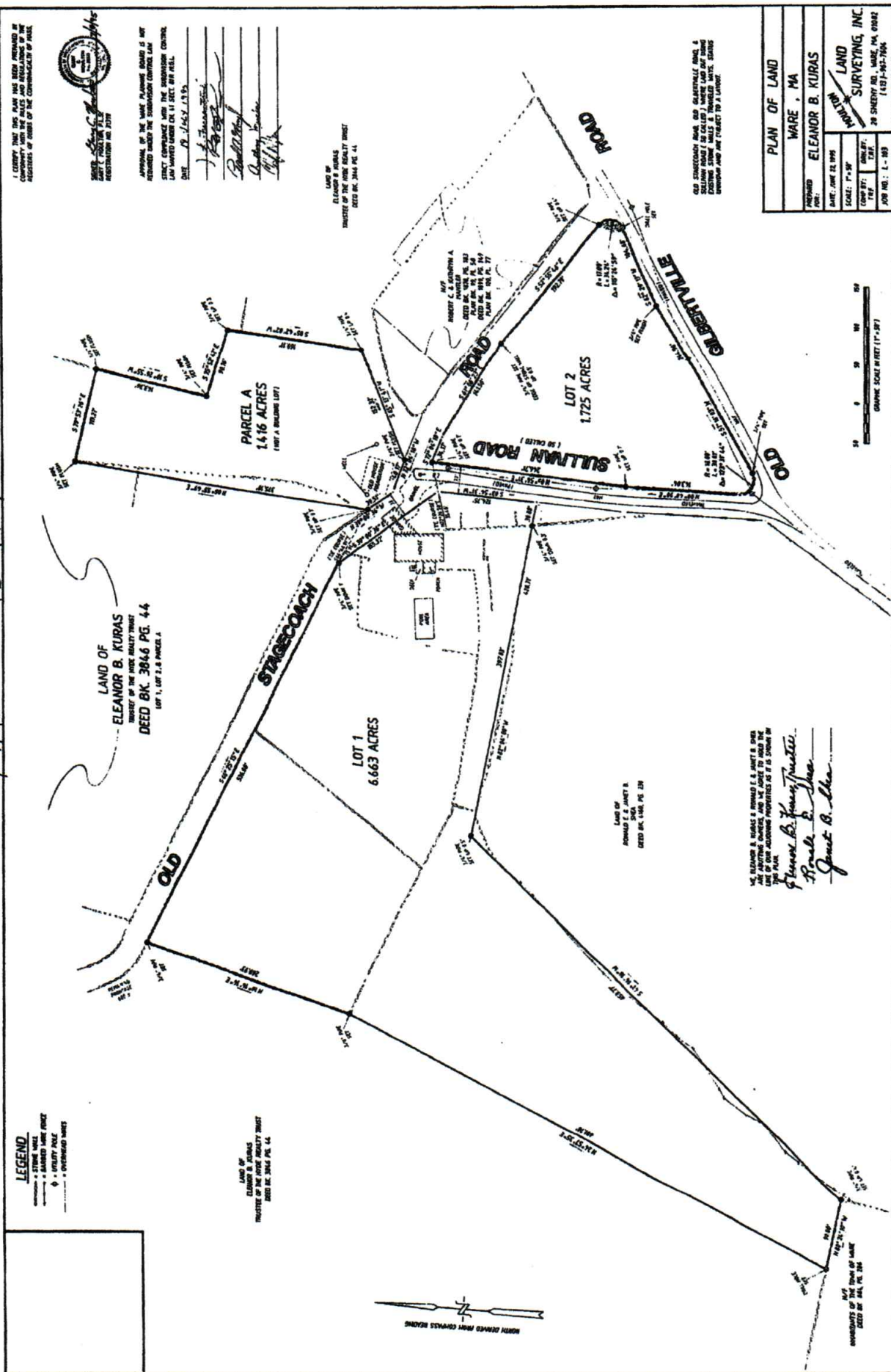
Containing 1.416 acres--not considered to be a building lot.

All three lots are a portion of premises conveyed to Eleanor B. Kuras, Trustee of the Hyde Realty Trust in Book 3846, Page 44.

Being the same premises conveyed to grantors by deed of Eleanor B. Kuras dated February 22, 1996 and recorded with the Hampshire County Registry of Deeds at Book 4830, Pages 0199-0201.

