

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

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~~Pro Se Plaintiff DAVID P DEMAREST~~

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

DAVID P. DEMAREST, an individual,
PLAINTIFF

CASE NO: 2:21-cv-167
(42 U.S.C. § 1983)
(42 U.S.C. § 1983 Monell)
Jury Trial Demanded

v.

DEFENDANT TOWN OF UNDERHILL, a municipality and charter town, and
DEFENDANT ~~SELECTBOARD CHAIR~~TOWN OFFICIALS: DANIEL STEINBAUER, as
an individual ~~and in official capacity~~,
DEFENDANT BOB STONE, as an individual ~~and in official capacity~~,
~~DEFENDANT PETER DUVAL, in official capacity,~~
DEFENDANT DICK ALBERTINI, as an individual ~~and in official capacity~~,
~~DEFENDANT JUDY BOND, in official capacity.~~
~~DEFENDANT PETER BROOKS, in official capacity.~~
DEFENDANT SETH FRIEDMAN, ~~in official capacity~~as an individual,
DEFENDANT MARCY GIBSON, as an individual ~~and in official capacity~~,
~~DEFENDANT BARBARA GREENE, in official capacity,~~
~~DEFENDANT CAROLYN GREGSON, in official capacity,~~
~~DEFENDANT STAN HAMLET, as an individual and in official capacity,~~
~~DEFENDANT RICK HEH, as an individual and in official capacity,~~
~~DEFENDANT BRAD HOLDEN, as an individual and in official capacity,~~
~~DEFENDANT FAITH INGULSRUD, in official capacity,~~
~~DEFENDANT KURT JOHNSON, in official capacity,~~
DEFENDANT ANTON KELSEY, ~~in official capacity~~as an individual,
DEFENDANT KAREN MCKNIGHT, as an individual ~~and in official capacity~~,
~~DEFENDANT NANCY MCRAE, as an individual and in official capacity,~~
~~DEFENDANT MICHAEL OMAN, in official capacity,~~
DEFENDANT STEVE OWENS, as an individual ~~and in official capacity~~,
~~DEFENDANT MARY PACIFICI, in official capacity,~~

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~~DEFENDANT CLIFFORD PETERSON, as an individual and in official capacity,
DEFENDANT PATRICIA SABALIS, as an individual and in official capacity,
DEFENDANT CYNTHIA SEYBOLT, as an individual and in official capacity,
DEFENDANT TREVOR SQUIRRELL, as an individual and in official capacity,
DEFENDANT RITA ST GERMAIN, as an individual and in official capacity,
DEFENDANT DAPHNE TANIS, as an individual and in official capacity,
DEFENDANT WALTER “TED” TEDFORD, as an individual and in official capacity,~~

~~DEFENDANT STEVE WALKERMAN, as an individual and in official capacity,
DEFENDANT MIKE WEISEL, as an individual and in official capacity,
DEFENDANT BARBARA YERRICK, in official capacity,~~

~~DEFENDANT FRONT PORCH FORUM, INC., (“FPF”) as a Public Benefit Corporation fairly treated as acting under color of law due to past and present factual considerations while serving the traditional governmental role of providing “Essential Civic Infrastructure” ranging from the distribution of public meeting agendas to the coordination of civilian natural disaster relief efforts~~

~~DEFENDANT JERICHO UNDERHILL LAND TRUST, (“JULT”) as Non-Profit Corporation fairly treated as acting under color of law due to past and present factual considerations and a special relationship willfully participating in and actively directing acquisition of municipal property by the Town of Underhill~~

FIRSTSECOND AMENDED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

~~In violation of the Fifth~~ **SUMMARY OF COMPLAINT**

1. ~~Plaintiff’s First and Fourteenth~~ Amendment, ~~rights were violated by a series of actions taken by the Defendants with respect to Plaintiff and his 50+ acres of residential property in the Town of Underhill and a clique of.~~
2. Prior to Plaintiff’s purchase of his property on New Road, ~~Defendant individual town officials, acting both individually and in collusion under color of law, have recently succeeded in their long term goal of maliciously rescinding all prior implicit~~ Town of

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- Underhill expressly promised reasonable access to the parcel (NR144). Plaintiff also had an attorney review the land records and ~~explicit~~ purchased title insurance.
3. Plaintiff would not have purchased the property were it not for the promises made by The Town of Underhill to Plaintiff for reasonable access to and use of his Defendants.
4. At the time Plaintiff built his home (under New Dwelling Permit B02-41), New Road was a Class III & Class IV thru-road shown on the official Agency of Transportation map (dated 2010 and earlier) as Town Highway 26 (TH-26).
5. In the furtherance of their own personal interests and gains, Defendants have engaged in actions inimical to Plaintiff's constitutional rights for more than 14 years. Exercising his First Amendment rights, Plaintiff sought to have the Town engage in minimal road repairs on TH-26. When the Town failed to do so, Plaintiff continued speaking up at Selectboard meetings and joined multiple petitions for road maintenance. Instead of repairing and maintaining TH-26 the way similarly situated roads in town were maintained, Defendants "reclassified" the road from Plaintiff's driveway to the Town Highway Department facilities as a "Legal Trail."
6. In addition to abandoning maintenance on portions of TH-26 both north and south of Plaintiff's driveway, Defendants have denied Plaintiff's request to maintain the "Trail" segment of TH-26 at his own expense, and intermittently blocked TH-26 access with boulders which causes recurring difficulties accessing Plaintiff's domicile and over 50 acres of.
7. On May 9, 2023 Defendants Karen McKnight, Anton Kelsey, and Daphne Tanis discussed an additional plan to install gates to block ongoing motor vehicle access and to direct public use towards Plaintiff's property.

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~~1.8. The Defendants' actions were taken in retaliation for Plaintiff's outspoken criticism of Defendants' acts with respect to TH-26, other matters of local public concern, and his efforts to compel the promised access to his home and surrounding private property land.~~

~~2. In the furtherance of the above goal, Defendant Town of Underhill and town officials named in the present complaint have also acted under color of law to discriminate against Plaintiff in multiple ways including: censoring and misrepresenting protected speech (including preventing factual evidence from ever being incorporated into the legal record in prior state litigation), intentionally and relentlessly retaliating against protected speech, obstructing the right to petition multiple times, *willfully* acting with *deliberate indifference* to necessary structural and procedural due process legal protections, and violating Plaintiff's substantive due process rights in *flagrant* violation of the First, Ninth, and Fourteenth Amendments.~~

~~3. The degree of deceit, fraud, and obstruction above named Town of Underhill officials have *willfully* perpetuated in a Kafkaesque maze of non-chronological appellate style reviews of Defendants Town of Underhill' administrative decisions over the span of 12 years of Vermont state court litigation emphasizes allegations against the Town of Underhill and Town of Underhill officials presently named.~~

~~4. Most notably to present claims, the Town of Underhill and Town of Underhill officials have obstinately continued to falsely claim the Town of Underhill reclassified a segment of TH26 in 2001; this assertion was originally a contentious claim due to well established law, but Defendant Town of Underhill and Town of Underhill officials have continued to *willfully* make this *false claim* in court for over a decade despite the Vermont Superior Court's ruling~~

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~~dated May 31, 2011, which was not appealed (Docket No S0234-10 CnC), and persistently remained willfully indifferent to County Road Commissioner findings of fact.~~

- ~~5. The above stated civil rights violations have been exasperated by the special self-dealing relationship and decision-making authority the Jericho Underhill Land Trust has in the Town of Underhill's determination which properties the Town of Underhill will acquire from willing sellers and which property, such as Plaintiff's, the Town of Underhill will take without compensation.~~
- ~~6. The above stated civil rights violations have also been exasperated by Defendant Front Porch Forum Inc. willingly participating in the censorship of Plaintiff's protected speech from their *Essential Civic Infrastructure* which is presently used for traditional governmental functions ranging from the posting of public meeting agendas to the coordination of citizens involved in disaster relief efforts.~~

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~~9. Plaintiff has been singled out for this harsh treatment. Other similarly situated property owners – including some of the Defendants themselves – have been treated quite differently, as alleged hereafter.~~

~~10. The Defendants acted maliciously and in concert to deprive Plaintiff of rights guaranteed by the Constitution to all citizens.~~

JURISDICTION

~~7.11.~~ The federal rights asserted by Plaintiff are enforceable under 42 U.S.C. § 1983.

~~8.12.~~ This Court has jurisdiction over these claims under 28 U.S.C. §§ 1331, 1343(a)(3) and has the authority to grant declaratory and injunctive relief under 28 U.S.C. § 2201-2202 and Fed. R. Civ. P. 57 and 65.

VENUE

~~9.13.~~ Venue is proper in the District of Vermont under 28 U.S.C. § 1391(b) since Plaintiff and majority of Defendants are residents of this judicial district.

~~10.14.~~ All the actions and inactions by Defendants giving rise to all causes of action occurred within this judicial district.

PARTIES

~~11.15.~~ THE TOWN OF UNDERHILL, P.O. Box 120, Underhill, VT 05489, a municipality and charter town of The State of Vermont.

~~12.16.~~ DANIEL STEINBAUER, 52 Range Road, Underhill VT 05489. Current Underhill Selectboard Chair and Justice of the Peace (and former Underhill Conservation Commission Member), as an individual ~~and in official capacity.~~

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~~13.17.~~ BOB STONE, 54 River Road #A, Underhill VT 05489, current Underhill

Selectboard Member, as an individual ~~and in official capacity.~~

~~14. PETER DUVAL, 25 Pine Ridge Rd, Underhill VT 05489, current Underhill Selectboard~~

~~Member, in official capacity.~~

~~(The following Defendants are listed alphabetically by last name)~~

~~15.18.~~ DICK ALBERTINI, 66 Kiln Rd, Essex Junction, VT 05452, former Underhill

Conservation Commission Member, and former Underhill Planning Commission

Chair, as an individual ~~and in official capacity.~~

~~16. JUDY BOND, 435 Cilley Hill Rd, Underhill, VT 05489, former Underhill Conservation~~

~~Commission Member and former Underhill Planning Commission Member, in official capacity.~~

~~17. PETER BROOKS, 71 Beacon St #2, Somerville, MA 02143, former Underhill Selectboard~~

~~Member, in official capacity.~~

~~18.19.~~ SETH FRIEDMAN, 139 Pleasant Valley Rd, Underhill VT 05489, former

Underhill Selectboard Member (and current Underhill Recreation Committee Member), ~~in official capacity~~ as an individual.

~~19.20.~~ MARCY GIBSON, 50 New Rd, Underhill, VT 05489, former Jericho Underhill

Park District member, as an individual ~~and in official capacity.~~

~~20. BARBARA GREENE, 80 Commons Rd, Williston, VT 05495, former Underhill~~

~~Conservation Commission Member, in official capacity.~~

~~21. CAROLYN GREGSON, 99 Pleasant Valley Rd, Underhill, VT 05489, former Underhill~~

~~Town Administrator, in official capacity.~~

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~~22. STAN HAMLET (deceased), former Underhill Selectboard Member, as an individual and in official capacity.~~

~~23. RICK HEH, 52 Kelley Rd, Underhill, VT 05489, former Underhill Selectboard Member and former Highways Infrastructure and Equipment Committee (HIEC) member, as an individual and in official capacity.~~

~~24. BRAD HOLDEN, 60 Covey Rd, Underhill, VT 05489, Interim Underhill Town Administrator and former Underhill Selectboard Member and professional surveyor for the Town, as an individual and in official capacity.~~

~~25. FAITH INGULSRUD, 50 Clymer St, Burlington VT 05401, former Underhill Conservation Commission Member, in official capacity.~~

~~26. KURT JOHNSON, 45 Mt Vista Rd, Underhill, VT 05489, former Underhill Selectboard Member and current Chair of Infrastructure Committee (synonymous with HIEC), in official capacity.~~

~~27-21.~~ 27-21. ANTON KELSEY, 200 Pleasant Valley Rd, Underhill, VT 05489, Underhill Recreation Committee Chair, ~~in official capacity~~ as an individual.

~~28-22.~~ 28-22. KAREN MCKNIGHT, 164 Beartown Rd, Underhill, VT 05489 Underhill Conservation Commission Chair and Development Review Board, and former Trails Committee Member, as an individual ~~and in official capacity~~.

~~29. NANCY MCRAE, 599 Pleasant Valley Rd, Underhill, VT 05489, Underhill Conservation Commission member and former Trails Committee Member, as an individual and in official capacity.~~

~~30. MICHAEL OMAN, 191 Pleasant Valley Road, Underhill, VT 05489, former Underhill Planning Commission Member, in official capacity.~~

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~~31.~~23. STEVE OWENS, 180 River Road, Underhill VT 05489, former Underhill

Selectboard Member, as an individual ~~and in official capacity.~~

~~32. MARY PACIFICI, (deceased), former Underhill Conservation Commission Member, in official capacity.~~

~~33. CLIFFORD PETERSON, 1226 E Hyde Park Blvd Apt 1, Chicago, IL 60615, former Underhill Selectboard Member, as an individual and in official capacity~~

~~34. PATRICIA SABALIS, 609 Irish Settlement Rd Apt A, Underhill, VT 05489, former Underhill Selectboard Member and current Justice of the Peace, as an individual and in official capacity.~~

~~35. CYNTHIA SEYBOLT, 150 Hawthorn Dr, Shelburne, VT 05482, former Underhill Conservation Commission Member and former Underhill Planning Commission Member, as an individual and in official capacity.~~

~~36. TREVOR SQUIRRELL, 15 Snyder Rd, Underhill, VT 05489, former Underhill Conservation Commission Chair and former Underhill Planning Commission Member, as an individual and in official capacity.~~

~~37. RITA ST GERMAIN, 18 Tupper Rd, Underhill, VT 05489, former Underhill Conservation Commission Member, as an individual and in official capacity.~~

~~38.~~24. DAPHNE TANIS, 359 Irish Settlement Rd, Underhill, VT 05489, Underhill

Conservation Commission Member, as an individual ~~and in official capacity.~~

~~39. WALTER "TED" TEDFORD, 20 Beartown Rd, Underhill, VT 05489, former Underhill Selectboard Member, as an individual and in official capacity.~~

~~40.~~25. STEVE WALKERMAN, 5631 Dorset St, Shelburne, VT 05482, former Underhill

Selectboard Member, as an individual ~~and in official capacity.~~

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~~41.26.~~ MIKE WEISEL, 626 Irish Settlement Rd, Underhill, VT 05489, Underhill

Infrastructure Committee Member, as an individual ~~and in official capacity.~~

~~42. BARBARA YERRICK, 64 Krug Rd, Underhill, VT 05489, former Underhill Conservation Commission Member, in official capacity.~~

~~43. FRONT PORCH FORUM, INC (“FPF”), P.O. Box 73, Westford, VT 05494, a publicly funded Public Benefit Organization which provides the traditional governmental function of “Essential Civic Infrastructure in Vermont.”~~

~~44.27.~~ JERICHO UNDERHILL LAND TRUST (“JULT”), P.O. Box 80, Jericho, VT

~~05465, an organization which currently claims 501(C)(3) status and receives substantial support and legal authority from a special relationship with the Towns of Underhill and Jericho; trustees, donors, members and family members of JULT include Defendants named in paragraphs 12, 15, 18, 19, 20, 22, 25, 28, 29, 32, 35, 36, 40, 41 above. Due to a lack of transparency within the governance of Defendant Town of Underhill, discovery is necessary may reveal material information, including information solely in the possession of Defendants, to determine if individual capacity claims should be added to Defendant town officials presently only named in their official capacity and to potentially substantiate addition of ~~other parties~~ or Causes of Action.~~

GENERAL ALLEGATIONS

~~45. Defendants Town of Underhill, Stan Hamlet, Peter Brooks and former Underhill selectboard member Bob Pasco (not presently named as a Defendant) changed Plaintiff’s property code from “NR-144” to “FU-111” *after* Plaintiff purchased NR-144 in reliance~~

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~~upon an attorney's review of the land records *and* built his domicile trusting the explicit promises made by Defendants Town of Underhill and Stan Hamlet for reasonable ongoing future access to NR-144.~~

28. After years of *willfully* refusing to provide *any* reasonable maintenance to Plaintiff asserts having exercised the First Amendment Right to Petition for a Redress of Grievances by being a co-party to a "Notice of Insufficiency" involving TH-26 dated February 17, 2010 and submitting a "Petition on Fairness in Town Road Maintenance on Public and Private Roads" dated April 29, 2010 which was signed by over 5% of Underhill's registered voters, and having publicly exercised, and attempted to exercise, protected speech on matters of local importance in Underhill Vermont for the span of approximately 20 years.

29. Plaintiff asserts the Underhill Selectboard Meeting Minutes dated March 4, 2010 involving the 2010 reclassification of TH-26 (New Road) state, "Steve Walkerman moves the motion as written: Whereas a petition has been filed with the Chittenden Superior Court [by Plaintiff]" (Exhibit 1)

30. Plaintiff alleges a longstanding pattern and practice of Defendants' willful actions and inactions involving both Plaintiff and treating the central segment of Town Highway 26 (TH26) under the guise of budgetary constraints (even though the Town was TH-26 differently than other similarly situated public rights of way has been primarily motivated by retaliation against Plaintiff for the exercise of his First Amendment Rights asserted above.

31. Plaintiff alleges the treatment of Plaintiff, Plaintiff's property, the segment of TH-26 abutting Plaintiff's property, and self-executing private right of access to Plaintiff's

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property by way of TH-26 have been treated differently relative to Defendant actions and inactions in similarly situated situations.

32. Plaintiff alleges there to have not been a rational basis founded upon legitimate local governmental interests, as opposed to defendant officials own self-interests for the disparate treatment of Plaintiff relative to others that are similarly situated.

33. Plaintiff asserts the question posed 22 minutes 32 seconds into the April 24, 2010 New Road Reclassification demonstrates Plaintiff's lifestyle and off-grid domicile was not adversely impacting anyone or the environment and therefore there was no valid rational basis to treat Plaintiff differently than similarly situated residents. Plaintiff asserts the speed this question was answered demonstrates Defendant awareness sustaining unequal treatment of the central segment of TH-26 would cause an increasingly disproportionate impact to Plaintiff's way of life; in comparison Defendant Marcy Gibson directed the Underhill Road Crew to develop a school bus turnaround on the Town's conservation land opposite her property for the sole benefit of her grandchildren and the property values of NR-48 and NR-50 (according to an information request responded to January 19, 2023 the estimated town cost was \$3,875).

34. Defendant Town of Underhill had been receiving state funding to maintain the entire former class III segment); and the non-deferential County Road Commissioners Report in prior proceedings dated June 26, 2013 involved factual findings entirely in favor of Plaintiff and two co-petitioners; describing the cumulative impacts of sustained abandonment of municipal maintenance of the central TH-26 segment

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35. The Defendants chose to incur the cost of appeal based solely upon a legal theory that the gap in the court's non-deferential jurisdiction is justification enough to exercise unbridled municipal defendant discretion and continue to refuse to maintain (or even remove illegally dumped items) for a distance of ~3000 feet of TH-26 south of Plaintiff's driveway and also refuse to maintain (or even remove illegally dumped items) north of Plaintiff's driveway until past his northerly property line.

