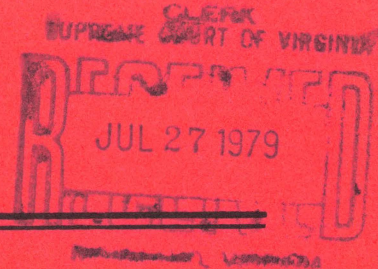


221 Va 983



IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

RECORD NO. 790075

ROBERT L. BULIFANT, JR.,  
.....Appellant

v.

KATHERINE RITTER SLOJARIK  
AND STEVE SLOJARIK,  
.....Appellees

JOINT APPENDIX

John E. McDonald, Jr.  
Robert S. Bozarth  
McDONALD & CRUMP, P.C.  
The Hillyard-Maury House  
First & Franklin Streets  
Richmond, Virginia 23219

Counsel for Appellant

Travis W. Poole  
601 Mutual Building  
Richmond, Virginia 23219

Wilson E. Sheridan  
Clifford W. Perrin, Jr.  
MAYS, VALENTINE, DAVENPORT  
AND MOORE  
Post Office Box 1122  
Richmond, Virginia 23208

Counsel for Appellees



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IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK  
and STEVE SLOSJARIK

Plaintiffs,

v.

ROBERT L. BULIFANT, JR.  
10310 Cherokee Road  
Richmond, Virginia

Defendant.

MOTION FOR JUDGMENT

Comes now the plaintiffs, by counsel, and moves the Court for judgment against the defendant for possession of certain unimproved real property and damages as hereinafter set forth:

1. The plaintiffs, Katherine Ritter Slosjarik and Steve Slosjarik, husband and wife, are the fee simple owners of a certain unimproved parcel of land lying and being in Clover Hill Magisterial District, County of Chesterfield, Virginia, containing 0.35 acre more specifically described by a plat of survey made by LaPrade Bros., Civil Engineers & Surveyors, dated September 29, 1975, designated as Exhibit A and included by such reference as part of this Motion for Judgment.

2. That the aforesaid property, along with other property, was conveyed to Katherine Ritter Slosjarik by her mother, Caroline Ritter, widow of Lewis Ritter, her deceased father, by deed dated the 6th day of January, 1942 and recorded in the Clerk's Office of the Circuit Court of Chesterfield County on the 28th day of April, 1964 in Deed Book 746, page 288, a copy of which deed is designated as Exhibit B and included by such reference as part of this Motion for Judgment.

3. That the defendant owns the land adjacent and contiguous to the land of the plaintiffs.

4. That the defendant has taken possession of the aforesaid 0.35 acre, has cut numerous trees which were growing thereon, has constructed an underground drainage pipeline, has piled dirt and debris upon the plaintiffs' said property, has caused water to drain upon said land and has

damaged the plaintiffs' property in the manner and to the extent as shown in the statement marked Exhibit C filed as part of this Motion for Judgment.

5. That the plaintiffs have on numerous occasions demanded that the defendant remove the fence constructed upon their property, remove the underground drainage pipe constructed upon said land and to pay for the damages the defendant has done to the plaintiffs' property all without any results.

6. That a dispute has arisen between the plaintiffs and the defendant as to the true location of the boundary line of the plaintiffs' parcel of land and that of the defendant.

Whereupon the plaintiffs move the court to designate the true boundary line between the land of the plaintiffs and defendant all pursuant to Section 8-836, Virginia Code 1950 as amended and the plaintiffs also move the Court for a judgment against the defendant in the sum as shown in the statement of damages marked as Exhibit C and filed as a part of this Motion for Judgment pursuant to Section 8-827, Virginia Code 1950 as amended.

Trial by jury is waived.

KATHERINE RITTER SLOSJARIK  
STEVE SLOSJARIK

By \_\_\_\_\_  
Of Counsel

Poole & Poole  
601 Mutual Building  
Richmond, Virginia 23219  
Counsel



cription of the lot of land herein conveyed. Said parcel of land is a portion of the land conveyed unto the party of the first part by Henry Ritter and others by their deed, duly of record in the aforesaid Clerk's Office.

The party of the first part covenants that she has the right to convey the said land to the grantee; that she has done no act to encumber the said land; that the grantee shall have quiet possession of the said land, free from all encumbrances; and that she, the party of the first part, will execute such further assurances as may be requisite.

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

*Witness signature*  
*N. W. Trauighan*  
STATE OF VIRGINIA,

*Caroline Ritter* (SEAL).  
*Mark*

CITY OF RICHMOND, to-wit:

I, Margaret Eva Baker, a Notary Public in and for the City of Richmond, State of Virginia, do hereby certify that Caroline Ritter, whose name is signed to the foregoing writing, bearing date as of January 6, 1942, has acknowledged the same before me in my City aforesaid.

Given under my hand this 7<sup>th</sup> day of January, 1942.

My commission will expire October 17th, 1945.

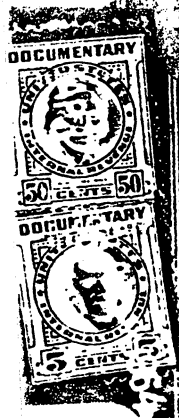
*Margaret Eva Baker*  
NOTARY PUBLIC.

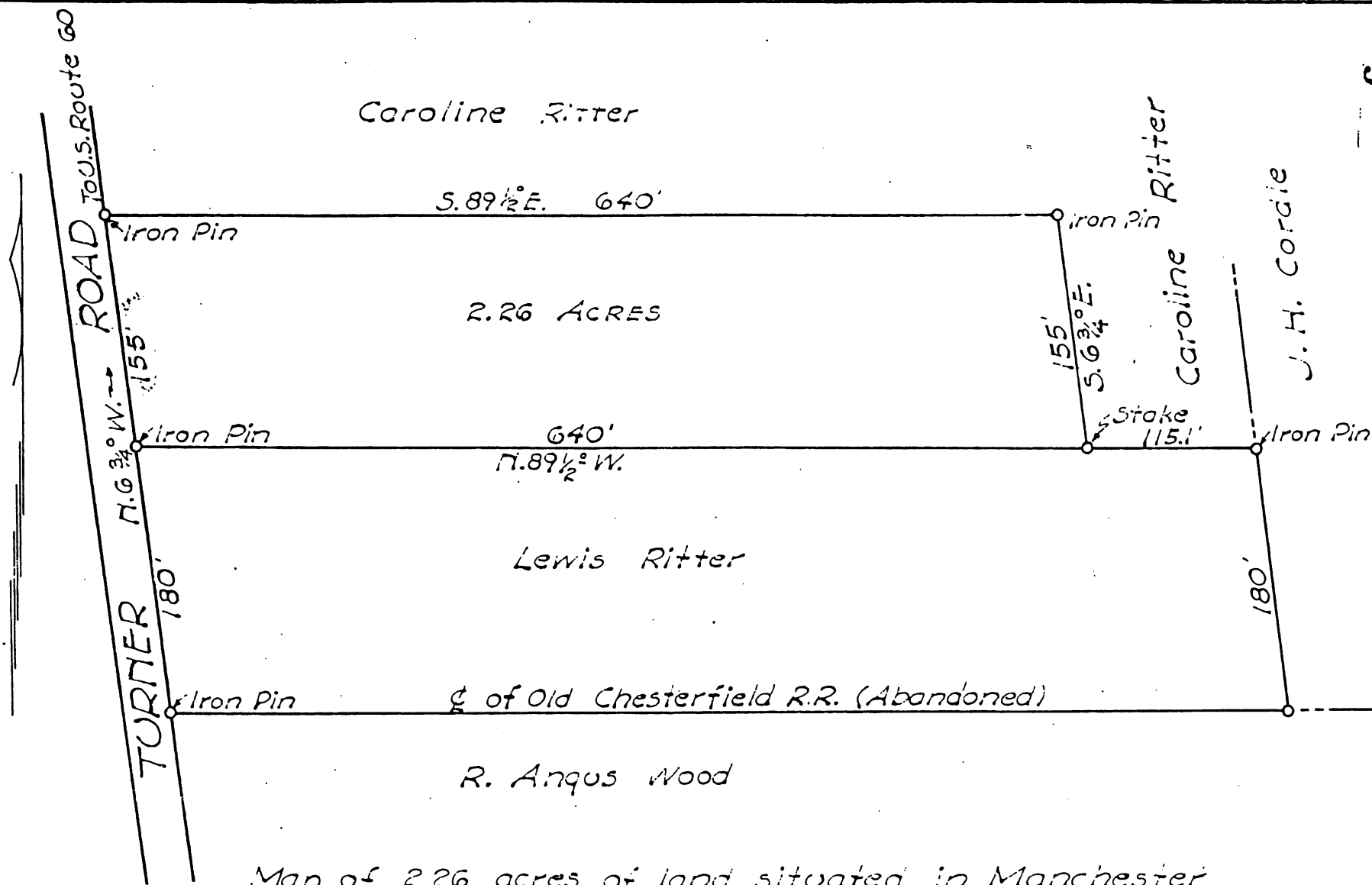
VIRGINIA:

In the Clerk's Office of the Circuit Court of Chesterfield County, the 28<sup>th</sup> day of April, 1944, this Deed was presented and with the certificate plus admitted to record at 11:55 o'clock P. M.  
Recordation Tax \$ 4.20; I. R. Stamps, affixed & cancelled, \$ 0.55

Teste:

*William R. Shelton* Clerk





Map of 2.26 acres of land situated in Manchester District, Chesterfield Co., Va. Surveyed for conveyance from Caroline Ritter to Katherine, Ritter Slosjarik.

Dec. 29, 1941. r 115 L.

Scale: 1"=100'

W.W. LaPrade & Bros.  
Civil Engineers  
Richmond, Va.



Exhibit C

STATEMENT OF DAMAGES TO  
0.35 Acre Done by Robert L.  
Bulifant, Jr.

Cutting and removal of 7 trees	\$700.00
Removal of grass and growth causing washing and flooding of other property	500.00
Construction of underground drainage pipeline causing further unnatural flow of surface water	500.00
Piling dirt and debris on land	300.00
	<hr/>
	\$2,000.00

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK  
and STEVE SLOSJARIK

Plaintiffs,

v.

ROBERT L. BULIFANT, JR.

Defendant.

AT LAW NO.

