

In Memory of Helen Bittar

26 Mill Stream Rd has always been designated in the LUO as “P” for a “Community Center”. During her life, with the exception of ONE neighbor and One CEO Helen Bittar’s work was supported and celebrated by all Town Managers and all CEOs except One. Helen Bittar, historian, devoted the last 5 years of her life to design 26MSR building details and ensure Readfield’s significant Mill Stream colonial legacy. She died April 2018. Unlike town administration, Helen had no ulterior motive. She devoted her life earnings to this task. Since her death in 2018 the Town Manager and neighbors work to destroy her legacy and reputation.

**IN SPITE OF CONTINUED TOWN ACTS TO DENY JUSTICE AND LAW,
HELEN’S FAMILY and CHILDREN WILL NEVER FORGET AND WILL WORK FOREVER
TO RESTORE HELEN’S VISION AND LEGACY TO READFIELD FAMILIES**

SUMMARY STATEMENT OF PB ERRORS August 2020 – November 2022

1. Resource Protection Information is automatically accepted by the PB as valid. Based on that information, PB denied 26 MSR rights to establish Community Center (“CC”) activities without investigation. Abuse of Discretion. Error of Law and Error of Fact

This was a deliberate act by Planning Board members. They knew it is an error to misrepresent technical information as fact if it requires substantial expertise to confirm its authenticity.

Resource Protection zoning maps were suggested by neighbor Nazar. DEP states that the maps are satellite approximations and inaccurate. Among Mr. Nazar’s additional PB contributions of information are studies of Augusta large scale development projects which he feels should be the basis of the SSMH project evaluation. The PB accepted unverified illogical information from Nazar as fact and accepted their own jurisdiction to act based upon it. They made an Error of Discretion by accepting the Scale of Augusta development and Resource Protection map as the model for SSMH development before thorough investigation.

The decision to remove property rights at 26 Mill Stream Road by erroneously proceeding on the assumption of the substantial validity of evidence was improper and prejudicial. LUO Resource Protection Section 20 D2d protects scenic, historic and environmentally significant areas and would permit their protection and use even in a subdivision. And if subdivisions are permitted in the LUO RP zone so is a Community Center. The PB acted before their tribunal had the authority. The LUO protects the SSMH CC and activities to be held there. The PB removed those rights without the verified power to act. Investigation of the Resource Protection Act provisions in the LUO, Easement Rights, Dam RP Rights and Contract Law would have removed any PB restriction. No alternative research was requested or considered. (Error of discretion by the PB Vice Chair Comart -an attorney who disregards and conceals the importance of the town Mill Stream easements and basic contract law – A concealment of PB illegality)

See: LUO Resource Protection Protection of Historic Sites Section 20 D2d

For full discussion of LEGAL ISSUES , See this BOA Brief Issue 15A and 15B - legal rights of the Dam Colonial Park, EASEMENTS & /CONTRACTS and PB “ILLEGAL TAKING” of Property

2. The Sidewalk - Planning Board Error of Discretion - Error of Process - An Intentional Tort. The PB committed Error of Process and An Intentional Tort. TM Dyer sent a text message to the PB committee requesting that a sidewalk be added to the list of requirements for an occupancy license. Dyer’s message was received as actionable and valid, despite the fact that the sidewalk idea was forwarded to the PB as an informal text. It was, “On Its Face” insubstantial and accepted without investigation – an Error of Process. It led to an absurd PB decision to the detriment of SSMH. A Reasonable Man would see the “bad faith” inherent in this improper sidewalk requirement. In spite of this the PB imposed this requirement. It was an improper action with a malicious purpose. The “underlying malicious purpose” for a sidewalk requires an act which is seemingly proper but which is useless, punitive and resulted in the denial of all use of the 26 MSR property. Consequently the PB with Agent Dyer committed an Intentional Tort against SSMH. Eric Dyer delivered sidewalk “Information” as a short text message from Fire Chief Lee Mank. It was prejudicial and not the form of evidence delivered in the past by Chief Mank and not in the form of evidence delivered to the PB. The cell phone text was in stark contrast to any and all information received by the PB as substantial for consideration of Findings of Fact within the record. Nevertheless, it was accepted by the PB as conclusive and an absolute statement of fact. The PB Findings of Fact confirm that this casual hearsay was used as the primary basis of the PB pivotal decision to deny SSMH a permit. The irrational demand to purchase and build this uselessly absurd sidewalk made an SSMH permit impossible to achieve. The importance the PB attached to this text message was delivered to SSMH at the last moment without an opportunity for SSMH to consult and refute.