46.36. Plaintiff asserts Defendants Town of Underhill, Daniel Steinbauer, Steve Owens, ~~Trevor Squirrel, Steve Walkerman and others acting under color of law and outside of public awareness officially sought~~ Steve Walkerman vindictively responded to Plaintiff publicly advocating to pursue a grant to replace a culvert on TH-26 by seeking legal advice in a letter dated October 8, 2009 to determine "if there is any way the Town could rescind the access" which Plaintiff was previously promised ~~and~~ actively utilizing for access to Plaintiff's domicile and surrounding private property;² this letter is incorporated by reference and available publicly at:
<https://www.underhillvt.com/october-8-2009-letter>

37. Plaintiff asserts Defendants attending the May 8, 2023 joint meeting of the Underhill Conservation Commission and Underhill Recreation Committee have articulated an additional plan to further harm Plaintiff's by, *inter alia*, building gates to block his continued vehicular access for compelling personal and business purposes to his domicile and surrounding lands.

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38. The schematic to the right shows the general spatial layout of Plaintiff's property and surrounding similarly situated properties; the segment of ~~TH26~~TH-26 between the two hand-drawn lines is the segment which ~~an~~the October 8, 2009 letter expressed the ~~desire~~intention to *rescind* Plaintiff's access, ~~and~~ in response to Plaintiff's speech advocating the Town pursue a grant to replace a failed culvert on TH-26 abutting Plaintiff's property (if the grant were pursued and awarded, the cost would have been ~\$1600); the small mark on the road next to "Shera's property" was the ~~factual~~legal transition between Class III and Class IV road at that time. (Exhibit 2 includes more detail).



39. Plaintiff asserts following the sustained abandonment of any public maintenance of a segment of Town Highway 11, unlike similarly situated abutters to TH-26, TH-11 abutting property owners have been granted the reversionary private property right which Vermont Statutes of 1906, Chapter 170 Sec. 3904, the relevant law following the laying out of both TH-11 and TH-26, guaranteed abutting property owners if a town highway were to be discontinued as a town highway.

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40. In violation of the First Amendment, Defendants acted under color of law to discriminate against Plaintiff by preventing his speech in public meetings and misrepresenting protected speech (including preventing factual evidence from ever being incorporated into the legal record in prior to the 2010 New administrative proceedings) and violated Plaintiff's right to Equal Treatment as similarly situated individuals following his protected speech on matters of public concern.
41. Plaintiff asserts the current Selectboard Rules of Procedure, as modified by Defendant Bob Stone, unreasonably constrain public comment based upon the unbridled discretion section granted under F4 ("The chair...may bypass any or all steps when he or she determines, in his or her sole discretion, that deviation from the process is reasonable and warranted..."); in addition Plaintiff alleges only some residents are permitted to speak outside of the two to five minute "Open Public Comment" period.
42. Plaintiff alleges Defendants have committed fraud on the court during a Kafkaesque maze of non-chronological Vermont state court deferential Rule 75 administrative proceedings would have been avoided if Defendants had been willing to treat Plaintiff and Plaintiff's property the same as similarly situated parties and other similarly situated properties.
43. Plaintiff asserts Defendants falsely claim the Town of Underhill reclassified a segment of TH-26 in 2001 despite the Vermont Superior Court's ruling dated May 31, 2011, at a non-deferential standard of review which found on the merits, "The court concludes that the Town's 2001 attempt to reclassify TH-26 was not valid because the Town did not comply with the requirement the Selectboard's order be recorded in the Town's land records." (Defendants chose not to appeal, Docket No S0234-10 CnC).

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44. Plaintiff acknowledges Defendants' Underhill Trail Ordinance continues to prevent a Takings claim from being plausible on its face by having an official policy of prohibiting motor vehicle use over a segment of TH-26 by the general public for a portion of the year while simultaneously codifying an official policy that "permits *shall be* issued" for legitimate needs (and "legitimate need" is defined in the ordinance as "a compelling personal or business purpose").
45. Plaintiff asserts despite the cumulative deterioration of portions of the central portion of the TH-26 right of way he has continued to exercise a common law and 19 V.S.A. 717(c) self-executing private right of access to his domicile and surrounding private property over the TH-26 right of way from both the North and South.
46. Plaintiff asserts having traditionally allowed respectful public use of a detour outside of the duly laid out TH-26 right of way in accordance with the protections of the Vermont Landowner Protection Act and incorporates by reference imagery of the detour outside of the duly laid out TH-26 right of way near Plaintiff's driveway obtained from maps.vcgi.vermont.gov/parcelviewer (search for "FU111", Accessed October 2, 2023).
47. Despite ongoing off-road capable motor vehicle use of the TH-26 right of way all the way from Pleasant Valley Road ~~Reclassification~~ to Irish Settlement Road, as of October 2, 2023 Plaintiff is unaware of any instances of the Underhill Trail Ordinance being enforced in any way other than Defendants' use of the discretion they afforded themselves in the ordinance as the basis to discretionarily deny Plaintiff's *preliminary* 9-lot access permit application on May 5, 2016.

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48. Plaintiff has engaged in protected speech advocating Selectboard members and other Town Officials recuse themselves when they have a Conflict of Interest, and explicitly stated observations of problems within Underhill's governance ~~for over 16 years; publishing the above-mentioned October 8, 2009 letter, with Plaintiff's factual commentary, in the February 20, 2014 edition of the Mountain Gazette is one example of Plaintiff's protected speech which inspired further malicious and gratuitous retaliation in violation of Plaintiff's First Amendment rights~~beginning the winter of 2004 and continuing to the present day with the launching of the Plaintiff's website, www.UnderhillVT.com, and the YouTube Channel @underhillvt.

49. ~~The past Vermont court decisions based upon an appropriate standard of judicial review for issues presently raised and genuine facts (as opposed to the portions of the prior state litigation legal record riddled with intrinsic and extrinsic fraud) are:~~

A. ~~The un-appealed Vermont court decision May 31, 2011 (Docket No S0234-10, which found Defendants' claim that a 2001 New Road Reclassification had occurred was in fact entirely invalid);~~

B. ~~The findings of Chittenden County Road Commissioners for Docket No 234-10 CnC (Dated June 26, 2013, "Repairs are to consist of those repairs recommended by petitioner, consulting engineer, John P. Pitrowski, P.E., as set forth in a letter to petitioners' counsel dated November 21, 2012...");~~

50.49. ~~Despite the Road Commissioners finding entirely in favor of Plaintiff, they still did not take into account all relevant historical facts, such as references~~ a prior Town of Underhill Road Foreman's ~~factual knowledge and the malicious intentions of a clique of Town Officials which is self-evident from~~relevant facts (Exhibit 3) as

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~~partial substantiation there was never a rational basis for unequal treatment of the central segment of TH-26 relative to similarly situated properties over the span of 20 years of public meeting minutes, which were~~was ~~never allowed into the record~~Defendants' prior administrative records.

~~51.50. Plaintiff has credible knowledge, belief, and personal experience that individually named Defendants acted with willful indifference or malicious intentions, or both, towards Plaintiff's civil rights;~~Excerpts of factual documentation and recordings of public meetings and hearings in which town officials ~~presently sued in their individual capacity~~ demonstrated demeanor characteristic of ~~outright~~willful indifference towards Plaintiff's civil rights combined with malicious intentions and animosity towards Plaintiff while choosing to make specific actions and inactions which were reasonably knowable to cause harm to Plaintiffare incorporated by reference to the archived public meeting recordings made by MMCTV.

~~52. Due to Defendant Town of Underhill violations of Vermont Open Meeting Law, discovery it is essential to determine if town officials either only named in their official capacities or not presently named were acting primarily due to Defendant Town of Underhill official policies and practices, or if the addition of individual capacity claims is warranted due to a deliberate indifference to Plaintiff's civil rights, or acting with malicious intentions, or both.~~

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Current Statutory Construction of Vermont Law, Deferential
Administrative Proceedings & Non-Deferential Findings of Fact
Relevant to Present Claims

51. Upon learning of Defendants' intentions expressed in the above-mentioned October

8, 2009 letter seeking "any way" to "rescind" previously promised access, Plaintiff
retained legal counsel in a timely-manner and Petitioned the Court for a redress of
grievances as a co-petitioner to a Notice of Insufficiency.

52. Due to Defendant Town of Underhill use of the unbridled discretion Vermont statute

grants a municipality to "reclassify" a Town Highway without admitting the Town
Highway is "altered" or "resurveyed" in the process, Vermont courts were denied
non-differential jurisdiction under the Rule 74 standard of review. Were the Vermont
courts to have non-deferential jurisdiction, the proceedings involving TH-26 would
have concluded with the defendant town's claimed 2001 New Road reclassification
having been determined to be *invalid* (Full-Faith should be granted to Vermont
Superior Court Ruling Dated May 31, 2011 on Docket No. S0234-10Cnc) and the
Vermont courts could have exercised non-deferential jurisdiction to compel
Defendants follow the Report of the County Road Commissioners on Docket No.
234-10 Cnc dated June 26, 2013 which Ordered, "Repairs are to consist of those
repairs recommended by petitioners..."

53. Due to the statutory construction of 19 V.S.A. 701(2), Vermont state courts currently

lack non-deferential jurisdiction when a Town Highway is "reclassified" and the only
avenue of appeal is a deferential Rule 75 standard of review which begins akin to
seeking a *writ of certiorari* in opposition to the administrative record created by the
defendants; as applied this level of defendant discretion prevented the cumulative

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impacts of Defendants' discretionary decisions to be challenged by Plaintiff until harm to Plaintiff was more than speculative and the pattern and practice of unequal treatment of Plaintiff relative to similarly situated parties was also more than speculative.

54. Defendant conduct and the statutory construction of Vermont law prevented the County Road Commissioner findings of fact from, “trump[ing] the selectboard’s decision through their own view of what the public requires.” Id. at 622, 795 A.2d at 1269

55. Judicial Estoppel requires Defendants be bound by their prior narratives when adjudicating present claims at a non-deferential standard of review; since “Classification of a town highway is not a mandate about the road’s physical appearance, but about its categorization.” (*Ketchum v. Town of Dorset*, 22 A.3d 500 (Vt. 2011), 10-165) the consideration of what qualifies as a “similarly situated property owner” should likewise not be altered by the classification of an abutting public right of way. The Town of Underhill willfully treats Plaintiff and the vast majority of Plaintiff’s previously clearly recognized bundle of private property rights differently than similarly situated property owners.

56. Causes of Action involving the cumulative harm to Plaintiff caused by Defendants’ violations of the First Amendment and Equal Treatment Clause require a non-deferential standard of review as of right and accrual of these Causes of Action required sufficient factual differences in the treatment of sufficiently similar parties and their respective properties to accrue.

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57. Plaintiff notes in accordance with the statutory construction of 19 V.S.A. 701(2) as applied due to stare decisis, “[Vermont state courts still] cannot say that it is wholly irrational for the Legislature to choose to have a different standard of review for the selectboard's decision to reclassify a town highway than for the altering, laying out or resurveying of a highway” (Ketchum v. Town of Dorset), and Plaintiff asserts equitable estoppel requires determination of what constitutes “similarly situated parties” and “similarly situated parcels” requires continuing to consider the entire current and former TH-26 length to have never been legally changed by the process of “altering, laying out or resurveying” following Plaintiff’s construction of his domicile with a New Dwelling Permit issued to NR144 on July 1, 2002.

58. Plaintiff diligently appealed the Selectboard’s discretionary denial of a preliminary access permit to a proposed 9-lot subdivision despite Vermont law constraining court jurisdiction to a cursory administrative review of the Defendants’ narrative, the Selectboard exercised discretion for the benefit of Defendants Dick Albertini, Marcy Gibson, as well as other similarly situated (but less thoroughly prepared) preliminary access permit applications which were granted the opportunity to present their proposals to the Development Review Board and granted lucrative subdivisions.

59. Contrary to Defendants’ own administrative proceeding narratives, the ongoing use of off-road capable motor vehicles on the central TH-26 “trail” segment has been acknowledged by Defendant Anton Kelsey’s statements in the Joint Conservation Commission and Recreation Committee meeting of May 8, 2023 and Defendant Mike Wiesel’s sworn testimony August 2, 2021 (which involved DRB Docket No. DRB-21-12 and his bicycle club’s construction of a new public trail extension and bridge

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without first seeking a permit and with what has been asserted to be an unsafe entrance onto TH-26 due to inadequate sight lines on the well maintained most northerly portion of TH-26).

60. Plaintiff alleges Defendants have deceived the Vermont state courts in administrative proceedings on narrowly defined issues by misrepresenting or censoring relevant facts and creating debates of clearly known facts in a pattern of invidious delays aimed at retaliating against Plaintiff for the exercise of his First Amendment rights.

61. Plaintiff asserts one of the delay strategies Defendants have utilized was denial of the Town of Underhill having previously installed culverts and provided general maintenance of the central segment of TH-26 in prior administrative proceedings despite the town knowing that to be a false claim given well known history of public use to access public landfills.

62. Plaintiff asserts Selectboard Meeting Minutes May 27, 2010 acknowledge Defendant Town of Underhill legal counsel drafted the Selectboard Reclassification Order and Plaintiff asserts due to the purely administrative nature of the Selectboard's Order of Reclassification no longer requiring genuine fact-finding due to the statutory construction of 19 V.S.A. 701(2) the discretionary decision was not supported OR opposed by any duly sworn in testimony.

63. Plaintiff incorporates by reference the recording of the reclassification hearing held April 24, 2010 and asserts Defendants willfully refused to recuse themselves from a proceedings they inherently involved a structural conflict of interest given in Defendant Dan Steinbauer's own words beginning 3 minutes and 30 seconds into the

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recording, stated in part, the purpose of the hearing was “to cross the T’s and dot the I’s.”

64. The unbridled discretion Defendants have abused in purely administrative proceedings to both ever increasingly harm Plaintiff while enriching their own similarly situated privately owned parcels demonstrates why the Vermont Legislature needs to correct the unconstitutionally vague statutory construction of 19 V.S.A. 701(2), which currently grants small towns in Vermont unbridged discretion on matters which may result in the cumulative violation of one or more Constitutional rights.

53-65. The Rhodes decision succinctly summarizes the statutory construction of current Vermont law:

The selectboard's decision to downgrade its status to a trail did not -- as we have elsewhere held -- constitute a "taking" entitling abutting landowners to compensation. See Ketchum v. Town of Dorset, 2011 VT 49, ¶ 13, 190 Vt. 507, 22 A.3d 500 (mem.) (reaffirming rule that "downgrading a road does not involve a taking"); Perrin v. Town of Berlin, 138 Vt. 306, 307, 415 A.2d 221, 222 (1980) (holding that downgrading of town highway to a trail "does not involve the acquisition of property rights from the abutting owners" so that "no damages are involved").

66. Plaintiff asserts the prior landowners of NR144 (Shakespeare, Sims, and Slater) requesting to have a segment of TH-26 discontinued is fundamentally different than a reclassification into a legal trail against the will of abutting property owners; a town highway discontinuance provides reversionary property rights to abutting landowners, ensures landowner privacy, and preserves a landowner’s private right of way over the discontinued corridor in accordance with common law and Vermont Statute 19 V.S.A. § 717(c).

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67. Plaintiff respectfully observes the Vermont Legislature's 2023 Bill H.370 as introduced does not remedy the unbridled discretion the Vermont legislature has afforded small town officials involving the "Road-to-Trail" model developed by Defendants to cumulatively treat similarly situated individuals dramatically differently without the statutory ability of the courts to exercise non-deferential jurisdiction; indeed it could be argued the proposed amendment to 19 V.S.A. § 302 (5) grants even more unbridled discretion and potential for unequal treatment of similarly situated parties if passed as proposed.

68. Plaintiff asserts it is exceedingly implausible given years of litigation Defendants could possibly be unaware of the Vermont Supreme Court Decision *Rhodes v. Town of Georgia* dated March 23, 2012 involving Article 7 of the Vermont Constitution which is an additional reason qualified immunity does not shield their extremely similar pattern and practice of mistreating Plaintiff.

General Chronology of Facts Relevant to The Present Claims

~~54. Defendant Town of Underhill and town officials involved in the Selectboard and Underhill Conservation Commission in Spring of 2002 wanted the prior owner of Plaintiff's property to donate parcel NR-144 to the Town, as the prior owner (the Shakespeare's) had already done with parcel NR-141x.~~

~~55.69. The preceding statement is based in part by the~~ Selectboard meeting minutes submitted by Defendant Peter Brooks dated April 11, 2002, ~~which~~ state:

The UCC would like to have town buy the Shakespeare [the prior owners' of Plaintiff's property and prior donors of NR141x] land.
There is no penalty for them to give it to the town.

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~~56.70.~~ Plaintiff met with ~~Defendants~~the Town of Underhill, ~~Stan Hamlet, and Carolyn Gregson~~ Selectboard prior to ~~the~~his purchase of ~~NR-144~~NR144; meeting minutes failed to record the entirety of the promises officially made by Defendant Town of Underhill and the former Selectboard Chair Stanton Hamlet to Plaintiff ~~by Defendants Town~~involving, inter alia, abutting landowners recognized right of Underhill and Stan Hamlet.access on New Road (but plowing the segment from the Town Highway Maintenance Building to Irish Settlement Road was up to landowners).

~~57.71.~~ ~~As a matter of incontestable fact,~~ Plaintiff had already built a domicile,⁺ and the Defendant Town of Underhill presently continues to retain the property code “NR-141x” for the property opposite a *northern* portion of Plaintiff’s property despite changing Plaintiff’s lot code from ~~NR-144 to FU-111.~~NR144 to FU111; for the purposes of present claims judicial estoppel requires “reclassification” of TH-26 should not now deviate from Plaintiff’s past administrative narratives into Defendants’ that changes to TH-26 did not involve the plain meaning of either the words “alter” or “resurvey.”