596-75

PLEA OF ESTOPPEL BY RECORD

The defendant, Robert L. Bulifant, Jr., by counsel, pleads Estoppel by Record in this matter and moves the Court to dismiss the plaintiffs' Motion for Judgment by reason of the following:

1. That the matter as to ownership of the land in question was adjudicated and an Order entered by this Court on June 28, 1966, and recorded in Chancery Order Book 39, page 83, decreeing that the land described therein was owned by William O. Hicks and three children, Thomas Philip Sharp, adult, Donna Kay Hicks, infant, and Randy Wayne Hicks, infant, and authorized the conveyance of such land by Marvin F. Cole, Special Commissioner, to your defendant Robert L. Bulifant, Jr., such conveyance having been consummated by Deed dated July 5, 1966, recorded July 13, 1966 in the Clerk's Office of this Court in Deed Book 846, page 362;

2. That no exception was ever taken to said decree entered by the Court as described in paragraph 1 hereof on June 28, 1966.



WHEREFORE, the defendant Robert L. Bulifant, Jr. moves the Court to deny the prayer of the plaintiffs and dismiss this action with the plaintiffs paying costs to the defendant to include a reasonable attorney's fee.

ROBERT L. BULIFANT, JR.

By John E. McDonald, Jr. by Beverly L. Crump  
Of Counsel

John E. McDonald, Jr., Esquire  
McDonald & Crump, P.C.  
1400 Fidelity Building  
9th & Main Streets  
Richmond, Virginia 23219  
Counsel for Robert L. Bulifant, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 1975, a copy of the foregoing Plea of Estoppel by Record was mailed to Travis W. Poole, Esquire, with Poole & Poole, 601 Mutual Building, Richmond, Virginia 23219, counsel for the plaintiffs.

John E. McDonald, Jr. by Beverly L. Crump  
John E. McDonald, Jr.

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK  
and STEVE SLOSJARIK

Plaintiffs,

v.

AT LAW NO.  
596-75

ROBERT L. BULIFANT, JR.

Defendants.

ADDITIONAL STATEMENT OF DAMAGES  
TO PROPERTY OF KATHERINE RITTER  
SLOSJARIK AND STEVE SLOSJARIK BY  
ROBERT L. BULIFANT, JR.

Permanent sewer easement	2636.00
Cost of grading and restoring land	<u>300.00</u>
	\$2936.00

CERTIFICATE

I certify that a copy of this Additional Statement of Damages was  
mailed to John E. McDonald, Jr., Esquire, McDonald & Crump, P.C., 1501  
North Hamilton Street, Richmond, Virginia, on June 9, 1976.

  
Travis W. Poole



V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK  
and STEVE SLOSJARIK

Plaintiffs,

v.

ROBERT L. BULIFANT, JR.

Defendant.

AT LAW NO.

596-75

O R D E R

This cause, which has been regularly docketed, came on June 14, 1976 to be heard upon the defendant's motion of estoppel by record, after due and timely notice, and the evidence heard ore tenus and was argued by counsel for both parties.

Upon Consideration Whereof the Court finds from the evidence that no grounds for the aforesaid motion for estoppel by record were established wherefore the Court denies the aforesaid motion and Orders the defendant to file his Answer and Grounds of Defense, or such other pleading or motion as he may be advised, on or by July 6, 1976.

ENTER:     /   /   6/29/76

S/ D. W. Murphy  
Judge

I Ask for This:

\_\_\_\_\_  
Travis W. Poole                      p.g.

Seen and Obiected to:

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOJARIK  
and STEVE SLOJARIK

Plaintiffs,

v.

ROBERT L. BULIFANT, JR.

Defendant.

)  
)  
)  
) AT LAW NO.  
)  
) 596-75  
)  
)  
)

ANSWER AND GROUNDS OF DEFENSE OF THE DEFENDANT,  
ROBERT L. BULIFANT, JR.

The defendant, Robert L. Bulifant, Jr. (Bulifant),  
by counsel, for his answer to the Motion for Judgment, or so much  
thereof as he is advised it is material that he should answer,  
assign the following grounds of defense:

(1) The defendant, Bulifant, is without sufficient  
knowledge to deny or admit the allegations contained in para-  
graph 1 of the Motion for Judgment, and calls for strict proof  
thereof;

(2) The defendant, Bulifant, is without sufficient  
knowledge to deny or admit the allegations contained in para-  
graph 2 of the Motion for Judgment, and calls for strict proof  
thereof;

(3) The defendant, Bulifant, denys the allegations  
contained in paragraph 3 of the Motion for Judgment;

(4) The defendant, Bulifant, denys the allegations  
contained in paragraph 4 of the Motion for Judgment;

(5) The defendant, Bulifant, is without sufficient  
knowledge to deny or admit the allegations contained in para-



graph 5 of the Motion for Judgment, and calls for strict proof thereof;

(6) The defendant, Bulifant, denys the allegations contained in paragraph 6 of the Motion for Judgment:

WHEREFORE, your defendant, Robert L. Bulifant, Jr., prays that he be dismissed from this proceeding and that the defendant, Bulifant, recover his costs in this action including a reasonable attorney fee.

DEMURRER TO MOTION FOR JUDGMENT

The defendant, Robert L. Bulifant, Jr. (Bulifant), by counsel, says that the Motion for Judgment of the plaintiffs insofar as relief is sought, is not sufficient in law.

Your defendant further moves the Court for an Order dismissing the Motion for Judgment herein as to the defendant and for such other and further relief as the Court shall deem proper.

Trial by jury is requested.

ROBERT L. BULIFANT, JR.

By

  
Of Counsel

John E. McDonald, Jr.  
McDonald & Crump, P.C.  
Universal Leaf Building  
1501 North Hamilton Street  
Richmond, Virginia 23230

LAW OFFICES  
**MCDONALD & CRUMP**  
A PROFESSIONAL CORPORATION  
UNIVERSAL LEAF BUILDING, BROAD & HAMILTON STREETS  
RICHMOND, VIRGINIA 23230

TELEPHONE  
(804) 353-3867

JOHN E. McDONALD, JR.  
BEVERLEY L. CRUMP

November 1, 1976

MIDDLESEX COUNTY OFFICE  
SALUDA, VIRGINIA 23149  
TELEPHONE (804) 758-5341

ROBERT S. BOZARTH

The Honorable D. W. Murphey, Judge  
Circuit Court of Chesterfield County  
Chesterfield Court House, Virginia 23832

Re: Katherine Ritter Slosjarik and Steve Slosjarik v.  
Robert L. Bulifant, Jr.  
(Circuit Court of the County of Chesterfield)  
AT LAW NO. 596-75

---

Dear Judge Murphey:

The plaintiffs in this case have failed to prove delivery of the deed of January 6, 1942 to them during the lifetime of the grantor and accordingly, such deed does not pass title to any real property to the plaintiff Katherine Ritter Slosjarik.

It is elementary that a deed is ineffectual to pass title to real property until delivery of the deed by the grantor to the grantee. E.g., Thrasher v. Thrasher, 202 Va. 594, 118 S.E.2d 820 (1961); Crump v. Gilliam, 190 Va. 935, 59 S.E.2d 72 (1950). Delivery may be actual or constructive but in either case the grantor must lose control or dominion over the deed. This rule is clearly set forth in Leftwich v. Early, 115 Va. 323, 79 S.E. 384 (1913):

"The authorities cited, to which many more might be added if deemed necessary, hold that the delivery of a deed is essential to its validity; that the fact of delivery is one of intention must be manifested by some express act of the grantor, or by acts, words or conduct manifesting an intention to deliver, and that by such act of delivery the grantor must lose control or dominion over the deed in question; and that it is his intention that it should pass title at the time and that he (grantor) should lose control over it." 115 Va. at 329.

Furthermore, acts of the grantor which are essential to delivery must be performed in the grantor's lifetime, because there can be no delivery of a deed by a dead hand. E.g., Mumpower v. Castle, 128 Va. 1, 104 S.E. 706 (1920); Thrasher v. Thrasher, supra.

Thus, where the deed has been retained by the grantor without any declaration or other evidence of an intention to deliver it, there is an inference that the grantor had no purpose to deliver it. Enright v. Bannister, 195 Va. 76, 77 S.E.2d 377 (1953). Accordingly, where a deed has been found in the papers of the grantor at the grantor's death, absent a showing by the grantee that there has been a delivery of the deed, the Virginia Courts have found delivery lacking and have disallowed the transfer of title to real property by such deed. Thrasher v. Thrasher, supra; Crump v. Gilliam, supra; Mumpower v. Castle, supra. The courts have placed the burden of proof to show such delivery on the grantee, and this is particularly so in the case of gifts where the donee has the burden of proof. Crump v. Gilliam, supra; cf. Rust v. Phillips, 208 Va. 573, 159 S.E.2d 628 (1968); Grace v. Virginia Trust Company, 150 Va. 56, 142 S.E. 378 (1928).

In Mumpower, supra, at the grantor's death, his wife found and promptly recorded a deed from the grantor to her which had been executed some five years earlier without her knowledge. The Court held that the deed lacked the essential element of delivery during the life of the grantor and found no other evidence of the grantor's intention to convey the property at the time of the execution of the deed. In denying effect to the deed the Court cited approvingly the following quote from Fisher v. Hall, 41 N.Y. 416:

"A rule of law by which a \* \* \* deed executed by the grantor, afterwards retained by him during his life, in his own exclusive possession and control, never during that time made known to the grantee, and never delivered to any one for him, or declared by the grantor to be intended as a present operative conveyance, could be permitted to take effect as a transmission of the title, is so inconsistent with every substantial right of property as to deserve no toleration whatever from any intelligent court, either of law or equity." 128 Va. at 15.

Likewise in Crump v. Gilliam, supra, the deed to the grantee was found in the grantor's papers after the death of the grantor. The Court found that the uncorroborated testimony of the grantee that the grantor had shown the paper to him during her lifetime

and had indicated an intention at that time to give the property to the grantee was not sufficient to establish a delivery of the deed to the grantee. The Court cited approvingly the opinion of Judge Lamb in the lower court:

"Even if it were conceded that a delivery of this character could be shown by the uncorroborated testimony of the survivor of the transaction, he being the interested donee, it is clear in my opinion that the proof of the essential of delivery is not shown by this record by a preponderance of the evidence and that the plaintiff has not sustained the burden of proof of this essential element of a gift inter vivos." 190 Va. at 940.

In Thrasher v. Thrasher, supra, the Court likewise found the evidence of the grantee insufficient to establish delivery of a deed executed by a deceased grantor during the grantor's lifetime. The Court found that "where the grantor retained possession, without declaration or other evidence of intent to deliver, the inference is that he had no purpose at the time to deliver it," 202 Va. 594, 602, 118 S.E.2d 820, 825.

The plaintiffs in this case have provided no evidence of a delivery of the deed during the grantor's lifetime or even of the intention of the grantor to deliver such deed to the plaintiffs. Therefore, the plaintiffs have failed to establish delivery, an essential element to the validity of the deed under which the plaintiffs' claim and their title is void.

