

STATE OF NEW YORK  
COUNTY OF WASHINGTON SUPREME COURT

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MARY ANNE RICHARD and  
DANIEL SMITH,

INDEX NO. 16168

Petitioners,

-against-

THE TOWN OF CAMBRIDGE,  
THE CAMBRIDGE TOWN BOARD,  
AUDREY B. HALL,  
SALLY J. WHITNEY, and  
TERRY E. WHITNEY, SR.,

VERIFIED ANSWER OF  
THE TOWN OF CAMBRIDGE &  
THE CAMBRIDGE TOWN BOARD

Respondents.

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NOW COME Respondents, the Town of Cambridge and the Cambridge Town Board (hereinafter collectively, "the Town"), by and through undersigned counsel, Deily, Mooney & Glatetter, LLP, who hereby answer the Petition of Mary Anne Richard and Daniel Smith (hereinafter respectively "Richard" and "Smith"), as follows:

1. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1, and leaves Richard and Smith to their proof thereof.
2. Admitted.
3. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and leaves Richard and Smith to their proof thereof.
4. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4, and leaves Richard and Smith to their proof thereof.
5. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5, and leaves Richard and Smith to their proof thereof.

6. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6, and leaves Richard and Smith to their proof thereof.

7. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7, and leaves Richard and Smith to their proof thereof.

8. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8, and leaves Richard and Smith to their proof thereof.

9. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9, and leaves Richard and Smith to their proof thereof.

10. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10, and leaves Richard and Smith to their proof thereof.

11. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11, and leaves Richard and Smith to their proof thereof.

12. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, and leaves Richard and Smith to their proof thereof.

13. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13, and leaves Richard and Smith to their proof thereof.

14. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14, and leaves Richard and Smith to their proof thereof.

15. Denied.

16. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16, and leaves Richard and Smith to their proof thereof.

17. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, and leaves Richard and Smith to their proof thereof.

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18. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18, and leaves Richard and Smith to their proof thereof.

19. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, and leaves Richard and Smith to their proof thereof.

20. Admitted.

21. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21, and leaves Richard and Smith to their proof thereof.

22. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22, and leaves Richard and Smith to their proof thereof.

#### FIRST CAUSE OF ACTION

23. The Town incorporates and realleges its answer as to Paragraphs 1 through 22 as if set forth fully herein.

24. Denied.

25. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25, and leaves Richard and Smith to their proof thereof.

26. Denied.

27. Denied.

#### SECOND CAUSE OF ACTION

28. The Town incorporates and realleges its answer as to Paragraphs 1 through 27 as if set forth fully herein.

29. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29, and leaves Richard and Smith to their proof thereof.

30. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, and leaves Richard and Smith to their proof thereof.

31. Denied.

32. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32, and leaves Richard and Smith to their proof thereof.

33. Admitted.

34. Denied.

### THIRD CAUSE OF ACTION

35. The Town incorporates and realleges its answer as to Paragraphs 1 through 34 as if set forth fully herein.

36. Denied.

37. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37, and leaves Richard and Smith to their proof thereof.

38. Denied.

39. Denied.

40. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40, and leaves Richard and Smith to their proof thereof.

41. Denied.

42. Denied.

### FOURTH CAUSE OF ACTION

43. The Town incorporates and realleges its answer as to Paragraphs 1 through 42 as if set forth fully herein.

44. Denied.

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45. Denied.

46. Denied.

**FIFTH CAUSE OF ACTION**

47. The Town incorporates and realleges its answer as to Paragraphs 1 through 46 as if set forth fully herein.

48. Denied.

49. Denied.

50. Denied.

**SIXTH CAUSE OF ACTION**

51. The Town incorporates and realleges its answer as to Paragraphs 1 through 50 as if set forth fully herein.

52. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52, and leaves Richard and Smith to their proof thereof.

53. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53, and leaves Richard and Smith to their proof thereof.

54. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54, and leaves Richard and Smith to their proof thereof.

55. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55, and leaves Richard and Smith to their proof thereof.

56. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56, and leaves Richard and Smith to their proof thereof.

57. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57, and leaves Richard and Smith to their proof thereof.

58. Denied.

59. Denied.

### INJUNCTIVE RELIEF

60. The Town incorporates and realleges its answer as to Paragraphs 1 through 59 as if set forth fully herein.

61. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and leaves Richard and Smith to their proof thereof.

62. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62, and leaves Richard and Smith to their proof thereof.

63. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63, and leaves Richard and Smith to their proof thereof.

64. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64, and leaves Richard and Smith to their proof thereof.

65. The Town lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65, and leaves Richard and Smith to their proof thereof.

WHEREFORE, the Town requests that the Petition of Richard and Smith be denied and dismissed.

### OBJECTIONS IN POINTS OF LAW / AFFIRMATIVE DEFENSES

FIRST: Richard and Smith have failed to state a cause of action against the Town.

SECOND: Richard and Smith lack standing to make this Petition against the Town.

THIRD: Richard and Smith's claims for equitable relief are barred by laches.

FOURTH; Richard and Smith's claims for equitable relief are barred by unclean hands.

**FIFTH:** Richard and Smith are collaterally estopped from relief as against the Town.

**SIXTH:** The parcel of land conveyed by Leo O'Donnell in 1939 is not coextensive with the parcel described as the "Disputed Property" in the Petition of Richard and Smith.

**SEVENTH:** Richard and Smith's Petition is barred by the applicable Statute of Limitations.

**EIGHTH:** The Town had abandoned the "Disputed Property", and had no title to convey in 2008.

**NINTH:** To the extent that the Town possessed any interest in the "Disputed Property", which the Town denies, the Town merely quitclaimed, and did not convey, sell, or gift, any interest in the "Disputed Property" to the rightful owner.

**TENTH:** Any putative claims of Richard and Smith are answerable in damages, such that Richard and Smith are not entitled to equitable relief.

**ELEVENTH:** The evidentiary facts set forth in the Petition and in the Answer of the Town are in dispute, and the Town is entitled to a trial thereon.

**WHEREFORE,** the Town requests that Richard and Smith take nothing by their Petition.

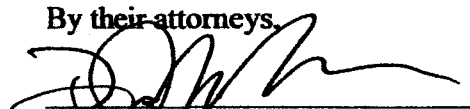
The Town requests that it be awarded its costs and disbursements in this proceeding, inclusive of a reasonable attorney fee.

The Town further requests any and all such other relief as this Court deems just and meet.

Dated: February 18, 2010  
Albany, New York

**THE TOWN OF CAMBRIDGE &  
THE CAMBRIDGE TOWN BOARD**

By their attorneys.

  
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Douglas J. Rose

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**DEILY, MOONEY & GLASTETTER LLP**  
**8 Thurlow Terrace**  
**Albany, New York 12203**  
**(518) 436-0344**



I, William Watkins, being duly sworn and under oath do hereby depose and say that I am a resident of the State of New York, I am the duly-elected Supervisor of the Town of Cambridge, and I am familiar with the facts and circumstances related in the papers and proceedings herein, and that I have read the allegations of the within Answer, and do hereby attest to the truth thereof.

*William H. Watkins*

WILLIAM WATKINS

STATE OF NEW YORK )

COUNTY OF WASHINGTON ) ss.

On the 16 day of February, 2010, before me, the undersigned, personally appeared William Watkins, personally known to me or proved to me on basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Tracey L. Wardwell*

NOTARY PUBLIC  
TRACEY L. WARDWELL  
Notary Public, State of New York  
Washington Co. #01WA6024437  
My Commission Expires May 10, 2011