72. In response to Plaintiff’s speech urging consideration a grant which, if granted, would preserve all reasonable public uses and private uses while protecting the environment for approximately \$1,600 (based upon the prior Underhill road foreman estimate of

⁺ ~~Plaintiff personally built a domicile under a New Dwelling Permit (B02-41) which was approved for property code “NR-144” on July 1, 2002 with the inherent municipal promise of reasonable access combined with the reasonable expectations of privacy living in the middle of over 50 acres of private property.~~

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\$8,000 to replace a failed TH-26 culvert on the segment abutting Plaintiff's property),
on October 8, 2009, after years of refusing to conduct ~~reasonable~~reasonable and
necessary maintenance to the central segment of ~~TH26~~TH-26 while continuing to
receive State A.O.T. funds to maintain the entire Class III segment, Defendants Town
of Underhill, Daniel Steinbauer, Steve Owens, ~~Trevor Squirrel,~~ Steve Walkerman and
others acting under color of law but outside of public awareness ~~officially responded~~
~~to Plaintiff's good faith.~~

73. Plaintiff asserts the dialogue between Defendant Karen McKnight and Defendant Dan
Steinbauer beginning 16 minutes and 42 seconds of the 2010 New Road
Reclassification hearing was indicative of a willful collaboration to falsely claim that
Plaintiff and other interested parties strongly opposing to the reclassification would
still have reasonable access to the entirety of their respective properties.

58.74. Plaintiff asserts his lifestyle living in an off-grid home in the middle of over 50
acres of private property was so minimally impactful to both TH-26 and his neighbors
that the question asked 22 minute and 32 seconds into the Reclassification hearing
combined with Defendants response demonstrates a lack of any rational basis
founded upon legitimate governmental purposes for the Defendants' efforts to find
solutions to their willful creation of access problems (which even included the
inconsistent placement of boulders in the "any way of Plaintiff's access), and
environmental problems, by seeking legal advice on how" to "rescind" Plaintiff's
previously the access Plaintiff had been promised access, instead of considering a
grant which Plaintiff suggested to preserve all reasonable public uses and private uses
while protecting the environment for approximately \$1,600 simply replacing a failed

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culvert the way they would have done on any other road in town (or agreeing to provide the materials for Plaintiff to work on the road if he provided the labor, as had been done previously).

~~59. Plaintiff retained legal counsel in a timely manner, in order to protect what was once a clearly recognized legal property right; what followed should have been a very straightforward legal process under Rule 74 since the claimed 2001 New Road reclassification was *invalid*, and the Road Commissioners agreed with all the recommendations made by the engineers retained by Plaintiff and two former co-litigants in the past Notice of Road Insufficiency appeals *and* officially opposed the use of a *sua sponte* 2010 New Reclassification to circumvent a first filed notice of insufficiency.~~

~~60.~~75. Plaintiff asserts the documentedThe actions of Defendants Town of Underhill, Daniel Steinbauer, Steve Owens, ~~Trevor Squirrel~~, Steve Walkerman, Marcy Gibson, Karen McKnight, the late Stan Hamlet, and others acting under color of law but outside of public awareness demonstrates knowledge, that Town Highway 26 (also known to as “~~TH26~~TH-26” / “New Road” / Fuller Road / “Crane Brook Trail” / “Old Dump Road”), *in accordance with clearly established law*, was a Class III / Class IV Town Highway connecting Irish Settlement Road to the North with Pleasant Valley Road to the South until the 2010 New Road reclassification; ~~the entire impetus behind the 2010 New Road reclassification was a willful intent of the Town of Underhill, and Defendant town officials which held positions of governmental authority at that time, to violate Plaintiff’s procedural due process rights...~~

~~61. Approximately 12 years of preceding Vermont state court proceedings document Defendant Town of Underhill, and Defendant town officials sued in their individual capacity, decision~~

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~~to willfully deceive the Vermont state courts by misrepresenting or censoring relevant facts and creating frivolous debates of clearly known facts or interjecting immaterial facts.~~

~~62. Five examples of the preceding statement in the state court records involving Plaintiff (and former co-litigants) against Defendant Town of Underhill are:~~

~~63. The persistence of references to a 2001 New Road reclassification for about a decade after the final ruling which stated 2001 reclassification effort was invalid,~~

~~64. Stating the portion of New Road between Pleasant Valley Road and the Town Garage was paved as an uncontested fact,~~

~~65. Frivolously denying of the Town of Underhill had previously installed culverts and provided general maintenance of the central segment of TH26, despite the *entire town* once using TH26 to access public landfills,~~

~~66. Censorship of a factual Defendants' lack of any rational basis founded upon legitimate justification for governmental interests for their actions is demonstrated by the sustained refusal to spend a mere \$1,600 to replacepursue a grant which, if granted, could have achieved replacement of a failed culvert along Plaintiff's prior road frontage, or help for a mere \$1,600, or the sustained refusal to remove litter and illegally dumped items from the ~~Town right of way, and~~~~

~~67. Prior Vermont Supreme Court Oral Arguments emphasis on Plaintiff's home being "off-grid" as a rationale for Defendant's actions and inactions.~~

~~68. As of February TH-26, 2021, after ~12 years of litigation in Vermont state courts, Defendant Town of Underhill succeeded in officially rescinding the vast majority of the past, present, and prospective future uses and enjoyment of Plaintiff's property.~~

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~~Supreme Court of Vermont Decision: 22 A.3d 500 (Vt. 2011), 10-165,~~

~~Ketchum v. Town of Dorset~~

~~Results in an Unconstitutional Interpretation of Vermont Law and *de facto* Structural Due Process Violation and is Contrary to Federal Precedent~~

~~69. The Ketchum decision states,~~

~~We also reject plaintiffs' argument that we must read the requirement into the statute to avoid an absurd and irrational result. We cannot say that it is wholly irrational for the Legislature to choose to have a different standard of review for the selectboard's decision to reclassify a town highway than for the altering, laying out or resurveying of a highway. All of the latter decisions implicate a town's eminent domain power because they may require a taking of land abutting the town highway. In contrast, downgrading a road does not involve a taking.~~

~~70. Plaintiff asserts it would be difficult to imagine a set of factual circumstances better able to conclusively prove the *Ketchum* decision results in clear legal error, and an unconstitutional judicial interpretation of Vermont law, than the reclassification (more accurately defined as a conversion) of a Class III or Class IV Town Highway into an unmaintained Legal trail.~~

~~71. The Town of Underhill has *altered and subsequent taken* Plaintiff's prior reasonable access and the 2010 New Road Reclassification constituted a categorical taking of Plaintiff's reversionary property rights.~~

~~72.76. The Town of Underhill has willfully achieved a taking of the vast majority of Plaintiff's previously clearly recognized bundle of private property rights above the categorical taking of reversionary rights. [As this Court deems just and proper, other property owners abutting the 49.5 foot wide "Legal Trail" portion of the TH26~~

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~~corridor should be permitted to join the relevant cause of action for compensation of their lost reversionary property rights.].~~

~~73. Plaintiff asserts, due to *Ketchum*, interested persons in Vermont are now denied the procedural due process afforded a Rule 74 appeal when a municipality refuses to conduct reasonable levels of road maintenance (even if it is to the extreme degree of *altering* a Town Highway by refusing to replace failed bridges or culverts), or when *converting* a Town Highway usable by all into a recreational trail which *rescinds* prior landowner access and property rights by *reclassifying* a segment of Class III or Class IV Town Highway into a 49.5 foot wide “Legal Trail.”~~

~~74. Plaintiff asserts Rule 75 appeals are so heavily deferential to municipal administrative decisions that, as a matter of law, a structural due process violation occurred when Defendants Town of Underhill, Daniel Steinbauer, Steve Owens, and Steve Walkerman committed intrinsic and extrinsic fraud in Vermont courts.~~

77. Plaintiff asserts Defendants Town of Underhill, Daniel Steinbauer, Steve Owens, and Steve Walkerman violated the procedural due process right to an *impartial* decision of Plaintiff and numerous other interested persons by conducting the 2010 New Road Reclassification *willfully ignoring* After reading the November 19, 2020 Recreation Committee Minutes which discussed a planned bridge on the “Crane Brook Trail,” Plaintiff contacted Seth Friedman in good faith to discuss the idea. Plaintiff then personally met with Defendants Seth Friedman and Anton Kelsey on November 28, 2020 to visit the proposed location of the bridge and discuss the planned bridge.

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~~75. On November 28, 2020, Plaintiff emailed Defendant Seth Friedman and asked him to forward the email to Anton Kelsey to both the option to *discontinue* the segment and the *significant* opposition of interested persons *and* the public at large.~~

~~76. Plaintiff asserts Defendant Town of Underhill was able to create its own legal record to undergo administrative review for the 2010 New Road Reclassification; numerous glaring facts indicative of municipal actions and inactions which could reasonably be considered evidence of the Town of Underhill acting arbitrarily, capriciously, maliciously, and outright vindictively, were never incorporated into preceding state court legal records.~~

~~77. Numerous portions of the legal record contained in preceding state litigation are so severely prejudiced by misconduct of Defendant Town of Underhill, and town officials presently sued in their individual capacity, so as to serve as little more than a very compelling reason to issue Declaratory relief involving the precedent Vermont courts set in *Ketchum*, since as was succinctly stated:~~

~~The court's role is to determine if there is adequate evidence to support the Selectboard's decision. The court reviews only the record below without new evidence. There is no fact finding. It is an appellate-style review of an administrative decision.~~

~~78. Defendant Town of Underhill and town officials presently sued in their individual capacities have received a windfall memorialize their meeting and continue the dialogue on the potential to, inter alia, "work together to achieve a reasonable level of unchecked governmental authority to use executive actions and concurrent willful extrinsic and intrinsic fraud to violate Plaintiff's procedural due process rights.~~

~~79. The *Ketchum* interpretation of Vermont law has already inspired Defendants Town of Underhill, Dan Steinbauer, Bob Stone, and Peter Duval, to begin prospecting the~~

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development of other recreational destinations at the cost of other local landowners and it is still to be determined if a landowner supported *discontinuance* of an unmaintained Class IV segment of Butler Road which has not been maintained for decades will ever occur, or if it will eventually be reclassified into a trail against the will of over 15% of Underhill's voters.

Enrichment of Town Officials by Taking of Other's Property Value

80.78. Plaintiff asserts as an uncontestable fact that public maintenance of public infrastructure by replacing the failed culvert in a manner that kept the corridor usable by all..."Plaintiff asserts the location of the Town's Highway Department's garage on TH26TH-26 made it very reasonable to ~~maintain~~ provide equal maintenance to the entire length of TH26TH-26 between Pleasant Valley Road and Irish Settlement Road.

81.79. Plaintiff has credible evidenceThe preceding assertion is supported by an affidavit from the Town of Underhill's former Road Foremen (Exhibit 3) which opposed Defendants' unequal treatment of Plaintiff by objectively recognizing there was never a compelling justification for Defendant Town of Underhill to stop maintaining any segment of TH26TH-26 between Pleasant Valley Road and Irish Settlement Road given similar Class III and Class IV town highways in the Town of Underhill were regularly maintained.

82.80. As one example of Defendant's disparate treatment of Plaintiff asserts knowledge and belief, the ~~willful refusal~~ Town of Underhill treatment of similarly situated landowners abutting Corbett Road is planning as of 2023 to ~~replace culverts~~ install a "Beaver Deceiver" to preserve vehicular use while protecting the environment and

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~~downstream water quality in contract the failed culvert~~ on the central section of ~~TH26~~TH-26 abutting Plaintiff's property has *created* ~~both access problems and~~ environmental problems ~~where neither previously existed~~.

~~83.81.~~ Additional examples of disparate treatment of Plaintiff's TH-26 frontage and private accessibility over a public corridor include TH-9 (North Underhill Station Road) maintenance through a wetland, TH-11 (Butler Road) providing requested culvert to Class IV portion, permitting segments of TH-11 (Butler Road), TH-33 and TH-41 to be discontinued instead of discretionarily turned into a "Legal Trail," and a segment of TH-26 which was Class 4 being discretionarily upgraded from Class 4 to Class 3.

~~84.82.~~ As depicted in Table 1, The Town of Underhill's appraisals of properties on and near TH-26 demonstrate the disproportionate negative financial impact of the ~~taking of~~Unequal Treatment of TH-26 and Plaintiff's property compared to nearby real estate values and the ~~elimination~~indefinite delay of ~~a~~-reasonable investment backed ~~return and returns or~~ appreciation in comparison to ~~surrounding~~nearby similarly situated properties.

~~85.83.~~ Named Defendants financially benefiting from ~~being an optimal proximity to a free public trail (the converted segment of TH26)~~Defendants' pattern and the ~~"Crane Brook Conservation Area"~~practice of Unequal Treatment of Plaintiff are underlined in Table 1.

~~86.84.~~ Defendants Dick Albertini and Marcy Gibson are two of the most notable examples of ~~Underhill Officials which~~Defendants who significantly profited from a completed subdivision process which was dramatically easier than the Town of

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Underhill's ~~response to~~unequal treatment of Plaintiff's efforts to obtain a *preliminary* access permit.

85. Defendant Town of Underhill assessments conducted in 2019 recognize the dramatic devaluation of Plaintiff's property compared to nearby properties that are similarly situated.

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Table 1	2019 Assessment² Exclusive Of Improvements			(Named Defendants Are Underlined) (Properties Are Listed North to South)
Parcel ID	Acres	Parcel \$	\$ Acre	Ownership
IS-359	10.02	\$117,800	\$11,756	Walter and <u>Daphne (UCC Member) Tanis³</u>
FU-11	3.4	\$87,400	\$25,705	Jessica Butler and Jeremy Rector
FU-12x	0.33	\$23,000	\$69,697	<u>Town of Underhill</u>
FU-23	7.5	\$100,000	\$13,333	John and Tammy Viggato
FU-49	49.5	\$162,900	\$3,291	Trust for Jeff and Angela Moulton (formerly co- litigantpetitioner with plaintiff)
FU-54X	17	\$127,300	\$7,488	<u>Town of Underhill</u>
FU-57	122.4	\$267,600	\$2,186	Jonathan and Lisa Fuller (formerly co- litigantpetitioner with plaintiff)
FU-111	51.64	\$108,000	\$2,091	David Demarest
NR-141x	10.19	\$122,100	\$11,982	<u>Town of Underhill⁴</u>
NR-50	8.98	\$114,600	\$12,762	<u>Marcy Gibson</u> (JUPD and JULT member)
NR-48	3.77	\$98,600	\$26,154	Kevin Gibson (Marcy Gibson's son)
NR-3	30.3	\$163,100	\$5,383	John and Denise Angelino
PV-200	24	\$170,000	\$7,083	<u>Anton (Recreation Committee Chair)</u> and Amy <u>Kelsey</u>
PV-139 (with frontage opposite NR-3)	30	\$207,100	\$6,903	Trust of <u>Seth Friedman (current Recreation Committee and former Selectboard member)</u> and Allison Friedman (JULT member)

² Plaintiff has knowledge and belief the assessment process is not always accurate, fair, or impartial; there are multiple intentional errors in many Town of Underhill public records (such as listing Plaintiff's home as a "camp," as opposed to Plaintiff's domicile, and previously deleting records of the culvert inventory on a segment of TH26/New Road/Fuller Road/Crane Brook Trail). Despite this caveat, Defendant Town of Underhill assessments recognize the dramatic devaluation of Plaintiff's property compared to nearby properties that are similarly situated.

³ With a home located near northern terminus of TH26, Plaintiff asserts both Daphne and Walter Tanis have previously trespassed on Plaintiff's posted property. Defendant Daphne Tanis, while acting in her official capacity, has stated that "you need to be more open minded" in reference to the public use of Plaintiff's property for free.

⁴ Opposite Plaintiff's property and donated to Town by the prior owner of NR-144 less than 5 years before prior landowners opposed the unappealable and therefore entirely fictional 2001 New Road Reclassification. Opposition was summarized in Selectboard meeting minutes simply as a "Rehash of past arguments."

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PV-109 ⁵	25.02	\$526,000 ⁶	\$21,023	<u>Dick (former UCC and Planning Commission member) and Barbara Albertini (JULT members)</u>
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~~Accrual Date of February 26, 2021~~

~~87. An accrual date of February 26, 2021 for present claims is supported by Justice Robinson's well-reasoned dissenting opinion of the most recent prior state court proceeding:~~

~~Moreover, the claims in this case and the challenge to the 2010 reclassification decision in no way form a convenient "trial unit." Restatement (Second) of Judgments § 24(2). This is due both to the distinct procedural postures of the claims, and the divergent legal and factual predicates. With respect to the first point, because Demarest I was a Rule 75 appeal of a municipal 18 decision, the trial court reviewed the Town's reclassification decision on the record. It did not hold an evidentiary hearing to determine whether the Town's decision comported with the applicable law. And its standard of review was accordingly deferential to the Town. For purposes of analyzing claim preclusion, a Rule 75 appeal is thus very different from a freestanding claim initiated in court by a plaintiff. Plaintiff could not have litigated the claims at issue in this case in the context of the 2010 municipal reclassification proceeding. And on appeal to the trial court, if plaintiff had sought to interject a claim asserting a private right of access to future subdivided lots, the court's analysis would have been effectively, if not formally, bifurcated: the court would have decided the reclassification issue based on a previously established municipal record, and it would have evaluated the private access claims on the basis of a record developed during the superior court proceeding and presented through summary judgment motions or an evidentiary hearing. Procedurally, there would have been virtually no overlap in the trial court's resolution of the Rule 75 appeal on the one hand, and plaintiff's individual claims on the other.~~

⁵ PV-109 ~~is now~~was a 5-lot subdivision at time of this assessment, which provided substantial personal profit for Dick and Barbara Albertini.

⁶ Due to presumed typo in assessment, this is the "Full" value since there were no structures at time of assessment.

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~~88. Plaintiff asserts Defendant Town of Underhill and Defendant Town Officials' pattern of invidious delays, obstruction, and discriminatory decision-making has been strategically perpetuated precisely because Defendants *knew* they lacked any legally permissible justification for their intentions, or their subsequent actions and inactions.~~

Substantiation of Monell claims against Town of Underhill includes:

~~89.86. Plaintiff has documentation, knowledge, substantiated belief, and personal experience~~ Defendants' ~~malicious~~ disregard for the ~~Constitutional protections of the Equal Treatment Clause and~~ First, Fifth, Ninth, Amendment and Fourteenth Amendments (as well as the Vermont Constitution and Vermont Open Meeting Laws) is ~~heavily~~ entrenched within the culture, and patterns and practices, of the ~~Town of Underhill's~~ Town's governance.

~~90. Plaintiff references the Repa Road Litigation over landowner access rights, notably this litigation was involving efforts to deny landowner rightful access to private property and issues surrounding purported trails; as a matter of historical fact Repa Road previously continued into Westford as Goodrich Road, and a Class IV segment of Repa Road was upgraded to Class III road.~~

~~91. Plaintiff references Defendants' use of executive sessions and legal advice on ways to obstruct the wishes of landowners and over 15% of Underhill's registered voters who signed a landowner-backed petition to *discontinue* a Class IV segment of Butler Road (TH11), instead of *reclassifying* the segment into a Legal Trail (which would personally benefit Defendant Pat Sabalis).~~

~~92. Plaintiff references Underhill v Blais Litigation, which involved a landowner with property near Defendant Karen McKnight's home, and may have been predicated upon the tradition~~

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~~of Underhill Officials willful misrecording or deleting public records with an intent to later rescind prior promises similar to Plaintiff's experience.~~

~~93. Plaintiff references legal issues involving Lyn DuMoulin in Spring of 2002.~~

~~94.87.~~ Plaintiff asserts ~~extreme biases in~~unequal treatment involving what grants are, and are not, applied for and how those grants and the entire municipal budget is used (for instance, the improvement of the intersection of New Road and Pleasant Valley Road to support the desired purchase of Defendant Dick Albertini's property for a gravel pit and the Town of Underhill acting as a fiscal agent for a local church to receive a \$60,000 grant, which is hoped to enable a local church to obtain ~2 acres of land functionally for free, even though Defendants ~~obstinately still~~ refuse to apply for a grant to replace a culvert on Plaintiff's ~~former~~TH-26 road/trail frontage).