Respectfully submitted,

MCDONALD & CRUMP, P.C.

By 

John E. McDonald, Jr.

JEMcDJR:dk1

✓ cc: Travis W. Poole Esquire

ORDER

This case, which has been regularly docketed and set for trial, came upon November 1, 1976 to be heard upon the plaintiff's motion for judgment, and the defendant's grounds of defense previously filed by the parties and neither party demanding a jury but, agreeing that all matters of law and fact were to be submitted to the Court without the intervention of a jury.

Whereupon the Court heard the evidence ore tenus and arguments of counsel and having duly considered the matters finds from the evidence that the boundary line as shown in the plaintiffs' deed and plat recorded in the Clerk's Office of the Circuit Court of Chesterfield County on April 28, 1964 in Deed Book 746, page 288 and in the plat of survey made by LaPrade Bros. Civil Engineers & Surveyors, dated September 29, 1975, filed as plaintiffs' Exhibit A, is the true boundary line between the lands of the plaintiff and defendant lying and being in Clover Hill Magisterial District County of Chesterfield, Virginia.

Further, the Court finds from the evidence that the plaintiff has suffered damages at the hands of the defendant and orders that another hearing be held to determine the amount of such damages.

ENTER:     /     /

\_\_\_\_\_  
Judge



VIRGINIA;

IN THE CIRCUIT COURT OF CHESTERFIELD COUNTY

KATHERINE RITTER SLOSJARIK and  
STEVE SLOSJARIK,

Plaintiffs,

vs.

At Law No. 596-75

ROBERT L. BULIFANT, et als,

Defendants,

O R D E R

This day came the parties by counsel to be heard upon the Order entered by this Court on May 3, 1977 and upon a motion to have such Order recorded and indexed in the Grantors and Grantees Deed Books lodged in the Clerk's Office of said Court. The Court finding it proper to so do, it is hereby ORDERED that the above Order be recorded in the Grantors and Grantees Deed Books lodged in the Clerk's Office.

Also came the plaintiff by Counsel and moved the Court to nonsuit the defendants as to the damages alleged in statement attached to Motion for Judgment and upon consideration of which, it is hereby Ordered that the plaintiff take nothing by way of damages in this case which case is nonsuited on the issue of damages as to the defendants and removed from the docket of this Court.

ENTER; 10/ 18 / 78

S/ D. W. Murphey  
\_\_\_\_\_  
Judge

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK, et al,	)	
	)	
Plaintiffs,	)	AT LAW NO.
	)	
v.	)	596-75
	)	
ROBERT L. BULIFANT, JR., et al,	)	
	)	
Defendants.	)	

ORDER

On October 18, 1978 came the Defendant, Robert L. Bulifant, Jr. (Bulifant), by counsel, who expressed his intention to appeal the judgment of this Court to the Supreme Court of Virginia and moved the Court to stay the execution of such judgment pending his appeal and to make the transcripts of the hearing on June 14, 1976 and the trial on November 1, 1976 a part of the record as provided under Rule 5:9 of the Rules of the Supreme Court of Virginia, and upon consideration whereof, the Court doth

ADJUDGE, ORDER and DECREE that the execution of the judgment herein is suspended for a period of three (3) months from the date of this order, and thereafter, if Bulifant files a Petition for Appeal to the Supreme Court of Virginia, until the Supreme Court of Virginia makes its final disposition of such appeal, upon the condition that Bulifant gives an Appeal Bond before the Clerk of this Court in the penalty of \$10,000.00 pursuant to §8.01-676 of the Code of Virginia (1950), as amended; and it is further

ADJUDGED, ORDERED and DECREED that the transcripts of the hearing on June 14, 1976 and the trial on November 1, 1976 are a part of the record in this case as provided in Rule 5:9 of the

Rules of the Supreme Court of Virginia.

ENTER THIS: 10-18-78

DATED:

S/ D. W. Murphey

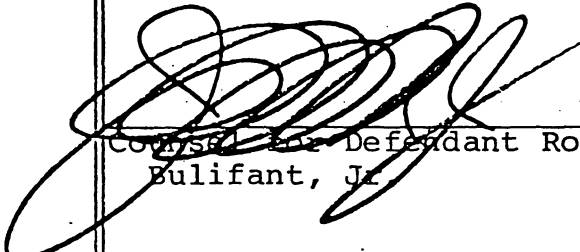
Judge

A COPY, TESTE;

Lewis H. Vaden, Clerk

By Bessie V. Reutter  
Deputy Clerk

I ask for this:



Counsel for Defendant Robert L.  
Bulifant, Jr.

Seen:

S/ Travis W. Poole

Counsel for Plaintiffs Katherine  
Ritter Slosjarik, and Steve  
Slosjarik

### III

#### ASSIGNMENT OF ERROR

The Circuit Court of Chesterfield County erred in overruling Bulifant's motions to strike founded on the failure of the Slosjariks' to fulfill their burden of proving a "delivery" of Mrs. Slosjarik's Deed to Mrs. Slosjarik.

V I R G I N I A :

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

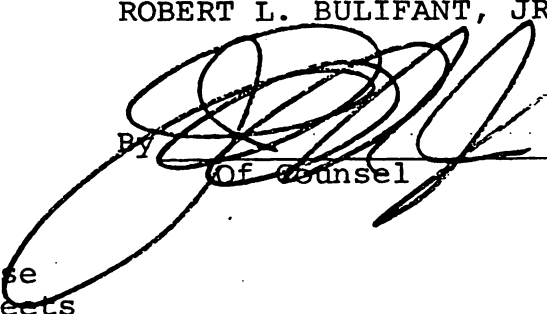
KATHERINE RITTER SLOJARIK, et al,	)	
	)	
Plaintiffs,	)	AT LAW NO.
	)	
v.	)	596-75
	)	
ROBERT L. BULIFANT, JR.,	)	
	)	
Defendant.	)	

NOTICE OF APPEAL

Pursuant to Rule 5:6 of the Rules of the Supreme Court of Virginia, Defendant, Robert L. Bulifant, Jr., is aggrieved by the final Order entered in this suit by the Circuit Court of the County of Chesterfield on October 18, 1978, and hereby notes his appeal to the Supreme Court of Virginia.

The transcripts are filed with the Clerk of this Court.

ROBERT L. BULIFANT, JR.

By  \_\_\_\_\_  
Of Counsel

John E. McDonald, Jr.  
McDonald & Crump, P.C.  
The Hillyard-Maury House  
First and Franklin Streets  
Richmond, Virginia 23219



1  
2                    MARVIN F. COLE, upon being called by  
3 counsel for the defendant, having been first duly sworn,  
4 testified as follows:

5                    DIRECT EXAMINATION

6 BY MR. MCDONALD:

7                    Q            Mr. Cole, what is your familiarity with  
8 the property which is in dispute in this proceeding, if you  
9 could, just by way of general background for the Court's  
10 benefit.

11                   A            The first contact that I had with this,  
12 was that Mrs. Henry Ritter contacted me and told me that her  
13 husband was dead and that she would like for me to handle his  
14 estate.

15                   Q            In the course of handling that estate,  
16 I take it that she was deceased before his estate could be  
17 completed or administration of his estate?

18                   A            No. I couldn't tell you that. What  
19 occurred, I went out and talked with Mrs. Ritter herself, and  
20 she told me what her husband owned, and the only thing that she  
21 had in the estate was her dower interest in the real estate,  
22 and she wanted to go back to Lynchburg to live. A settlement  
23 was made actually between the widow and the estate, and the  
24 estate just paid her a lump sum cash amount of money for her  
25 interest. She took the cash money and went on back to

22

Cole - Direct

19.

1 Lynchburg. The estate then went to Mr. Ritter's children,  
2 who was Katherine Hicks. What happened to Mrs. Ritter, after  
3 that, I do not know. She may have died the next month, or  
4 she may have been living, I don't know.

5 Q There came a time when Katherine Ritter  
6 Hicks passed away?

7 A Yes. Very quickly. She had a heart  
8 attack and died almost overnight.

9 Q Did you continue to represent her family?

10 A Yes.

11 Q Did you cause a suit to be filed in this  
12 Court with regard to the settlement of Katherine Ritter Hicks'  
13 estate on behalf of her heirs?

14 A A suit had to be brought because there  
15 were two infant children.

16 Q Mr. Cole, I hand you two court files  
17 in Chancery Case Number 4471 styled William O. Hicks, et al  
18 versus Donna K. Hicks, and ask if you can confirm your  
19 involvement in this suit, in bringing the litigation.

20 A This is the court file containing the  
21 partition suit.

22 Q Now, attached to the Bill of Complaint  
23 there is a Deed. Is this the Deed you just previously referred  
24 to?

25 A Yes.

Cole - Direct

20.

1 Q Involving the settlement between Katherine  
2 R. Hicks and her mother?

3 A That's the Deed which conveyed from the  
4 widow, Gertrude H. Ritter, to the daughter Katherine R. Hicks,  
5 all of her interest in the real estate in the estate of  
6 Henry F. Ritter. On execution of that, Mrs. Ritter moved to  
7 Lynchburg.

8 THE COURT: What is the date of that Deed?

9 MR. MCDONALD: April 9, 1964. This will  
10 show the recording date, Your Honor. May 8, 1964.  
11 This is the Deed which --

12 THE COURT: May 8, 1964.

13 MR. MCDONALD: Yes, sir. It is recorded  
14 in Deed Book 747, page 365.

15 THE COURT: Which was approximately ten  
16 days after the Deed to the plaintiffs was recorded.

17 MR. MCDONALD: Yes, sir.

18 THE COURT: All right, sir.

19 Q Mr. Cole, I hand you a copy teste of  
20 minutes of the meeting of the Chesterfield County Planning  
21 Commission held Tuesday, February 15, 1966 in zoning case  
22 65-91C to which is attached, it is an application for amend-  
23 ment to zoning ordinance consisting of three pages, and ask  
24 if you can identify your signature to that application.

25 A Yes. This is the application which I filed.

Cole - Direct

21.

1 This was pursuant to the terms of a contract whereby the  
2 property had been sold subject to the Hicks' estate securing  
3 zoning.

4 Q Attached to that application there is a  
5 plat of a 13.722 acre parcel, which is the description referred  
6 to on the first page of the application. Would your files  
7 show how that plat came into your possession, the plat that  
8 was attached to the zoning ordinance?