ATTEST: HAMPSHIRE, *Marianne L. Donohue* REGISTER
MARIANNE L. DONOHUE

2/27/1996 PB 179/239



BK 07052 PG 337

THIS INSTRUMENT MUST BE FILED FOR RECORD OR REGISTRATION

STATE TAX FORM CL-3
(REV. 10/93)

THE COMMONWEALTH OF MASSACHUSETTS



2003 00008723

Bk: 7062Pg: 337 Page: 1 of 1
Recorded: 02/28/2003 09:11 AMTOWN OF WARE
NAME OF CITY OR TOWN

OFFICE OF THE BOARD OF ASSESSORS

CLASSIFIED FOREST-AGRICULTURAL OR HORTICULTURAL-RECREATIONAL LAND TAX LIEN

The Board of Assessors of the city/town of WARE hereby states it has accepted and approved the application of KENNETH R. ROOT owner(s) of the real property described below, for the valuation, assessment and taxation of that property as classified forest ☐ agricultural or horticultural ☐ recreational ☒ land under the provisions of General Laws Chapter 61 ☐ 61A ☐ 61B ☒. This classification is effective as of January 1, 2002 for the fiscal year beginning July 1, 2002.

DESCRIPTION OF PROPERTY

(The description must be sufficiently accurate to identify the property. In the case of registered land, the Certificate of Title Number and the Registry Volume and Page must be given.)

A PARCEL OF LAND, LOCATED ON OLD GILBERTVILLE ROAD, MAP 36, LOT 2-1, 1.727 ACRES;
A PARCEL OF LAND, LOCATED ON OLD STAGECOACH ROAD, MAP 36, LOT 55, 1.417 ACRES; A
PARCEL OF LAND, LOCATED ON SULLIVAN ROAD, MAP 36, LOT 2, 4.657 ACRES, ALL ON THE
ASSESSORS MAP; ALL RECORDED IN HAMPSHIRE COUNTY REGISTRY OF DEEDS, BOOK 5673,
PAGE 315.

This statement made on the FIFTH day of FEBRUARY, 2003 constitutes a lien upon the property as provided in General laws Chapter 61 §2 ☐ 61A §9 ☐ 61B §6 ☒.

Peter D. Harder
Peter D. Harder

Paul G. Pariseau
Paul G. Pariseau

John E. McQuaid
BOARD OF ASSESSORS
John E. McQuaid

THE COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE ss.

FEBRUARY 5, 2003

Then personally appeared the above named PETER D. HARDER, PAUL G. PARISEAU, JOHN E. MCQUAID Board of Assessors for the city/town of WARE and acknowledged the foregoing instrument to be their free act and deed, before me.

Wendy L. Lenny
Notary Public/Justice of the Peace

My commission expires

3-07-08

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

FORM 890 A

H&W

HOBBS & WARREN™

ATTEST: HAMPSHIRE, *Marianne L. Donohue*, REGISTER
MARIANNE L. DONOHUE

I hereby certify that this is a true and exact copy of the purchase and sale agreement between the parties.

ated: March 16, 2021


Blaise P. Berthiaume

FROM THE OFFICE OF
BERTHIAUME & BERTHIAUME

(FORMERLY IGOE & BEAUDETTE)
ATTORNEYS & COUNSELORS AT LAW

4 Elm Street
Post Office Box 190
North Brookfield, Massachusetts 01535

Telephone 508-867-6885

PURCHASE AND SALE AGREEMENT

AGREEMENT made this 25 day of February 2021

1. PARTIES

Carol A. Root, Personal Representative of the Estate of Kenneth R. Root, Hampshire Probate Docket # HS20P0394EA, hereinafter called "**SELLER**" agrees to sell, and **Timothy E. Wells and Cathleen S. Wells** of Hardwick, MA, or their nominee, hereinafter called the "**BUYER**" agree to buy, on the terms and conditions hereafter set forth, the real property described hereinafter called the "Premises."

2. DESCRIPTION OF THE PREMISES:

The Premises, including all appurtenant easements, if any, which are the subject of this agreement consist of land with buildings thereon located at 150 Old Gilbertville Road, Ware, MA as described in a deed recorded with the Hampshire Registry of Deeds in Book 5673 Page 315.