Within days of Mank’s original text transmission and while this matter was still under PB “discussion”, Chief Mank revised his text message. Chief Mank delivered a substantially altered correction of his text message including a descriptive sidewalk map to T.M.Dyer. This map illustrated an adequately safe attainable sidewalk. We are uncertain if Dyer delivered Chief Mank’s altered sidewalk plan to the PB. The fact that the text message was altered and never reviewed or undelivered within days makes AGENT Dyer’s act and PB process questionable, prejudicial, unacceptable and inadmissible.

PB’s ABSURD SIDEWALK DECISION. The PB proceeded to compound the Error of Discretion by immediately accepting T.M.Dyer’s text “information”. It was “on its face” insubstantial, prejudicial, without investigation and led to an absurd decision. The PB decision required SSMH to purchase the land or easement to the neighboring land. The required PB “sidewalk” was to have more than doubled the length of a “safe walkway”. It required illegal construction within the Resource Protected wetland. The construction through a resource protected wetland

requires DEP waivers and would be prohibitively expensive. The required land purchase of neighboring land was invasive. It extended across the entire front of their front yard across the street. It would have required large intersection into the neighbor's land and septic system drainage field. The PB site visit to the property made clear the absurd conditions and the Tort which they imposed upon SSMH.

For Full Discussion and Exhibits This BOA Brief Issue - The Sidewalk

3. The 15 Month DELAY To Deny SSMH Permit - Error of Process

From August 2020 to November 2021 the entire process of SSMH application "evaluation" and permit hearing was designed to delay and finally to deny the SSMH application and prevent an SSMH permit through administrative manipulation.

The coordinated actions of the Town Manager, Planning Board and Select Board were actively engaged in creating a new law to alter SSMH's ability to use this property as a community center.

It is not possible that the PB had no knowledge of the SSMH application and the town office process of denial and delays. From the Fall of 2020 until June, these groups met to consider new laws designed to influence the definition, use, revenues, and activities available to the SSMH.

The elimination of SSMH was at the center of town office administrative concern. The coordinated delays of the SSMH application was essential until a new law was passed and deceptively embedded into the annual LUO update. This deception was a complex Error of Process. Delays were implemented and a new law was created which would provide the basis for a future administrative CEO nullification of the SSMH permit (if a permit were to be granted for constitutional cause and not possible to avoid).

Clif Buuck was employed as CEO. His efforts were deliberately punitive. They required unnecessary work by the SSMH attorney. These CEO/PB efforts orchestrated by Mr. Buuck resulted in SSMH ATTORNEY FEES \$46,000.00 March 2021 - Nov 2021. Buuck continued the SSMH delay process which included organizing improper private PB hearings with two CEOs, Attorney Davis and PB Chair P. Clark. Buuck's 15 years as CEO with close relationship with the PB Chair and VChair gave him familiarity with sympathetic PB leadership, the process, clear path to coordinate added SSMH requirements and delays. It is inconceivable that the PB was not in contact with Buuck as intermediary and with TMDyer as agent during this time. Buuck requested the Plaintiff's attorney provide the town legal research, legal opinions and information on the legitimacy of the town imposition of a "Bittar Consent Order". An illegal signed Consent Order was required by Dyer and Buuck prior to any consideration of the SSMH application by the PB. Mr. Buuck pursued the Dyer goal of a signed consent order which among its punishments required a surrender of Constitutional rights. Dyer and Buck required this signed document prior to the permit being referred to the Planning Board for "completeness". This was another example of Abuse of Process. There were discussions concerning character attacks against SSMH, repetitive requests for information from the Plaintiff Attorney and Plaintiff to restate facts already stated many times - these actions were intended to increase the cost of Plaintiff litigation to achieve the "completion" of an application review by the CEO. The Town Goal in Delays: Bankruptcy of SSMH, delay the PB hearing until the June 6 Election, and the revision in the laws defining community centers.