9 A Could I see the contract in the court  
10 file?

11 The first thing that I remember about  
12 this -- first, let me say that this land, substantial amount  
13 of land up Midlothian Turnpike was that was for sale. People  
14 were contacting me almost daily about it. Different real  
15 estate firms. And this particular one, Travis Realty Company,  
16 contacted me first about this and said that they had a pur-  
17 chaser who was interested in the property. This is a contract  
18 which is dated November 10, 1965 and is filed in this file  
19 with this plat attached to it, was given to me by Travis  
20 Realty Company.

21 Q Is this attached to an order approving  
22 the contract which was entered by the Court November 26, 1965?

23 A Yes. As a result of that contract being  
24 tender to me and some negotiations that I had with Travis  
25 Realty, I tendered this over from Travis Realty Company on

Cole - Direct

22.

1 behalf of R. L. Bulifant, Jr. to the Court. And, by order  
2 dated November 26, 1965, that contract was accepted by the  
3 Court.

4 Since there was a condition in that con-  
5 tract that it was subject to the property being rezoned to  
6 C-2 business, I was instructed in the court order, the court  
7 order says Marvin F. Cole, attorney, is hereby authorized and  
8 directed to file the appropriate application for zoning with  
9 the Planning Commission and Board of Supervisors and authorized  
10 to do the things necessary and needful to have the property  
11 rezoned, and the fees and expenses be paid as a cost of the  
12 administration in this suit.

13 Q Pursuant to that direction, you filed the  
14 application that you previously identified?

15 A Yes.

16 MR. MCDONALD: Your Honor, I would like  
17 to have the portion of this which Mr. Cole has  
18 identified as having been filed by him marked as  
19 an exhibit. It is part of the Planning Commission  
20 records here.

21 THE COURT: It has been filed in the  
22 papers. Isn't that sufficient? I marked it file.

23 MR. MCDONALD: Yes, sir. That is  
24 sufficient.

25 THE COURT: Yes, sir. I will staple it



Cole - Direct

23.

1 together.

2 Q Now, there came a time when there was a  
3 Planning Commission meeting pursuant to which subsequently you  
4 made a further report as Special Commissioner to the court,  
5 which is marked filed by Margaret C. Foster, Deputy Clerk.  
6 I wonder if you could refresh your recollection, looking at  
7 that report, and recount to the Court the representations in  
8 there about the zoning.

9 A I really don't have to refresh my memory,  
10 because I know what occurred. Some of the citizens on the  
11 opposite side of Turner Road protested the rezoning because  
12 they had residential houses over there and they wanted -- the  
13 first time the case came up, I'm sure we postponed it, and I  
14 am confident that on one night, which I believe was February  
15 7, 1966, I went out and visited these citizens with  
16 Mr. Bulifant at their homes. And, as a result of that visit  
17 with them, it was more or less agreed by the majority of the  
18 people there that a strip down Turner Road would be left  
19 residential. As a matter of fact, a 150 foot strip, which is  
20 a strip in front of these people's houses, in other words, you  
21 drop back from Midlothian Turnpike 300 feet, then from that  
22 point on back to the rear of this property which we thought  
23 was 525.84 feet at that time, would be continued to be zoned  
24 residential as a buffer to the citizens. And then the next  
25 time that the thing came up, the Planning Commission, some of

27

Cole - Direct

24.

1 the citizens who were at that meeting was in favor of it and  
2 I believe that's what the Planning Commission did. They  
3 approved the rezoning and zoned it C-2 with this buffer.

4 Then Mr. Bulifant came back and said we  
5 have not gotten what we bargained for because they were supposed  
6 to get the whole thing C-2. And, as I recall it, we reduced  
7 the purchase price from \$92,000 down to, I believe, probably  
8 \$85,000 by virtue of that fact, and completed the transaction  
9 at a reduced purchase price of \$85,000.

10 Q All right, sir. Now, I hand you an  
11 extract copy signed by M. W. Burnett, County Administrator,  
12 of the regular meeting of the Board of Supervisors held  
13 March 9, 1966, and ask if you could look over that document  
14 for just a minute. I want to ask you a couple questions  
15 about it.

16 A Yes. I was present at that meeting.

17 Q Do you recall the plaintiff in this  
18 litigation, Mr. Steve Slosjarik, being present at any of the  
19 meetings before the Planning Commission or the Supervisors  
20 and expressing opposition to the rezoning?

21 A I believe that Mr. Slosjarik was present  
22 at this meeting. The minutes say he was there. I would  
23 certainly have no reason to question that. The minutes say  
24 Mr. Steve Slosjarik questions the development on the east side  
25 of the proposed tract. But I really could not tell you what

Cole - Direct

25.

1 was said, to be honest with you. A lot of citizens got up  
2 and said a lot of things at that meeting. Some were in favor  
3 of it, some were opposed to it. But, I wouldn't like to say  
4 with any specifics what anybody said except myself. I was in  
5 favor of it.

6 Q I understand. Did there come a time that  
7 this transaction with Mr. Bulifant was consummated? I  
8 specifically refer you to Decree of Confirmation entered by  
9 the Court in the suit William O. Hicks and others versus  
10 Donna K. Hicks and others entered June 28, 1966, which is  
11 recorded in Order Book 39, page 83.

12 A Yes. I reported to the Court what had  
13 occurred and also the reduction in the purchase price. And  
14 the Court approved that reduction and authorized the sale.  
15 And authorized me to execute a special warranty Deed in  
16 accordance with the description which the Court gave and which  
17 description was taken from that plat.

18 But now, to back up a little bit, the  
19 Court gave notice to Mr. Bulifant, gave him every opportunity  
20 to examine the Title to the property, and that was done. I  
21 was given a copy of the Title examination by Mr. Bulifant's  
22 attorney on June 1 of 1966. I received a letter from John  
23 Carter addressed to me, sending me a copy of his preliminary  
24 report on the Title examination. He set forth a couple of  
25 objections which were cleared up and some of the objections.

29

Cole - Direct

26.

1 which he noted, were on the Austin Brockenborough survey.

2 Q Survey which was used for purposes of  
3 describing the property?

4 A Yes. The description filed with the  
5 Austin Brockenborough survey and in accordance with the Title  
6 examination and in accordance with the approval and endorsement  
7 of the orders, by myself, and also Mr. Carter as counsel for  
8 the purchaser, the Court authorized me to Deed this property  
9 to Mr. Bulifant by special warranty Deed.

10 THE COURT: The plat you referred to --

11 THE WITNESS: A copy of that plat was  
12 attached to the Deed.

13 Q You filed a report to the Court?

14 THE COURT: Your Deed wouldn't be in this  
15 file then.

16 MR. MCDONALD: No, sir.

17 THE WITNESS: No, sir.

18 BY MR. MCDONALD: (Continuing)

19 Q The plat you are referring to is that  
20 which was attached to the zoning application.

21 A I would have to check that Deed to find  
22 out which plat, but I would rather suspect that it would be  
23 this big plat here because it shows in Mr. Carter's preliminary  
24 report that this plat was revised on this date.

25 Q This date being what, sir?

Cole - Direct

27.

1 A June 3, 1966. And I would --

2 Q With the notation that improvements were  
3 added?

4 A That's right. So unless somebody can show  
5 me the Deed, I would think that this is the plat here. The  
6 big plat, not that little one. Was the one that was attached.

7 Q Now, there was a report that you filed  
8 with the Court subsequent to the Decree of Confirmation to  
9 which there is attached a plat. I wonder if you would -- this  
10 report is marked filed July 13, 1966 by Judge Gates. I wonder  
11 if you could compare that plat with the large plat that you  
12 just made reference to.

13 A Well, right offhand it looks like it's  
14 exactly the same plat. Except that this small one here is  
15 the size of a legal piece of paper, and the borders have been  
16 taken off of it.

17 Q Now, I hand you an attested copy of the  
18 Deed from you, as Special Commissioner, dated July 5, 1966, to  
19 Robert L. Bulifant, Jr. recorded July 13, 1966 in the Clerk's  
20 Office of this Court in Deed Book 846, page 362, together with  
21 a plat attached. And ask you first of all if you can identify  
22 that being your signature on that Deed, and also ask you is  
23 that your signature on the Deed, Mr. Cole?

24 A Yes. That is my signature.

25 Q Is the large plat to which you refer

Cole - Direct

28.

1 attached to that Deed?

2 A It probably is. This is the one that  
3 does not have the improvements placed on it. But other than  
4 that, that is the same.

5 MR. MCDONALD: I would represent to you  
6 that it is recorded in Deed Book 846 at pages 364  
7 and 365, as is shown by the Clerk's certification.

8 Your Honor, I would ask that this be  
9 received as an exhibit in this proceeding. It is  
10 attested by the Clerk and has been identified by  
11 the witness.

12 THE COURT: The others you just wanted  
13 filed. I will mark this Exhibit 1.

14 MR. MCDONALD: Yes, sir. Your Honor, I  
15 would like to have the others marked as exhibits,  
16 too.

17 THE COURT: All right.

18 MR. MCDONALD: For purposes of identifi-  
19 cation for the court reporter and for the record.

20 The first one that came in was the Planning  
21 Commission --

22 THE COURT: The Planning Commission will  
23 be Defendant's Exhibit Number 1.

24 This is Defendant's Exhibit Number 2,  
25 which is the Board of Supervisors' minutes of



Cole - Direct

29.

1 March 9, 1966.

2 MR. MCDONALD: Then the Deed has been  
3 marked Exhibit 3.

4 THE COURT: Defendant's Exhibit 3.

5  
6 NOTE: The above referred to documents  
7 are marked and filed as Defendant's Exhibit Numbers  
8 1, 2 and 3.

9  
10 BY THE COURT:

11 Q Mr. Cole, what was the date of that Title  
12 examination preliminary report?

13 A Mr. Carter's letter to me was dated  
14 June 1, 1966.

15 THE COURT: All right, sir. That is all  
16 I need to know.

17 MR. MCDONALD: I have no further questions  
18 of Mr. Cole. I don't know whether Mr. Poole --

19 MR. POOLE: I have no questions, sir.

20 -----  
21 WITNESS STOOD ASIDE.

22  
23 MR. MCDONALD: Your Honor, I have nothing  
24 further by way of testimony to present to the Court  
25 in support of the motion.

## Defendant's Exhibit 3 to Hearing

THIS DEED made this 5th day of July, 1966, between MARVIN F. COLE, Special Commissioner, as hereinafter mentioned, party of the first part, and ROBERT L. BULIFANT, JR., party of the second part.

