

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX SS

HANTS COUNTY REGISTRY OF DEEDS			5221	977	817-821
I certify that this document was registered as shown here.			Document #	Book	Pages
Tina Landzaat Registrar			OCT 18 2002	10:42 AM	
			MM DD YYYY	Time	

817

IN THE MATTER OF:

The Canada Evidence Act, Chapter E-10,
Revised Statutes of Canada, as amended

-and-

IN THE MATTER OF:

Title to Real Property known as Lots 16-A
Woodland Park Sub-Division and Lots 21 and
23 Island in Lewis Lake Cove, all at East
Uniacke, in the County of Hants, Nova Scotia.

- and -

IN THE MATTER OF:

A conveyance from R. Lawrence DeViller and
Joan A. DeViller to Susan Schmid.

STATUTORY DECLARATION

I, **William Francis Davies**, of East Uniacke, in the County of Hants, Province of Nova Scotia, do solemnly declare that:

1. I am the owner of the real property known as Lot 22 (PID No. 45146057), Island in Lewis Lake Cove, at East Uniacke, in the County of Hants, Nova Scotia, which is contiguous to Lots 21 (PID No. 45146040) and 23 (PID No. 45145065) now being conveyed by R. Lawrence DeViller and Joan A. DeViller to Susan Schmid, being and lying between both said lots. Attached to this my Declaration as Exhibit "A" is a copy of a Surveyor's Location Certificate dated October 6, 2002 prepared by Allan C. MacCullough showing said lots 21 and 22 and part of Lot 23.
2. Attached to this my Declaration as Exhibit "B" is an extract from a Plan dated September 2, 1966 prepared by F.G. Nolan, P.L.S. showing the re-subdivision of Lots 15 and 16 of the Woodland Park Sub-Division into Lots 15-A and 16-A (PID No. 45145950), which I am advised by Tim Hill, LL.B., and verily believe, is filed at the Registry of Deeds in Windsor, Nova Scotia, as Plan No. EH 503.
3. I have owned said Lot 22 since approximately 1961. Between that date and 1977 I spent summers at said lot, and visited on occasion in the winter. Since 1977 I have resided full-time at said lot, where I live today.
4. I am familiar with Lot 16-A which was owned from about 1969 to 1976 by Archibald and

Loyola Upham. They kept a trailer on that lot while the owned the lot.

- 5. I believe that Arnold Hadley purchased lots 21 and 23 in or about 1960. He owned his lots for about a year before I purchased mine, and he built his cottage on Lot 21 in the early 1960s. Later, in about 1976, Arnold Hadley and his wife Marion purchased lot 16-A from the Uphams.
- 6. First the Uphams and then the Hadleys did, to my personal knowledge, access Lot 16-A by driving in from the East Uniacke Road along Woodland Drive to the lot. This access was and continues to be used in common with all the other property owners on Woodland Drive and has been so used since at least 1969 when the Uphams purchased Lot 16-A, and I am advised by R. Lawrence DeViller, and verily believe, no one has ever attempted to obstruct his access to Lot 16-A along and through Woodland Drive. No one has ever attempted to interfere with my access along and through Woodland Drive which I also use to obtain access to my property.
- 7. Shown on Exhibit "A" is a right of way described as "Path to Woodland Park Drive" (Right of Way No. 1) which is one of two rights of way allowing access to lots 21, 22 and 23. That right of way connects the end of Woodland Drive with the said lots and although that right of way is not shown on Exhibit "B" that path has been used by me, the Hadleys and the DeVillers, as the case may be, since at least 1976. Right of Way No. 1 has only been used for access to Lots 21, 22 and 23 and not for access to the other lots on the Island in Lewis Lake Cove.
- 8. In addition to Right of Way No. 1 there exists a second right of way (Right of Way No. 2) upon and over parcels with PID numbers 45334059 and 45156155 (Johnson's Road) as shown on the GeoNova Plan attached to this my Declaration as Exhibit "C". That right of way forks from Right of Way No.1 along an existing path which connects with Johnson's Road as aforesaid. Right of Way No.2 has been used by the other owners of lots on the Island in Lewis Lake Cove. At no time does Right of Way No. 2 cross any of Lots 21, 22 or 23. Right of Way No. 2 has been used by me and by the Hadleys and the DeVillers in common with the other owners of lots on the Island in Lewis Lake Cove since at least 1976.