THE DEFEAT of Article 38 June 6

This surprise result of the June 6 election required revision in the PB application delay process. Further delays were required to gather specious “facts” to justify the denial of the SSMH permit. Those questionable “facts” were provided by Dyer and Nazar. The PB recited those fictional claims in their Findings of Fact.

Maine ABA Model Code (1990), Section 3B(8). In attaining the proper balance, "PB must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay .ABA Model Code (1990), In Matter of Barrett, supra, 512 A.2d at 1034, the Court found violations of the virtually identical provisions of former Canon 3A(5), where a probate judge deliberately delayed decision in two contested matters "out of a belief that he knew best what would advance harmony among the litigating parties before his court," thus administering "his own personal brand of justice." In a third matter, a six-month delay without more, while not condoned by the Court, was held not to be a violation standing. Rule 2.2 - Impartiality and Fairness; Upholding the Law, MAINE. Code. Jud. Cond. 2.2

See Attached: Exhibit 18 Attorney Jed Davis Letter to the CEO and Planning Board August 21

4. The Planning Board accepted the Town Manager’s unofficial self-appointment as surrogate PB chair. This was an Error of Law: Jurisdictional Defect - The PB Chair and VChair knew of the SSMH application and the delays by TMDyer. Readfield is a small town. The PB were aware of the BOA 2020 Chairman Bickerman’s admonition to Dyer and CEO concerning the SSMH September BOA Appeal. Dyer assumed the role as self-appointed surrogate Planning Board Chair. The PB was aware of Dyer's continued role to delay the SSMH application. The PB awareness of Bickerman’s instructions and Dyer’s increasingly blatant delays gives further evidence to PB participation and endorsement of Dyer’s Error of Process and Error of Law.

TMDyer’s position within the Town Administration does not “facially meet statutory requirements“ of the PB role he assumed. In spite of the clear instructions of Chair Bickerman, Mr. Dyer subjected SSMH and the women who represented SSMH to months of unnecessary delay, false “assistance” to mislead and alter the SSMH application and to threats to improperly “negotiate” the conditions for their permit. It is clear that he has insufficient jurisdiction to mediate or be involved in this process. **His activity is clearly an Error in Process. Dyer insinuated himself within the permit process with ulterior motivation. Read his letter of December 23. It is clearly written to threaten, discourage and create an impossible personal and private financial burden for representatives of SSMH. Dyer’s activities were designed to harass and create, on the Town PB Website false information to suggest a criminal reputation for the representatives of SSMH. Dyer’s public slanders and the PB consent of them were intended to harm these women their livelihood and family life. The PB knowledge of Dyer’s activities created a relationship as an AGENT a PB Error of Law. _ Dyer was the PB AGENT in this process. The PB knew of the existence of Dyer’s changes to the PB Website, ulterior motive and its malicious purpose and through inaction was supportive and consenting.**

5. PB abandons its jurisdictional role. PB commits an abuse of discretion by allowing TMDyer's violation of the jurisdictional separation from PB permit process. The PB permitted Dyer to threaten the PB legal process and the creation of legislation against SSMH, Changes to the SSMH organization mission, safety and structure which is intended to disable their use, and remove the Constitutional Right of Assembly. This is an Abuse Of Process, Error of Law, Abuse of Discretion

1. Dyer Attempts to remove the Fire Safety System from the SSMH building

TMDyer and Members of the PB are or have been members of the Union Meeting House.

The Union MH is conceived as a Town Subsidized -Private non-profit competitive CCenter.

The SSMH fire sprinkler system would establish SSMH as the only CC facility available within 30 miles which can guarantee protection for a gathering of children and families. TM Dyer threatens that SSMH eliminate the Fire Security Systems as a condition for a permit. The PB permits Dyer's assumption of PB power in the SSMH permit process.

2. Dyer and CEO deny SSMH the right to "Assemble"

Implicit in the definition of CC is the understanding that this is a place where people meet, talk and gather. That is its purpose. The TM is concerned that SSMH members may meet near his home. **TM Dyer further declares and threatens : Installation of the Fire sprinkler system will not allow "assembly use".** The TM and CEO has no authority to declare this. He, again, transgresses his jurisdiction by deliberating misrepresenting the facts concerning CC assembly gatherings. Dyer indicates that "his agent" CEO Buuck will not permit SSMH to receive approval for its members to meet at the CC. TM Dyer declares a new interpretation of the("LUO") – **Dyer declares his power to create legislation to deny the First Amendment freedoms.** According to TM Dyer, Readfield CC members **will not be permitted to "assemble" in their SSMH CC .**

3. Dyer speaks for the administration/ PB and establishes LUO zones to favor Union MH, to limit an "acceptable" Community Center activities. This implies Dyer's ability to establish and declare town legislation and declare a codified list of acceptable activities.