~~95. Plaintiff references the Dumas Road and Roaring Brook situation as further demonstration how many willful procedural difficulties Defendants can create for a resident despite going to extreme efforts to assist others, such as seeking legal advice on how to go against 23 V.S.A. Section 1007 if the right people request a speed limit lower than a State of Vermont professional speed study recommends.~~

~~96. Plaintiff has personal knowledge and experience of numerous instances in which Town officials ignore clear Conflicts of Interest in ways which have violated the procedural due process rights of numerous residents.~~

~~97. Plaintiff has credible knowledge and belief of the Town of Underhill has acted and refused to act in other situations which have caused civil rights violations to residents which are not currently listed in this complaint.~~

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~~98.88. Town officials refuse to recuse themselves when conflicts of interest are mentioned by Plaintiff which has exacerbated Unequal Treatment of Plaintiff relative to other similarly situated property owners.~~

Official Policies and Patterns and Practices Relevant to Present Case

Present Monell Claims against the Defendant Town of Underhill are also substantiated by Defendant Town of Underhill

~~99.89. Defendants' pattern and practice of sustained willful intentions, actions, and inactions over the span of over 20 years focused upon purloining landowner property rights along TH26 primarily upon treating some landowners abutting TH-26 dramatically differently than similarly situated property owners.~~

~~100.90. Public records, and missing public records, document Defendant Town of Underhill willfully engaging in an ongoing pattern of censorship and misrepresentation of the public record (since at least 2001) and legal record (since at least 2009).~~

~~101. In an email dated 10/26/2020, The Underhill Town Clerk, claimed, in part:~~

~~The only minutes in digital format are the ones on the website. Nothing else.~~

~~The rest of the minutes are in paper form here at town hall.~~

~~102. Plaintiff asserts credible knowledge and belief Defendant Town of Underhill willfully and perfidiously removed incriminating public records from the Town of Underhill website as a way to manipulate the public record, interfere with Plaintiff's reasonable access to public records, and functionally defame Plaintiff's character because the public at large is denied reasonable access to public records which were previously readily available on the Town's website and the entire history is necessary to form an accurate opinion on Plaintiff's past and present litigation against Defendant Town of Underhill.~~

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~~103. As of the date of the filing of the Original Complaint, the Town of Underhill Website has:~~

~~C. Development Review Board meeting minutes *available for free download* on the~~

~~Town's website all the way back to January 2007,~~

~~D. Planning Commission Meeting Minutes *available for free download* on the~~

~~Town's website all the way back to January 2009~~

~~E. The Underhill Trails Handbook, "adopted by the Selectboard as a best practice manual on September 22, 2009" is *available to download*.~~

~~F. Selectboard Meeting Minutes only after January 2012, and~~

~~G. Underhill Conservation Commission Minutes only after to April 2016.~~

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~~104.91.~~ Plaintiff engaged in ~~multiple years of~~ good faith efforts to obtain ~~fair~~ equal treatment from Town of Underhill officials, including Plaintiff's ~~efforts~~ protected speech as a member of the Underhill Trails Committee, *prior to* ~~the above referenced~~ Defendants Town of Underhill, Dan Steinbauer, Steve Walkerman, and Steve Owen responding to Plaintiff's speech in the October 8, 2009 letter seeking legal advice on ~~how~~ "any way" to "rescind" prior promises made to Plaintiff and ~~ensuant~~ all subsequent litigation.

~~105.92.~~ Due to the public nature of litigation against a resident's local town government, the selective removal of public records, *which were previously readily available on the Town of Underhill official website*, and intentionally vague or misrepresentative meeting minutes has materially harmed both Plaintiff's local reputation and on-line reputation by censoring an accurate history of the events that caused past and present litigation.

~~106.93.~~ Plaintiff asserts an example of a record which would be publicly exonerating to Plaintiff's personal and professional reputation, while simultaneously politically harming and incriminating for Defendants Town of Underhill and town officials involved in the October 9, 2009 Selectboard meeting, is the fact that minutes on that date reference the October 8, 2009 letter which sought to *rescind* Plaintiff's prior access vaguely as, "Crane Brook Trail: Chris has sent a letter to Vince." *in the very same meeting* the Better Back Roads Grant program was discussed **and** the Underhill Trails Handbook was about to have a press release.

~~107.94.~~ The public record should properly document Plaintiff spent considerable personal time participating in drafting the Underhill Trails Handbook as a Trails Committee member in a good faith effort to find solutions to problems caused by Defendant Town of Underhill's refusal to provide appropriate municipal maintenance to public roads and trails

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combined with numerous trail users causing problems for landowners; at present Defendant Town of Underhill *still* refuses to follow these outlined best management practices.

~~Substantiation of Claims Specific to First and Second Causes of Action~~

~~108. The staying of Plaintiff's first filed road maintenance case for years allowed the Town of Underhill's legal counsel to craft a reclassification order to satisfy the low administrative standard of review which simply determine if there was any evidence in its favor; procedural due process required impartial weighing of the true necessity (as defined under 19 V.S.A. § 501 (1)) of the Selectboard proposed New Road reclassification which has taken Plaintiff's property without compensation for recreation.~~

~~109. Plaintiff asserts Defendants involved in the 2010 New Road reclassification willfully violated Plaintiff's structural and procedural due process rights to an impartial decision-making process.~~

~~110.95.~~ Plaintiff asserts Defendant ~~Town of Underhill's own records indicated Defendant~~ Steve Walkerman and other named Defendants ~~were interested in~~ should have recused themselves from decisions involving the central segment of TH-26 given their documented personal interests in goals wholly unrelated to any legitimate state objective, specifically discouraging driving through New Road between Pleasant Valley Road and Irish Settlement Road ~~in~~ from the early 2000's onward primarily for their own personal enrichment and encouraging cross-country skiing at the cost of all other legitimate uses of the public road.

~~111. Plaintiff incorporates by reference the recordings of the Selectboard meetings in which Plaintiff's Conflict of Interest Complaint submitted against Defendant Dan Steinbauer clearly outlines violations of Plaintiff's procedural due process and Defendants submitted~~

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October 8, 2020 was treated dramatically differently (by simply disregarding the Town of Underhill, Dan Steinbauer, Bob Stone and Peter Duval's lack of meaningful response (and censorship of the complaint from the Town of Underhill's website) further documents these allegations.

Substantiation of Claims Specific to Third and Fourth Causes of Action

112.96. Plaintiff asserts having credible knowledge and belief there is a *long* record of) than the Conflict of Interest Complaint submitted by Jim Beebe-Woodard against Peter Duval which resulted in both a quasi-judicial hearing on September 21, 2020, and the Defendants even going to the Town of Underhill and numerous Town of Underhill officials having an interest in the taking of time and taxpayer expense of changing the Town Charter following Mr. Duval's free recreational use of Plaintiff's property, speech in public meetings about problems within Underhill's governance which under Vermont law is an impermissible primary rational for an eminent domain proceeding he referred to as "The Underhill Way."

113. In addition to the actual eventual taking of Plaintiff's property without compensation,

Plaintiff asserts Defendants Town of Underhill and colluding town officials presently sued in their individual capacities violated the Ninth and Fourteenth amendments by engaging in a willful and relentless effort over the span of around two decades to purloin the use, value, access and personal enjoyment of Plaintiff's private property *contrary to legally permissible purposes.*

97. Plaintiff incorporates by reference public records and recordings and transcripts involving individual Defendants interest in developing recreational opportunities for themselves while willfully indifferent to the adverse impacts their actions have on nearby private property

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~~owners and the environment, Plaintiff alleges personal recreational interests are an impermissible basis for Unequal Treatment of Plaintiff's property relative to similarly situated properties.~~

~~114.98. Plaintiff has credible knowledge, information and belief alleges Defendants Trevor Squirrel, Karen McKnight, Marcy Gibson (which were also JULT members) and other JULT members acting in their official capacities (most notably Defendants, Steve Walkerman, Dan Steinbauer, as well as former town officials Trevor Squirrel and Stan Hamlet) colluded to violate Plaintiff's Due Process Rights treat Plaintiff differently than similarly situated property owners would reasonably expect by initiating the 2010 New Road Reclassification process with full confidence fellow affiliates of JULT could successfully act under color of law, with assistance of legal counsel for the Town of Underhill, to reach a predetermined future reclassification decision in order to take Plaintiff's property without compensation. treat Plaintiff's property differently than similarly situated property. Plaintiff has years of video recordings and personal experiences observing Defendants' willful indifference to Plaintiff's Right to Equal Treatment Under the Law.~~

~~**Substantiation of Claims Specific to Ninth Amendment Concurrent With Willful Violation of Vermont Constitution and State Laws**~~

~~115. Article 2 and Article 7 of the Vermont Constitution, and the inherent right that a local municipality to abide by State and Federal laws, are rights clearly intended to be fully protected under the Ninth Amendment of the United States Constitution.~~

~~116. Plaintiff has credible knowledge, documentation, and personal experience observing Defendants' willful indifference to multiple clearly established laws in violation of the Ninth Amendment rights of Plaintiff and other landowners including the rights expressed Article 2 and Article 7 of the Vermont Constitution and Plaintiff's Right to Equal Treatment Under the Law.~~

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~~**Article 2: Private property subject to public use; owner to be paid**~~

~~That private property ought to be subservient to public uses when necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.~~

~~117. Given the amount of legal advice obtained from Defendants, combined with their actions and inactions, it is inconceivable they would not be *fully* aware that under Vermont Law eminent domain proceedings define "Necessity" as:~~

~~A ***reasonable need*** that considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. It shall not be measured merely by expense or convenience to the condemning party. Due consideration shall be given to the following factors:~~

~~(1) The adequacy of other property and locations.~~

~~(2) The quantity, kind, and extent of cultivated and agricultural land that may be made unfit for use by the proposed taking. In this connection, the effect on long-range agricultural land use as well as the immediate effect shall be considered.~~

~~(3) The effect of the taking upon home and homestead rights and the convenience of the owner of the land.~~

~~(4) The effect of the taking upon scenic and recreational values in the areas involved.~~

~~(5) The effect upon town grand lists and revenues.~~

~~(6) The effect upon fish and wildlife, forests and forest programs, the natural flow of water and the streams both above and below any proposed structure, upon hazards to navigation, fishing, and bathing, and upon other public uses.~~

~~(7) Whether the cutting clean and removal of all timber and tree growth from all or any part of any flowage area involved is reasonably required.~~

~~(c) The complaint, the service thereof and the proceedings in relation thereto, including rights of appeal, shall conform with and be controlled by 19 V.S.A. chapter 5.~~

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~~**Article 7: Government for the people; they may change it**~~

~~That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.~~

~~118. Plaintiff asserts it is exceedingly implausible Defendants could possibly be unaware of the Vermont Supreme Court Decision of Rhodes v. Town of Georgia dated March 23, 2012 involving Article 7 of the Vermont Constitution.~~

~~119. Plaintiff asserts it is now *impossible* to conceivably find *any* defendant acted in an arbitrary and capricious manner since a municipality's maintenance and reclassification decisions have an unlimited administrative "discretion" under the Vermont Rule of Civil Procedure 75 "on the record" appeal process.~~

~~120. Plaintiff asserts any *reasonable* jury would believe the parcel name change from NR-144 to FU-111 was an antagonistic administrative decision indicative of clear *mens rea* for the sole purpose of later attempting to circumvent the property rights protected by common law and Vermont Statute 19 V.S.A. § 717(c).~~

~~121. To make the seemingly self-evident point crystal clear, Plaintiff has documentation dated April 22, 2019, from the State of Vermont Department of Motor Vehicles, which as an *impartial* Vermont governmental agency states:~~

~~Your requested selection of special plate FU has been denied.~~

~~It has been deemed to be a combination that refers to vulgar, derogatory, profane, racial epithets, scatological or obscene language and has been denied based on that reason.~~

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~~122. Defendant Town of Underhill efforts to violate Plaintiff's civil rights were far more egregious than efforts in the *Rhodes* case because Defendants intentionally caused Plaintiff's difficulty *continuing to access* his current *domicile* and infringed upon the reasonable expectations of privacy expected in and around one's *home*, as opposed to "only" taking the economic value of Plaintiff's private property and reasonable investment backed returns.~~

~~123. Plaintiff asserts one, of many, examples of Defendants' excessive interest in cross-country skiing and other recreation on TH26, as opposed to recognition that the primary purpose of a road is the facilitation of travel, is Selectboard meeting minutes from the winter of 2002 state "The New Road is being plowed to the former Shakespeare property as the new owner [Plaintiff] seeks access."~~

~~124.99.~~ Plaintiff asserts many of the purported "conservation" efforts created substantial economic gains for Defendants Dick Albertini, ~~Carolyn Gregson~~, Steve Walkerman, Marcy Gibson, and others; the most dramatic of which being Dick Albertini's 5-lot subdivision (see Table 1 **Error! Bookmark not defined.**)

~~125. The Rhodes decision also succinctly explains the current circular argument within current Vermont legal interpretations which Defendants have maliciously capitalized on:~~

~~The selectboard's decision to downgrade its status to a trail did not -- as we have elsewhere held -- constitute a "taking" entitling abutting landowners to compensation. See *Ketchum v. Town of Dorset*, 2011 VT 49, ¶ 13, 190 Vt. 507, 22 A.3d 500 (mem.) (reaffirming rule that "downgrading a road does not involve a taking"); *Perrin v. Town of Berlin*, 138 Vt. 306, 307, 415 A.2d 221, 222 (1980) (holding that downgrading of town highway to a trail "does not involve the acquisition of property rights from the abutting owners" so that "no damages are involved").~~

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~~Substantiation of Claims Specific to Fifth and Sixth Causes of Action~~

~~126. The 2010 New Road Reclassification, instead of *discontinuing* a segment of TH26, functionally condemned a 49.5' wide swath of Town of Underhill, Dan Steinbauer, and Bob Stone treated similarly situated abutters to TH-11 (Butler Road) differently than Plaintiff by granting the reversionary private property to simultaneously deny landowners reversionary property rights and rescind past, present, and prospective future accessibility to rights of abutters' private property.~~

~~127. Defendants' willful actions and inactions have taken the Plaintiff's reasonable ownership and access to his domicile and the reasonable expectation of privacy in and around one's home.~~

~~128. Plaintiff asserts the prior landowners of NR-144 (Shakespeare, Sims, and Slater) requesting to have a segment of TH26 *discontinued* is fundamentally different than a *reclassification* into a legal trail against their will; a town highway *discontinuance* provides reversionary property rights to abutting landowners, ensures landowner privacy, and preserves a landowner's private right of way over the discontinued corridor in accordance with common law and Vermont Statute 19 V.S.A. § 717(e).~~

~~100. Given the length of time the Defendant Town of Underhill has refused to help minimize (and intentionally caused) problems rights after the town had for landowners, Plaintiff firmly believes any *reasonable* jury would view the totality of the Defendant Town of Underhill's actions as conspicuously pernicious during a span of over 20 many years and based primarily upon the abandoned maintenance of a TH-11 segment.~~

~~129.~~ 101. Inappropriate personal desire of a handful of individuals to have landowners give away recreational use of private property for free (even if it would come at the extreme cost

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of taking landowners reasonable access to their homes), which was followed by a relentless and malicious retaliation and intentional violation of ~~many of~~ Plaintiff's other constitutional rights.

~~130.102.~~ 102. ~~Plaintiff asserts~~ Defendants have a pattern and practice of attempting to inhibit, and retaliating against, any landowners that wish to exercise the fundamental private property right to exclude others ~~for at least 20 years.~~

~~131.103.~~ 103. ~~Plaintiff has credible knowledge, belief, witnesses, and video documentation that~~ Defendants and members of the public ~~(based on Defendants' acts and omissions)~~ have felt entitled to disregard Plaintiff's ~~reversionary~~ property rights and go up onto Plaintiff's private property as if it were a part of the "Crane Brook Conservation District."

~~132.104.~~ 104. Plaintiff ~~asserts there is a history of over 20 years in which Defendants have obstinately refuse to provide any reasonable maintenance to certain public infrastructure, including any meaningful assistance to Plaintiff or other nearby landowners~~ has been plagued by illegal dumping and other problems caused by public use and abuse of the "Crane Brook Area," the proximate cause of which is Defendant's advertising of the area as a recreational destination.

~~133.105.~~ 105. ~~Plaintiff asserts~~ Defendant's Trail Ordinance ~~willfully mislead~~ Plaintiff ~~in and Vermont courts by making the interest~~ Taking of ~~later taking Plaintiff's a protected~~ property; ~~in addition right implausible due to prior promises officially made directly to Plaintiff, the purported Trails Ordinance included~~ the provision that "permits **shall be issued** only to persons who ... have a legitimate need to operate a vehicle on the Crane Brook Trail. For the purposes of this ordinance, 'legitimate need' shall mean a compelling personal or business purpose."

~~134.106.~~ 106. ~~Plaintiff asserts~~ Defendants ~~have~~ willfully refused to mitigate numerous problems caused by Defendant's "Crane Brook Conservation area," such as the public nuisance

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caused by trash such as mattresses and tires that are illegally dumped and people going from the public areas onto private areas”

~~135.107.~~ ~~Plaintiff asserts~~ Despite willfully refusing to mitigate increases in problems already created for over 20 years, Defendants have expressed the strong desire to increase public use of the Crane Brook Area (especially as related to developing and later advertising a “Pump Track” on Town property despite being unsure exactly how much such a development would increase public recreational traffic or resultant potential parking issues and additional environmental impacts to the area).

~~136.~~ Plaintiff asserts ~~the *de facto* legitimate need of Plaintiff to access his home, land and former agricultural operation was previously so definitively promised by the Town of Underhill that promissory estoppel should have precluded Defendant’s relentless efforts to find “any way the Town could rescind the access”~~

~~137.~~ Plaintiff asserts in April of 2002, the Selectboard consistently expressed concern about the amount of money it would take to make improvements to New Road but the Selectboard and Underhill Conservation Commission members of that era actually thought the Town should buy Plaintiff’s property and that “There is no penalty for them to give it to the town.”