AND I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath and by virtue of The Canada Evidence Act.

DECLARED before me at East)
Uniacke in the County of Halifax,)
Province of Nova Scotia,)
this 12 day of October, 2002)

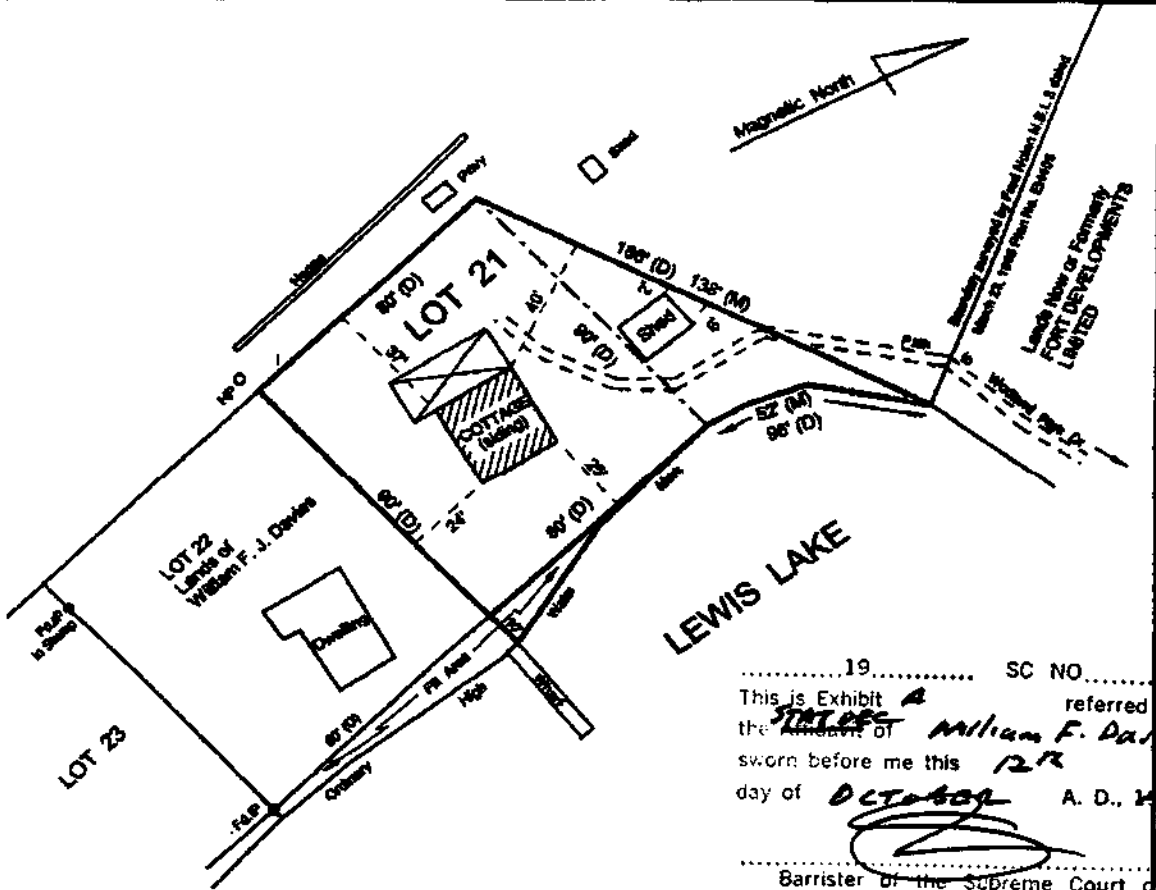
W.F. Davies

A Barrister of the Supreme)
Court of Nova Scotia)
Tom Hill

William Francis Davies

SURVEYORS LOCATION CERTIFICATE

819



.....19..... SC NO.....
 This is Exhibit A referred to in
 the ~~minutes~~ STATUTES of William F. Davies
 sworn before me this 12th
 day of OCTOBER A. D., 2002

.....
 Barrister of the Supreme Court of
 Nova Scotia
Tim Hill

NOTE: 1. Clearances shown are perpendicular to the boundary and are to the closest corners of the structure.
 2. Clearances are defined to a tolerance of 3.0 Feet. Scale 1 in. = 40 ft. Date of field survey October 1, 2002

CERTIFIED TO: SUSAN SCHMID

RE: LOT 21, COTTAGE LOT
 CIVIC 3, JOHNSON ROAD
 LEWIS LAKE, HANTS COUNTY, NS

I, ALLAN C. MACCULLOUGH, Nova Scotia Land Surveyor, hereby certify that this Surveyors Location Certificate was prepared under my supervision and in accordance with Part VII of the Nova Scotia Land Surveyors Regulations made pursuant to section 5 of the Land Surveyors Act.

