**Timeline**

Cellar Lumber conducts business at the Sunbury location for several decades.

Big Walnut High School opens in 1991 and Cellar Lumber starts to see an increase in traffic cutting through its Sunbury Location as students & parents find the “short cut” a quick way to avoid driving through the intersections in the center of the Village.

Summer of 2006 (and probably other times as well), Cellar Lumber representatives John Miller, Tom Kramp and their attorney, Fred Milligan, meet with, or attend a Council or Zoning Board meeting, the Village with a complaint or complaints about the increased traffic as it is causing work place hazards to the Cellar Lumber employees as they are working loading & unloading materials & supplies for their normal business operations. Traffic increased so much that at some point Cellar Lumber employees had to set up barricades on both sides of their driveway to complete their work in a safe area. **At this meeting, or another regarding this matter, the Village acknowledges Cellar Lumber owns the property and Cellar Lumber informs the Village of its permissive use of their property for the through traffic.**  Even though Cellar Lumber often “shuts down” the short cut with semi’s and tractor trailers for regular business operations on a regular basis, the Village never issues any Cease & Desist Orders, tickets or requires Cellar Lumber to obtain any permits to shut down the short cut. In fact, no orders or citations are given to Cellar Lumber from the Village whatsoever even after Cellar Lumber shuts down the location for decreasing sales sometime in late 2011, or until the sale of their properties to Preservation Parks in the Summer/Fall of 2015 or the Defendant in Dec 2015.

Some time between the 1990’s and early 2000’s (but before the passing of John Miller in 2014), Cellar Lumber approached the Village with plans to knock down a portion of one of their structures in hopes of replacing it with a parking lot area for their staff & customers. The plan would have been approved if Cellar Lumber had agreed to the Village’s terms of relinquishing ownership of the drive surface portion of their property; thereby splitting their 3 parcels into 2 separate and divided pieces of land. They would have forfeited their right to conduct their normal business

activities as described above; in essence, the Village’s request for Cellar Lumber to forfeit their ownership of their property would have literally killed their ability to load and unload product and inventory. However, this action by the Village also demonstrates their acknowledgement that the property does not belong to the Village. No stipulated fee (as in a determined dollar amount) for such permit was offered by the Village to Cellar Lumber.

While all of this was going on people started referring to the Cellar Lumber driveway as “S. Vernon St.”, or a continuation thereof. Apparently so much so that the Village felt comfortable enough to install a sign at the intersection where it meets S. Columbus St.; whether Cellar Lumber approved of this or not is uncertain, but the Village did it anyway.

During the dealings with the Village, Cellar Lumber’s neighbor to the west at 170 S Columbus St., then owned by Scott & Karen Baker, were experiencing the nuisance of the increased traffic flow through the property and the 3 or 4 times a week that Cellar Lumber would shut down both sides of their driveway to conduct their business. So, they went to Cellar Lumber for a legal easement. Cellar Lumber granted the Bakers a “perpetual non-exclusive easement” on Feb. 10, 2006. No mention of the Village was included on that easement, except for the language on Exhibit C which refers to the Village using the driveway as a continuation of S. Vernon St. It states: **“Paved drive being used as S. Vernon St. but Auditor’s records show ownership in Cellar Lumber”**. The easement also states, **“Grantee is solely responsible for the repair and maintenance of said improvements and shall keep said improvements in good repair.”** At this time there was no fence on the Baker’s small .158 acre parcel. With only 40 feet of frontage to the road there was no space to put a fence and still enjoy the land Cellar Lumber owned adjacent to their parcel.

In July of 2011, the Bakers sold their house to Molly Kibler. She had recently divorced and downsized considerably from a large parcel of land (roughly 10 acres) to a home on less than .16 acres. She inherited the “perpetual easement” and its conditional terms with her purchase of the home. She also owns two very active large dogs who were accustomed to running around freely on her previous property, but now she only owns a very, very small yard. She decided to install a fence.

Ironically, the Village of Sunbury did not require permits for installing fences at the time (as far as I know they currently still do not require permits for fences, but they are discussing it). She contacted Workman Fence and hired Arnie Workman and his company to install the fence that is presently on her yard which encroaches on my parcel.

Since no permits were required at that time, there is no public record of her request to install the fence. However, since she recently made the purchase of the home, she must have had knowledge of her property lines and boundaries that was fresh in her memory. So, she either knowingly trespassed on Cellar Lumber’s property by installing the fence without their permission, or she inquired with Cellar Lumber if she could install the fence on their property and they verbally granted her permission. If the latter is true, then she acknowledged Cellar Lumber as the legal owner of the property on which she installed the fence.

