

WINTER/FALL NEWSLETTER VALA 2016

Landlocked Parcels: *Aspects to consider when determining if a property is considered landlocked*

2016 VALA Conference: *Lister Letter and Awards*

Dr. Bruce Sheilds: *The Wallace Award*



Is a property land locked?? What is a right of necessity?? Does this matter and should I care?

In the town I presently work, a problem dealing with access was brought to our attention. A claim was being made that there was a “Landlocked” with no access, which in turn created a “worthless” property. Well that’s a simple task right? Just take it off the Grand List and move on, next question. Unfortunately I could not do that as I was one of the guys responsible for determining if this in fact was a valid claim of “Landlocked” and “worthless property”.

What does the term landlocked mean anyway? It is when there is no legal means of access to a particular property (typically not taking into consideration access by use of a helicopter or boat). It does not mean there exists a mere inconvenience, the property has to be without any access.

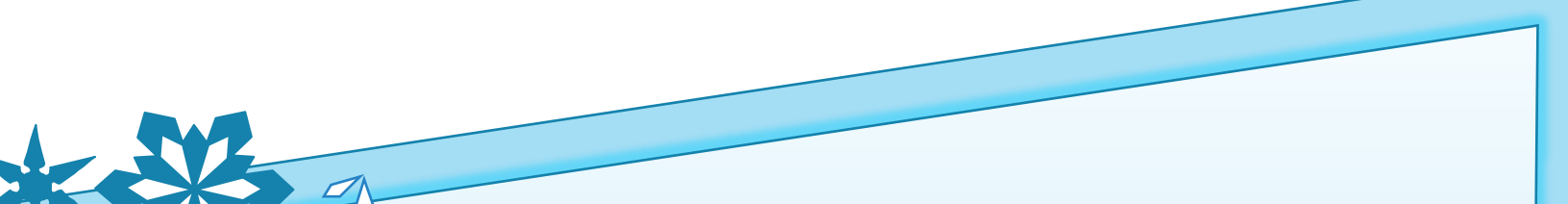
They say the first step is to define the problem. Is this property landlocked? What is the impact on fair market value? Some brief details and background on the property; a 1.5 acre +/- property and a small cabin. There is a river on the north side of the property (outlined in red on photo), the previous access via a private drive from the south side of the property (outlined in black on the photo). The river currently (outlined in blue on photo) has shifted course due to a hurricane named Irene (which Wikipedia currently ranks 7th on the list of costliest hurricane to make landfall in the United States).



Without providing a TOPO map the geography of the land as shown is a steep bank on the north side of the river with a public road and a steep embankment on the south side a small flat landing (highlighted in yellow approximately +/-5,000sf landing). Essentially the hurricane destroyed the cabins access via the private drive.

To answer my first question, does the existing land provide reasonable access? The resulting opinion was that in the present condition there is no reasonable access. What are the circumstances that would allow access and currently what are the obstructions?

Could the path of the river be altered back to its original course allowing for the original access to property? This was considered unlikely, as when the issue was brought to the attention of the Listers office it had already been a year since the river changed course. Heavy equipment would need to enter the river in order to alter the direction of the river back to its original path. This was considered unlikely due to 1.) The environmental impact to the river and 2) it would be doubtful the landowner would be allowed permission.



Can access be gained via an abutter or changing the land characteristics? In this case there was potentially enough room on the southern landing to construct a bridge to gain access and a similar circumstance with the northern abutter. The land would need to be purchased and or an easement granted, this was unlikely after contact was made with the landowner who was not receptive to this idea.

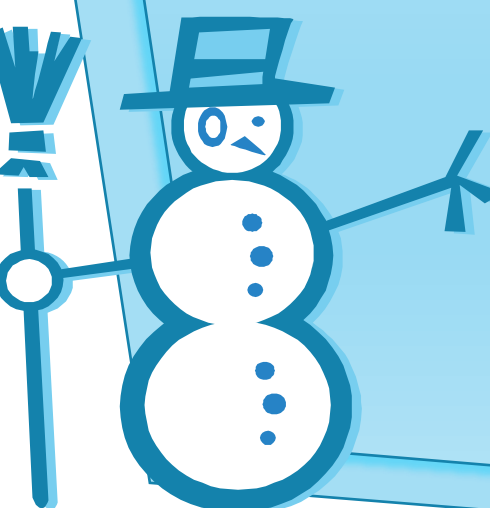
Note: some of these were assumptions made as a Lister who is not a licensed engineer and would be subject to a proper site analysis/feasibility study.