3. PURCHASE PRICE

The agreed purchase price for the premises is: **THREE HUNDRED EIGHTY FIVE THOUSAND and no/100 (\$385,000.00) DOLLARS** of which

\$ 3,000.00 has been paid as a deposit on or before the date hereof, and

\$ 382,000.00 are to be paid upon the delivery and recording of the deed, by certified, cashier's, treasurer's, or the mortgage lender's attorney's IOLTA check, or any combination thereof

\$ 385,000.00 TOTAL

4. TIME FOR PERFORMANCE

Unless otherwise agreed in writing, the deed is to be delivered and recorded and the Purchase Price paid, at 1:00 p.m. on April 12, 2021 at the office of the Buyer's Lender's Attorney. Seller reserves the right to deliver original documents in advance of closing and request that proceeds be returned via overnight mail, in which event Seller shall not be obligated to attend the closing.

5. IMPROVEMENT AND FIXTURES:

Included in the sale, as part of the Premises, are the permanent buildings, structures, and improvements now located thereon, and the fixtures belonging to the SELLER and used in connection therewith, including, if such are attached to and now used in connection with the Premises.

And specifically included are: Range, Dishwasher, Refrigerator, Microwave, Washer, Dryer and Pellet Stove.

And specifically excluded are: all personal items

6. TITLE AND DEED

The Premises are to be conveyed by a good and sufficient quitclaim deed running to the **BUYER**, or to a nominee designated by the **BUYER**, by written notice sent to **SELLER** or **SELLER'S** attorney, by certified mail, return receipt requested, or by facsimile transmission, at least seven days before the deed is to be delivered as herein provided. Said deed shall convey a good and clear record and marketable title to the premises, to the **BUYER** or **BUYER'S** nominee, free from all encumbrances, except:

- a. The Provisions of local zoning laws, if any;
- b. Such taxes for the current fiscal year as are not due and payable on the date of the delivery of such deed;
- c. Any liens for municipal betterments assessed after the date of this *agreement*;
- d. All Easements, restrictions and rights of ways, if any, of record to the extent the same are now in force and applicable, provided that they do not substantially interfere with the use of the premises for residential purposes.

The Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless:

- I. All structures and improvements, including but not limited to driveways, garages and all means of access to the Premises shall be wholly within the lot lines of the Premises and shall not encroach upon or under any property not within such lines;
- II. The Premises abut a public way or a way over which the public has a right of access;
- III. No building, structure, improvements or property of any kind encroaches upon or under the Premises from other Premises;

7. PLANS

No new plan shall be required. The parties hereto rely on the plan filed with the Hampshire Registry of Deeds in Plan Book 179 Plan 239.

8. REGISTERED TITLE

SELLER represents that the subject property is not registered land.

9. POSSESSION AND CONDITION OF PREMISES

Full possession of the Premises, free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, the Premises to be then in the same condition as they now are, reasonable use and wear thereof excepted;. The **BUYER** shall be entitled to an inspection of said premises on the day prior to, or day of, the delivery of the deed.

The property is being sold in its "AS IS" condition.

Until the delivery of the deed, the Seller shall maintain fire and extended coverage insurance on said premises in the amount as presently held. In the event of damage to the premises by fire or other casualty covered by the extended coverage insurance, the Seller shall immediately notify the Buyer by certified mail. If said damage equals or exceeds \$5,000.00 the Buyer may at his option within fourteen days of the receipt of said notice elect in writing by certified mail to cancel this agreement, in which event the deposit shall be immediately returned and all obligations of the parties hereto shall terminate. In the event that such damage does not equal or exceed \$5,000.00 or if the Buyer has not exercised his option at the time of conveyance called for by this agreement, then unless the Seller shall have previously restored the property to its former condition, the Seller shall pay over to the Buyer whatever amounts he received, if any, from insurance on the premises for such damage, and if Seller's claim for damage to the property has not been paid he will assign such claim to the Buyer at the time of conveyance called for by this agreement. Should the Buyer's lender refuse to lend on the property due to damage as contemplated in this clause all deposits shall be refunded to Buyer.

10. EXTENSION TO PERFECT TITLE

If the **SELLER** shall be unable to give title or make conveyance, or deliver possession of the Premises, all as herein provided, or if at the time of delivery of the deed the Premises do not conform with the provisions hereof, then the **SELLER** shall give written notice to the **BUYER**, at or before the time for performance hereof, of the extension of the time for performance for up to thirty days. Upon giving such notice to **BUYER**, the **SELLER** shall use reasonable efforts to remove any defect in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be. Except for the expenditure of funds to discharge existing mortgages or mechanics or materialmen liens affecting the Premises, the **SELLER** shall not be obligated or required to incur or expend more than \$2,000.00 or 2% of the Purchase Price, whichever is greater, in the exercise of reasonable effort.