~~138.~~ Plaintiff asserts in April of 2002 Defendants Stan Hamlet, Ted Tedford, Peter Brooks, Carolyn Gregson was made *fully aware* by a property owner’s attorney that they were violating his client’s constitutional rights; The Town of Underhill and the town officials have *knowingly* engaged in the longstanding pattern and practice of violating individual property owners rights.

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~~139.108.~~ Plaintiff asserts when Plaintiff purchased ~~NR-144~~NR144 in 2002, it was possible for a standard ~~auto~~two-wheel drive car to drive the vast majority of ~~TH26~~TH-26 so long as the driver proceeded with caution and the entire road was easily driven in a standard pickup truck all the way from Pleasant Valley Road to Irish Settlement Road.

~~140. Plaintiff asserts at the time of purchasing his property, the Underhill Selectboard felt entitled to an *ultra vires* authority to simply “veto” a landowner’s intention to build a home.~~

~~141.109.~~ Plaintiff is unaware of any reasonable way to have exercised greaterPlaintiff exercised the maximum degree due diligence prior to purchasing property than having retained an attorney to review the land records and the purchase and sale agreement, having purchased title insurance, and having personally met with the local Selectboard prior to purchasing ~~NR-144~~NR144.

~~142. Plaintiff asserts when Plaintiff met with the Selectboard in May of 2002 to confirm there would be no issues with his plans to build an off-grid home, Selectboard members Stan Hamlet and Bob Pasco both approved Plaintiff’s intentions for the property if he were to finalize his purchase of NR-144.~~

~~143. Plaintiff was promised access to NR-144 on what at the time was a through road and misled~~misled by town officials’ statement that the rougher condition of New Road north of the Town Garage was due primarily due to town budgetary constraints.

~~144. Plaintiff asserts; only in hindsight did it become non-speculative that~~ Defendants’ refusals to conduct *any* maintenance to the central segment of ~~TH26~~TH-26 were based upon a malicious intention to ~~eventually~~*rescind* Plaintiff’s access to his home and land.

~~145. Plaintiff believes any reasonable jury aware of Plaintiff’s plight over the following ~19 years, which has included ~12 years of active litigation due to the Town of Underhill~~

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~~seeking legal advice on “any way the Town could rescind the access” (letter dated October 8, 2009) would easily understand just how foreboding it was to refer to official *promises* made by the Selectboard to Plaintiff in a public meeting as, “initially we would go along with this..”~~

~~146.110. _____ Plaintiff asserts Defendants have conspired, with the help of hours of legal advice in executive sessions, how to *rescind* landowner access to further for their own personal interests and the interests of fellow Town Officials / Jericho Underhill Land Trust affiliates. gain.~~

~~147. Plaintiff asserts Town Officials present (Stan Hamlet, Peter Brooks, Carolyn Gregson and Bob Pasco) in the May 20, 2002 morning Selectboard meeting are clearly aware the “Nuisance Ordinance” is unconstitutionally overbroad.~~

~~148. Plaintiff asserts the state of mind of Defendants Town of Underhill and defendant town officials in the May 20, 2002 era intended to criminalize innocuous conduct, but upon legal advice it was presumably determined civil sanctions are unlikely to raise to the level that an individual attempts to litigate an overly broad (and selectively enforced) ordinance instead of cowing to the Selectboard tradition of *ultra vires* abuse of governmental authority.~~

~~149. Substantiation of the preceding statement includes Selectboard meeting minutes dated May 20, 2002 involving the drafting of a Nuisance Ordinance which recognized the issue of:~~

~~Nuisance Ordinance: The town lawyer recommended that, under the penalties section, we take out the alternative criminal sanction language. It was agreed to go with the civil sanctions. The issue of whether it would be nitpicking to create this ordinance was discussed. The village lighting was seen as a possible violating of the ordinance, as was the lighting at the school.~~

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~~150.111.~~ 150.111. ~~Plaintiff asserts~~ The Town received substantial legal advice throughout the past 20 years, so qualified immunity cannot protect individual town officials acting with deliberate indifference to Plaintiff's constitutional rights or individuals maliciously wielding municipal authority during this time because it is entirely implausible that Town Officials were not *fully aware* they were exceeding their lawful authority.

~~151.112.~~ 151.112. Plaintiff ~~asserts there was no valid reasoning for~~ alleges that renaming ~~TH26~~ TH-26 from "Dump Road" to "New Road" instead of the "Crane Brook Road" or other name consistent with typical naming practices, ~~let along justification for what is presumably the inside joke of changing plaintiff's parcel codes (and those of two former co-litigants) from "NR" to "FU" after the purchase of parcels on "New Road." (see also paragraphs 116 through 119 on page 37) was presumably to mislead the public given TH-26 has existed as a through road since the 1800s. In 2002, Defendants' typical pattern and practice of creating revisionist history, intentionally fabricated a second set of meeting minutes which inaccurately stated that "David Demarest (new owner of the Shakespeare property) is plowing Fuller Road to his property." The other set of minutes referred to Plaintiff plowing New Road.~~

~~152.~~ Plaintiff asserts in the same November meeting, "Dick Albertini requested signs on either end of New Road to discourage people from driving through. The signs should go up now as people are getting stuck. It is officially closed Dec. 1;" but there are in fact no official looking signs to discourage vehicular through traffic.

~~153.~~ Plaintiff asserts having built a permitted full-time dwelling would logically include plowing to his residence in the winter, and in Defendant's typical pattern and practice of creating revisionist history there is a second version of these meeting minutes which state,

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~~“David Demarest (new owner of the Shakespeare property) is plowing Fuller Road to his property.”~~

~~154. Plaintiff asserts the extreme focus of Defendants creating recreational opportunities for cross country skiing, even if it requires claiming a resident’s address has changed from “NR-144” to “FU-111” is indicative of the maliciously misplaced “priorities” of a handful of Town of Underhill Officials, many of whom were also either furthering their own and fellow Jericho Underhill Land Trust (JULT) affiliates personal interests, or were overly influenced by an ability to personally profit from the sale of their private property to JULT and the Town of Underhill.~~

~~155. Plaintiff asserts the barely tenable “compromise” which was *promised in writing* to Plaintiff in 2005 by Defendant Stan Hamlet was a *substantial* reduction from the prior promises Stan Hamlet had *officially made* to Plaintiff in the Selectboard meeting Plaintiff had attended *prior to purchasing NR-144*.~~

~~156. Plaintiff asserts Town of Underhill’s first broke its written promise to move boulders placed in the way of Plaintiff’s right of way ~~was first broken~~ on November 13, 2019.~~

~~157.113. Plaintiff asserts mitigated the longstanding pattern and practice harm caused by this breach of efforts Defendant’s promise by moving the Town boulders out of Underhill to undermine landowner property rights, in combination the way with multiple town officials and other recreationalists believing they are *entitled* to personally enjoy outdoor recreational opportunities from the above mentioned large blocks of forest land regardless of who owns the land, has ironically been the central factor forcing Plaintiff’s previously proposed 9 lot subdivision this tractor.~~

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~~158. Plaintiff asserts paragraph 194 on page 59 documents the duplicitous and conniving nature of Defendant Stan Hamlet, since he had been central to the initial promises made to Plaintiff prior to the purchase of NR-144.~~

~~159.~~114. Plaintiff has both accessed and previously plowed TH-26 all the way from the Underhill Town Garage to Irish Settlement Road.

~~160.~~115. Plaintiff asserts that the marketing of the “Trails Handbook” intentionally creates a false assurance that the Town of Underhill would follow the Best Management Practices, but Plaintiff is unaware of any instances in which Defendants have ~~actually~~ followed the Best Management Practices outlined in the Underhill Trails Handbook.

~~161.~~116. Plaintiff asserts that since the 2010 New Road Reclassification, National Geographic Maps were updated to depict a significant portion of Plaintiff’s former road frontage as a recreational trail, which has resulted in increased problems for Plaintiff and other nearby ~~private~~ property owners without *any* meaningful effort by the Town of Underhill to mitigate this intermittent harm.

~~162.~~117. Plaintiff has experienced repeated problems caused by specific individuals and public recreational use of New Road over many years due in a large part to the Town of Underhill’s widespread marketing of the recreational use of the general “Crane Brook District” / “Crane Brook Area” / “Crane Brook Trail.”; Plaintiff incorporates by reference a recording of an interaction with a bicyclist upset by Plaintiff’s appeal to the Vermont Environmental Court involving the new bridge and public trail entrance to the northern portion of TH-26 built by Defendant Mike Wiesel’s mountain biking club.

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~~163. Plaintiff asserts the Town of Underhill continues to willfully refuse to mitigate problems caused by advertisement of the “Crane Brook Area” in complete disregard for the Best Management Practices outlined in the Underhill Trails Handbook.~~

~~164.~~118. ~~Plaintiff asserts the~~ The number and degree ~~and frequency~~ of problems Plaintiff has experienced is dramatically higher than similarly situated private properties on other Class III or Class IV roads (or properly managed trails) due to the outright refusal of the Town of Underhill to help mitigate the increased number of issues with: the public nuisance of having vehicles parked on Plaintiff’s property or in the way of Plaintiff’s property access, the public nuisance of litter and illegal dumping, criminal trespass, crimes of vandalism, the theft of thousands of dollars of Plaintiff’s personal property, and Plaintiff has even been shot at once while on his private property.

~~165.~~119. ~~Plaintiff asserts~~ Selectboard Minutes in spring of 2010 document one notable instance of unequal treatment in the ~~extreme abuses~~exercise of ~~municipal~~ “discretion” ~~since~~when Defendants Steve Walkerman, Dan Steinbauer, and Steve Owen ~~spending~~spent a highway surplus on the Pleasant Valley Road Reconstruction of approximately \$108,000, ~~consideration of~~considered obtaining a FEMA grant to replace a culvert on a *private* road for approximately \$92,000, *and* preparation for the April 24 public hearing to reclassify a segment of New Road ~~in complete disregard for the private property rights expressed by~~while ignoring the opposition raised by the interested parties which included Plaintiff, Michael and Tammy Linde, and Jonathon and Lisa Fuller.

~~166.~~120. Plaintiff believes there is no way to accurately summarize the amount of emotional duress protracted litigation over access to one’s home and land can take on a person, or the loss of privacy at one’s home, but Plaintiff having to bear witness to Defendants spending legal

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funds entertaining the precedent setting idea of Underhill helping to obtain replacement of a *private* road culvert while simultaneously pursuing “any way” of ~~Taking access to~~ as much of Plaintiff’s land (and corresponding lifestyle and sense of life’s purpose) in ways which were once inconceivable ~~all~~ for *mere recreation* (and their own personal profit) would be unbearable for anyone that found themselves in a similar situation.

~~167. Plaintiff asserts~~ The video recording of the April 24, 2010 New Road Reclassification hearing, ~~(viewable at <https://youtu.be/DECP4mepuMg?feature=shared>) and~~ the entirety of written submissions to Defendants’ sua sponte administrative proceedings are incorporated by reference, ~~and all video recordings of~~ to substantiate: A) Defendants violating Plaintiff’s constitutional rights while acting under color of law proves with a preponderance of evidence the willful violation of Plaintiff’s Ninth and Fourteenth Amendment rights by Defendants did not receive any sworn testimony in the administrative proceedings. B) Defendants’ colluding in the predetermined process.

121. Plaintiff asserts which was initiated in response to Plaintiff exercise of the Right to Petition in the 2010 New form of both being a co-party to the First-Filed Notice of Insufficiency in Vermont state court and the duly submitted Petition on Fairness in Town Road Reclassification purloined the reversionary property rights of an entire 49.5 feet wide public right of way for recreation Maintenance on Public and Private Roads which was supported by 119 of Underhill’s registered voters.

~~168.~~ 122. Defendants have had over ~~41~~ 13 years to work on how the “legal trail” will be managed without having taken any meaningful steps to mitigate the problems caused by public use and abuse of Plaintiff’s current and former TH-26 road frontage, and ~~ineffectual management~~

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~~which both~~ willfully ~~ignores, ignored~~ and at times ~~even creates~~created, problems for private property owners and the environment.

~~169.123. Plaintiff asserts~~ Defendants Steve Walkerman, Dan Steinbauer, Steve Owen, ~~Marcy Gibson~~ and ~~Brad Holden~~Karen McKnight colluded to ~~violate Plaintiff's procedural due process rights and~~adversely impact the public and private usability of the ~~TH26~~central current and former TH-26 corridor for all reasonable interest groups could have been maintained for a very minimal financial municipal investment.

~~170.124. Plaintiff has knowledge and belief the primary motivation behind the Pleasant Valley Road Project mentioned was~~Plaintiff asserts unequal treatment of Plaintiff based upon to Defendants' efforts to allow Defendant Dick Albertini to substantially profit from the sale of his property for a Town gravel pit, after the Town gave him a special deal without publicly announcing a Request for Proposals from similarly situated landowners such as Plaintiff's parcel and even did the prospecting for ~~him~~Dick Albertini's property at the Town's expense instead of initiating a Request For Proposals process.

~~125. Plaintiff asserts Defendants Clifford Peterson and Rick Heh decision to rely purely upon a claim of unfettered municipal discretion by taking on appeal~~Defendant Town of Underhill's abandonment of maintenance to the Vermont Superior Court ruling in favorcentral segment of Plaintiff, and subsequent request for reconsideration and the appeal to the Vermont Supreme Court, TH-26 occurred concurrent with approval to spend an estimated \$134,000 to pave up to a point near the southerly terminus of TH26 is indicative of how much effort the Town of Underhill and named Defendants have exerted to eliminate reasonable access to a property which is literally a short walk to the town highway department, which hasongoing exceptionally maintained access to parcel NR-77, which was built in what was once a sensitive ecosystem and wildlife habitat,

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approximately half a mile from Pleasant Valley Road, which is a paved road to the south~~relative to.~~

~~171.126.~~ Avoiding the extremely difficult to traverse "trail" segment of TH-26 and taking a northerly route ~~which~~from Plaintiff's domicile necessitates driving 15-20 minutes out of the way and substantial personal time and expense ~~to maintain since the Town of Underhill still refuses to provide any maintenance to Plaintiff's limited remaining public road frontage on a regular basis.~~

~~172. In the 5/18/2018 Selectboard meeting, Defendant Pat Sabalis willfully misrepresented Plaintiff's protected speech as "statements berating people and organizations. It's just something I wanted to put on the record because it's upsetting."~~

~~173. Plaintiff responded to this mischaracterization of the record on May 25, 2018 stating, in part:~~

~~To clarify, Webster's definition of berate is "to scold or condemn vehemently and at length." This is fundamentally different than asking poignant questions that deserve answers before a Selectboard tends to dutifully move forward on whatever UCC members propose.~~

~~174.127.~~ Plaintiff asserts the Town of Underhill has willfully and wantonly continued to refuse to provide **any** maintenance to any portion of Plaintiff's limited remaining Class IV Road frontage up to the date of the filing of the present case before this court, despite spending significant sums of ~~tax payer~~taxpayer money on litigation against Plaintiff and other residents of Underhill.

~~175.128.~~ Plaintiff asserts In June of 2019, Rick Heh ~~to~~ created a matrix of Class IV Road characteristics in ~~attempts~~an attempt to rationalize past and potential future Town of

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Underhill maintenance of Class IV roads and factual errors in this matrix are *willfully* prejudicial to Plaintiff since Plaintiff publicly made note of specific errors which have persisted over time.

~~176. Plaintiff asserts a Planning Commission meeting in May of 2019, led by Defendant Jonathan Drew Minutes with Defendant Carolyn Gregson also in attendance and Sandy Wilnot writing the meeting minutes willfully prevented Plaintiff's protected speech and obstructed Plaintiff's efforts to contribute to local governmental planning and decision-making; meeting "minutes" merely state "Overall discussion included" with bullet points of some of the topics discussed.~~

129. Plaintiff asserts the above mentioned Plaintiff incorporates by reference the discretionary upgrade of TH-21 from "Not Up To Standards" to Class III as disparate treatment of a similarly situated parcel.

130. Plaintiff asserts that the Class IV Roads Committee scheduled a site visit to the failed culverts on TH-26 north of Plaintiff's driveway for the same day as Plaintiff was known to be making oral arguments before the Second Circuit Court in New York City involving the inadequately pled Takings Claims. Plaintiff asserts it was physically impossible to make it to both the Oral Arguments and the site visit to the central TH-26 segment Defendants intend to continue to treat differently than similarly situated Class IV roads.

177.131. Plaintiff asserts a May 2019 Planning Commission meeting is an example of Plaintiff's protected speech being censored since it makes kept from the public by meeting minutes making no mention of Plaintiff bringing up the outright refusal of the Town of Underhill to follow the Best Management Practices outlined in the Underhill Trails Handbook, which Plaintiff had taken part of in efforts to ameliorate some of the problems recreationalists in Underhill

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had been causing for landowners, and that the Trails Handbook should not be promoted if it is not actually being followed because the Town should not promising things it is unwilling to uphold.

~~178. Plaintiff asserts In this above-mentioned meeting Plaintiff takes issue with the town deceiving landowners which are forced into taking the brunt of having to pick up litter on a public trail without any assistance from the Town of Underhill.~~

~~179.132. Plaintiff also, Plaintiff~~ pointed out parking issues, the lack of the town educating trail users to not leave the trail right of way to go onto private property without permission, and a number of other concerns, which proper planning could help mitigate, but all points brought up by Plaintiff in the meeting were censored to the point that the recorded minutes and the public at large would not be aware of the substance behind the vast majority of the points Plaintiff raised, ~~but most importantly none of Plaintiff's recommendations or assertions were incorporated into the 2020 Town Plan (or genuinely even considered by Town Officials) as is typical of what one Selectboard member referred to as "The Underhill Way."~~

~~180.133.~~ In June of 2019, to ~~add emphasis to the futility of~~ discourage Plaintiff and other residents attempting to have a say in their own local government, the Planning Commission Chair Jonathan Drew wrote an email to Plaintiff in response to a post made on www.FrontPorchForum.com),² stating, "Your incessant whining and profound ignorance is of little importance and interest. If you don't like it here leave."

