**MEMORANDUM**

To: Jim Maggiore

 Chair, Select Board, Town of North Hampton

From: Stephen M. Bennett

Date: November 19, 2019

Re: Library Property

Dear Chairman Maggiore,

Please accept this memorandum as our response to your email of October 21, 2019 regarding the library property.

1. **Is “property” in your August 15 memo ‘… all property of the town relating thereto …,” land?**

All property of the Town relating to the library would include land and buildings dedicated to library use.

1. **What RSA provides the rights of library trustees to own land?**

RSA 202-A et seq. does not address land ownership. This chapter addresses who controls the land which the town has dedicated for library use. The library trustees have the “entire custody and management of the public library and of all property of the town relating thereto.” RSA 202-A:6.

1. **Does case law exist where library trustees have been given the authority to acquire land?**

I have found no New Hampshire case law regarding the acquisition and ownership of land by library trustees. But, as noted above, once land is dedicated for library use, the control of that land lies with the trustees of the library.

1. **If in fact the library trustees have the rights to own actual land, how are the trustees granted the rights to acquire additional land?**

See answer to question 3.

1. **What are the limits to disturbing the land on abutting property if the trustees have the right to build up to the property line?**

Abutting landowners have no legal right to interfere with the property rights of abutting landowners. As I noted in my prior memorandum, generally abutting landowners will seek temporary easements to permit access during construction on their property. Once the project is complete, the terms of the easement generally require that the land be put back in the condition it was prior to the project.

1. **What is the physical, boundary limit of each building on the town-owned lot?**

The library trustees control that land which has been dedicated by the town for library use. In addition to the library building and its contents, library trustees may also be responsible for improvements such as landscaping, parking and outside reading areas. Perhaps the minutes of the Board of Selectmen’s and/or Library Trustees’ meetings at the time of the construction of the current library could provide some indication of the extent of the property dedicated for library use. If not, the Library Trustees authority extends only to that land which has been dedicated to, and **used** by the trustees for, library purposes.

1. **Which authority, the Library Trustees or the Town, is responsible for M/L 07,145, including, but not limited to, insurance liability, maintenance, utilities, public assess?**

The Library Trustees’ responsibility for insurance, maintenance, utilities and public assess would be limited to the property it controls. Because the lot is shared by both the Town and the library, some of those responsibilities may be shared. I assume that a plan for cost sharing of those responsibilities has been in place since the library was constructed. While the library may be responsible for some or all of those expenses, the Town has the duty to “annual raise and appropriate a sum of money sufficient to provide and maintain adequate public library service therein or to supplement funds otherwise provided.” RSA 202-A:4. Therefore, those expenses may ultimately be the responsibility of the Town.

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