Dated October 2, 2002
Allan C. MacCullough N.S.L.S.

The Cottage showing hereon is located entirely within the boundaries of the subject lands as said boundaries are defined by Book 228 Page 206

1. All easements documented in the current title document(s) are reflected hereon.
2. Cultural features shown hereon are located to plotting accuracy unless specifically dimensioned.

NO FURTHER CERTIFICATION OR ASSURANCE IS IMPLIED OR TO BE INFERRED FROM THIS DOCUMENT. THIS SURVEYOR'S LOCATION CERTIFICATE SHALL NOT BE USED FOR BOUNDARY DEFINITION OR AS A REFERENCE DOCUMENT FOR THE PREPARATION OF LEGAL DESCRIPTIONS.



LEGEND:
 Survey MarkerSM
 Iron BarIB
 Deed, PlanD,P
 Field measurement... M
 FoundFd.
 PowerpoleHP
 Point of Curvature...PC

ALLAN C. MACCULLOUGH
 NOVA SCOTIA LAND SURVEYOR

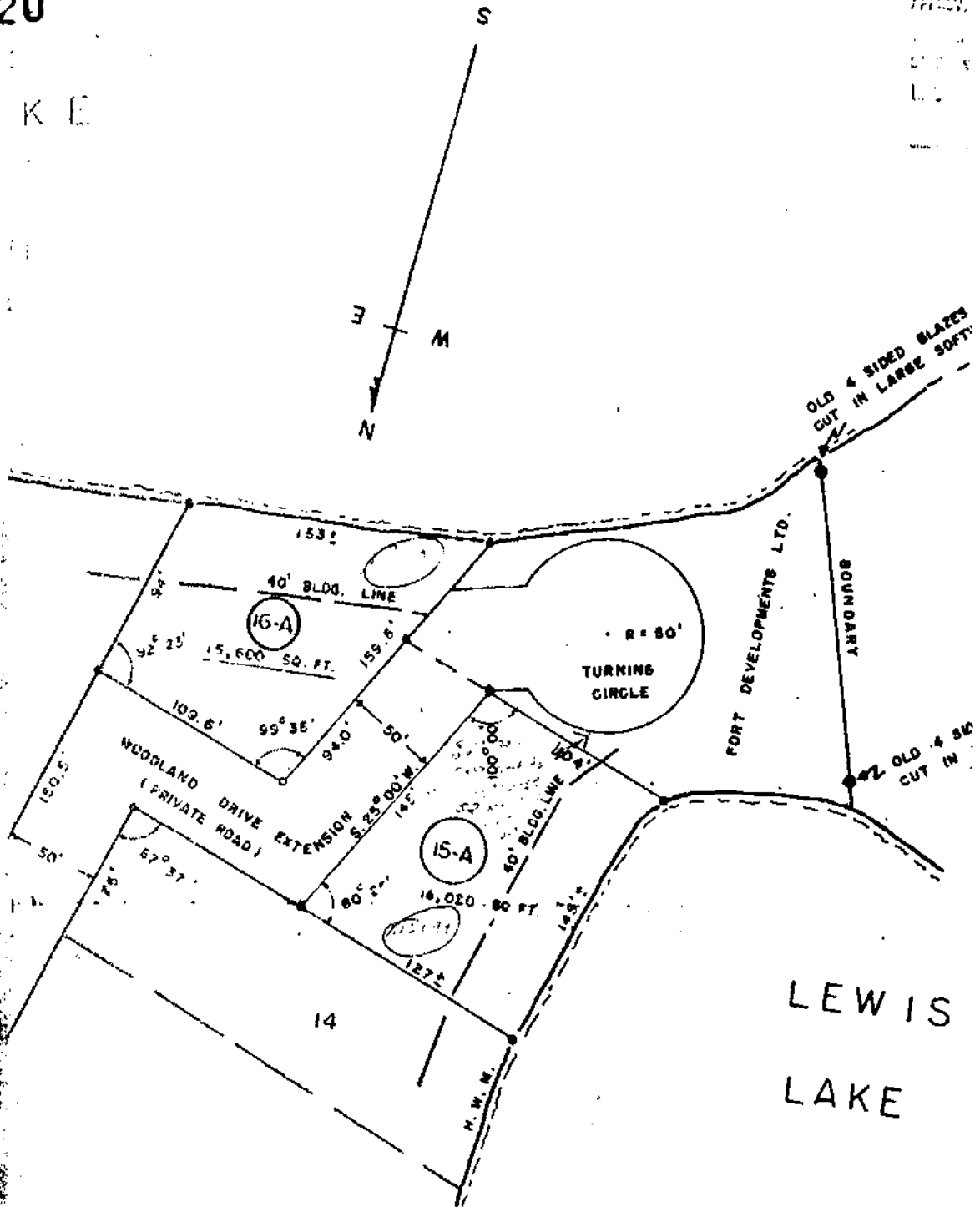
October 6, 2002
 DATE

78 RUSSELL STREET
 DARTMOUTH, N.S., B3A 5N2
 (BUS./FAX) 466-5748

SLC# 39688

820

K E



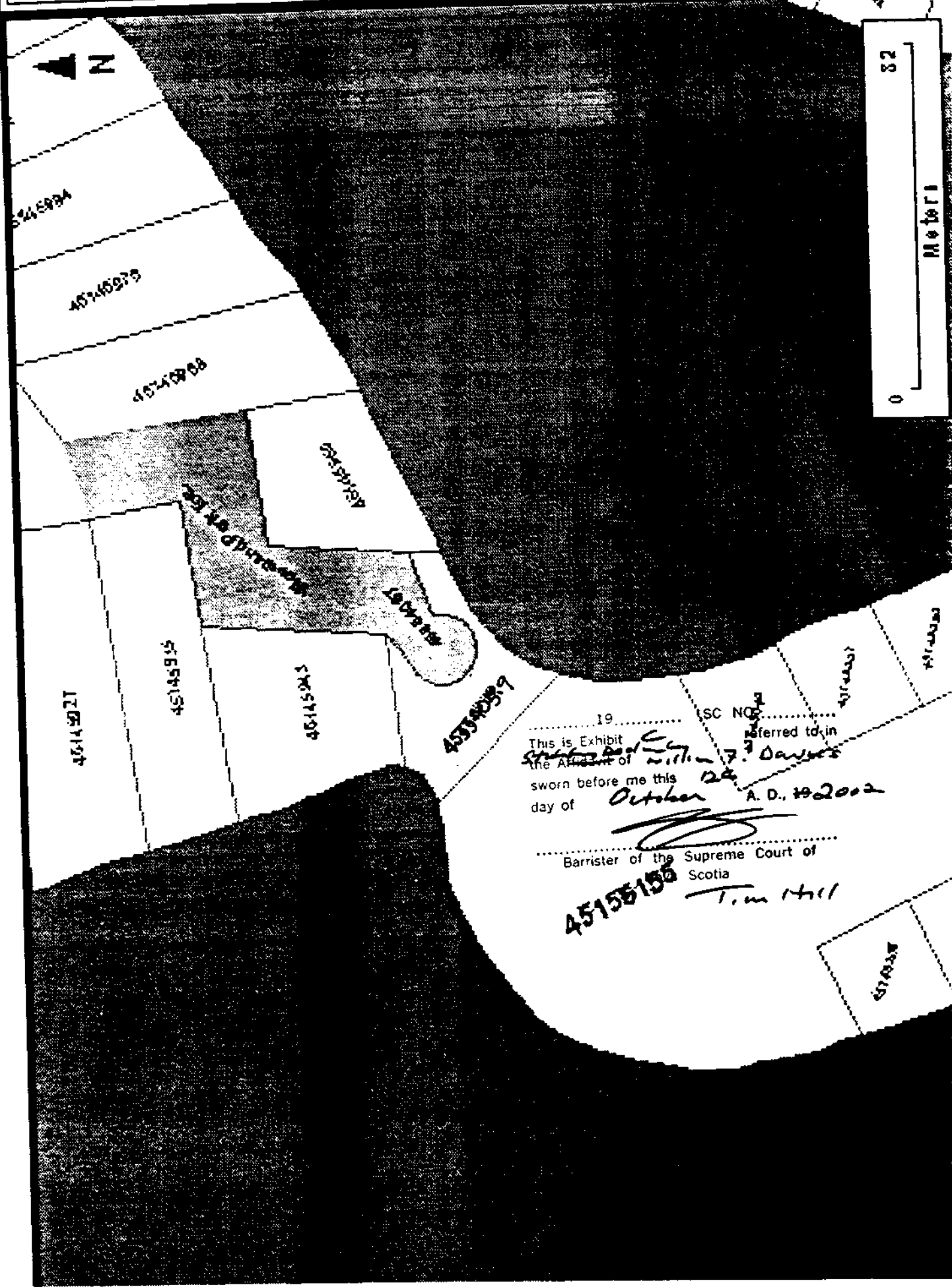
.....19..... SC NO.....
 This is Exhibit *125* referred to in
 the Affidavit of *William F. Davies*
 sworn before me this *12th*
 day of *October* A. D., *2002*