Notwithstanding the foregoing, if **SELLER** extends the date and time for performance as above provided, and if the terms of **BUYER'S** Lender's purchase money mortgage commitment under Paragraph 24 of this Agreement is changed to the detriment of **BUYER** on account of such extension or if there is a fee associated with the Buyer extending their rate and loan terms, then the **BUYER** may elect to cancel this Agreement but only if **BUYER** delivers written notice of such cancellation, together with evidence of such change in the terms of the commitment, to **SELLER** or to **SELLER'S** attorney no later than fourteen (14) calendar days following the date **SELLER** gives written notice to **BUYERS** of said extension. In the event **BUYER** elects to cancel this Agreement, then all deposits paid hereunder shall be returned to **BUYER**.

11. FAILURE TO PERFECT TITLE

If at the expiration of the extended time the **SELLER** shall have failed to remove any defects in title, deliver possession, or make the Premises conform as the case may be all as herein agreed, then any payments made under this agreement shall be forthwith refunded to **BUYER** and all obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

12. BUYER'S ELECTION TO ACCEPT TITLE

The **BUYER** shall have the election, at either the original or any extended time or performance, to accept such title as the **SELLER** can deliver to the Premises or to accept the Premises, in its then condition, and to pay therefore the purchase price without deduction, in which case the **SELLER** shall convey such title.

13. ACCEPTANCE OF DEED

The acceptance of a deed by the **BUYER** or by **BUYER'S** nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

14. USE OF PROCEEDS TO CLEAR TITLE

To enable the **SELLER** to make conveyance as provided, the **SELLER** shall at the time of delivery and recording the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments releasing or discharging such encumbrances or interests are recorded simultaneously with the delivery and recording of such deed, or the holders of such encumbrances or interests have agreed, in writing, to deliver, without condition, or upon reasonable conditions, a release or discharge of such encumbrances or interests, in recordable form, within a reasonable time thereafter. Notwithstanding the foregoing, if the encumbrance or interest is held by a non-institutional holder, the release or discharge must be recorded simultaneously with the recording of the deed.

15. INSURANCE

Until the delivery and recording of the deed, the **SELLER** shall maintain **SELLER'S** current insurance policy with respect to the Premises in such amounts as the Premises are currently insured as of the date of this agreement.

16. ADJUSTMENTS

To the extent applicable, water, sewer use charges, fuel, rents and real estate taxes for the current fiscal year as of the time of delivery and recording of the deed, shall be apportioned and adjusted, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the **BUYER** at the time of delivery and recording of the deed. If after delivery and recording of the Deed, an error in any adjustment is discovered, the **SELLER** and **BUYER** agree to re-adjust and reimburse the **SELLER** or **BUYER** as the case may be. This provision shall survive the closing.

17. ADJUSTMENT OF UNASSESSED TAXES

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

18. BROKER'S FEE

A broker's fee for professional services in an amount agreed upon between **SELLER** and **BROKER** is due from the **SELLER** to Real Living Real Estate Professionals who shall in turn pay Street Realty as agreed and reflected on the MLS listing sheet, if and when title passes to **BUYER** by delivery and recording of the deed and the consideration is fully paid and not otherwise, which broker shall be responsible to pay any co-broker fee due and payable.

BUYER warrants and represents to **SELLER** and **SELLER** represents and warrants to **BUYER** that it has dealt with no broker or other person entitled to a broker's commission in connection with the negotiation or execution of this Agreement or the consummation of the transaction contemplated hereby except the Broker(s) listed herein and each agrees to hold the other harmless and indemnify the other against all damages, claims, losses and liabilities, including legal fees, incurred by the other, arising out of or resulting from the failure of its representation and warranty. This provision shall survive the closing hereunder.