~~181. Plaintiff asserts documentation Defendant Jonathan Drew's hostile email, which Plaintiff submitted in the public comment period of a Selectboard meeting in July of 2019, is not actually attached to the Selectboard meeting minutes posted on the Town Website to censor Plaintiff's protected speech to the point it is literally impossible to know if content of the email from Jonathan Drew is positive or negative.~~

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~~182. Plaintiff asserts Selectboard meeting minutes in July of 2019 also censor Plaintiff and other members of the public which were pointing out other instances of the Town of Underhill's willful and wanton breach of prior promises, such as those made to neighbors of the old town garage on Beartown road (which were previously documented in earlier public meeting minutes).~~

~~183. Plaintiff asserts Town Officials willfully continue to use Front Porch Forum as the primary and in many situations only venue for members of the public to be aware of official municipality agendas and activities~~

~~184. Plaintiff reminded Defendants Karen McKnight, Nancy McRae, and Daphne Tanis in a June of 2020 Underhill Conservation Commission meeting that agenda should be posted to Underhill Town website in addition to FPF could post to FPF before the weekend (but not the official Town of Underhill website).~~

~~185.134. Plaintiff asserts~~ Town Officials have a longstanding pattern and practice of willfully and wantonly ignoring ~~the~~multiple failed ~~culvert which Plaintiff has made every conceivable effort to find solutions to remedy which could work for all reasonable interested parties prior to the filing of the Notice of Insufficiency in 2009; instead, Town Officials spend time on ineffectual small projects that have little genuine~~culverts on the current and former TH-26 despite replacing similarly situated culverts when they benefit ~~to the Town of Underhill residents other than Plaintiff.~~

~~186.135. Plaintiff asserts~~ Selectboard members *willfully* and *obstinately* refused to ~~the~~allow September 21, 2020 Selectboard meeting minutes ~~so as to avoid~~from giving “a true indication of the business of the meeting,” and the exclusion of Plaintiff’s protected speech was

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predicated upon a desire to prevent factually and politically important details ~~of the September 21, 2020 Selectboard meeting minutes from~~ being publicly readily available.

~~187. Plaintiff asserts countless materially adverse actions by Town Officials are intended to dissuade landowners and other residents that may disagree with a town official from speaking out against problems within Underhill's governance; this tradition prevents residents from contacting the Town about an issue lest they too be ostracized as "Others" (which will subject a resident to increased scrutiny by Town Officials or worse); those residents brave enough to speak out in spite of almost certain retaliation by officials are likely to have their constructive criticism ignored so there is a very reasonable question of "Why bother?" since nothing is likely to change even when "others" demand the town function for the public good.~~

~~188.~~136. ~~Plaintiff asserts defendant~~ Town of Underhill has continued to refuse the Conflict of Interest allegations submitted against Dan Steinbauer to be available for the public to review on the Town website; Conflict of Interest allegations which Jim Beebe Woodard, who at the time was the Town Administrator, submitted against Selectboard Member Peter Duval were readily viewable on the Town of Underhill website and Front Porch Forum did not censor substantial negative comments directed personally at Selectboard member Peter Duval.

~~189.~~137. ~~Plaintiff asserts~~ Selectboard meeting recordings from the Fall and Winter of 2020 demonstrate what has been publicly referred to by ~~a town official~~former selectboard member Peter Duval as the "Underhill Way," with examples of multiple procedural due process violations, willful censorship of Plaintiff's protected speech, and violation of Plaintiff's Ninth Amendment rights since it is not constitutionally acceptable for a single person to wield the power of the town against landowners as Dan Steinbauer does.

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~~190.138.~~ Plaintiff believes Defendants Dan Steinbauer, Bob Stone, and Brad Holden decided to have a Selectboard meeting at ~~8308:30~~ AM in December 2020 as a way to minimize public involvement in the budgetary process and avoid public oversight of issues within Underhill's governance; ~~Defendants were~~ Defendant Bob Stone was demonstrably bothered ~~that David Demarest and Natalie Coughlin were able to attend and the recording of this December 2020 Selectboard meeting documents Defendants violation of~~ took great issue with Plaintiff's ~~First, Ninth, and Fourteenth amendment right~~ effort to speak on matters of public importance which were being discussed on the agenda.

~~191.139.~~ Despite Plaintiff's reasonable expectation of privacy being ~~Taken~~ impacted by the start of a recreational trail ~~destination being located at the~~ bottom of his ~~primary~~ driveway, the Recreation Committee decided to treat Marcy Gibson's property at 50 New Road differently since the committee, "didn't think it was right to have parking so close to Marcy's house and thought it would be better if it was to the right of the entrance to the town garage for convenience to the trails."

~~192.~~ Plaintiff asserts ~~Town of Underhill's budget is heavily controlled by a handful of heavily biased Defendants Town of Underhill, Anton Kelsey, and self-dealing individuals willing to spend Seth Friedman retaliatorily "pulled money in certain areas out of the budget, while also for a bridge on the retaliatorily rescinding money from other budget items previously intended for purposes which could have benefited Crane Brook Trail abutting Mr. Demerests [SIC] property" (as stated in Recreation Committee Meeting Minutes dated January 21, 2021) instead of collaborating with Plaintiff (or at least mitigated to attempt to mitigate the damages of public use and abuse of Plaintiff's former road frontage).~~

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~~193.140.~~ Plaintiff also asserts the ~~start~~ TH-26 right of a litigation between Plaintiff and co-litigants against the Town of Underhill began in the Selectboard's choice to use lawyers instead of potentially spending a mere \$1,600 on road maintenance which could have allowed all reasonable interest groups to coexist instead of Taking Plaintiff's property without just compensation way.

Substantiation of Claims Specific to ~~Seventh~~First and ~~Eight~~Second Causes of Action

~~194.141.~~ Plaintiff asserts, in presumable collusion among the incorporates by reference Selectboard (SB), Underhill Recreation Committee (URC), Planning Commission (PC) and Underhill Conservation Commission (UCC) ~~minutes, Defendants have been consistently meeting recordings and grievously censored and misrepresented transcripts in which~~ Plaintiff's protected speech in public meetings ~~was effectively chilled and how public awareness of Defendants' treatment of Plaintiff would deter a person of ordinary firmness from continuing to engage in speech or conduct in opposition to the will of the Defendants.~~

~~195.142.~~ Plaintiff asserts ~~Defendants'~~ Defendants have a pattern and practice of going to great efforts to subvert landowner rights and the ability of impacted landowners to have a say in their own town's governance; this same type of behavior repeated itself in 2020 and included efforts to silence Plaintiff's attempts to have a say in the Town's budget discussion in a *morning* meeting which Plaintiff asserts was an effort by Defendants to avoid public involvement in budget decisions.

~~196.143.~~ Plaintiff asserts The Town of Underhill ~~has~~ deleted *significant* portions of Trails Committee Meeting Minutes in which Plaintiff participated; Plaintiff was even involved in the drafting of The Underhill Trails Handbook, which Defendants continue to refuse to follow.

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~~197. Plaintiff asserts an example~~TH-26 was a thru-road as a matter ~~of Plaintiff's protected speech occurred in correspondence around 2005, which further motivated Defendant's retaliation for Plaintiff's purchase of private property Defendants had wanted donated to law until~~ the Town of Underhill, Plaintiff stated:

~~Dear members~~deferential ratification ~~of the Underhill Selectboard and fellow residents,~~

~~I am writing to express a number of concerns about the Selectboard's decision to place boulders on~~Selectboard's 2010 New Road to eliminate all motor vehicle activity on New Rd/The Crane Brook Trail between December 1 and May 1.

~~My primary concern, since my land is accessed by this long-standing road (by too many names: Dump Rd, New Rd, Fuller Rd, Crane Brook Trail) is that this will reduce my current ability to access my land. In addition, I believe the town may be not fully adhering to the law in blocking that section of road since it has already been legally established that a gate could not be placed~~Reclassification Order and ~~there, which is the assumed reason for using the boulders/ however, the legal definition of a "gate" includes anything used to block passage (including boulders).~~

~~In the meeting I attended in December to present these concerns and learn more about the decision making process,~~ was never a rational basis related to a number of additional problems became clear. Most importantly, the Chair of the Selectboard, Stan Hamlet had clearly made up his mind on what he wanted, and admitted that his wife strongly wanted to block the road, but pushed the decision through instead of professionally admitting to a conflict oflegitimate government interest stating his opinion and reasons for it, and then allow allowing his fellow Selectboard members to make the decision...

~~198.144. Plaintiff asserts Defendants refused to honor~~when Town officials ignored a petition submitted with the support of 60 residents in 2002 opposing the Underhill Trails Ordinance ~~which~~ stated, in part: “We the legal voters of the Town of Underhill would like to petition the Selectboard of the Town of Underhill to reconsider their efforts and/or attempts to

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close down or stop thru traffic to any and or all motorized vehicles at any time of the year on the New Road (AKA the old Dump Road) It would be more beneficial for all taxpayers and the surrounding landowners of New Road for the road to be repaired and maintained for all residents to utilize instead of an elite few---.”

199.145. Plaintiff asserts ~~in~~written correspondence April of 2013 between Plaintiff’s attorney, ~~Chris Roy with Downs Rachlin Martin, expressed to John O’Donnel, attorney for and~~ Defendant Town of ~~Underhill~~Underhill’s attorney stated:

I have had a more detailed discussion with my clients.

They are willing to stipulate to a remand and sign-off on a revised application by the trails committee if it includes the following:

1. Physical impediments constructed as part of the trail development which prevent use of side trails that extend onto adjoining private property.
2. Clear, obvious, periodic signage along the east side ~~TH26TH-~~26 starting just north of the town garage to the Fuller property notifying users of ~~TH26TH-26~~ that adjoining lands are private property and that there should be no trespassing. It is worth noting that people also cross the town property and other parcels on the west side of ~~TH26TH-26~~ in the area of the beaver pond (e.g., in the winter), come to ~~TH26TH-26~~, and then cross over onto the private property on the east side of ~~TH26TH-26~~. This will only increase as the town encourages residents to use recreational trails in the area.
3. Development of the town trails will presumably create more need for parking as more people make use of the trails. In order to avoid “informal” parking on ~~TH26TH-26~~ which would create the same issues as “formal” parking in that location, some provision should be made for parking. Available land for parking that is already available to the town, would avoid the issue of blocking ~~TH26TH-26~~, and would meet my clients’ needs include the trailhead up on Irish Settlement Road, and town property just to the south of the town garage on New Road/~~TH26TH-26~~. Making parking available there, coupled with no parking signs on

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~~TH26~~TH-26 just to the north of the town garage, would seem to address both the town's needs and my clients' concerns.

I would anticipate that my clients would work with the town and its trails committee in developing the revised application. To the extent the DRB departs from any of the elements of the application forming the basis of my clients' agreement, however, they would reserve the right to appeal.

If the town and its trails committee is amenable to the above, let me know and I will inform the court that a settlement has been reached involving a remand, and will prepare a stipulated motion for remand for review. Thanks.

200.146. Plaintiff asserts later the same day Defendant Town of Underhill's

Correspondence to Vermont Superior Court Docket No 160-10-11Vtec stated:

The Town of Underhill and its Trail's Committee has formally withdrawn its application to construct trails and related crossings/signage on property owned by the Town of Underhill at 77 New Road, Underhill Vermont. Consequently, a hearing on this appeal will no longer be necessary.

~~201.147.~~ Relevant allegations Plaintiff asserts based upon paragraphs 145 and 146

None of the three proposed stipulations, which were based upon Plaintiff's experience of living near ~~(or perhaps in?)~~ Defendant's *ipse dixit* "Crane Brook Conservation District," were ~~overly onerous or~~ unreasonable.

202.148. Instead of considering reasonable stipulations, Defendants withdrew their application circumventing Plaintiff's standing in Vermont Superior Court Docket No 160-10-11Vtec, publicly blamed Plaintiff, and ~~as of the past year are currently moving~~moved forward without ~~proper permitting and the~~ ensuing procedural protections, such as constructive notice, which the Development Review Process ~~is intended to~~should provide to nearby landowners and other interested persons.

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149. ~~Selectboard minutes dated October, 24, 2013 defame~~ The same pattern and practice of Defendants development of recreation directed towards the central segment of TH-26 and Plaintiff's character by describing Plaintiff and former co-litigants as "*the litigious nature of* property occurred when Defendant Mike Wiesel's bicycling club developed a new public trail entrance onto a northerly segment of TH-26 in 2021 without, *inter alia*, constructive notice to interested parties or adequate sight lines.

150. The preferential treatment of Defendant Mike Wiesel's bike club retroactive permit application for both Conditional Use and Variance following the *appellants*" while willfully ignoring construction of the factual history of bridge and public trail entrance onto TH-26 in 2021 is asserted to have an adverse impact on the safety of all TH-26 users at that new intersection and is an ongoing matter of unequal treatment Plaintiff's involvement in the Trails Committee prior to reasonable interest of safe motor vehicle use on the northern segment of TH-26 in favor of a single recreational interest group; these proceedings are currently before the Vermont Environmental Court: Brewster River Mountain Bike Club Conditional Use Review No. 21-ENV-00103.

203.151. Plaintiff incorporates by reference a video of the treatment of a northern segment of TH-26 by the public (available at <https://youtu.be/qL660Bz1iP8?feature=shared>) following the Town of Underhill's decision to retroactively approve a Conditional Use and Variance despite refusing to permit Plaintiff to plow the southerly segment of TH-26 from his driveway despite having previously plowed the entire segment of TH-26 from the Underhill seeking legal advice on how to *rescind* Plaintiff's access Town Highway Department building to Irish Settlement Road.

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204.152. ~~Despite the recent discussions among Defendants on the Underhill Conservation Commission members mischaracterizing the beaver activity along the former TH26 as something new or somehow different from natural seasonal variations in beaver activity~~ The cumulative and pernicious impacts of Underhill's obstinate refusal to maintain the central segment of ~~TH26, there is only a single substantial difference between the conditions TH-~~ 26, or to even permit Plaintiff ~~attempted~~ to maintain the southerly route at his own expense, Plaintiff's attempt to have these issues resolved in the September 14, 2020 Underhill Conservation Commission meeting and the May 10, 2021 meeting: ~~As of this past February, the Vermont courts have allowed the Town of Underhill to achieve the avowed and clearly malicious goal of officially rescinding Plaintiff's previously promised otherwise self-executing southerly access to his domicile and surrounding private property~~ have cumulatively been treated dramatically differently than the Town of Underhill's response to similarly situated parcels in multiple other areas of town adjacent to water or wetlands including: Irish Settlement Road, TH-26 near the Town Highway Department building, on Corbett Road, and on North Underhill Station Road.

205.153. Plaintiff asserts it took ~~an extreme level of~~ substantial persistence by Plaintiff, which would chill a person of ordinary firmness from continuing to engage in public meeting involvement, to convince Defendants to approve a revised version of the censored elements of the 9/14/2020 meeting minutes *nine months later* and the impact of this willful censorship persists since very few members of the public dig through meeting minutes that old and the potential to apply for the grant Plaintiff mentioned ~~now requires~~ required waiting for the next grant-writing cycle.

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~~206.154.~~ As of August 2, 2021, the revised 9/14/2020 Underhill Conservation Commission minutes state “that could cover the partial cost (80% matching grant) of the ~\$8,000 baffler” even though as emphasized by Plaintiff, it would be a 20% matching grant, and 80% of the cost could be covered by the grant.

~~207.155.~~ The recording of the June 14, 2021 Underhill Conservation Commission meeting demonstrates Town Officials are willfully ignoring the fact public meetings minutes *are purely to document what has occurred in or been submitted to the meeting* and meeting minutes do not permit censorship, revisionist history, or the exercise of *creative* license.

~~208. Plaintiff has a substantiated belief the “gaps” in public records are willful and pernicious since landowners are denied constructive notice or warning as to what a small handful of JULT members intend to take for themselves.~~

~~209.156.~~ Plaintiff asserts Defendant Town of Underhill and town officials presently sued in their individual capacity have a pattern and practice of actively thwarting the individual rights to have a say in local government and ensured public opposition to what JULT members want would ineffectual; such as the The “Underhill Conservation Commission” ~~diverting~~diverted landowners to the “Underhill Trails Committee” which made a “Trails Handbook” which ~~has~~ not to the best of Plaintiff’s knowledge has never been followed ~~for~~by the ~~past 12 years, but~~ does Town of Underhill which effectively ~~create~~creates a knowingly false-promise in Defendants interest to ~~convince naïve~~deceive landowners ~~to allow~~into allowing further development of trails despite absolutely no legal obligation to provide any maintenance on a trail.

~~210.157.~~ Plaintiff asserts Town officials have violated Plaintiff’s First amendment right by preventing him and other members of the public from speaking ~~at least once about a topic being discussed or debated or taken other official actions to entirely censor Plaintiff or the~~

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accurate content of Plaintiff's protected speech in public meetings; the most brazen instances of violation of the First amendment rights Plaintiff and other residents have been committed by Defendants Stan Hamlet, Daniel Steinbauer, Bob Stone, Clifford Peterson, Karen McKnight, and Nancy McRae outside of a brief "public comment period" at the beginning and end of a public meeting about all topics being discussed in the meeting while other members of the public are permitted to speak freely during the same meetings.

158. Plaintiff incorporates by reference meetings in which Defendants Daniel Steinbauer, Bob Stone, and Karen McKnight immediately interrupted Plaintiff's polite effort to speak to a matter being discussed on the agenda.

~~211.~~ 159. Plaintiff asserts ~~the entire impetus for a Charter Change is~~ Unequal Treatment of the handling of a Conflict-of-Interest allegation against former Selectboard member Peter Duval; resulted in ~~contrast, far more grievous a~~ Charter Change but allegations against Defendant Daniel Steinbauer ~~incorporated in and~~ Plaintiff's Petition on Public Accountability was circumvented by Defendant Daniel Steinbauer despite being properly filed with the support of over 5% of Underhill's voters on November 30, 2020.

Substantiation of Claims Specific to Front Porch Forum

~~212.~~ The nexus of defendant Front Porch Forum acting as state actor and therefor subject to liability under §1983 is shown by the high number of municipalities throughout Vermont, including the Town of Underhill, which use Front Porch Forum *as the primary platform, if not sole method, of interacting with the public* and substantial public funding FPF receives as a "Public Benefit Corporation."