.....
 Barrister of the Supreme Court of
 Nova Scotia
T. Hill

PLAN SHOWING RE-SUBC
15 AND 16 OF 1
PARK DIVISION AT LEW

Property Records Database (NSPRD)

C S C P C Z C Z 1.2 Sec S H 821 P I A V A



This is Exhibit 19 SC NO 2
 the Affidavit of *William F. Davies* referred to in
 sworn before me this *24* day of *October* A. D., *2012*

Barrister of the Supreme Court of
 Scotia

45155155
Tom Hill

46145938

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

IN THE MATTER OF the *Canada Evidence Act* and the *Registry Act* of Nova Scotia

- and -

IN THE MATTER OF the use of certain property located at Lewis Lake, East Uniacke, Nova Scotia described as PID 45145950, owners Gary Alan Moore and Terry Louise Roane

- and -

IN THE MATTER OF 19 Johnson Road, Lewis Lake, East Uniacke, Nova Scotia, apparent PID 45146099 owned by David B. DeBay.

STATUTORY DECLARATION

I, Terry Louise Roane, Lawyer, of East Uniacke, in the County of Hants and Province of Nova Scotia, do solemnly declare as follows:

1. **THAT** I am the owner of the parcels of land located at Lewis Lake, East Uniacke, Nova Scotia each being respectively described as follows:
 - a. PID 45146040 (the “**Cottage Lot**”) being a lot with a constructed Cottage on the shore of Lewis Lake in which I currently reside with my husband.
 - b. PID 45146065 (the “**Wood Lot**”) being an undeveloped residential lot on the shore of Lewis Lake in the vicinity of the Cottage Lot; and
 - c. PID 45145950 (the “**Lake Lot**”) being a Lot where we park our vehicles and then walk along the Foot Path (defined below) to the Cottage Lot;
2. **THAT** all three properties were conveyed to my husband, Gary Alan Moore, and I by Michael Schmid in a warranty deed dated August 22, 2005 and recorded at the Hants County Registry of Deeds on August 24, 2005 as Document No. 82815326.
3. **THAT** prior to our purchase of the property, I engaged the title searching services of Harold G.S. Adams, lawyer with the law firm of Adams & Company, and based on the abstract of title provided by Mr. Adams, I do verily believe that the chain of title for the Lake Lot for the last 37 years is as follows:
 - a. Grantor: Archibald Samuel Upham and Loyola Mary Upham
Grantee: Arnold W. Hadley and Marion F. Hadley
Instrument: Warranty Deed
Dated: May 10, 1976
Registered: May 25, 1976
Book: 354

Page: 203

- b. Grantor: Arnold W. Hadley and Marion F. Hadley
Grantee: R. Lawrence Deviller and Joan A. Deviller
Instrument: Warranty Deed
Dated: March 2, 1995
Registered: March 13, 1995
Book: 747
Page: 867
- c. Grantor: R. Lawrence Deviller and Joan A. Deviller
Grantee: Susan Schmid
Instrument: Warranty Deed
Dated: October 12, 2002
Registered: October 18, 2002
Book: 977
Page: 823
- d. Grantor: Susan Schmid
Grantee: Michael Schmid
Instrument: Warranty Deed
Dated: February 13, 2004
Registered: February 23, 2004
Book: 1034
Page: 516
- e. Grantor: Michael Schmid
Grantee: Terry Louise Roane and Gary Alan Moore
Instrument: Warranty Deed
Dated: August 22, 2005
Registered: August 24, 2005
Doc No.: 82815326