19. DEPOSIT

The deposit given at the time of the signing of this agreement will be held by the listing broker in an account without interest to either **SELLER** or **BUYER**, unless otherwise agreed in writing. All deposits made hereunder shall be held, in escrow, by the Listing Broker, subject to the terms of this agreement, and shall be paid to the **SELLER** or **BUYER** under the terms hereof, but in the event the holder of the deposit is notified in writing of a dispute between **SELLER** and **BUYER** as to whom the deposits belong, then the holder of the deposit shall retain said deposits until a court of competent jurisdiction finally determines who is entitled to the funds held as deposit, or until **SELLER** and **BUYER** direct the holder of the deposit, in writing, as to the agreed disbursement of the deposit. The District Court having jurisdiction over the city or town in which the property is located shall be conclusively presumed to be the court of competent jurisdiction. If the amount of the deposit is less than \$7,500.00, than such action will be brought in the small claims session of said court. If said amount exceeds \$25,000.00, such action shall be brought in the Superior Court for the county in which the property lies.

21. BUYER'S DEFAULT

If the **BUYER** shall fail to fulfill the **BUYER'S** agreements herein, the **BUYER** shall be liable for 5% of the purchase price, payable to **SELLER** out of **BUYER'S** deposit, as liquidated damages and said damages shall be **SELLER'S** sole remedy at law and equity for any default by the **BUYER** under this agreement.

22. LIABILITY OF FIDUCIARY

If the **SELLER** or **BUYER** executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound and neither the **SELLER** or **BUYER** so executing, nor any shareholder, officer, director, manager, member or beneficiary or any trust, shall be personally liable for any obligation, expressed or implied, hereunder.

23. WARRANTIES AND REPRESENTATION

The **BUYER** acknowledges that the **BUYER** has not been influenced to enter into this transaction nor has he or she relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing.

The Seller is the owner of all fixtures and personal property conveyed hereunder, except as specifically provided herein, and there are no conditional sales or retail installment sale agreements applicable to any such fixtures and personal property conveyed hereunder.

The Seller agrees to assign and transfer at the time of closing all then effective warranties and guarantees issued by any person or entity with regard to the premises as a whole or any parts thereof, including any appliances or devices to be conveyed hereunder, if the same can be assigned.

The SELLER represents that to the best of the SELLER'S knowledge the SELLER has never generated, stored or disposed of hazardous substances on the premises other than common household chemicals and that the SELLER is not aware of the generation, storage or disposal of such substances on the premises by anyone else. The SELLER further represents that the SELLER has never caused the release or threat of release of oil on the premises and that the SELLER is not aware of the release or threat of release of oil on the premises by anyone else. For the purpose of this paragraph, (1) "hazardous substances" shall mean (a) "hazardous substances" as defined in the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. Section 9601 et seq., and regulations thereunder and (b) urea formaldehyde foamed-in-place insulation, UFFI, so called, (2) "release", "threat of release" or "oil" as such terms are defined in the Massachusetts Oil and Hazardous material Release Prevention and Response Act, as amended, M.G.L.c 21E and regulation thereunder. The SELLER represents to the best of his/her knowledge to BUYER that, no insulation or other materials containing urea-formaldehyde have been used or incorporated into said premises and the SELLER will, accordingly, execute, at the time of the delivery of the deed, an Affidavit to the foregoing, if so required by BUYER's lender.

Seller represents and warrants that to the best of Seller's knowledge and belief there is no underground oil tank on premises and that no such tank has been removed from the premises. This Paragraph shall survive delivery of the deed.

SELLER represents that there is no pending bankruptcy, mortgage foreclosure, or other proceeding which might in any material way impact adversely on SELLER's ability to perform under this Agreement.

The SELLER has no knowledge of any municipal betterments affecting the Premises voted or contemplated by the municipality in which the town is located which is likely to result in an assessment against the Premises.

24. FINANCING

BUYER agrees to promptly apply for a mortgage loan to be secured by the Premises at **Any Licensed Mortgage Lender or Institutional Mortgage Lender** in the amount of **\$355,000.00** payable upon standard terms and conditions. **BUYER** agrees to furnish promptly to the lender such information in connection therewith as the lender may request. It is agreed that, if the **BUYER** complies with the foregoing, this Agreement shall be contingent upon the **BUYER** receiving a written commitment for said loan from the Lender on or before March 17, 2021 (the "commitment date"). If the **BUYER**, notwithstanding compliance with the foregoing, shall not have received such a commitment on or before the commitment date, the **BUYER** shall, no later than the commitment date send notice in writing of such event to **SELLER** or **SELLER'S** attorney whereupon all deposits shall be returned to **BUYER** and this Agreement shall terminate and no party hereto shall thereafter have any recourse against any other party hereto at law or equity. **BUYER** shall be deemed to have waived all rights under this Paragraph if **BUYER** shall not send such notice to **SELLER** on or before the commitment date. **BUYER** shall only be obligated to apply to one 1) mortgage lender, however **BUYER** shall not have used diligent efforts unless **BUYER** has submitted a complete loan application within 5 business days of the complete execution of this agreement.