WITNESSETH:

WHEREAS, by decree entered on December 11, 1964, in the Circuit Court of Chesterfield County, Virginia, in that certain chancery cause therein pending wherein William O. Hicks, Thomas Philip Sharp, and Marvin F. Cole, Administrator of the Estates of Henry Frank Ritter, deceased, and Katherine Ritter Hicks, deceased, were the complainants, and Donna Kay Hicks and Randy Wayne Hicks, infants, and Mary Ritter Blankenship were the defendants, the hereinafter described real estate was directed to be sold upon the terms and conditions set forth in said decree.

WHEREAS, in said decree Marvin F. Cole was appointed Special Commissioner to sell the said real estate herein conveyed.

WHEREAS, by further decree entered on June 28, 1966, the said Marvin F. Cole, Special Commissioner, was ordered on behalf of all of the parties to the aforementioned suit and others bound thereby to prepare, execute and deliver a good and sufficient deed conveying the property herein described to Robert L. Bulifant, Jr., with Special Warranty of Title.

NOW, THEREFORE, in consideration of the sum of Eighty-Five Thousand Dollars (\$85,000.00) in cash, and other good and valuable consideration, all in accordance with a decree of the Circuit Court of Chesterfield County, Virginia, receipt of which is hereby acknowledged, the party of the first part does hereby grant and convey, with SPECIAL WARRANTY of TITLE, unto the party of the second part, the following described real estate, to-wit:

All that certain tract or parcel of land, together with all the improvements thereon and appurtenances thereunto belonging, in Manchester Magisterial District, in Chesterfield County, Virginia, containing 13.722 acres, and more particularly described by metes and bounds as follows:

Commencing at a rod at the southeast intersection of Turner Road and Midlothian Turnpike (U. S. Route No. 60); thence running S 6° 45' 15" E along and fronting on the east line of Turner Road, a distance of 823.64 feet to a rod; thence S 89° 30' 00" E a distance of 757.50 feet to a rod; thence N 6° 50' 29" W a distance of 924.86 feet to a rod on the south line of Midlothian Turnpike (U. S. Route No. 60); thence S 82° 30' 16" W along the said south line of Midlothian Turnpike (U.S. Route No. 60), a distance of 210.05 feet to a rod; thence S 6° 45' 15" E, a distance of 323.00 feet to a rod; thence S 83° 22' 03" W, a distance of 180 feet to a rod; thence N 6° 45' 15" W, a distance of 321.00 feet to a rod on the south line of Midlothian Turnpike (U. S. Route No. 60); thence running S 83° 03' 00" W along the south line of Midlothian Turnpike (U. S. Route No. 60), a distance of 360.00 feet to a rod at the place of beginning; all as shown on a certain plat of survey of 13.722 acres prepared by Austin Brockenbrough & Assoc., Consulting Engineers, Richmond, Va., entitled "Plat Showing A Parcel of Land At The Southeast Intersection of Turner Road & Midlothian Tpnk. In the Manchester District of Chesterfield County, Virginia," dated 30 April 1965 and revised June 3, 1966, a white print copy of which plat is attached hereto and made a part hereof.

Being a portion of the same real estate conveyed by Lewis Ritter and Caroline Ritter, his wife, to Henry F. Ritter, by deed dated March 8, 1926 and recorded March 27, 1926, in the Clerk's Office Chesterfield Circuit Court, Chesterfield County, Virginia, in Deed Book 184, page 454; and being a portion of the same real estate conveyed by Carrie A. Ritter, widow, to Henry F. Ritter and Mary Ritter Blankenship by deed dated February 3, 1924, and recorded February 23, 1942, in the aforesaid Clerk's Office in Deed Book 272, page 51. The said Henry F. Ritter died intestate on November 17, 1963, survived by his widow, Gertrude H. Ritter and a daughter, Katherine R. Hicks, his sole heirs at law. The said Gertrude H. Ritter, by deed dated April 9, 1964, recorded in Deed Book 747, page 365, conveyed her dower and all her other right, title, and interest in the property of Henry F. Ritter to the said Katherine R. Hicks. The said Katherine R. Hicks died intestate on June 16, 1964, survived by her husband, William O. Hicks and three children, namely: Thomas Philip Sharp, adult, and Donna Kay Hicks, infant, and Randy Wayne Hicks, infant.

This conveyance is made for and on behalf of William O. Hicks, Thomas Philip Sharp, Marvin F. Cole, Administrator of the Estate of Henry Frank Ritter, deceased, Marvin F. Cole, Administrator of the Estate of Katherine Ritter Hicks, deceased, Donna Kay Hicks, an infant, Randy Wayne Hicks, an infant, and Mary Ritter Blankenship, and all parties to the aforementioned suit bound thereby.

WITNESS the following signature and seal:



Marvin F. Cole  
Special Commissioner

(SEAL)



STATE OF VIRGINIA,  
CITY OF RICHMOND, to-wit:

I, Virginia G. Tinnell, a Notary Public of and for the City

of Richmond, in the State of Virginia, do hereby certify that Marvin F. Cole, Special Commissioner, whose name is signed to the foregoing writing, bearing date on the 5th day of July, 1966, has appeared before me this day and acknowledged the same in my City aforesaid.

Given under my hand this 12th day of July, 1966.

My commission expires July 16, 1967.

Virginia G. Tinnell  
Notary Public

**VIRGINIA:**

In the Clerk's Office of the Circuit Court of Chesterfield County, the 13<sup>th</sup> day of July, 1966, this Deed was presented and with the certificate admitted to record at 1:36 o'clock P. M.  
Recordation Tax \$ 120.00; I. R. Stamps, affixed & cancelled, \$ 93.50

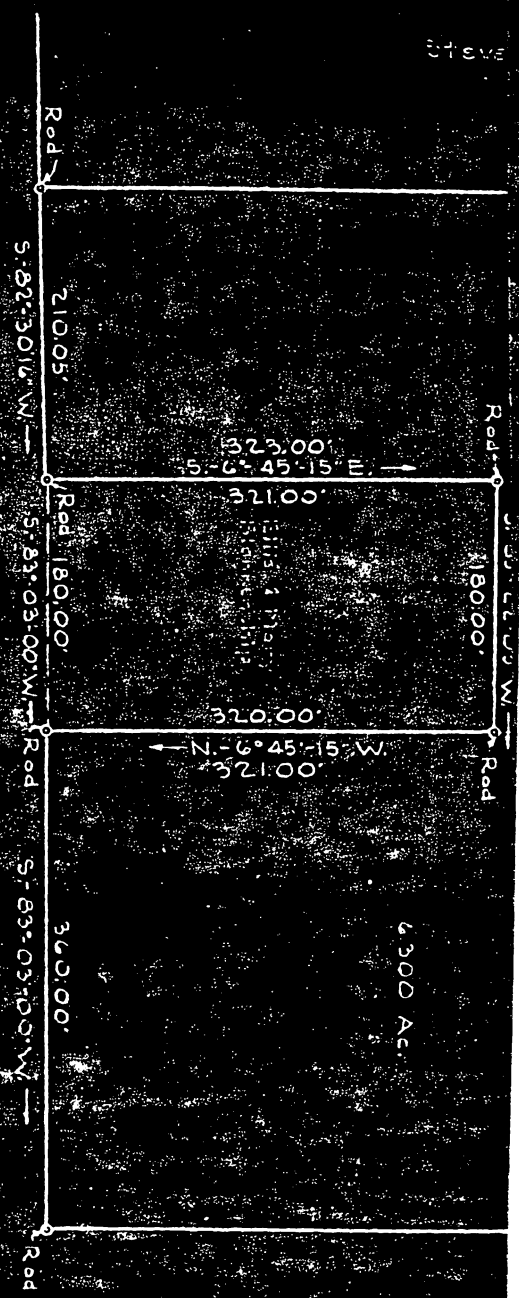
Teste:  
Mark J. Daniels, Clerk

SEE PLAT NEXT PAGE

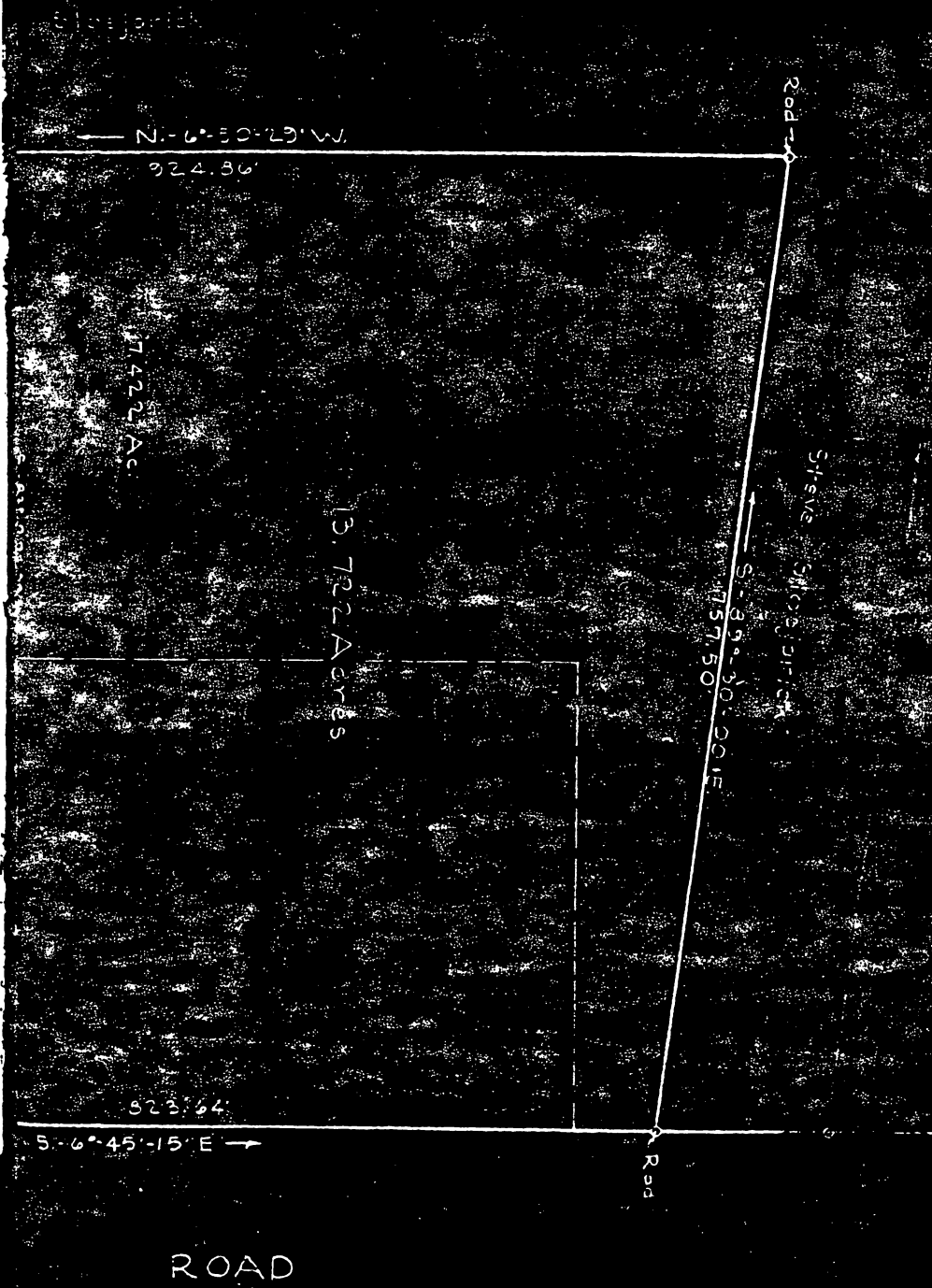
PLAT SHOWING A PARCEL OF LAND  
AT THE SOUTHEAST INTERSECTION  
OF TURNER ROAD & MIDLOTHIAN  
TPK IN THE MANCHESTER DISTRICT  
OF CHESTERFIELD COUNTY, VIRGINIA