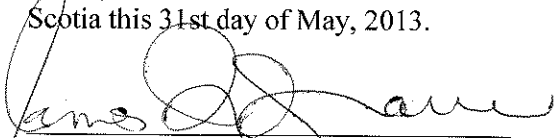
4. **THAT** the lots in the vicinity of the Cottage Lot and the Wood Lot are referred to as “island lots” because the land on which they are located was once an island, but this island became a peninsula over the years as water levels on Lewis Lake dropped.
5. **THAT** in reviewing my deed and other deeds for the other island lots, I have noted that many (if not all) come with a right of way that reads something similar to “together with a right of way from the main road to the said lot hereby conveyed over a road now in use”.
6. **THAT** I have spoken with my neighbour Stephen William Davies, whose family has had a cottage on the Lewis Lake island since the late 1950's and other people in the general neighborhood and I believe, based on these discussions, that the “road now in use” at the time of the initial deeding of the island lots was the road known as the “Cove Road”, which based on my review of Property Online is likely now designated as PID 45145265 and owned by Lillian Johnson.
7. **THAT** I further believe based on the above noted discussions and my own inquiries that all the island lots used Cove Road combined with boat access in the 1950s and 1960s when they were first created because the peninsula had been an island and Woodland Park Drive did not exist at the time. Most

owners of the Island Lots continue to use the Cove Road right of way, the Cove Road Parking area and then water access as their means ingress and egress to and from their lots to the present day.

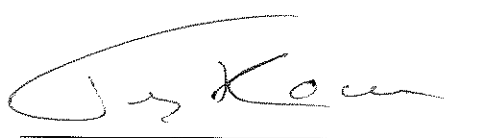
- 8. **THAT** I am further advised by Mr. Davies that when Woodland Park Drive was constructed, certain of the island owners began using what became a foot path leading from Woodland Park Drive Extension (a property now registered to Richard and Karen Long designated as PID 45334067 adjacent to and behind my lake water lot) to the former island (the "**Foot Path**") and that his father William Francis Davies has already sworn a statutory declaration about such use, which I have discovered was recorded at the Hants County Registry of Deeds on October 18, 2002 as Document No. 5221 in Book 977 at Page 817.
- 9. **THAT** Mr. Davies also advised me that the use of the Lake Lot by persons other than the owner has varied over the years. In particular, Mr. Hadley (owner from 1976 to 1995) was very particular about the use of the Lake Lot and did not allow anyone other than his family and the Davies to use it for parking or for any other activity. Mr. Devillers (owner from 1995 to 2002) did not actively prevent people from parking on the Lake Lot, and Susan and Michael Schmid (owners concurrently from 2002 to 2005) erected a gate and only allowed people to park on the Lake Lot with their express permission and who paid a fee.
- 10. **THAT**, apart from the Davies we do not allow anyone to park on the Lake Lot without our express permission which we only give at our sole discretion and often only if that person contributes to the Woodland Park Drive Owners Association fees.
- 11. **THAT** the gate referred to at paragraph 9 remains at the entry to the Lake Lot and a sign was placed at the entrance in 2006 advising that it is private property and can only be used with our permission and subject to the payment of Woodland Park Drive Owners Association fees.
- 12. **THAT** we recognize the long-term use of the Foot Path by certain island lot owners and their predecessors (including the owners of our Cottage Lot and Wood Lot), but in no instance has such long-term use been had with respect to parking on the Lake Lot other than by express permission of the owner.
- 13. **THAT** this Statutory Declaration is provided as our assertion that apart from the Davies, no person has any rights over the Lake Lot by way of long-term use, and in particular the right to park.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED before me, at Halifax, in the)
County of Halifax and Province of Nova)
Scotia this 31st day of May, 2013.)



JAMES MUSGRAVE)
A Notary Public in and for the)
Province of Nova Scotia)
A Barrister of the Supreme Court)
of Nova Scotia)



Terry Louise Roane