The Listers performed a proportionality test to determine whether the cost to cure the river obstruction would be disproportionate to the value of the land if improved. Reference was also made to the Principle of Substitution (which states “value will tend to be set by the cost of acquiring an equally desirable substitute. The value of a property to its owner cannot ordinarily exceed the value in the market to persons generally, when it can be substituted without undue expense or serious delay.

In a free market the buyer can be expected to pay no more, and a seller can be expected to receive no less, than the price of an equivalent substitute.” Office of Real Estate Appraisers www.orea.ca.gov. There currently is enough available land in the Guilford market that could be purchased without needing to build a bridge plus the existing uncertainty of septic and well.

Two more questions arose. Did this property qualify for an “easement by necessity” and what would happen if the site was considered landlocked? “Easement by necessity” gives the right to use another property when a landlocked parcel has no access to a public right of way. This appeared not to apply to the subject as no apparent advantage of access would be gained by an easement over an abutter's property. The following Vermont case law was reviewed: *Berge v. State, No. 342-6-02 Wncv (Toor, J., Sept. 29, 2005)*. In this case land was sold without an easement to access the property and the new owner was trying to gain access over state owned land. Another concept identified in this court case would be whether a right of necessity would be “defeated” if water access was available (let’s just say I was glad that this river is not considered navigable by anything other than an inner tube).

What was the conclusion of the Listers? The value of improvements were removed from the property (no negative value was applied for demolition/removal of debris [not going into this debate]) and the land value was considered unimproved (currently no ability for a house site). It was determined that existing septic and well were unusable and the site only had a small landing (a recreational vehicle could be parked in this area). The property has the possibility of installing a foot bridge for access over to the island and installing a small camp the feasibility of this is still questionable.



A really good article published by the Appraisal Institute entitled “Development of an Opinion of Market Value in the Aftermath of a Disaster” deals with this kind of situation and may be accessed by the following link <http://www.appraisalinstitute.org/assets/1/7/guide-note-10.pdf>. This would be a great topic for future newsletter...perhaps if some esteemed Lister/Assessor/Appraiser would like to take the challenge? HINT HINT. Hopefully this article was useful regarding the topic of landlocked property, or at least gives points to ponder.

Written by Jeremiah Sund



The page is decorated with a light blue background and a border of stylized snowflakes in various shades of blue and white. In the bottom left corner, there is a cartoon snowman wearing a top hat and holding a broom. The snowman has a simple face with a single eye and a small smile, and its body is composed of three stacked circles with dots for buttons and eyes.

Lister History

Listers Making their Lists and Checking Them Twice

The early grand lists included:

1. All males between the ages of sixteen and sixty were rated at six pounds and later at twenty pounds each. (There were exemptions for ministers, schoolmasters, and those incapacitated by sickness.)
2. All livestock was listed by category and valued by age.
3. Money on hand, over and above debts owed was assessed at six pounds for every hundred. By 1787, the assessment was raised to twenty pounds per hundred.
4. Household clocks not made of wood, gold watches, pianos, pleasure wagons, sleighs, dogs, swarms of bees, stock in corporations.
5. Land that had been improved for at least a year.
6. Doctors and lawyers based on their "faculties" and size of practice.

Failure of a property owner to declare his list of taxable property in a timely manner resulted in "Twofolding". (Can't help be wonder if this could be reestablished for late homestead filings?)

If no list was returned, the Listers made out a list based on their own judgment.

The Listers had the power to "Fourfold" which meant they could add to the lists according to their judgment if they felt the lists were not accurate. Half the amount arising from these fourfolds went to the Listers. (Now that would be a nice Christmas bonus)

People who appealed the "Fourfolding" were required to take an oath that they were telling the truth. Further appeals could be made to the Selectmen and another oath would be required.

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2016 ANNUAL CONFERENCE

The assessment officials of Vermont met in a larger group than ever this September 19th at the Lake Morey Resort in Fairlee. The attendance surpassed all prior annual meetings.

At the business meeting we elected the following officers for 2016-17:

- President: Todd LeBlanc
- Vice President: Camilla Roberts
- Secretary: Maree Bushey
- Treasurer: Joyce Scribner
- Past President: John Fike

A budget for 2016-17 was approved.



A recommendation for changes to the Equalization Study was discussed and approved. Improving the EQ process has been an ongoing project, and will continue to be a focus of our energy, working with PVR. For details go to <http://www.valavt.org/category/articles/>

There were excellent presentations and workshops by Leslie Pelch of VCGIS on the statewide transition to GIS maps, by Meghan Wheaton of VSARA on Records Retention and Disposal, by Chris Miele of NEMRC on handling transfers and subdivisions, and by Tom Vickery with John Vickery on making corrections to the CLA when greater than 110%. The Lister forum was lively.