MIDLOTHIAN TURNPIKE  
U.S. ROUTE 60

AUSTIN BROCKENBROUGH & ASSOC.  
CONSULTING ENGINEERS RICH. VA.  
Scale: 1"=100' Date: 30 April 1965



SEE PLAT NEXT PAGE



VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

KATHERINE RITTER SLOSJARIK  
and  
STEVE SLOSJARIK

VS

ROBERT L. BULIFANT, JR.

TRANSCRIPT of testimony and other incidents  
in the above, when heard on November 1, 1976, before  
Honorable D. W. Murphey, Judge.

**CRANE - SNEAD & ASSOCIATES**

COURT REPORTERS

1108 EAS MAIN STREET

RICHMOND, VIRGINIA

PHONE 648-2801

2.

**APPEARANCES:**

**POOLE & POOLE,**

**601 Mutual Building, Richmond, Virginia,**

**By: Travis W. Poole, Esquire, Counsel for the Plaintiffs;**

**MCDONALD & CRUMP,**

**Broad and Hamilton Streets, Richmond, Virginia,**

**By: John E. McDonald, Jr., Esquire, Counsel for the Defendant.**



CRANE - SNEAD & ASSOCIATES  
COURT REPORTERS  
1108 EAST MAIN STREET  
RICHMOND, VIRGINIA  
PHONE 648-2801

3.

I N D E X

---

	<u>Direct</u>	<u>Cross</u>
J. Vaughan LaPrade	P. 5	P. 13
Katherine Ritter Slosjarik	P. 18	P. 23
Steve Slosjarik	P. 27	P. 29

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Plaintiffs' Exhibit Number A (deed)	Page 8
Plaintiffs' Exhibit Number B (plat)	Page 9
Plaintiffs' Exhibit Number C (tax receipt)	Page 26
Defendant's Exhibit Number A (plat)	Page 14
Defendant's Exhibit Number B (Cole deposition)	Page 43

Reported and dictated by: MH

Typed by: SB

CRANE - SNEAD & ASSOCIATES  
COURT REPORTERS  
1108 EAST MAIN STREET  
RICHMOND, VIRGINIA  
PHONE 648 - 2801

NOTE: The case is called to be heard, viz:

THE COURT: Are you ready, Mr. Poole?

MR. POOLE: Yes, sir.

THE COURT: Mr. McDonald?

MR. MCDONALD: Yes, sir.

THE COURT: I have read the file thoroughly.  
I have had one hearing on this and ~~have read~~ the  
**depositions**. If you still feel that an opening  
statement is necessary, I will be glad to hear it.

MR. POOLE: No, sir. We are trying to locate  
the boundary line, and to establish that.

THE COURT: All right, sir. Who will be your  
first witness?

MR. POOLE: Mr. LaPrade, out of order, so we  
can conserve his time.

THE COURT: Yes, sir. That would be fine.  
Come on up, Mr. LaPrade.

J. VAUGHAN LAPRADE, a witness being called  
on behalf of the plaintiffs, first being duly sworn, testified  
as follows:

DIRECT EXAMINATION

BY MR. POOLE:

Q Mr. LaPrade, what is your occupation or your  
profession, sir?

A I am a certified surveyor, land surveyor.

Q What special training--

THE COURT: I don't believe it is going to be  
necessary to certify him.

MR. POOLE: All right.

BY MR. POOLE: (Continuing)

Q Did you have occasion to survey a piece of  
land, 2.26<sup>8</sup> acres, located in the Chesterfield County which  
had been conveyed by Caroline Ritter to Katherine Ritter  
Slosjarik?

A The firm that I work for did.

Q Would you explain to the judge what you found,  
sir?

A We have made a map showing the differences in  
the property between the map that we made of December 29, 1941,  
and the difference in the map that Mr. Brockenbrough made on

LaPrade - Direct

6.

1 April the 30th, 1965.

2 Q And you have surveyed this property before,  
3 sir?

4 A Yes.

5 THE COURT: How about the September 29, '75  
6 map?

7 WITNESS LAPRADE: That is the map that shows  
8 the difference, right.

9 BY MR. POOLE: (Continuing)

10 Q Now, what did you find there, Mr. LaPrade, in  
11 the difference between the survey that you made previously  
12 and the one you made in '75?

13 A That there is approximately 24 foot plus or  
14 minus overlap.

15 Q On what?

16 A Between the map of earlier and in December 29,  
17 '41.

18 Q Have you located the boundary line between  
19 the adjacent property and the property which you surveyed,  
20 sir?

21 A We have re-established the boundary lines of  
22 both maps.

23 Q Would you read us that call line, please, sir?

24 A Which is that? I don't understand the  
25 question.

44

LaPrade - Direct

7.

Q What I want--

THE COURT: Before you go any further, can I locate this Brockenbrough map? Is that in our file? I would like to compare the two as we go along.

MR. POOLE: I do have a copy, sir.

THE COURT: Do you have a copy of it, Mr. McDonald?

WITNESS LAPRADE: I have one that is not certified.

MR. MCDONALD: I have one with a lot of marking all over it.

THE COURT: Is that the one that was filed with--

MR. MCDONALD: Yes, sir, with the depositions.

THE COURT: Marvin Cole's deeds?

MR. POOLE: Yes, sir.

MR. MCDONALD: Attached to the Commissioner's deed.

THE COURT: April 30, '65?

MR. MCDONALD: Yes, sir. That is already part of the record, I believe, sir.

THE COURT: Yes, sir.

MR. MCDONALD: To make it clear on the record, that is recorded with the deed and recorded in this clerk's office in Deed Book Number 746, page 362.

LaPrade - Direct

8.

THE COURT: Yes, sir. All right, go ahead.

BY MR. POOLE: (Continuing)

Q Did you look at the deed of the property that you were surveying, Mr. LaPrade?

A Yes, sir, at both deeds.

Q I hand you a deed, sir. Did you look at that deed prior to your survey, sir?

MR. MCDONALD: I think that that deed should be going into evidence.

MR. POOLE: We are going to put it into evidence, but we have to do it through Mr. Crane. We cannot do it through Mr. LaPrade.

THE COURT: It will be--

MR. MCDONALD: I will stipulate that that is the copy of the deed as recorded here.

THE COURT: We will put it into evidence, now.

MR. POOLE: May we have that as Plaintiffs' Exhibit A so we can refer to it?

THE COURT: All right.

NOTE: The above mentioned deed is marked and filed as Plaintiffs' Exhibit Number A.

MR. POOLE: May I have it, sir?

THE COURT: Yes, sir.

46

CRANE - SNEAD & ASSOCIATES  
COURT REPORTERS  
1108 EAST MAIN STREET  
RICHMOND, VIRGINIA  
PHONE 648-2801

LaPrade - Direct

9.

1 BY MR. POOLE: (Continuing)

2 Q I hand you Plaintiffs's Exhibit A, and ask  
3 you if you have seen that before when you made your survey,  
4 sir?

5 A Yes, sir. This is the deed that we went by.

6 Q That you based your survey upon, sir?

7 A Yes, sir.

8 Q Now, you have made a plat of this, have you  
9 not?

10 A Yes, sir.

11 MR. POOLE: If Your Honor please, we offer  
12 this as Exhibit B for the Plaintiffs.

13 THE COURT: Hasn't that already been filed?

14 MR. POOLE: Yes, sir. I want to be sure we  
15 get it in.

16 THE COURT: The deposition in the case--

17 MR. POOLE: I would like this to go in.

18 THE COURT: Exhibit A and Exhibit B, today?

19 MR. POOLE: Yes, sir.

20 THE COURT: All right. Let him testify from  
21 that one.

22  
23 NOTE: The above mentioned plat is marked and  
24 filed as Plaintiffs' Exhibit Number B.  
25

LaPrade - Direct

10.

1 BY MR. POOLE: (Continuing)

2 Q Now, Mr. LaPrade, taking in consideration the  
3 deed which you have there which you said you based your  
4 survey on, what does your map or your plat which we have  
5 designated as Exhibit B for the Plaintiffs, what does that  
6 show, sir?

7 A Shows the differences between the two deeds.

8 MR. POOLE: Does Your Honor wish for him to  
9 explain to you or show it to you, sir?

10 THE COURT: I am looking at the plat.

11 MR. POOLE: Fine, sir.

12 BY MR. POOLE: (Continuing)

13 Q And what is the proper boundary line between  
14 the property as owned by Mr. Bulifant and that which is owned  
15 by Mrs. Slosjarik?

16 MR. MCDONALD: I object to the form of the  
17 question as to the word "proper".

18 THE COURT: We won't worry about it. We don't  
19 have a jury. Answer the question.

20 MR. POOLE: I will drop the word "proper".

21 THE COURT: We don't have a jury here today.  
22 We don't have to be technical. Go ahead.

23 BY MR. POOLE: (Continuing)

24 Q Please continue.

25 A According to our map of December the 29th,



LaPrade - Direct

11.

1 1941, you will see that that would be the top line on this  
2 map, and the line that is underneath that - Robert Bulifant,  
3 Jr., is the one on the other map of Austin Brockenbrough -  
4 and it shows the difference between the two.

