

Case No. 2240

ISLAND VIEW BEACH ASSOCIATION,
INC. OF WESTBROOK, ET ALS

COURT OF COMMON PLEAS

VS

JOHN A. REISSLER, ET ALS,
CONSTITUTING THE BOARD OF SELECT-
MEN OF THE TOWN OF WESTBROOK, ETALS

SEPTEMBER 22, 1966

J U D G E M E N T

This Appeal from the Board of Selectmen from Decision establishing lost or uncertain highway boundaries, by Writ, Summons and Complaint dated January 20, 1955, came to this Court on the First Tuesday of March, 1955, thence to March 1, 1957, when all, save one, of the defendants made answer, thence to April 26, 1963 when judgment by default for failure to plead was granted against the defendant, George N. Tisdall, and on April 26, 1963 when this action by stipulation of the parties was referred to the Honorable Ernest A. Inglis, State Referee, where the parties were fully heard; thence to Sept. 22, 1964, when the parties filed a written stipulation for judgment, as on file appears.

The Court, having heard the parties, finds that Judgment in accordance with said stipulations is in the best interest of all parties concerned and approves the same.

Whereupon it is Adjudged and Ordered:

1. That the layout of Elm Avenue as found by the Board of Selectmen of the Town of Westbrook, acting under the Authority of Section 2166 of the General Statutes Revision of 1949, in their decision dated January 10, 1955 be set aside, and the following layout of Elm Avenue be substituted therefor:

All that certain piece or parcel of land situated north of

Beach Way Road and being the southerly portion of Elm Avenue, located in the Town of Westbrook, County of Middlesex and State of Connecticut. More particularly bounded and described as follows:

Commencing at a point marked by a concrete bound which is the same point that marks the northwest corner of the layout of the highway herein described; thence turning and running S 87° 1 53' E, 35.13 feet to a point marking the northeast corner of the layout of the highway herein described; thence turning and running in a southerly direction a distance of 141.33 feet to a concrete bound set in the easterly line of the highway herein described; thence continuing in a southerly direction 119.54 feet to a concrete bound set in the easterly line of the highway herein described; thence continuing in a southerly direction 124.97 feet to a stake set in the easterly line of the highway herein described; thence continuing in a southerly direction 35.32 feet to a concrete bound set in the easterly line of the highway herein described; thence continuing in a southerly direction 9.39 feet to a point in the northerly line of Beach Way Road; thence turning and running in a westerly direction along the northerly line of said Beach Way Road 36 feet, more or less, to a point, which point is the same point marking the northerly line of Beach Way Road and the south west corner of the highway herein described; thence turning and running in a northerly direction 35.27 feet to a point; thence continuing N 2° 56' 12" E, a distance of 131.98 feet, to a concrete bound set in the westerly line of the highway herein described; thence continuing N 5° 01' 23" E, 148.63 feet to a concrete bound; thence continuing N 2° 44' 07" E, 104.96 feet

to a concrete bound which is the same point marking the point and place of beginning.

All distances, directions, courses, bounds, monuments, descriptions, and title used in the foregoing description are all as shown on a map to be recorded in the Office of the Town Clerk of the Town of Westbrook. Said map is entitled "Case No. 2240 - Island View Beach Association, Inc. vs. John A. Heischer, et al, (Selectman of the Town of Westbrook), layout of Elm Avenue per stipulation for judgment in the above captioned case, and R.O.W. to Sea and Sound granted from Island View Beach Assoc, Inc. to the Town of Westbrook, and boundary lines indication agreement between Island View Beach Assoc., Inc. and Ralph S. Kruck, June 3, 1964, Scale 1" = 20 feet, Radcliffe and Ross, Civil Engineers and Surveyors, Centerbrook, Connecticut, Milton I. Ross, Jr., Conn. L.S. Lic. No. 4689.

2. That no part of Elm Avenue is found to exist below the northerly line of the public highway known as Beach Way Road in the Town of Westbrook.

3. That Case No. 3742, Island View Beach Association, Inc. vs The Town of Westbrook, et al, be withdrawn without cost to either party.

4. The Island View Beach Association, Inc. will grant to the Town of Westbrook, a right of way for passage on foot only from Beach Way Road to the mean high water line of Long Island Sound. Said right of way is more particularly bounded and described as follows:

Commencing at a point in the southerly line of Beach Way Road, so called, which point is the same point marking the north

east corner of the Right of Way herein described: thence running S 2° 57' 22" E along a line marking the easterly boundary of said right of way as follows: 34 feet more or less to a concrete bound, then 42.12 feet to a concrete bound, then 42.37 feet to a stake set in the mean high water line of Long Island Sound; thence turning and running in a westerly direction along the said mean high water line of Long Island Sound 15 feet, more or less, to a stake marking the south west corner of the herein described right of way, and the south east corner of land now or formerly of Kruck; thence turning and running N 22° 57' 22" E along a line marking the westerly boundary of the herein described right of way, which line is also the easterly line of land, now or formerly of Kruck, as follows: 31.41 feet to a stake, then 24.02 feet to a stake, then 29.06 feet to a stake, then 7.03 feet to a stake, then 31.90 feet to the southerly line of Beach Way Road, so called; thence turning and running in an easterly direction 15 feet, more or less to the point and place of beginning.

Together with the right of the Town of Westbrook to erect and maintain a sign at the entrance to said right of way, said sign not to exceed 144 square inches and limited to the following language, "RIGHT OF WAY TO SEA AND SOUND ON FOOT ONLY".

But Subject to the following conditions:

(a) The Island View Beach Association reserves to itself, its successors and assigns the fee within the limits of said right of way.

(b) Said right of way herein conveyed shall be for the sole purpose of access on foot only from Beach Way Road to the mean high water line of Long Island Sound.

(c) No right is granted to loiter on the sand within the limits of this right of way.

(d) No right is granted to picnic or loiter within the limits of the right of way.

(e) No right is granted to sun baths within the limits of the right of way.

(f) Nor is any right granted for any similar type of use of the area within the limits of the right of way for beach or recreational purposes.

(g) The Town of Westbrook shall erect and maintain a suitable fence at its expense along the westerly line of said right of way where said westerly line abuts the land now or formerly of Ralph E. Kruck.

(h) The Island View Beach Association, Inc. shall erect and maintain a suitable fence at its expense along the easterly line of said right of way where said easterly line abuts the other land of said Association.

(i) The Town of Westbrook shall construct and maintain stone or concrete steps recessed into the retaining wall at the north line of said Right of Way provided, however, that said steps shall not exceed five feet in width and are centered on that portion of the stone wall that is within the limits of said right of way.

5. The Town of Westbrook shall convey to Ralph E. Kruck that portion of Beach Way Road lying west of a prolongation of the westerly line of Elm Avenue, said portion shall consist of a parcel of land approximately six (6) feet by nine (9) feet.

6. That a copy of the judgment and map shall be recorded on the land records of the Town of Westbrook.

7. That cost be shared equally by both parties of the action.

Dated at Middletown, Connecticut this 22nd of September, 1964.

s/ Sidor

Walter J. Sidor, Judge