6. Planning Board Website is designed as a PB campaign tool to declare the SSMH permit application a criminal enterprise. The PB Website is created as an Abuse of Discretion, Abuse of Process, Error of Fact

The website contains errors of fact which are easily refuted and designed to falsely create a sense of SSMH and Bittar criminality and a consequent association of criminal intent and purpose.

The website is designed to influence new Planning Board members unfamiliar with the detailed history of 26 Mill Stream Road to form biased opinions and conclusions concerning the SSMH application. Dyer and the Town administration have hidden their participation in 26 MSR development and support from 2013 until 2018. In the beginning phases of the construction, the

CEOs were informed collaborative and supportive of the building and the intention of its use as a community center.

Pakulski AND Dyer QUOTES - IT IS LEGAL. THEY HELP 2013 -2018

TM Stefan Pakulski 12/5/13

“I know you don’t think you’re anywhere close to applying for a permit because you don’t know yet what the details would be. Clif would be happy to work with you on developing an application and helping to determine what would be possible and what would take a possible waiver of certain requirements or even a zoning change – and how to accomplish that... You’ve talked with me about an exciting concept that could be a real asset to the community.” In private conversations Bittar said his wife was ill and did not want political controversy. Her interest was in following the simplest route – a Community Center which is permitted in the LUO.

Stefan felt that this would not provide the best viable option for the community. He suggested following the Example of the Big White Barn. I repeated that Helen was too ill and I am too old to be interested in pursuing a local difficult political issue. He knew from his own experience in Readfield that this is difficult. He sent a second note to encourage Helen Bittar to request a zone change as a better choice for the community in terms of the viability and development of this town asset.

TM Stefan Pakulski Quote 10/31/13

“ To see if the town will vote to amend the Land Use Map adopted in June 10, 2010 town meeting... So it can be done.”

TM Eric Dyer Quote July 3, 2017

“Stefan laid out a good road map based on past precedent. By following this route you will be better situated to participate in regular or special town meetings, if necessary. ...I suggest that as Stefan did that you begin with the process by submitting a complete project application to the Planning Board.”

Later Town Managers Dyer claimed construction and intentions were deceitful and improper and spread this lie throughout the community.

The website history was assembled by SSMH opponents to misinform the public concerning the involvement of Town Managers in 26MSR goals. It also served to defame SSMH, members, mission, character and convince the public of SSMH/LGBTQ criminal goals.

7. PB has included information in its Findings of Fact which refer to Bittar History. These collateral “statements” are repeated and false. They state that Helen and Robert Bittar “violated State and Local Laws”. These among other statements are Errors of Fact during PB hearings. They are false. They site Stop Work Orders which were disputed by town investigations. They have no bearing on the current SSMH application. Collateral issues and “evidence” is

irrelevant, prejudicial, inaccurate, and designed to create distrust and a belief in the illegality of the SSMH mission, the LGBTQ community, minorities, and representatives.

The PB Findings of Fact endorse the validity of these false statements and hearsay.

8. PB Errors in the Findings of Fact - Abuse of Discretion

These are not isolated instances but represent repeated attempts to impugn the SSMH mission and the delivery of information concerning its membership and its anticipated use of the property.

1. Civic Center ABUSE OF DISCRETION

SSMH nor its supporters have ever alluded to or mentioned the request for a Civic Center. In spite of the LUO confirming the ability to legally use this property as a community center, PB allowed speakers to repeat bias statements to suggest illegal absurd activities and plans anticipated by SSMH.

TMDyer deliberately alters the description of the SSMH requested LUO use from a community center to a Civic Center. This is a deliberate attempt to defame SSMH as a negative and lawless organization whose goal is to undermine this rural community. The LUO does not permit a Civic Center. Biased false statements are made repeatedly by Dyer who repeated these claims at the PB during a televised town hearing.