5 Q Well, sir, you have that line designated by  
your directions and your number of feet, don't you?

6 A Yes, sir.

7 Q Would you read that to the Court, please, the  
8 top line and the bottom line?

9 A The top line would be south 6930 <sup>k</sup>not<sup>k</sup>not, east,  
10 six hundred and forty feet. Do you want to go around the  
11 property, or--

12 Q No, sir, the line which is called for in the  
13 deed.

14 A The bottom line would be north 8930 <sup>k</sup>not<sup>k</sup>not,  
15 west, six hundred forty feet.

16 Q Now, which is the boundary line designated in  
17 this deed, sir?

18 A Those two lines. Both of the lines are.

19 Q Both of them?

20 A Yes, sir.

21 THE COURT: In the deed?

22 WITNESS LAPRADE: Yes. It would be the map  
23 in '41.

24 THE COURT: Oh, I see.  
25

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LaPrade - Direct

12.

1 BY MR. POOLE: (Continuing)

2 Q What does your call lines-- Are the call  
3 lines different in 1941 and 1975, sir?

4 A No, sir.

5 Q Well, what does the line read, if you will,  
6 sir, the call line as established by this deed which you have  
7 here between the properties of Bulifant and Mrs. Slosjarik?

8 A It is south 8930 knot knot, east, 640 feet.

9 Q And have you designated on that plat anything  
10 to show the encroachment?

11 A Yes, sir.

12 Q What have you done there?

13 A It is a shaded area.

14 Q And that is the encroachment on the property  
15 owned by Mrs. Slosjarik?

16 A Yes, sir.

17 MR. POOLE: We have no further questions.

18 THE COURT: You said you examined the deeds,  
19 both parcels, before you did the survey?

20 WITNESS LAPRADE: Yes.

21 THE COURT: Did it come from a single source?

22 WITNESS LAPRADE: No.

23 THE COURT: They did not?

24 WITNESS LAPRADE: Well, I didn't carry it  
25 that far back.

~~LaPrade - Direct~~

~~13.~~

1 THE COURT: How about Mr. Brockenbrough?  
2 Is he qualified?

3 WITNESS LAPRADE: Yes, sir.

4 THE COURT: Mr. McDonald, your witness.  
5

6 CROSS-EXAMINATION

7 BY MR. MCDONALD:

8 Q I take it your father was active when the  
9 survey work was done in 1941. Is that correct?

10 A Yes, sir. Well, it was not my father. It  
11 was kin People.

12 Q Of yours?

13 A Yes, sir.

14 Q Were you with the firm at that time?

15 A No, sir.

16 Q So what you are examining as far as the 1941  
17 plat that is attached to what has been introduced as Plaintiffs'  
18 Exhibit A, that old deed was a plat that was on record. Is  
19 that correct?

20 A Yes, sir.

21 Q Now, did you find anything in the records of  
22 your firm about that previous survey work that was done in  
23 1941?

24 A I found the original map.

25 Q You did find the map?

LaPrade - Cross

14.

1 A Yes, sir.

2 Q Did you also find a map in your records that  
3 was prepared by your firm that is dated October 26, 1941?

4 A Yes, sir.

5 Q Do you have a copy of that plat with you?

6 A Yes, sir.

7 MR. MCDONALD: May I approach the witness?

8 THE COURT: Yes, sir.

9 BY MR. MCDONALD: (Continuing)

10 Q Now, do you know for what purpose the plat  
11 was done?

12 A For a transfer of another piece of property.

13 MR. MCDONALD: All right, sir. I am going to  
14 ask that this be received and marked as Defendant's  
15 Exhibit Number 1. We have--

16 THE COURT: Defendant's Exhibit A will be  
17 all right.

18 MR. MCDONALD: All right.

19  
20 NOTE: The above mentioned plat is marked and  
21 filed as Defendant's Exhibit Number A.

22  
23 BY MR. MCDONALD: (Continuing)

24 Q Now, that plat that has just been marked as  
25 Defendant's Exhibit A, it shows the configurations of, if I

**LaPrade - Cross**

**15.**

1 call the Slosjarik property, to be a long, narrow parcel,  
2 doesn't it?

3 A Yes, sir.

4 Q Now, is it not true that if the line shown on  
5 that plat was matched against the line showed on the Austin  
6 Brockenbrough plat of April 30, 1965, which is attached to  
7 Mr. Cole's deed, recorded in Deed Book 846, page 362, that the  
lines were very narrowly coincided?

9 A Yes, sir, very narrowly.

10 Q And it wouldn't be any overlap, would there?

11 A According to that map, no.

12 Q Is it also true that if you compare the - I  
13 will refer to it as the second survey done by your firm which  
14 is the December 29, 1941 survey attached to the Slosjarik  
15 deed with the Austin Brockenbrough plat of April 30, 1965 -  
16 that when you change the configuration of parcel 2 from a long  
17 narrow parcel of 131 foot frontage to a shorter but wider par-  
18 cel of a hundred fifty-five feet, that you leave a little block  
19 in the rear?

20 A Yes, sir.

21 Q And that block is not described either by the  
22 Austin Brockenbrough plat or the Slosjarik plat, is it?  
23 Neither one of those plats encompass that little part in the  
24 rear?

25 A This one on December the 29th, 1941, has an

LaPrade - Cross

16.

1 owners name on two sides.

2 Q It shows Caroline Ritter there, doesn't it?

3 A Right.

4 Q So this parcel that I am referring to now is  
5 shown on your plat of December, excuse me, September 29, 1975,  
6 which is Plaintiffs' Exhibit B, is severed on .35 acres,  
7 isn't it?

8 A Yes, sir, both of those. They overlap.

9 Q The same acreage?

10 A Yes, sir.

11 Q And that is the reason that on both surveys  
12 prepared by your firm in 1941 - for the record, the one on  
13 October 26, '41, which is Defendant's Exhibit A, and the  
14 second one dated December 29, 1941, which is attached to the  
15 Slosjarik deed - both contained 2.268 acres?

16 A Exactly the same number of acres.

17 Q So it is just a matter of a mathematical  
18 computation that .358 acres come off the side or the rear?

19 A Yes, sir.

20 MR. MCDONALD: I have no further questions.

21 THE COURT: This October map has parcel 2  
22 marked as 2.268 acres. Your December plat, I don't  
23 have it before me. How is that marked the same  
24 2.268 acres?

25 WITNESS LAPRADE: Which?

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17.

1 THE COURT: The map that is attached to the  
2 deed. I have got the deed, but I don't have the plat.

3 WITNESS LAPRADE: Here is a copy of it.

4 MR. POOLE: Here is the plat.

5 MR. MCDONALD: The blueprint of the deed should  
6 be marked as an exhibit.

7 THE COURT: I believe I will put this with the  
8 deed if you all have no objections. That is your  
9 December plat and that is the one that was actually  
10 used to survey the property in 1942, wasn't it,  
11 January of '42 with the deed as I see it here.

12 WITNESS LAPRADE: Yes.

13 THE COURT: Let me ask you this, sir. Isn't  
14 it customary among you surveyors that if one gets a  
15 job to do and he has reason to believe that other  
16 surveys have been done that they say how about letting  
17 me look at your plat.

18 WITNESS LAPRADE: Yes, sir.

19 THE COURT: It is very possible that Mr.  
20 Brockenbrough in the job he did might have come by  
21 your office or his people got in touch with your  
22 people and took a look at the plat in October, 1941?

23 WITNESS LAPRADE: Yes, sir.

24 THE COURT: Overlooking that, you did it  
25 again in December and changed the configurations of

LaPrade - Cross

18.

1 that property before the deed was actually signed?

2 WITNESS LAPRADE: Very possibly.

3 THE COURT: Thank you, sir. Gentlemen, may  
4 he be excused?

5 MR. POOLE: Yes, sir.

6 MR. MCDONALD: Yes, Your Honor.

7 MR. POOLE: Thank you, Mr. LaPrade.

8  
9  
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-----  
WITNESS STOOD ASIDE

MR. POOLE: May we call Mrs. Slosjarik?

THE COURT: Yes, sir. Come up, please, ma'am.

15 KATHERINE RITTER SLOSJARIK, the plaintiff  
16 being called in her own behalf, first being duly sworn,  
17 testified as follows :

18 DIRECT EXAMINATION

19 BY MR. POOLE:

20 Q Would you state your name and your address,  
21 please, ma'am?

22 A Katherine Ritter Slosjarik, 7439 Midlothian  
23 Pike.

24 Q And who was your mother, ma'am?

25 A Caroline Ritter, sometimes known as Cary.



Slosjarik - Direct

19.

1 Q Now, did you receive any property from your  
2 mother?

3 A Well, this parcel right here that we are--

4 Q What parcel are you talking about?

5 A On the Turner Road.

6 Q On Turner Road?

7 A Yes, sir.

8 Q May we have the deed, sir?

9 A One hundred fifty-five foot frontage.

10 Q Is this the property that you are talking  
11 about?

12 A Yes, sir. Yes, sir, that is it.

13 Q Do you recall from your own information as to  
14 how much it fronted on Turner Road?

15 A A hundred fifty-five feet.

16 Q I see. Now, when did you get that property,  
17 Mrs. Slosjarik?

18 A My sister held the deed, and I think my  
19 mother died in '62, and I got it right after that and had it  
20 recorded right away.

21 Q And when you recorded it, that is the date  
22 that is on the back of that?

23 A Yes, sir. And I have got the slip over there,  
24 too.

25 Q Who owned the property adjacent to this

Slosjarik - Direct

20.

1 property here, now?

2 A Mr. Bulifant, I guess.

3 Q Where did he get the property that he bought?

4 A Well, it all was supposed to be my mother's  
5 property.

6 Q In other words, the property that you have  
7 there and the property that Mr. Bulifant--

8 MR. MCDONALD: I object to him leading the  
9 witness.

10 THE COURT: Sustained. Go ahead, Mr. Poole.

11 BY MR. POOLE: (Continuing)

12 Q Do you know how Mr. Bulifant got the property  
13 that he owns?

14 A No. I don't know anything about anything of  
15 that.

16 THE COURT: Being as Mr. Poole has brought that  
17 out, can we stipulate how Mr. Bulifant got title of  
18 his property?

19 MR. MCDONALD: That the deed is recorded?

20 THE COURT: No, that Marvin Cole gave it to  
21 him.

22 MR. MCDONALD: Yes, sir. That is the deed  
23 that we are referring to as the one in Deed Book 846,  
24 page 362.

25 THE COURT: That was the result of the

Slosjarik - Direct

21.

1 partition suit in this court prior to that deed.