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~~213. Paragraph 180 on page 54 is a perfect example of Town Officials willfully refusing to separate Front Porch Forum from serving as *THE* source for official communications from town officials acting under color of law: The Underhill Conservation Commission was reminded that agendas should be posted to the Town of Underhill website instead of only Front Porch Forum only to have Front Porch Forum used in the same meeting as *THE* source of official public communications about the Conservation Commission's plant sale..~~

~~214. Allegation 209 is also substantiated by the failure to post the *officially recognized and funded* Green Up Day to the Town of Underhill Calendar on the Official Town Website (which Front Porch Forum posts by Defendant Karen McKnight informed the public would be held on May 1, 2021, and then a subsequent Front Porch Forum post by Karen McKnight notified the public Green Up Day was extended to May 3, 2021).~~

~~215. Plaintiff has knowledge and belief the Facebook group "Underhill Residents" was previously administered by a Town Official which censored protected speech in violation of the First Amendment; discovery is necessary to determine what individuals involved in Front Porch Forum's censorship of Plaintiff's protected speech were either Town of Underhill Officials or colluding with Town of Underhill Officials to violate Plaintiff's rights.~~

~~216. Front Porch Forum has censored Plaintiff multiple times and has a pattern and practice of censoring protected speech of other citizens, the most proactive of which was simply ensuring Plaintiff could not be involved in the public debate of the proposed discontinuance of Butler Road, Front Porch Forum's "Member Support" responded to Plaintiff's request not to be blocked on 3/17/2021 at 2:54 PM:~~

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~~Hi David—When an FPF member has trouble maintaining civility with other members or staff, or posts excessively to the point of driving away other participants, monthly posting limits come into play. FPF's mission is to help neighbors connect and build community, and we work to maintain open and civil forums where people will feel welcome and encouraged to participate. Sometimes that requires asking more frequent and aggressive participants to take a break.~~

~~Member Support~~

~~FrontPorchForum.com—Essential civic infrastructure in Vermont~~

~~**Name:** David Demarest~~

~~**Email:** david@vermontmushrooms.com~~

~~**Subject:** Unable to post to FPF~~

~~**Comments:** I have only made a single post to FPF the past month, it is not appropriate to censor me on political and legal topics directly affecting me and my neighbors. Please remove the block on my account.~~

~~217. Front Porch Forum's email concedes FPF is "*Essential* civic infrastructure in Vermont"~~

~~and discovery during other causes of action will allow the FPF cause of action to form a convenient trial unit with other causes of action.~~

~~218. For the purpose of context, Plaintiff's one and only post the preceding month, which was able to slip through the cracks of FPF censorship efforts:~~

~~**Re:** Butler Road Petition Found Invalid~~

~~Underhill—No. 3901 • David Demarest • New Road, Underhill~~

~~Posted to: Underhill~~

~~Mar 13, 2021~~

~~I wish I could say I was surprised that the Town of Underhill Selectboard would treat a landowner the way they have chosen to treat your family and all the voters that signed your petition (or the Petition on Public~~

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~~Accountability which should have been allowed to add articles to the Town Meeting Day warning...).~~

~~As David Brin observes, "It is said that power corrupts, but actually it's more true that power attracts the corruptible. The sane are usually attracted by other things than power..." I wish you and your family the best of luck and hope someday our town's governance can have the majority of our selectboard members actually respect the rights of our town's residents, and especially the constitutional rights of landowners whose personal property certain recreationalists covet and want to enjoy for free...~~

~~219. Plaintiff did manage to share the content of the most recent protected speech he was~~

~~blocked from sharing on FPF in the non-governmental "Underhill Residents" Facebook~~

~~Group (which as mentioned in paragraph 212 previously was run by a Town Official~~

~~engaged in censorship on behalf of the Town of Underhill) which stated in part:~~

~~all current Selectboard members AND Selectboard members of the past 12 years are FULLY aware that the Selectboard has the legal authority to use "discretion" to discontinue any and every single segment of Class IV road in our town (or turn it into a trail against landowner wishes..) WITHOUT a petition. I have knowledge and belief that the Cambridge Selectboard would gladly go along with the wishes of the landowners to discontinue the middle segment of Butler Road so our current Selectboard is merely going out of their way to make things difficult for landowners in our town...~~

~~220. Discovery is necessary to determine which individuals are involved behind the scenes to~~

~~censor Plaintiff's protected speech of FPF are currently Town Officials, or other named~~

~~Defendants acting under color of law.~~

~~221. Discovery is necessary to determine how many FPF moderators are simultaneously town~~

~~officials or employees acting on behalf of a municipality.~~

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~~222. Plaintiff has knowledge and belief of other citizens being censored or blocked from FPF and it may be judicially appropriate to add other interested parties to the cause of action against FPF.~~

~~223. The Town of Underhill regularly prefers to use Front Porch Forum, or a combination of Front Porch Forum and one or two non-official Underhill Facebook groups, to post meeting agendas and conduct surveys which may later have official Town recognized significance, and in general to conduct official town business for impermissible reasons.~~

~~Substantiation of Claims Specific to Jericho Underhill Land Trust~~

~~224. Plaintiff asserts Defendants named in paragraphs 12, 15, 18, 19, 20, 22, 25, 28, 29, 32, 35, 36, 40, and 41 are known to be both JULT affiliates and Town Officials acting under color of law.~~

~~225. Plaintiff asserts multiple Defendants have quoted or otherwise made reference to a document purported to have established the “Crane Brook Conservation District” in the 1990s; however, none of the town officials present were able to provide Plaintiff with a copy of the document and Plaintiff believes this document documents the impermissible collusion between JULT members to violate the First, Fifth, Ninth, and Fourteenth amendment rights of local landowners for their own personal benefit.~~

~~226. Plaintiff asserts Defendants named in this complaint are *not* an exhaustive list of how JULT is able to use its special connection with the Town of Underhill’s official governmental authority or JULT affiliates which also wear the hat of Town Officials; proper discovery is important due to the inherent complexity of a case involving over 20 years of~~

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~~collusion between town officials, which has included the tampering with and destruction of official town records.~~

~~227. The Town of Underhill and Jericho Underhill Land Trust act together to preferentially purchase certain properties at a premium price from Town Officials or others among the “in crowd” primarily for recreation as opposed to genuine conservation (specifically the purchase of Casey’s Hill and Tomasi Meadow properties by JULT and subsequent transfer to the Town of Underhill).~~

~~228. Plaintiff asserts JULT members made concerted efforts to purchase Defendant Dick Albertini’s property for a gravel pit at a premium price demonstrating the degree in which personal ulterior motives control Underhill’s governance in ways in which many of Underhill’s Town Officials are rarely, if ever, reaching impartial decisions and JULT members consistently look out for the interests of other Town Officials and fellow JULT members.~~

~~229. The Jericho Underhill Land Trust and its affiliates, actively manipulate the public’s interest in “conservation” and “preservation” to further an ancillary goal which is the goal of developing public recreational opportunities for *their* membership in ways that *have extraordinarily little, if anything, to do with genuine environmental conservation and preservation.*~~

~~230. JULT’s seemingly benign development of public recreational opportunities through public funding (including the Town of Underhill) and their membership has functioned as a thinly veiled way to increase personal property values and economic returns from the subdivision and development of JULT affiliate properties the optimal distance from~~

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~~recreational opportunities being developed at the expense of other nearby landowners, without compensation.~~

~~231. Livy Strong currently Chairs both JULT and the Jericho Underhill Park District; JULT recognizes the strong nexus between JULT and official governmental action throughout their website, including stating, “The Jericho Underhill Land Trust is best known for its establishment of the Mills Riverside Park in 1999...The Mills Riverside Park is owned and managed by the Jericho Underhill Park District.”~~

~~232. The nexus of Defendant Jericho Underhill Land Trust actions under the municipal authority of the Town of Underhill enables JULT to violate Plaintiff’s rights while in parallel finding public and private sources of funding to purchase properties owned by Town Officials or fellow JULT members to achieve a disproportionate benefit for JULT affiliates (which includes multiple examples of a straightforward subdivision and development process for JULT member’s real estate relative to other similarly situated real estate) at the cost of Plaintiff and other landowners.~~

233.160. ~~The purchase of Casey’s Hill,~~ The effortless *preliminary* subdivision process of Defendant Dick Albertini’s property and a similarly effortless *preliminary* subdivision process for Defendant Marcy Gibson ~~provide substantiation for allegations in paragraph 223 when compared~~ were dramatically quick with a minimal level of preparation relative to the Town of Underhill’s treatment of Plaintiff’s property.

234.161. ~~JULT Members outright lied~~ Defendants’ collusion during the 2010 New Road Reclassification ~~and as outlined above fellow JULT affiliates had a majority rollis evidenced in part by the outcome of the 2010 New Road reclassification enabling JULT question Defendant Karen McKnight posed to act~~ Defendant Dan Steinbauer combined with Defendant

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~~Karen McKnight's part in collusion the May 8, 2023 meeting stating the plan to exert disproportionate influence install gates in the future taking of to rescind Plaintiff's property currently exercised compelling personal access to his domicile and surrounding lands by motor vehicle.~~

~~235.162. Another example of the disproportionate influence of JULT members occurred on April 29th, 2014 when JULT's is an example of the pattern and practice of unequal treatment in which Defendants' personal interests completely outweighed the voices of compelling public speech of impacted parties~~ Nancy Shera, Jeff Moulton, Carol Butler, Jeff Sprout and Kane Smart (Downs Rachlin Martin, attorney for David Demarest and Jeff Moulton).

~~236.163. Dick Albertini and Marcy Gibson's furtherance of their own personal self-interests was only possible due to collusion with fellow JULT members with a shared desire to take Plaintiff's property and property access rights; this is even more egregious because Plaintiff built his domicile on New Road before Marcy Gibson purchased her property and the disproportionate personal profit for members Defendants enjoying optimal access relatively to similarly situated parties, or a streamlined subdivision and development process while other similarly situated parties are treated differently, is not a permissible goal for a 501(c)3 Land Trust legitimate governmental interest.~~

~~237. Marcy Gibson's special relationship with the Town of Underhill as a JULT member and former Town Official also allowed her to avoid the problems of having access to a trail begin at the bottom of her driveway (or the recreational destination which is advertised as the "Crane Brook Area") even though the property opposite her driveway is publicly owned by the Town of Underhill and despite Marcy Gibson officially seeking Plaintiff be forced into exactly that situation by the 2010 New Road Reclassification.~~

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~~238. Town Officials with a special relationship with JULT, and JULT members actively serving as Town Officials, were heavily involved in both the fictional 2001 reclassification and Town of Underhill acquiring Casey's Hill in the early 2000's under very questionable circumstances and motivations.~~

~~239. It is vitally essential that Plaintiff be afforded the opportunity to conduct appropriate discovery into the *entire* circumstances surrounding *municipal decision making* and the eventual purchases of Casey's Hill at a substantial profit for Town Officials, instead of other available properties, and the concurrent Town of Underhill efforts to devalue NR-144 and other properties which had their parcel code abbreviation changed to "FU" as demonstrated by Table 1 on page 25.~~

~~240. JULT decided to have the Town of Underhill acquire Tomasi Meadow; without *any* functional voter input on *the best focus of public conservation efforts*, as opposed to the binary choice of *conserve what JULT has chosen for the Town of Underhill or nothing at all*, despite other properties available for sale at the time with more acreage per dollar *and* naturally functioning ecosystems far more suitable for conservation.~~

~~Substantiation of Claims Specific to Petition Clause of First Amendment~~

~~241. Defendant Daniel Steinbauer willfully refused to remove himself from a lead role involving circumventing Plaintiff's Petition on Public Accountability, and the subsequent circumventing of the ability for Plaintiff and over 5% of Underhill's voters to have three *non-binding* articles properly warned and subsequently placed on the 2021 Town Meeting Day ballot is a recent overt example of the impacts of not resolving Conflict of Interest allegations against a Town Official.~~

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~~242. Defendant Daniel Steinbauer was also central to circumventing the 2010 Petition on Fairness in Road Maintenance of Public and Private Roads, which was submitted in accordance with state law and could have prevented over a decade of state litigation and many of the present causes of action.~~

164. The harm caused by Unequal treatment by Defendants efforts to enrich themselves and retaliate against Plaintiff relative to similarly situated properties is demonstrated by Table 1 on page 37.

243.165. Defendants Steve Walkerman, Dan Steinbauer, and Steve Owens unanimously ~~refused to abide by the demands of~~retaliated against Plaintiff for exercising the right to file a lawsuit and filing the 2010 Petition on Fairness in Town Road Maintenance.

~~244. Defendants Dan Steinbauer, Public recordings of~~ Bob Stone, ~~and Peter Duval~~ unanimously refused to abide by the demands following Plaintiff's filing of the 2020 Petition on Public Accountability.

166. and Plaintiff's brief comment in support of Maple Syrup Producers ability to haul sap on public roads during sugaring season resulted in strong animosity towards Plaintiff ~~has a preponderance of documentation, knowledge, and belief that a clique of Town Officials will readily follow input from a small fraction of Underhill's residents (even if it incurs additional legal expenses to seek~~ a willful disregard of the responsibility town officials have to treat similarly situated individuals equally.

~~245. The Town of Underhill has a pattern and practice of Unequal Treatment in which, even if~~ requires legal advice on how best to go against the findings of a State of Vermont Speed Study, or results in protracted litigation with residents, the desires of a clique of Underhill residents...) ~~while obstinately refusing to act on petitions submitted by Plaintiff or other~~

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~~residents (such as Lisa Fuller in 2002, or Natalie Caughlin in 2020) which had substantial voter support.~~

~~167. Plaintiff asserts there are literally hundreds of pages of public records excerpts over a span of the past 20 years which can document catered to despite no basis in advancing genuine governmental interests.~~

~~246.168. Materially adverse actions by Town Officials which have been intended presumably to dissuade landowners and other residents that may disagree with a town official from speaking out against problems within Underhill's governance, which in the most extreme circumstances prevents residents from contacting the Town about both minor and major issues lest they too be ostracized as "Others." for fear of retaliation.~~

~~247. Plaintiff asserts there is relevance of the word intentional choice "Others" in in various public meeting minutes and the willful decision to heavily censor "others present" from a functional say in the 2020 Underhill Town Plan is demonstrative of what has referred to as "The Underhill Way."~~

~~248.169. Plaintiff asserts Defendants have also used deceptive exaggerations such as "Several members of the Conservation Commission" in attempts to create fabricate a perception of legitimaey rational basis to wield governmental authority to violate the right to petition for redress of grievances which includes refusing to honor treat Plaintiff and Plaintiff's property dramatically differently than similarly situated parties and nearby properties; a petition submitted by Lisa Fuller with the support of 60 residents, Plaintiff's 2010 Petition in Fairness in Town Road Maintenance of Public and Private Roads which was duly submitted with over 5% of Underhill's registered voters signatures, the Butler's petition duly submitted with over 15% of Underhill's registered voters signatures, and Plaintiff's most recent 2020 Petition on Public~~

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Accountability duly submitted with the support of over 5% of Underhill's registered voters are alleged to be indicative of a cumulative willful divergence of individual Defendant decisions from the will of Underhill voters that all property owners receive Equal Treatment as others which are similarly situated.

FIRST CAUSE OF ACTION⁷**Violation of the ~~Fourteenth~~First Amendment - ~~Procedural Due Process~~**

~~Plaintiff against Defendants named in ¶12-42 and restating 45 under 42 U.S.C. § 1983~~

~~249. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint.~~

~~250. Plaintiff has been denied structural due process, and the procedural due process right of access to *impartial* decision makers to determine municipal road maintenance decisions and road reclassification decisions; both of which have been *willfully* manipulated against Plaintiff to such an *extreme* degree by Defendants to willfully cause the intentional categorical taking of Plaintiff's private property and the vast majority of Plaintiff's property interests.~~

~~251. As elaborated in paragraphs 68-77 beginning on page 20 and throughout the present claims, a deferential administrative review of a Defendant fabricated record involving narrowly defined preceding legal matters allowed *willful* and *malicious* intrinsic and extrinsic fraud by Defendants to be unaddressed in prior narrowly defined state court proceedings.~~

⁷ Previously Seventh Cause of Action

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~SECOND CAUSE OF ACTION~~

~~Corresponding Fourteenth Amendment 42 U.S.C. § 1983 Monell Claim~~

~~Plaintiff against Defendant Town of Underhill for Violation of the Fourteenth Amendment—Procedural Due Process~~

~~252. Plaintiff re-alleges and incorporates by reference all Town Official actions and inactions under the First Cause of Action as Monell Claim against the Town of Underhill with resultant municipal liability.~~

~~253. This complaint only documents a small fraction of the longstanding pattern and practice of the Town of Underhill's willful and perfidious violation of the rights of Plaintiff and other residents.~~

~~THIRD CAUSE OF ACTION~~

~~Violation of the Ninth and Fourteenth Amendment - Substantive Due Process~~

~~Plaintiff against Defendants named in ¶¶12-42 and restating ¶45~~

~~254. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint.~~

~~255. Plaintiff has been denied substantive due process by the combination of perfidious municipal breaches of promises and public trust combined with numerous malicious actions and inactions which have risen to such an extreme degree (both in duration and in severity) in violation of Plaintiff's First, Fifth, and Ninth amendments constitutional rights.~~

~~256. Defendants' actions and inactions over the past 20 years demonstrates an awareness that Vermont Law *only* allows municipalities to take private property by the process of Eminent Domain under a far more narrowly defined set of circumstances which outright precludes recreation as a lawful primary goal of the taking.~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~257. Defendants have *never* made *any* arguments for the reclassification of a segment of TH26 into a Legal Trail which would not rationally have been better achieved by *either* proper maintenance of public infrastructure *or* the discontinuance of a segment of TH26 other than recreation.~~

~~258. Plaintiff asserts the facts stated in paragraph 253 and 254 when taken together clearly demonstrate Defendants acted contrary to clearly established state laws which has caused repetitive violation of the substantive right of privacy around one's domicile the proximate cause of which is Defendants creation of the "Crane Brook Trail" and subsequent advertising of the area as a recreational destination.~~

~~259. Plaintiff makes reference to paragraphs _____ to emphasize that Defendants had almost certain knowledge that as a matter of Vermont law the Vermont Constitution constrains the municipal taking of private property to *necessity*, as opposed to *simply creating recreational opportunities for the profit and pleasure of a few influential interest groups* at the expense of other local landowners.~~

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~~260. Defendants The Town of Underhill, Dan Steinbauer, Bob Stone, and Peter Duval refusal to allow the Petition on Public Accountability, which Plaintiff submitted with over 5% of Underhill's registered voters signatures prevented three non-binding advisory articles to the ballot be voted on March 4, 2021.~~

~~261. Defendants have a longstanding pattern and practice of violating Plaintiff's constitutional right to equal treatment under the law.~~

~~262. Defendants' willful collusion to repeatedly violate both Federal and State laws is also a violation of Plaintiff's substantive rights.~~

FOURTH CAUSE OF ACTION

Corresponding Ninth and Fourteenth Amendment 42 U.S.C. § 1983 Monell Claim

~~Plaintiff against Defendant (¶9) Town of Underhill for Violation of the Fourteenth Amendment—Substantive Due Process~~

~~263. Plaintiff re-alleges and incorporates by reference the actions and inactions of the Third Cause of Action as Monell Claim against the Town of Underhill.~~

FIFTH CAUSE OF ACTION

Violation of the Fifth Amendment—Taking Clause

~~Plaintiff against Defendants ¶12-42, and recognizing 45, for persistent efforts to take consistently greater amounts of Plaintiff's property and property interests without just compensation under 42 U.S.C. § 1983~~

~~264. This cause of action is most succinctly supported by paragraph 82 on page 23 and Table 1 on page 25.~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~265. The February 26, 2021 Vermont Supreme Court Decision, which was built upon Defendants' persistent fraud on the court and due process violations in prior state litigation, officially extinguished Plaintiff's previously promised and self-executing private right of reasonable access to parcel NR-144 (which was later renamed FU-111) and documents the unconstitutional permanent taking of Plaintiff's property unless this Court grants Plaintiff's prayers for relief.~~

~~266. Plaintiff also re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint.~~

SIXTH CAUSE OF ACTION

Corresponding Fifth Amendment 42 U.S.C. § 1983 Monell Claim

~~Plaintiff against Defendant (§9) Town of Underhill for Violation of the Fifth Amendment—Taking Clause~~

~~267. Plaintiff re-alleges and incorporates by reference all actions and inactions by Town Officials under the Fifth Cause of Action as Monell Claim against the Town of Underhill with resultant municipal liability.~~

~~268. This complaint documents only a small handful of the longstanding patterns and practice of the Town of Underhill perfidiously violating the rights of Plaintiff and other residents in efforts to take private property and private property interests without just compensation.~~

SEVENTH CAUSE OF ACTION

~~Violation of the First Amendment— Retaliation for Plaintiff's Protected Speech, Censorship, and Manipulation of Public Records of Plaintiff's Protected Speech~~ ~~and~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~Retaliation for Plaintiff's Protected Speech~~

~~Plaintiff against Defendants in ¶ 12, 13, 21, 22-23, 24, 27, 28, 29, 31, 33, 34, 35, 36, 39, 40, 42, with the caveat expressed under ¶45, based upon 42 U.S.C. § 1983~~

269-170. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint.