2. **Estimate of the Number of People Attending SSMH Activities.** PB members repeated during meetings and in their Findings of Fact that SSMH has not defined the number of people they anticipate attending their organization. The Findings of Fact states that SSMH intends “to offer activities to an unspecified number of people”. SSMH, their attorney and in many documents stated that their membership is 50. They have stated in their By Laws. that activities are limited to members, their families and guests. There would be no admission to the general public as required by LUO. But PB statements continue to claim SSMH will create unregulated public access and fear of the LGBTQ and minority community. A PB speaker suggested: SSMH would result in a community who fear rape.
3. **Sound Proofing** – detailed substantial tests were made by SSMH sound control. Nevertheless, the PB refused to observe a sound test and repeated statement about “annoyance”, “nuisance noise to the closely abutting residence”. But sound tests indicate that sound from 26 MSR to Kents Hill Road is virtually non-existent and barely audible at a distance of 50’.

II. STANDARD OF REVIEW – Legal Definitions

- In a Rule 80B appeal, the Appeals Board, like the Superior Court, acts in an appellate capacity. and reviews Planning Board activity for abuse of discretion, error of law or findings not supported in the record. The court examines the law for plain meaning and interprets it in the light of purpose and objective of the law.

- The following legal definitions helped the Plaintiff evaluate Planning Board activity when evaluating the SSMH application process August 2020 – November 2022

ERROR OF FINDINGS OF FACT

1. “fundamental error” in fact at to the very heart of the judicial process,
2. party denied due process.
3. an arbitrary and capricious standard unreasonable grounds or without any proper consideration of circumstances
4. unsupported by "substantial evidence." "more than scintilla" of evidence or relevant evidence as a reasonable mind might accept as adequate to support a conclusion."
5. Example: uncontradicted expert testimony that such a feat is impossible for most people
6. prejudicial evidence that outweighs probative value - ie. hearsay
7. evidence improperly obtained
8. “Plain Error”- affects substantial rights and leads to miscarriage of justice
9. technical errors, defects, or exceptions which affect the substantial rights of the parties”; 18 U.S.C. [former] 556; or “ prejudice the defendant Rule 61 of the Federal Rules of Civil Procedure [28 U.S.C., Appendix]. *Wiborg v. United States*, 163 U.S. 632, 658; *Hemphill v. United States*, 112 F.2d 505 (C.C.A. 9th), reversed 312 U.S. 657

ABUSE OF DISCRETION - Biased Error that:

1. affects the substantial rights of person
2. substantially “undermined the fundamental fairness of the hearing itself so as to cast serious doubt on the reliability” of the judgment or determination of the Board Findings
3. “failing to consider statutory standards” such as ordering a remedy that is manifestly unfair or unreasonable to implement. ie. ordering a parent equal visiting rights when one parent has relocated across the country.
4. The remedy is in error if it can not be fairly implemented.
5. ruling is unreasonable, erroneous, absurd showing bias exceeds all bounds of reason and all circumstances considered, in “plain error”
6. ruling without allowing the plaintiff to tell her side in the matter and preventing a fair consideration of law
7. PB decision only given to justify a final prejudicial decision: PB: “SSMH never able to receive a permit”
8. Abuse of discretionary power - the PB acted outside their scope of authority - biased views / misinterpreted law or create new law. Lack of Resource Protection Act review. PB assumes authority of legislative branch.
9. Decisions are overturned when PB does not show evidence is authentic and does not have proof of authenticity established by empirical evidence experts etc; PB Does not consider and follow statutory standards. If the primary case decision turned on this PB evidence and if their decision is manifestly unfair or unreasonable to implement, it will be overruled

ERROR OF LAW:

1. Misconduct of the prevailing party
2. Irregularity of PB proceedings prevented a fair trial

3. **Planning Board a willful or repeated disregard of explicit requirements of the law." "a pattern". 'virtually habitual,'- the acceptance of Dyer's role in PB process process**
4. **MAINE LAW 'arbitrary and intentional departure from prevailing law' based on willful indifference to law." In re Complaint of Judicial In Ross, finding judicial misconduct based on a pattern or practice of violations of established law include In re Kellam, 503 A.2d 1308 (M428 A.2d 858 (MAINE. 1981).**
5. **For 3(B)(2): Canon 3B(2) requires the PB both to observe the law and to be professionally competent. In Matter of Ross, 428 A.2d 858 (MAINE. 1981), the Supreme Judicial Court found violations of the identical provision of Maine Code (1974), Canon 3A(1), when "the respondent willfully disregarded the requirements of the law" by imprisoning a defendant for nonpayment of a civil forfeiture. In the same case, the Court found additional violations of former Canon 3A(1) where the judge had caused traffic infraction complaints against personal acquaintances to be "filed," personally lecturing the defendants instead of trying them, and had continued two OUI cases against an individual for six months, one before sentencing, the other without hearing, then entered judgments of not guilty in both.**
6. **MAINE LAW For 3(B)(8):Canon 3B(8) is intended to assure that the "interests in fairness, efficiency and economy are properly balanced." ABA Model Code (1990), Committee Note to Section 3B(8). In attaining the proper balance, "PB must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. ABA Model Code (1990), In Matter of Barrett, supra, 512 A.2d at 1034, the Court found violations of the virtually identical provisions of former Canon 3A(5),**
7. **Where a probate judge deliberately delayed decision in two contested matters "out of a belief that he knew best what would advance harmony among the litigating parties before his court," thus administering "his own personal brand of justice." In a third matter, a six-month delay without more, while not condoned by the Court, was held not to be a violation standing. Rule 2.2 - Impartiality and Fairness; Upholding the Law, MAINE. Code. Jud. Cond. 2.**
8. **Lack of jurisdiction. the Me. Supreme Judicial Court held.failure to strictly comply with technical requirements does not automatically deprive jurisdiction, citing Mutty v. Dept. of Corr., 153 A.3d 775 (Maine 2017) and Fleming v. Dept. of Corr., 796 A.2d 692 (Maine 2002). but it does not provide a**

ABUSE OF PROCESS — an additional act is almost always required “to make out the tort”

1. **The malicious and deliberate misuse of regularly issued civil or criminal court processes that is not justified by the underlying legal action.**
2. **The abuser of the process is interested only in accomplishing some improper purpose similar to the proper object of the original hearing/process.**
3. **Abuse of process includes litigation actions in bad faith that are meant to delay the delivery of justice. Examples include a process against a defendant without a genuine legal basis in order to obtain information, force payment through fear of legal entanglement or gain an unfair or illegal advantage.**
4. **The key elements of abuse of the process is the malicious and deliberate misuse of regularly issued court process that is not justified by the underlying legal action, and that the abuser of process is interested only in accomplishing some improper purpose similar to the proper object of the process. Abuse of process is an intentional tort. Pellegrino Food Prods. Co. v. City of Warren, 136 F. Supp. 2d 391, 407 (W.D. Pa. 2000)**
5. **The key is state of mind. One must intentionally seek to abuse the system.**

6. The proceedings are frivolous, vexatious and oppressive, improperly use the judicial process to harass and to interfere with the administration of justice. The "improper purpose" requirement in an abuse of process claim is that, although the defendant had a technical right to use the legal process, he or she did so to extort something else from the plaintiff
7. "Elements necessary -Whether the process has been used to accomplish some unlawful end, or to compel the plaintiff to do some collateral thing because of the existence of an ulterior motive."
8. See Harper, James & Gray, Torts § 4.9, at 4:90-4:91 & n.21 (3d ed. 1996); Dobbs, Torts § 438, at 1239-1240 (2000). [Note 8] BUT an illegitimate purpose can often be achieved without any further act beyond the obtaining of the process. **Without turning on any additional act of misuse, a number of cases find that initiating process alone can at times be so coercive and promoting of ulterior advantage** that it supports an abuse of process claim. See *Malone v. Belcher*, 216 Mass. 209, 210-211 (1913) (allowing an abuse of process claim where an "attachment was made for the ostensible purpose of collecting a commission,"; *Reardon v. Sadd*, 262 Mass. 345 (1928) (recognizing an abuse of process claim for an attachment that a jury could find was intended to coerce a factory owner to settle a claim against her on a debt that the claimant knew was incurred by a different party); *Jacoby v. Spector*, 292 Mass. 366, 369 (1935) (allowing an abuse of process claim where a furniture company's repeated wage attachments exerted coercion on a consumer to sign a wage assignment contract to pay for furniture he attempted to refuse delivery of); *Carroll v. Gillespie*, 14 Mass. App. Ct. 12, 26 (1982) (sustaining an abuse of process claim where a car repair shop owner swore out a criminal fraud and forgery complaint against a customer for the purpose of pressuring her to pay a repair bill owed him); *American Velodur Metal, Inc. v. Schinabeck*, 20 Mass. App. Ct. 460, 462, 469-470 (1985), cert. denied, 475 U.S. 1018 (1986)