In December of 2015, my father & I purchased the remaining two parcels from Cellar Lumber (the 3rd had already been subdivided and sold to Preservation Parks). We had hoped to get all three as we saw the redevelopment of the properties very near the downtown of a growing village a good investment. We figured 1.1 acres is still a good investment in the area. **Little did we know that the vague language David Brehm instructed our Title Agent to include on our Title Policy would become such an incredible issue.** The language David Brehm instructed our title agent, Marshall McCormick of Chase Title Services, to add the title policy demonstrates that the Village has been contriving to obtain the property without compensation to the owner since before my father & I purchased it. I believe anyone who would have purchased this property would find themselves in the situation I find myself presently. The language D. Brehm had added to the policy states, **“Such portion of the herein described land thought by the Village of Sunbury to be an extension or part of S. Vernon Street connecting westwardly to Columbus Street and such portion claimed by the Village of Sunbury by Adverse Possession or other such doctrine”.** David Brehm and the rest of the Village Council all had prior knowledge that the Village had no legal claim to the property whatsoever. Their hope was to intimidate, bully, abuse their power and influence while knowingly violating the Civil Rights of a private citizen in order to steal land without due compensation.

In March of 2016, I contacted architect, David Pontia, to discuss possible redevelopment layouts for mixed use buildings. He & I met with the Village Council, including David Brehm, Tom Hatfield, the Village Engineers and Zoning Board members in May of 2016. At this meeting I brought up the idea of squaring off the corner that is presently the curve that is within only 20” of the corner of my building. I provided an aerial map with a possible new layout for the driveway surface to the Village. The map showed me giving up approx. .15 acres in order to square of the parcels, but also allowing me more reasonable setbacks for any future development and the elimination of the blind corner that is presently there. Squaring off the drive surface would also eliminate the speeding cars that use the area as a short cut. Looking back, I should have picked up on Brehm’s smug demeanor. At the close of the meeting he brought up that the Village had interest in “my road”.

Over the course of the following work seasons (2016 through present), myself and my employees have had at least a half dozen or more instances each year where cars have sped by us within dangerous proximity. At that time, I was unaware that the employees of Cellar Lumber had also experienced the same issue and concern.

**In April of 2018, I attended a Village Council Zoning meeting to inquire about building out the upstairs of my building into an apartment. It was at this meeting when David Brehm stated that the Village wanted my driveway. I told him I would be happy to discuss Eminent Domain at another time. His response was along the lines of: “Oh! We’re not going to buy it from you. You are going to give it to us, or we will take it from you in court.”** (Clearly, threatening language). I replied that I had just purchased it 3 years ago. I was on title, deed and was paying taxes on it (as had the previous owners) and that they would have to take it from me in court because it didn’t belong to the Village.

At the May 2018 Council meeting, I brought legal representation. He approached Brehm and conveyed my willingness to avoid court and discuss eminent domain. Clearly, that was disregarded.

Between April of 2018 and late June or early July, myself & my employees had numerous close calls with speeding cars. Since I own an asphalt company, I decided to install speed bumps on both sides of the area in which we work the most. During the installation of the first speed bump we noticed that we had gotten the attention of the mayor & his wife. We saw them taking pics of us and/or recording our work on their cell phones.

Shortly thereafter we were approached by both the senior & junior Zoning Board officers inquiring as to what we were doing. I told them. He informed me that I was doing unauthorized work on property owned by the Village. (Yet another lie to try to intimidate or otherwise manipulate me). I told him the property did not belong to the Village. **They left and returned shortly thereafter with the Cease & Desist letter that can be found in the documentation of this lawsuit. The way the letter was written was such that if I complied with their demand for me to remove the speed bump, I would be acknowledging the property belonged to the Village. This is another good example of Brehm’s attempt to manipulate and intimidate.** At the time the letter was being delivered we were finishing the installation of the bump and it was beginning to rain. I was not able to paint the bump yellow due to the wet conditions, nor thereafter per then legal council’s direction. We have not yet installed the 2nd speed bump or applied yellow paint to the one that is installed.

Later that day, after the rain had stopped, an employee and myself watched 20 to 30 cars come flying down the street. Some of them got air born as they were going 30+ mph around the blind corner of the building. Now that Preservation Parks has completed the installation of their bike path & removed the fence that was on the south side of the drive surface, cars will often just drive around either side of the speed bump. I installed video cameras on May 10, 2019 in hopes of getting an unofficial car count and perhaps some evidence of speeding cars (though they are less frequent now that the bump has been there since last July). Based on recent video footage of traffic activity, I can confidently say that anywhere from 75 to 150 cars use my property to cut through on a daily basis. The video documentation I have gathered expires every 7 days, but I have taken screen shots of the number of video events that occur every 24 hours.

Upon my return from vacation in mid-August of 2018, I received a call from an adjacent home owner, Bill Acton, who owns a rental property one or two doors down from Molly Kibler. He told me that he, and anyone else that had an easement on my property was being sued by the Village. Even the Mayor, Tom Hatfield, which I have yet to understand because to date, no easements have been found that have been granted to him or his wife on my property.

**I hired and had a survey completed in August of 2018 and it was shared with Molly Drayer as we discussed her purchasing the portion of my property that she was using as her back & side yards. I also provided her a copy of her easement around that time and said if she was truly interested, she could purchase that portion as well as long as I would be granted an easement. However, I told her that any sale would probably not go through because the Village would have to approve the division of the parcel; and with the lawsuit already going on, it was unlikely any sale could take place until the suit was settled.**

The survey has not yet been green stamped or filed with the county. Once again because of the lawsuit with the Village.