270-171. Allegations against Defendants outlined in paragraph 143 on page 67, paragraph 147 and 148 beginning on page 70, paragraph are some of the most notable instances substantiating this cause of action.

271-172. It is inherently retaliatory to remove money from a budget which would improve the condition of the public right of way adjacent to Plaintiff's property simply because Plaintiff requested the maintenance be conducted in a manner that would benefit *all* reasonable interest groups, as opposed to only a few.

272-173. The Town of Underhill providing winter maintenance to one Class IV road segment while ~~simultaneously choosing ~12 years of state court litigation instead of~~ ~~considering continuing to respond to~~ Plaintiff's good faith ~~inquiry~~ inquiries into the Town of Underhill's willingness to ~~grant~~ apply for a grant to replace a failed culvert with a municipal investment of a mere \$1,600 (or assist in removal of litter for the segment of New Road abutting Plaintiff's property north of the Town Garage) is demonstrative of a level of *de facto* bias against, retaliation against, and collusion against Plaintiff without furthering *any* legitimate government ~~interest~~ interest.

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~~EIGHTH~~SECOND CAUSE OF ACTION⁸

Corresponding First Amendment 42 U.S.C. § 1983 Monell Claim

Plaintiff against Defendant Town of Underhill (§9) for Violation of the **First Amendment – Retaliation for Plaintiff’s protected speech**, Censorship and Manipulation of Public Records of Plaintiff’s protected speech ~~and retaliation for Plaintiff’s protected speech~~

~~273.~~174. Plaintiff re-alleges and incorporates by reference all actions and inactions perpetuated by Town officials which are claimed under the Seventh Cause of Action as a Monell Claim against the Town of Underhill with resultant municipal liability.

~~274.~~175. Plaintiff has personally witnessed a longstanding pattern and practice of the Town of Underhill willfully misrepresenting, editing, and deleting, and suppressing protected speech from public meetings and other records.

~~275. The degree and consistency of retaliation by the Town of Underhill for protected speech has caused a hesitancy of many residents to publicly express dissenting opinions.~~

~~NINTH~~THIRD CAUSE OF ACTION⁹

Violation of the ~~Fifth, Ninth and Fourteenth Amendment – Collusion to Violate Equal Treatment Clause –~~

~~276.~~176. Plaintiff re-alleges and incorporates by reference above cumulative factual allegations contained herein of Defendants’ willful treatment of Plaintiff and Plaintiff’s ~~Procedural Due Process Rights~~ property dramatically differently compared to those that are similarly situated, and ~~Substantive Due Process Rights~~ when considered in their entirety having no rational basis founded upon permissible local

⁸ Previously Eighth Cause of Action

⁹ Supplemental claim relating back to both the original complaint and subsequent facts.

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

governmental authority as opposed to Defendants' own personal self-interests, as
violations of the Equal Treatment Clause.

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~Plaintiff against Defendant Jericho Underhill Land Trust (§44)~~
~~underFOURTH CAUSE OF ACTION¹⁰~~

~~Corresponding 42 U.S.C. § 1983 Monell Claim Against Town of Underhill for Violation of~~
~~the Equal Treatment Clause~~

~~277. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this~~

~~Complaint which involve Town of Underhill and Town Officials when such all actions and~~

~~inactions were predicated by decisions made by trustees, donors, members, and other~~

~~known affiliates of JULT acting under color of law.~~

~~278. The percentage of Defendants to this complaint (paragraphs 12, 15, 18, 19, 20, 22, 25, 28,~~

~~29, 32, 35, 36, 40, and 41) which are known to be both JULT affiliates and Town Officials~~

~~which acted under color of law to violate Plaintiff's clearly established rights is~~

~~demonstrative of the ability of JULT to achieve its own private purposes synonymous with~~

~~official governmental authority.~~

~~279. Paragraphs 221-237 beginning on page 69 are demonstrative of JULT's desires being~~

~~synonymous with what actions Defendant Town of Underhill will make on behalf of JULT~~

~~under color of law.~~

~~TENTH CAUSE OF ACTION~~

~~Violation of the First Amendment — Censorship of Plaintiff's Protected~~
~~Speech~~

~~Plaintiff against Defendant Front Porch Forum, Inc. (§43) under 42 U.S.C. § 1983~~

¹⁰ Supplemental claim relating back to both the original complaint and subsequent facts.

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~280. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint and public records specific to Front Porch Forum's special relationship with local Vermont governments and censorship of protected speech.~~

~~281. There are multiple prior instances of FPF censoring Plaintiff, and other residents throughout Vermont, the most egregious factual censorship of Plaintiff's protected speech on "essential civic infrastructure" is summarized in paragraphs 209-220 beginning on page 65.~~

~~282. FPF's has demonstrated a willful decision to achieve the ability to act under color of law with a significant nexus to official governmental authority and actions.~~

~~283. FPF has censored protected speech on multiple occasions throughout Vermont (which has included the retaliatory nature of blocking *all* of Plaintiff's potential *essential* public posts) is a violation of the First amendment.~~

~~ELEVENTH CAUSE OF ACTION~~

~~Violation of the First Amendment—Right to Petition Clause~~

~~(42 U.S.C. § 1983, Plaintiff against Defendants 12, 13, 14, 31, 40)~~

~~284. Plaintiff re-alleges and incorporates by reference herein all relevant paragraphs of this Complaint which involve Defendants refusing to abide by duly submitted petitions, including the 2010 Petition on Fairness *or* the 2020 Petition on Public Accountability.~~

~~285. Paragraphs 238-245 beginning on page 74 partially specifies how this specific constitutional violation has caused extreme harm to Plaintiff and democratic processes within Underhill's governance.~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

TWELFTH CAUSE OF ACTION

**Corresponding Monell Claim for Violation of the Right to Petition
Clause of First Amendment**

177. ~~Plaintiff re-alleges and incorporates by reference all actions and inactions~~
~~perpetuated by Town officials which are claimed under the Eleventh~~alleged under the
Third Cause of Action as a Monell Claim against the Town of Underhill- with
resultant municipal liability.

JURY DEMANDED

Plaintiff demands a jury trial.

REQUEST FOR RELIEF SPECIFIC TO FIRST AND SECOND CAUSES OF ACTION

~~A. Injunctive relief finding the current Vermont Supreme Court Precedent set in~~
~~*Ketchum* creates an unconstitutional interpretation of Vermont law which results~~
~~in *de facto* structural due process violation; a constitutionally valid interpretation~~
~~of Vermont law requires road maintenance and reclassification decisions be~~
~~appealable in accordance with the procedural due process protections of 19 V.S.A.~~
~~§ 740 and that this process shall be competently conducted in a timely manner, as~~
~~was the case due to well-established law prior to the Vermont Supreme Court's~~
~~*Ketchum* decision.~~

~~B. Injunctive relief, involving the segment of TH26/New Road/Fuller Road which~~
~~remained a Class IV town highway after the 2010 New Road Reclassification,~~
~~generally based upon the Vermont Superior Court decision in the prior~~
~~maintenance appeal but updated to account for the further deterioration of~~

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~~Plaintiff's limited remaining Class IV road frontage in subsequent years due to Defendants' sustained refusal to conduct *any* maintenance of the segment of TH26 abutting Plaintiff's property.~~

~~C. Injunctive relief remanding a *new* Notice of Insufficiency appeal in Vermont courts to review the insufficiency in maintenance of the former Class III/Class IV segment of New Road which was reclassified into a Legal Trail in 2010 *separated from the prior intrinsic and extrinsic fraud upon the state courts*; since this segment was reclassified into a Legal Trail in 2010 based *purely* upon Defendants' fraud upon the court as a way to circumvent Plaintiff's *first filed* Notice of Insufficiency appeal, it is necessary to stipulate that review be under Rule 74 of Vermont Rules of Civil Procedure and *based solely upon both the Underhill Road Policies and Vermont State Town Highway classifications of TH26 as existed on January 1, 2010.*~~

~~D. *If* Defendants require this Court issue the injunctive relief specified in C, as opposed to Defendants attempting to reach a mutual agreement through mediation between Plaintiff and *impartial* Town of Underhill representatives, it is judicially appropriate that this Court order Defendants to pay Plaintiff's legal fees and expenses for all Notice of Insufficiency appeals that may be remanded to Vermont courts.~~

~~Injunctive relief requiring Town of Underhill Officials to recuse themselves, *or be recused against their will*, when a documentable conflict of interest exists since unaddressed Conflicts of Interest cause an impermissibly high risk of additional procedural due process violations.~~

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~~REQUEST FOR RELIEF SPECIFIC TO THIRD AND FOURTH
CAUSES OF ACTION~~

~~E. Declaratory relief stating all Vermont Class IV Town Highways and Town Legal Trails *shall* be maintained without bias; interested persons in Vermont, in addition to a procedural due process protections of a *timely* Rule 74 appeal when a Town Highway is altered by a lack of maintenance or reclassification from that which would be reasonably expected have a substantive right that a Taking *only occurring due to Necessity*.~~

~~F. Relief sought under other causes of actions which may be more efficiently addressed under this cause of action.~~

~~REQUEST FOR RELIEF SPECIFIC TO FIFTH AND SIXTH CAUSES
OF ACTION~~

~~G. Compensatory damages for the temporary categorial taking of Plaintiff's reversionary property rights and the unmitigated damages of the taking of additional property interests and value, subject to proof, from the date of the Town of Underhill's 2010 New Road Reclassification until such time as these damages may be mitigated.~~

~~H. Compensatory damages, according to proof, for the past taking of the reasonable expectation of privacy at Plaintiff's domicile since Defendants first began willfully directing public recreation to the "Crane Brook Conservation District" while simultaneously refusing to mitigate *any* resultant impacts to Plaintiff, other nearby private property owners, or the environment.~~

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~~I.—Declaratory relief confirming the downgrade of a Town Highway to an *entirely unmaintained* Legal Trail or an *entirely unmaintained* Class IV Road constitutes a greater categorical taking than a conversion of a railroad right of way into a Legal Trail; municipalities have discretion to EITHER provide *minimal* maintenance of Class 4 roads when staff and financial resources allow (consisting of, at a minimum, honoring the historical municipal promise of replacement of bridges and culverts, “as needed” addition of gravel, and periodic litter removal) and “Legal Trails” (such as, at a minimum, periodic litter removal) OR they *shall* follow the legal procedure to discontinue an unmaintained Class 4 Road or Legal Trail to avoid the categorical and regulatory taking of private property and property interests without constitutionally required due process *or* just compensation.~~

~~J.—Injunctive relief requiring the Town of Underhill to EITHER reclassify the Legal Trail portion of the central segment of the former TH26 corridor back into a Class III or IV Town Highway *which is reasonably maintained* OR discontinue a portion of the unmaintained segment of Class IV road and all of the Legal Trails on TH26 *with legally binding stipulations agreeable to Plaintiff* OR fully compensate Plaintiff for the ongoing current and future loss of reversionary property rights, the permanent taking of the previously promised reasonable southerly access to Plaintiff’s domicile and surrounding property, the resultant taking of reasonable investment backed returns of Plaintiff’s property taken by the most recent Vermont Supreme Court Decision, and financial compensation for~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~the taking of the intrinsic value and privacy of a personal domicile above the purely financial losses of private property economic value.~~

~~K.A. _____ Compensatory damages of lost potential income and reasonable returns on investment of Plaintiff's farm, Green Mountain Mycosystems LLC, and concurrent damages caused by Defendants willful misrepresentation of Defendants' retaliatory actions and inactions the proximate cause of which were Plaintiff's protected speech in ways that damaged Plaintiff's professional reputation as an Environmental Scientist.~~

~~L. Compensation for the compensable property interest inherent to the Notice of Insufficiency, which Plaintiff and co-litigants timely filed; addition of additional interested parties to this cause of action as the court deems just and proper.~~

~~M. In addition to punitive damages against Defendant Steve Walkerman stated in paragraph U, an additional punitive damage equal to the total amount of capital gains Steve Walkerman achieved from the sale of his real estate located near TH26.~~

~~N. In addition to punitive damages against Defendant Dick Albertini stated in paragraph U, additional punitive damages equal to the total amount of capital gains obtained from the subdivision and sale of PV109 and the total capital gains from the sales of all other nearby real estate Dick Albertini profited from.~~

~~**REQUEST FOR RELIEF SPECIFIC TO SEVENTH AND EIGHTH**~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~CAUSES OF ACTION~~

~~O.B. _____ As the Court deems proper, according to proof, compensatory and Punitive damages for Defendants' retaliatory actions and inactions the proximate cause of which were Plaintiff's protected speech.~~

~~P.C. _____ As the Court deems proper, according to proof, compensatory and Punitive damages for Defendants' *willful* mischaracterization of, or *willful* censorship of, public records and Plaintiff's protected speech which has resulted in personal and professional harm to Plaintiff's good name and reputation.~~

~~REQUEST FOR RELIEF SPECIFIC TO NINTH CAUSE OF ACTION~~

~~Q. As the Court deems proper, compensatory and punitive damages against Defendant Jericho Underhill Land Trust for violation of Plaintiff's Fifth, Ninth, and Fourteenth amendment rights.~~

~~R. After discovery is complete, compensatory and punitive damages as the Court may deem just and proper against any additional individual Town Officials and Jericho Underhill Land Trust affiliates functionally acting under color of law, according to proof of individual capacity liability for violation of, or collusion to violate, Plaintiff's constitutional rights.~~

~~REQUEST FOR RELIEF SPECIFIC TO TENTH CAUSE OF ACTION~~

~~S. Declaratory relief finding the nexus between Defendant Front Porch Forum and local Vermont governmental authority as "Essential Civic Infrastructure" precludes the censorship of protected speech.~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~REQUEST FOR RELIEF SPECIFIC TO ELEVENTH AND TWELFTH
CAUSES OF ACTION~~

~~T. Injunctive relief requiring Defendant Town of Underhill allow the Petition on
Public Accountability *Advisory Articles* to be properly warned and placed on the
ballot to be voted upon Town Meeting Day.~~

~~REQUESTS FOR RELIEF ATTRIBUTED TO INDIVIDUALLY
NAMED DEFENDENTS' *WILLFUL* VIOLATION OF PLAINTIFF'S
CIVIL RIGHTS~~

~~U. Punitive damages against Defendants Daniel Steinbauer, Dick Albertini, Jonathan
Drew, Marcy Gibson, Stan Hamlet, Clifford Peterson, Patricia Sabalis, Trevor
Squirrel, Ted Tedford and Steve Walkerman, each individually, equal to 3 times
all presently claimed compensatory damages.~~

~~V. Punitive damages against Defendant Bob Stone, Rick Heh, Brad Holden, Steve
Owen, Rita St Germain, Karen McKnight, Nancy McRae, Daphne Tanis, Mike
Weisel, each individually, equal to all presently claimed compensatory damages.~~

~~REQUESTS FOR RELIEF ATTRIBUTED TO ALL CAUSES OF
ACTION AGAINST TOWN OF UNDERHILL AND NAMED TOWN
OFFICIALS~~

~~W.D. Payment of compensatory damages ~~adjusted for inflation, together with~~
~~statutory pre and post judgement interest~~, consisting of all legal fees, expenses,
and professional services Plaintiff has incurred in ~~preparation for and in actual~~
~~past litigation of legal matters~~ administrative proceedings the proximate cause of
which was ~~official the~~ solely Defendants' sustained pursuit of “*any way* the Town
could *rescind* the access [to Plaintiff's ~~home~~ domicile and surrounding land]” and~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~all resultant past and present~~the cumulative impacts of this willful ~~violations of Plaintiff's civil rights~~retaliation for the exercise of his First Amendment rights and the violation of his right to equal treatment under the law.

E. Compensatory damages~~according to proof, and adjusted for inflation, together with statutory pre and post judgement interest,~~ for the extreme stress, mental and emotional pain and suffering, and the physical health impacts ~~protracted litigation with the Town of Underhill has caused Plaintiff due to the malicious~~caused by Defendants' intention to purloin Plaintiff's property~~rescind previously promised private access which was~~ expressed in the October 8, 2009,~~the complete disregard for and willful violation of the legal protections of promissory estoppel, and the subsequent violation of Plaintiff's First, Fifth, Ninth, and Fourteenth amendment rights caused by Defendants Town of Underhill and Defendant town officials sued~~ letter and further elaborated upon on May 9, 2023 (as alleged in ¶7-10 and throughout Complaint).

~~X.F.~~ Declaratory relief to protect Plaintiff from further Unequal Treatment planned by Defendants' new "multiyear" plan articulated on May 9, 2023 in an individual capacity for relentlessly pursuing that avowed malicious goal~~the Joint Underhill Conservation Commission and Recreation Committee Meeting involving, inter alia, plans to install gates to block Plaintiff's continued compelling personal and business access to his domicile and surrounding private property.~~

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

~~Y. Any request for relief specified under one cause of action may be more appropriately awarded based upon another cause of action or applied as a directly related self-executing constitutional right.~~

~~Z. All awarded compensation shall be adjusted for both inflation and taxation implications.~~

G. Declaratory relief requiring the Town of Underhill to treat Plaintiff and Plaintiff's private property the same as other similarly situated landowners and similarly situated real estate.

AA.H. Payment of legal expenses and expert testimony ~~for the present case.~~

BB.I. Payment of reasonable attorney's fees pursuant to 42 U.S.C. Section 1988.

CC.J. All other relief the Court may deem to be just or proper.

~~Complaint for Violation of Civil Rights (Non-Prisoner)~~

CERTIFICATION AND CLOSING

286-178. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

287.179. I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: ~~August~~October 2, ~~2021~~2023 Signature of Plaintiff:

_____/s/ David Demarest

David P Demarest
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