The Buyer and Seller acknowledge that mortgage regulations effective **October 3, 2015**, may affect the ability to close on the date and time specified in this offer and the purchase and sale agreement to be signed hereafter. To provide for possible delays and to accommodate each other reasonably if needed, the Seller and Buyer agree as follows:

- a) In the event Buyer's mortgage lender is unable to close on the closing date set forth in the executed Purchase & Sale Agreement, the closing date may be extended upon written notice from Buyer to Seller for a period not to exceed eight business days, time remaining of the essence. Notwithstanding specification of the extended closing date in Buyer's written notice, the Buyer retains the right to further extend the closing date by subsequent written notice, provided the extended closing date does not exceed the eighth business day following the original closing date set forth in the Purchase & Sale Agreement.
- b) In the event Buyer's ability to purchase is contingent upon the completion of the sale of Buyer's present residence, but the closing of Buyer's present residence is delayed due to TRID regulation compliance, then Buyer shall be entitled upon written notice to a like delay in closing date, not to exceed a period of eight business days, time remaining of the essence. Notwithstanding specification of the extended closing date in Buyer's written notice, the Buyer retains the right to further extend the closing date by subsequent written notice, provided the extended closing date does not exceed the eighth business day following the original closing date set forth in the Purchase & Sale Agreement.
- c) All utility readings (water, sewer, fuel value, etc., as applicable) shall be conducted 10 days prior to the specified closing date. Seller working together with the listing agent (if applicable) shall ensure all readings and adjustments are established on or prior to the 10th day before the closing, and shall be forwarded to the closing attorney as soon as possible, but in no event later than the 10th day. The settlement statement shall reflect payment and adjustments as of the reading date, with the exception of the real estate tax proration, which shall be made as of the closing date. There shall be no further adjustment between the parties unless otherwise agreed. Notwithstanding the above, the parties may

agree to estimate the fuel adjustment as of the closing date, employing any reasonable method to determine same.

25. SALE OF BUYERS ASSETS – PAYMENT OF BUYERS LIABILITIES

Unless otherwise agreed under the Additional Provisions of this Agreement, **BUYER** agrees that this agreement is not contingent upon the sale of any real property or personal assets of the **BUYER**. **BUYER** also agrees that if **BUYER'S** lender requires all or any part of **BUYER'S** assets, real or personal, be sold, or that any or all of **BUYER'S** debts be paid, prior to or at the time for performance herein, such requirement(s) shall not excuse **BUYER** from performance nor shall it be cause entitling **BUYER** to a return of deposits paid under this agreement for failure to perform.

26. INSPECTIONS

This Agreement is subject to the right of the Buyer to obtain at his own expense, inspection of the premises by consultants of his own choosing, granting to the Buyer such right of inspection on or before a date hereinafter set forth. The Buyer and his consultants will have the right of access to the premises at reasonable times and in the presence of the Seller or his authorized representative upon twenty-four (24) hours advance notice, for the purposes of inspecting the condition of the said premises. If the Buyer is not satisfied with the results of such inspections, this agreement may be terminated without legal or equitable recourse to either party by the Buyer at his election, the parties thereby releasing each other from all liability under this Agreement, and the deposit will be returned to the Buyer provided however, that the Buyer will have notified the Seller in writing together with a copy of the written reports stating the results of the inspection, on or before the expiration date hereinafter specified of his intentions to so terminate. If such written notice and reports are not received on or before the expiration date hereinafter specified, the Buyer will be bound to perform his obligation under this contract. IN CONSIDERATION OF THE BUYER'S RIGHT TO TERMINATE WITHIN THE PERIOD SPECIFIED, THE SELLER AND BROKER ARE HEREBY RELEASED FROM LIABILITY RELATING TO DEFECTS IN THE PREMISES OF WHICH THE SELLER AND THE BROKER HAD NO ACTUAL KNOWLEDGE PRIOR TO THE EXECUTION OF THIS AGREEMENT. It is agreed that the period granted to the Buyer for inspection shall expire on February 15, 2021.