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*In memory of Philip Davis
1908 - 1998*

*In memory of James E. Mitchell
1941 - 2016*

August 24, 2021

Chip Stevens, Code Enforcement Office, and
Town of Readfield Planning Board

RE: SSMH's response to letter by Matt Nazar, April 14, 2021

Dear Chip,

My client responds to Matt Nazar's letter as follows:

1. SSMH's application was submitted with good faith in full accordance with Readfield Land Use Ordinances. Contrary to Mr. Nazar's allusions that my office, my paralegal or my client's landlord are targeting him personally through these legal actions, SSMH's application for an occupancy permit is the only relevant issue before the Board.
2. Mr. Nazar used a good portion of his letter to raise unrelated legal actions taken by my paralegal from several years ago which were unknown to my client and which have absolutely no relevance and no bearing on SSMH's permit application with the Town. There was no other reason to raise these issues except to try to disparage my office and my client. To that end, Mr. Nazar's comments should be entirely ignored.
3. Mr. Nazar also cites his concern about "potential retaliation for exercising [his] legal right to provide [his] testimony for the Board's consideration." Oddly, his concern is misplaced because SSMH has done nothing to target Mr. Nazar or his family during this application process. Prior relations between my client's landlord and Mr. Nazar - whether personal or legal in nature - have no bearing on or relevance to SSMH's application.

4. It is reasonable for SSMH's landlord, Robert Bittar, to promote SSMH's proposed use of the property so SSMH can have a place to hold their activities and Mr. Bittar can reap rental benefits after he helps SSMH to put the building into service.

Even though SSMH is the applicant, Mr. Bittar is still the legal owner of the property and must approve and assist SSMH with making all structural and topographical changes to the building and land so their permit is granted after the Board's conditions are met.

5. SSMH has mentioned the possibility of activities like singing and dancing. These activities are in alignment with other community centers. Music, dancing and singing are obvious activities for members of an organization such as SSMH. Meetings will be held with members to plan future activities and goals.

The activities will fulfill SSMH's Mission Statement:

"We support inclusivity, equality, community and the fundamental rights of all human beings. Readfield's **Safe Space - Meeting House [SSMH]** will provide a space for LGBTQ+ community to build professional and social connections in the community. Our effort intends to establish a "meet-up Space". It will be a "Safe" setting in which to share cultural interests, resources, and opportunities with people who share similar interests and concerns.

"SSMH will model its community activity on civic outreach activities inspired by The Readfield Union Meeting House. The SSMH "meeting house" outreach will be dedicated to the arts as a primary link for community communication. It is integrated within the Readfield community.

"Our society is beset with uncertainty and anxiety. Readfield's SSMH is dedicated to providing community resources needed to help support LGBTQ+ community in Readfield. We advocate for laws and policies that will protect all people's rights and everyone's dignity. We work for a world where all people can enjoy their rights fully."

If the Planning Board feels that any of these activities are not appropriate, my client would be happy to discuss the concerns about them with the Board.

6. SSMH has fully complied with the Town's LUO permit process, submitted every requested document and answered every question asked to the best of their ability and knowledge. Mr. Bittar's previous dealings with the Town should have no bearing on my client's application.

7. Regarding Mr. Nazar's concern about use within the resource protection shoreland zone, the LUO provides for Rural Residential occupancy which includes a community center or club. If the resource protection shoreland zoning's more restrictive provision is controlling, then it would essentially prohibit even single family residential use of the property, thereby nullifying any occupancy or use of the property entirely. As a matter of fact, single family homes are permitted within the Resource Protection with PB and CEO approval.