As the case progressed, I discovered several other Sunbury business owners who have had similar issues with the Village claiming ownership of their property like the Village is claiming ownership of mine. I have provided a list of some of them already. To date, all the documentation the Village has provided to support their claim on my property does not support it whatsoever. **Unless they are withholding some documentation, nothing presented so far has justified their position; nor does it meet the 21-year exclusivity and notorious use requirement for Adverse Possession or Prescriptive Easement.** I am not certain how “Implied Easements” work or the extent of their legality, but I would like to know more as it comes into play with the houses to the west of my building.

Title Agent, Marshall McCormick, has even emailed informing me that Brehm had him add the controversial language to my title policy probably for the specific purpose of trying to acquire the land without paying for it… OR some other purpose which has yet to be provided… as both Brehm and the Mayor own homes across the street or adjacent to my parcels (since 1996 and 2002, respectively).

On May 14, 2019, I received an unsolicited offer from a local company to purchase the parcel from me for approximately $30,000. Though this figure is not validated, it is in line with the approximate value listed on the Delaware County Auditors page. However, per reviews of the company from previous landowners who were solicited, this offer price is much lower than the actual value of the land.

In conclusion, I would like to say this,

**Regarding both cases:**

1. I extended, in good faith and in a friendly manner, to both plaintiffs (Village of Sunbury & Molly Drayer) the opportunity to purchase the portions of the property each had an interest in acquiring,
2. I offered different & multiple options to both plaintiffs for their consideration. I gave them ample time to consider those options. I have asked only for legal easements to be upheld and to have a safe environment for my business & employees.
3. **I seek to be made whole by both parties for their lack of reason and frivolous nature of their suits; and to have quiet title to my property from all other claims of ownership, legal or implied.**

**Regarding the Village Lawsuit:** After the rude and uncalled for threat from David Brehm that I would either give the Village my property or they would sue me and take it from me, they will have to do so. I offered to sell them the property under Eminent Domain in the same conversation in front of the entire Village Council the day Brehm threatened to take it from me. The only way I would consider mediation is if they admit they never had ownership interest in the property, they admit guilt of contriving to intimidate a private citizen out of their property, reimburse me 100% of my legal fees and pay the full cost of the mediator. I would also like to be reimbursed for lost business as the money I had set aside for equipment and truck maintenance went to legal fees instead of my business. I have already lost 10 daysof work because a truck and a piece of equipment were not maintained over the winter.

I offered to sell the property to the Village under eminent domain. Instead they sued me (wrongfully and knowingly so). Probably for less than the cost of the legal fees the Village incurred they could have purchased the land. In my opinion, the current compliment of the Village Council is incompetent, negligent &/or lazy… and now, clearly crooked.

I would like to be made financially whole and quiet the title of both parcels.

**Regarding the Drayer Lawsuit:** I offered to sell her the portion of my property she presently uses as her back & side yard. I even offered to sell her the easement area to which she is the grantee (also claimed by the Village as their property). I allowed her close to 6 months to discuss it with her attorney and anyone else. I provided to her copies of her easement as well as a copy of the survey I had done showing her my parcel in relation to hers without request for any compensation. If she was not notified of the easement that transferred to her with the property or the plot map of her parcel in relation to mine, then the issue she should have is with her Title Co., not my company.

She is clearly demonstrating her unwillingness to comply with the terms of the easement; which in my opinion nullifies her easement rights.

Per Arnie Workman, he installed the fence for Molly Kibler soon after she purchased the home. No permit was required by the Village. So, as I stated previously, she should have known of her property boundaries as they should have been fresh in their mind prior to the installation of the fence. If she installed the fence without the permission of Cellar Lumber, then she has trespassed. If she did ask the permission of Cellar Lumber, then she acknowledges their ownership of the property on which she has encroached.

My requirement for her to have a lease for my land that she is using is more than reasonable. If something should happen on my property and any legal action to follow from that instance, then a clear and specific set of terms should be executed & on file for both parties. This is very normal procedure. I am paying taxes on my property that she is using and representing as her own (which it clearly is not).

Her claim that the fence and large rocks have been on the property for more than 21 years is a blatant lie, as evidenced by the work completed by Arnie Workman and the images obtained from Google Earth Street Maps showing no fence or rocks in the yard in 2007.

The amount of rent for which I am asking was not made up out of thin air. I contacted a CCIM (Certified Commercial Real Estate professional) and inquired how to determine a fair price for renting vacant land adjacent to a building. The value of her home with the addition of my land would be approx. $250,000 (per the Zillow estimate of her home). One tenth of 1% of $250,000 is $250, which is what I had put in the lease which I sent to her via certified mail approx. 50 days ago (along with a copy of her easement with her responsibilities highlighted).

I am curious about the possible violations of the Village Council. I have had several attorneys mention to me these items:

Civil Rights Violations, unauthorized use of private property, abuse of power, manipulation, falsification of a legal document (Cease & Desist Letter, illegal cloud on my title by order of the Village legal counsel), intimidation, trespassing, menacing, nuisance; and, if any of the Village Council members have ever personally profited from this type of behavior in the past, then racketeering & possible RICO charges.