27. BROOM CLEAN CONDITION

The **SELLER** shall deliver the premises at the time of delivery of the deed free and clear of all personal property of said premises and the house located on said premises shall be in broom clean condition, removing all of the **SELLER'S** possessions not being sold to the **BUYER**.

28. RIGHT OF ACCESS

The **BUYER'S** agents and employees, or **BUYER'S** lender's bank representative shall have a reasonable right of the access to the Premises prior to and on the date of delivery of deed for the purpose of performing inspections. Said right or access shall be exercised only after reasonable notice to the **SELLER** or **SELLER'S** agent, and in the presence of **SELLER** or **SELLER'S** agents, at reasonable times and shall be subject to the **SELLER'S** permission, which permission shall not be unreasonably withheld.

29. REAL ESTATE BAR ASSOCIATION PRACTICES

Any matter or practice arising under or relating to this Agreement which is the subject of a practice standard or title standard of the Real Estate Bar Association shall be governed by such standard to the extent applicable, unless otherwise provided for herein.

30. AFFIDAVITS AND CERTIFICATES

At the closing, **SELLER** shall execute and/or deliver to **BUYER** the following documents:

- a) an affidavit stating that the **SELLER** is not a foreign person under Internal Revenue Code Section 1445;
- b) an affidavit to **BUYER** and **BUYER'S** title insurance company completed and in the form and substance of the Real Estate Bar Association Title Insurance Affidavit, R EBA Form Section 5;
- c) completed Internal Revenue Code Section 1099 Forms;
- d) an affidavit representing that to the best of their knowledge there is no Urea Formaldehyde Foam Insulation on or in said premises;
- e) a smoke detector and carbon monoxide detector certificate pursuant to the requirements or G.L.c. 148, section 26F and 26F½ ; and
- f) any other affidavits and certificates reasonably required by **BUYER'S** licensed mortgage lenders in the Hampshire County area in connection with mortgage loans for transactions of this type.
- g) The **SELLER** shall NOT execute a survey affidavit;

31. LEAD PAINT LAW

The parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.

32. TITLE V SEPTIC SYSTEM COMPLIANCE

SELLER will have the septic system inspected pursuant to 310CMR15.301 and will submit a copy of the inspection report to the Buyer, or if the system is newly installed or upgraded, the **SELLER** will provide a certificate of compliance from the local licensing authority. In the event that the system shall fail to pass inspection, the Seller shall have the option of either terminating this agreement without recourse and refunding any and all deposits made hereunder, or replacing or repairing the system in a manner consistent with the Title V Septic System Regulations. In the event that the system shall fail to pass the inspection and the Seller chooses to terminate this agreement, the Seller shall not be liable to the Buyer for any expenses or damages which the Buyer may have incurred in connection with this transaction.

33. SUPERCESSIONS

All other agreements of the parties hereto, whether written or oral, are superseded by this Agreement.

34. CONSTRUCTION OF AGREEMENT

This instrument is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns and may be cancelled, modified or amended only by a written instrument executed by both the **SELLER** and the **BUYER** or their respective attorneys. If two or more persons are named herein as **BUYER** their obligations hereunder shall be joint and several. The captions are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

The parties hereby agree that signatures obtained by facsimile or other electronic means shall be significant to bind them to the terms of this agreement and any extensions or amendments thereto.

All dates and times expressed herein are of the essence.

35. NOTICES

Both **BUYER** and **SELLER** hereby acknowledge that they have been offered the opportunity to seek and confer with qualified legal counsel of their choice prior to signing this Agreement.

All notices and correspondence required or permitted to be given hereunder shall be in writing and deemed duly given when delivered, by email addressed to the parties as follows:

In the case of **SELLER**:

Blaise P. Berthiaume, Esq.
bpb@berthiaumelegal.com

In the case of the **BUYER**:

Jack Lapomardo, Esq.
jack@MassConnTitle.com

By executing this Agreement, the **BUYER** and **SELLER** hereby grant to their attorneys the actual authority to bind them for the sole limited purpose of allowing them to grant extensions, and the **SELLER** and **BUYER** shall be able to rely upon the signatures of said attorneys as binding unless they have actual knowledge that the principals have disclaimed the authority granted herein to bind them.