8. Mr. Nazar asked, **"If the use is not allowed in a portion of the building labelled in the application as "Meeting Room 1", how does the Board anticipate the town will realistically enforce that prohibition if the use is allowed in the rest of the building?"** The answer lies within the Town's Land Use Ordinance which does not specifically outline acceptable uses for a community center within the Rural Residential zone. In order for this question to be answered, the Town needs to provide a comprehensive list of accepted, and prohibited, uses for a community center in a Rural Residential zone.

9. Because the Town's RR LUO does not specifically or comprehensively outline what activities are permitted and prohibited by a community center, it is difficult for SSMH to determine which activities they are going to provide. Until they know what activities are prohibited, then cannot decide which activities to offer.

10. Regarding the issues of parking and winter access:

(a) Your recent email said that Mr. Allen of DOT has said "that the Maine DOT represented by him and his regional office staff uniformly have not written a letter or verbally stated an official ME DOT position on this request", because Maine state statute speaks for itself; and, most recently, that "it is the town's responsibility and choice as to allow or not allow parking on Route 41 in Readfield," which must comply with Maine state law.

(b) Mr. Allen is an engineer, not a legal authority. So he is not qualified to provide a legal interpretation of section 2068 and must rely on the written law.

(c) As I explained in my prior email with my legal opinion on section 2068, the law is clear about the criteria for prohibited parking, none of which appear to apply to SSMH.

(d) Mr. Nazar is correct that the Planning Board has no legal authority to prohibit parking along a public street. 29-A MRSA § 2068

does not grant any authority to a Town or other government agency to prohibit or restrict the stopping, standing or parking of any vehicles on a public way – that authority is reserved only to Department of Transportation. See 29-A MRSA § 2068(C).

(e) 29-A MRSA § 2069 grants authority to a law enforcement officer, Department of Transportation or the Maine Turnpike Authority to remove a vehicle from a location in violation of section 2068. It does not grant any Town that authority.

11. SSMH's application clearly described that their winter and cold-weather activities will be much fewer than those held during the warmer months. Their application also explained that their activities during the warmer months would happen only a few times a week and only for a few hours at a time.

12. Because SSMH's winter-time and cold-weather activities will be much fewer, the risk of mud and unsafe pedestrian/vehicle interactions on an icy road are far less probable than Mr. Nazar is alleging. SSMH's activities will be scheduled in accordance with the unpredictable weather patterns that Maine is famous for having, and will cancel or reschedule events due to weather-related, or parking-related obstacles.

13. It's a common occurrence in Maine for people to have to park their cars at the top of their dirt driveway in the springtime because of the muddy nature of our topography; delaying or rescheduling SSMH events for the same reason would be acceptable.

14. Mr. Nazar says "a significant uptick in use will require taxpayers to do repairs to the road probably a couple of times a year." But SSMH's application clearly says they do not expect to have a 'significant uptick' in use, because their activities are not going to be held daily, nor all day long. Their activities are expected to include only 3 or 4 days per week, and only 3 or 4 hours per event, with attendance limited to 35 +/- cars, at most. It's not possible to predict what effect that traffic is going to have on Mill Stream Road.

15. Regarding Mr. Nazar's arguments about noises and decibel level testing, his arguments are premature as the types of activities have not yet been definitively planned. SSMH cannot provide the Town with a comprehensive list of proposed activities until the Town provides SSMH with a comprehensive list of prohibited activities.

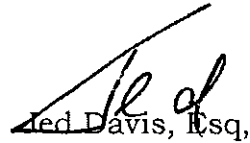
15. As shown in SSMH's exhibits regarding the sound level testing when music inside the barn was played at 95 decibels, noises outside of the barn registered at 50-60 decibels which is no louder than normal

conversation or a hairdryer, as shown in Mr. Nazar's exhibits. Mr. Marston testified that the ambient noises caused by traffic on Route 17 was louder than, and drowned out, noises caused by the music played on the day of his testing.

In closing, I would suggest that the most significant obstacle during this process is the Town's lack of a comprehensive list of permitted and prohibited activities by a community center or club within the Rural Residential zone.

In that regard, SSMH is willing and able to work with the Town to determine practical and reasonable activities and uses for their members that will not increase town expenses, the need for town services or interfere with neighbors' right to peaceful enjoyment of their homes.

Sincerely yours,



Ted Davis, Esq.

Cc: Alex Twarog