2016 Lister of the Year

2016 Nominees

Shirley Fecteau - Highgate, Richard Bowen - Braintree, Rose Warner - Johnson,
Louise Ferris-Burt - Bethel,
Pauline Moore - Manchester, Pat McNall - Fairfax,
Janice Arnold - Grand Isle

2016 Winners!

2016 Michael P. Cyprian Lister of the Year
2016 Steve Jeffrey Lister of the Year Education Grant



Right to left: Joe Longo /Lister Town of Grand Isle; Melissa Boutin/Town Clerk of Grand Isle; Todd LeBlanc/President VALA ; Janice Arnold/ Chairperson-Lister Town of Grand Isle ; Roger Kilbourn/District Advisor PVR

Janice Arnold, Lister Town of Grand Isle

The following is from the letter of nomination for Janice Arnold
Submitted by Sue Lawrence, Lister Town of Grand Isle:

Lister's must be many things.

While in the office: Detail oriented, Computer savvy, Accurate – during repetitive and sometimes monotonous analysis

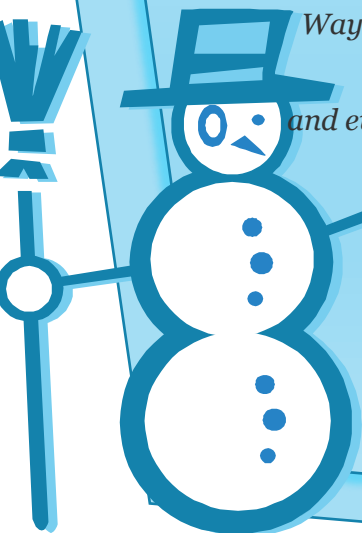
While out in the field: Punctual – for appointments and deadlines imposed by the State and Towns, Surefooted – to navigate unfamiliar, uneven and challenging terrain during inspections, Open minded – when encountering any number of surprises during inspections

Listers must also possess: Total recall for the minute details gathered in the field, Saint like patience in dealing with the good, the bad, and the ugly personalities encountered every day. Wisdom to differentiate between the good, the bad, and the ugly cat like reflexes required when encountering the bad and the ugly Superior Logic in distinguishing the difference between

“git off” a my property” and the muzzle of a shotgun.

Above all Listers must be diligent and thorough The Lister whom we refer to today is a long time Town employee, a fixture if you will, you know – the one who knows every property and who owns it. This Lister is passionate about the facts. Sometimes a little too passionate, often answering questions before they are completed. Frequently reminded to wait for the whole question to be asked before responding. Impatient, in a good way, comes to mind.

Way back in the 70's, back when cows, dogs and sheep were counted, maintaining the Grand List was hard work. There were no such things as computers. The Grand List, and everything that goes along with it was done by hand, with the aid of only an adding machine and whatever schooling the Lister possessed. This Lister also knows how to just sit for a spell if you were and reminisce about all the years gone by. Have you ever heard the story about the Lister who went to a house and asked if they had any dogs? You know the one where the lady answers “no” undeterred by the barking dog beside her. Credit this Lister, who, by the way, has also held the office of Assistant Town Clerk.



Fast forward to the late 1990. Medical issues forced this Lister to relinquish the position with the Town only to be beckoned back 3 ½

years and 5 surgeries later by a town which was much in need of a Lister to return a muddled Grand List to its previous glory.

The Selectboard knew they needed help and they knew the skills they wanted in a Lister – accuracy, attention to detail, proof reading skills, someone possessing a knowledge of the Grand list. And they knew just where to find her.

Any town would be fortunate to have such a dedicated and knowledgeable Lister assisting townsfolk, minding the Grand List, and sharing the knowledge and experience she possesses with others. I know Grand Isle is.

*By now some of you, and hopefully **Janice Arnold**, will know who is the **VALA 2016 Lister of The Year**.*

Janice embodies all the Lister traits I just described. She knows her stuff and she has the Towns best

VALA Would Like to Congratulate Dr. Bruce Sheilds on receiving “The Wallace Award”

November 4, 2016, Stowe, Vermont – Vermont Farm Bureau recognized members for their exemplary service to agriculture at Vermont Farm Bureau’s Annual Meeting and Conference. The “Wallace Award” is given annually by The Vermont Farm Bureau honoring recipients for their distinguished lifetime service to agriculture. **More info at <http://vtfb.org/vermont-farm-bureau-news.php>**