36. SELLERS' OUTSTANDING MORTGAGES

SELLERS agree to assist the **BUYERS** or the **BUYERS'** lender's attorney with such letters or phone calls which the holders of such mortgages may require from the **SELLERS** as a condition to receiving payoff figures or as a condition to paying off such mortgages and any other liens or security agreements concerning the Premises. **SELLER** shall with respect to any equity lines of credit secured by a mortgage on the premises, notify the lender thereof, at least five (5) business days prior to the date for performance called for under this Agreement, to terminate the **SELLERS'** right of withdrawal from the line of credit and request that such termination be confirmed in writing and provided to the **BUYERS'** attorney or the **BUYERS'** lender's attorney.

37. APPLIANCES AND OPERATING SYSTEMS

At the time of delivery of Deed, all appliances and personal property included in Paragraph 5 are owned by **SELLER** and are unencumbered and all operating systems within the home shall be operating in the same condition as they were at the time of the home inspection, reasonable wear and tear excepted.

38. ADDITIONAL PROVISIONS

- a. This transaction is contingent upon approval of a License to Sell from the Hampshire Court or, in the alternative, a deed from all of the heirs following a deed of distribution pursuant to G. L. c. 190B s. 3-907 following the first annual anniversary of the death of Kenneth R. Root, conveying title consistent with paragraph 6 above;
- b. This transaction is further contingent upon removal of that portion of the said property that is subject to the provisions of G. L. c. 61B, including obtaining a Certificate from the Ware Board of Selectmen in recordable form waiving the Town of Ware's option for first refusal and a Statement of Roll Back Taxes from the Ware Assessors confirming the amount of Roll Back Taxes due, which Roll Back Taxes shall be paid from the Seller's proceeds of sale.
- c. Buyer may elect to have Seller provide a passing inspection of the Pellet Stove, at Seller's costs and expense. Buyer shall have until March 12th to request the inspection.

SELLER: Carol A. Root

BUYER: James J. Wells

BUYER: Catherine J. Wells

AMENDMENT TO AGREEMENT

Carol A. Root, Personal Representative of the Estate of Kenneth R. Root, hereinafter "Seller" and Timothy E. Wells and Cathleen S. Wells, hereinafter "Buyer", agree as follows:


Seller and Buyer entered into an agreement for the purchase and sale of land with the buildings thereon located at 150 Old Gilbertville Road, Ware, Hampshire county, Massachusetts dated February 25, 2021.


Under the terms of said agreement, the selling price for said property was \$385,000.00;

As a result of conditions discovered by a home inspection, the parties hereto agree that the selling price is reduced to \$380,000.00;

All other terms and provisions in the agreement remain the same;

Witness our signatures this ^{16th} day of March, 2021.


Carol A. Root, Personal Representative


Timothy E. Wells


Cathleen S. Wells

EXTENSION REQUEST FOR PURCHASE AND SALE AGREEMENT

Buyer : Timothy E. and Cathleen S. Wells

Seller: Carol A. Root, Personal Representative of the estate of Kenneth R. Root

Property: 150 Old Gilbertville Rd., Ware, MA

Purchase and Sale date: February 24, 2021 Date of request: March 15, 2021

BUYER herein requests a reasonable extension of:

1. **Additional Deposit Date.** The date for making the additional deposit (set forth in the P&S) is hereby extended
From _____ to _____

2. **Inspection Contingency Date.** The Inspection Contingency Date is extended (under paragraph(s) _____)
From _____ to _____

If any of the following are checked, only those portions of the contingencies shall be extended:

Home Inspection _____ Termite Inspection _____ Other _____

3. **Subsurface Sewage Disposal System Completion Date:** The Completion Date set forth in the Purchase and Sale is extended:

4. From _____ to _____

5. **Mortgage Contingency Date.** The Mortgage Contingency Date (set forth in paragraph 24 of the Purchase and Sale Agreement) is extended:

From March 17, 2021 to Five (5) days after the approval from the Town of Ware on the Chapter 61 property.

6. **Closing Date.** The Closing Date (set forth in Paragraph(s) 4 of the Purchase and Sale is extended:

From April 12, 2021 to Thirty (30) days after the Town of Ware approval of the Chapter 61B property.

7. Other _____

Should the Seller not agree to the above extension, Buyer reserves the right to Terminate the Purchase and Sale Agreement and retain the right to request the Return of all Deposits.

Except as modified by this Addendum, all other terms of the Purchase and Sale shall remain in full force and effect. By signing below, the parties agree to the extension(s) listed above.

BUYER: Timothy E. Wells

DATE 3/15/21 SEE

Carol A. Root

BUYER: Cathleen S. Wells

DATE 3/15/21

3-16-21