2 MR. MCDONALD: Yes, sir. I think the Court's  
3 file in that suit speaks for itself.

4 MR. POOLE: The property came from the same  
5 owner, sir.

6 THE COURT: From her mother, originally?

7 MR. POOLE: Yes.

8 THE COURT: The testimony I have read is  
9 correct. Isn't that right?

10 MR. POOLE: I will be glad to stipulate--

11 MR. MCDONALD: That all of this property,  
12 came out of the original twenty acre tract that Mrs.  
13 Slosjarik's father acquired.

14 MR. POOLE: She is talking about the property  
15 which is owned by her mother. This property--

16 THE COURT: Ask--

17 MR. POOLE: The property that belonged to her  
18 mother was sold, Your Honor. The deed to Cole and  
19 the property which they own today both came out of  
20 the parcel of land.

21 THE COURT: Is that agreeable?

22 MR. POOLE: It is with me, sir.

23 THE COURT: Cole sold the piece-- By the  
24 Austin Brockenbrough plat, it shows 13.722 acres.  
25 Slosjarik owns the 2.268 acres which they received

58

~~Slosjarik - Direct~~

22.

1 by deed which we call--

2 MR. POOLE: Exhibit A.

3 THE COURT: Yes, sir. Is it agreed that both  
4 of those parcels were originally owned by Mrs. Ritter,  
5 Caroline Ritter?

6 MR. MCDONALD: Yes, sir.

7 THE COURT: Okay. I think we could have done  
8 it by now through testimony, but go ahead.

9 BY MR. POOLE: (Continuing)

10 Q Do you still own that property, Mrs. Slosjarik?

11 A This property ther<sup>e</sup>?

12 Q Yes.

13 A I am supposed to. I have been paying taxes on  
14 it for many years.

15 Q Has anything been done to that property within,  
16 say, the last year and a half relating to the boundary line?

17 A No more than what Mr. Bulifant has overtaken.  
18 Cutting down the trees.

19 Q Has he put anything between the two pieces of  
20 property?

21 A A sewer line is there.

22 Q What else? Anything else?

23 A I don't know of anything else right now. A  
24 fence.

25 MR. POOLE: No further questions of her, if

~~Slosjarik - Direct~~

23.

Your Honor please.

THE COURT: Your witness, Mr. McDonald.

MR. MCDONALD: Yes, sir.

CROSS-EXAMINATION

BY MR. MCDONALD:

Q Mrs. Slosjarik, do you recall that your mother died in February of 1962?

A Yes, sir.

Q Is that correct?

A That is right.

Q When did you commence paying taxes on the property that is shown on that deed which is marked by the Court as Plaintiffs' Exhibit A?

A In '62, wasn't it? I paid two years' back taxes.

MR. POOLE: Here is some of her--

MR. MCDONALD: She can refer to any records.

MR. POOLE: Here are her records. Would you hand those to her, please?

BY MR. MCDONALD: (Continuing)

Q Could you refer to your records? I am talking about the date on which you paid the taxes, Mrs. Slosjarik, as opposed to what the year the taxes were for. Can you see the stamp on those receipts?

Slosjarik - Cross

24.

A Surely.

Q When does that stamp show when they were paid?

A '62. Two years' back taxes when we got the deed.

Q I am talking about the paid stamp right here.

A That is April 28, 1964.

Q 1964?

A Yes, sir.

Q That was for 1962 taxes, and on the same date, April 28, 1964, you all paid the 1963 taxes?

A Right.

Q Now, would that happen to be the same date that the deed was recorded? The deed I am referring to is your deed, Plaintiffs' Exhibit A. Do you recall whether or not those taxes were, in fact, paid at the same trip to the courthouse when the deed was recorded?

A I think it was, now. I am not certain.

Q Now, you didn't come to the courthouse, did you? Your husband brought that deed?

A I came, too.

Q You came with your husband?

A We were together. Yes, sir.

Q I see. Did you go with your husband to pick the deed up from your sister?

A No.

Slosjarik - Cross

25.

Q But it is true that you didn't have that deed until the day you recorded it, isn't it? Physically, I am talking about having the deed, which is Plaintiffs' Exhibit A.

A No. In my hands, no.

MR. MCDONALD: I have no further questions.

MR. POOLE: If Your Honor please, we ask that that tax record be introduced as Plaintiffs' Exhibit C.

THE COURT: All right, as a group.

MR. MCDONALD: Could I see all of them?  
I asked her about two of them.

MR. POOLE: Take a look at any of them.

MR. MCDONALD: One of them is a recording receipt for the deed.

MR. POOLE: That speaks for itself. That is not necessary.

MR. MCDONALD: Just the tax bills here for four years.

MR. POOLE: If Your Honor please, since this question has been raised as to when the deed was recorded, here is the receipt. I would offer that as part of the exhibit.

THE COURT: I will put it in as Plaintiffs' Exhibit C.

MR. MCDONALD: I have no objections.

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Slosjarik - Cross

26.

NOTE: The above mentioned tax receipt is  
marked and filed as Plaintiffs' Exhibit Number C.

THE COURT: Go ahead, gentlemen.

MR. MCDONALD: I have no further questions.

MR. POOLE: I have no further questions of  
this witness.

THE COURT: You may step down, ma'am.

-----  
WITNESS STOOD ASIDE

MR. POOLE: We call Mr. Slosjarik.

THE COURT: Yes, sir.



1  
2  
3  
4                    STEVE SLOSJARIK, the plaintiff being called  
5 in his own behalf, first being duly sworn, testified as  
6 follows:

7                    DIRECT EXAMINATION

8 BY MR. POOLE:

9                    Q            Would you state your name and your address,  
10 please, sir?

11                    A            6439 Midlothian Pike, Steve Slosjarik.

12                    Q            What relation are you to Mrs. Slosjarik, here?

13                    A            She is my wife.

14                    MR. MCDONALD: We will stipulate to that,  
15 Your Honor.

16                    MR. POOLE: Thank you. It might be right  
17 difficult to prove.

18 BY MR. POOLE: (Continuing)

19                    Q            Do you recall your wife receiving any property  
20 from her mother?

21                    A            Well, I heard about it before I found out all  
22 the truth about it, see.

23                    Q            When did you find that the deed-- Do you see  
24 the deed in front of you, there?

25                    A            Yes. I heard about it and I asked about it,  
and nobody seemed to know where it was, see.

S. Slosjarik - Direct

28.

1 THE COURT: Let's start from the time you  
2 actually got the deed.

3 BY MR. POOLE: (Continuing)

4 Q Did you receive the deed from Mrs. Slosjarik  
5 or from whom did you receive it?

6 A From Mrs. Blankenship. I went over there and  
7 she handed it to me.

8 Q Did she say where she had gotten it?

9 MR. MCDONALD: I object, now.

10 THE COURT: Objection sustained. The question  
11 was all right, but the next answer was going to be  
12 wrong.

13 BY MR. POOLE: (Continuing)

14 Q Mr. Slosjarik, did Mrs. Blankenship say any-  
15 thing to you about the deed?

16 MR. MCDONALD: Your Honor, as long as he says  
17 yes or no.

18 BY MR. POOLE: (Continuing)

19 Q Your answer is what?

20 A She did.

21 THE COURT: Stop right there. All right, fine.

22 BY MR. POOLE: (Continuing)

23 Q Now, when did you actually get physical  
24 possession of the deed?

25 A The same day.

S. Slosjarik - Direct

29.

Q And what did you do with it?

A I recorded it the same day.

Q Was Mrs. Slosjarik with you at that time?

A Yes, sir.

MR. POOLE: If Your Honor please, the date is  
already in record.

THE COURT: The date stands for itself.

MR. POOLE: We have no further questions.

CROSS-EXAMINATION

BY MR. MCDONALD:

Q You got the deed, and when you say Mrs.  
Blankenship, that is Mary Elizabeth Blankenship or Mary Ritter  
Blankenship? She is known as Mamie. Is that correct?

A That is correct.

Q She is your wife's sister?

A Yes, sir.

Q You got the deed from her. You know now that  
you took it immediately to the courthouse and recorded it  
immediately, don't you?

A I certainly did!

MR. MCDONALD: Nothing further.

THE COURT: You may step down.

-----  
WITNESS STOOD ASIDE

67

1 MR. POOLE: That is the plaintiffs' case, if  
2 Your Honor please.

3 MR. MCDONALD: Could I have just one moment,  
4 Judge?

5 THE COURT: Yes, sir. Take your time.

6 MR. MCDONALD: Your Honor, we move to strike  
7 the plaintiffs' evidence on the grounds that there  
8 has been shown no valid delivery of this deed. We  
9 have outlined this in a memorandum of law to the Court  
10 since the case is on delivery in Virginia or extensive  
11 as Your Honor is aware.

12 The cases which we have sought out which we  
13 feel are applicable to this proceeding are those which  
14 deal with deeds which are not recorded until some time  
15 subsequent to the death of the grantor as we have here.  
16 The deed which the plaintiffs claim title to is dated  
17 January 6, 1942. It shows that Caroline Ritter made  
18 her mark on that deed by the notary on January 7 of  
19 1942, the next day, and the deed remained in the  
20 custody of the grantor.

21 THE COURT: What evidence do you have of that?

22 MR. MCDONALD: Well, it is no evidence. I  
23 should put it this way: No evidence of delivery of  
24 that deed.

25 THE COURT: No, sir. You said the deed

remained in Caroline Ritter's custody, and there is absolutely no evidence of that.

MR. MCDONALD: I didn't mean to mischaracterize the evidence.

THE COURT: We know it was in the possession of Mamie.

MR. MCDONALD: All right. But in any event, the grantor died in 1962. The deed did not come into possession of the plaintiff, Mrs. Slosjarik, until some two years subsequent to her death. Her mother's death I am referring to is Caroline Ritter, the grantor on this deed.

It's further been testified to by both Mr. and Mrs. Slosjarik that the deed was put on record the very same date that they got it, on the 28th of April, 1964, and that the tax records will show that three years' taxes were then paid on that very same date, '62, '63, and '64 taxes.

Now, it is the defendant's position that it is the burden of the grantee under this deed, Mrs. Slosjarik, to establish delivery during her mother's lifetime. There is absolutely no evidence here of any delivery or any conversations where Mrs. Ritter was, excuse me, Mrs. Slosjarik was exhibited the deed and told that this is what she was going to get

and for some reason it was going to be held by somebody else for some period of time.

The record is absolutely devoid of any evidence of why the deed was in the hands of Mary Elizabeth Ritter Blankenship, sometimes known as Mamie, the plaintiff's sister, and this is where the plaintiffs' case fails, Your Honor.

The line of authority cited in this letter of memorandum, and particularly I would call the Court's attention to the case at the bottom, excuse me, beginning at the first paragraph on page 2, the Banister case concerning itself with the deed found in the papers of the grantor's deed when there was no showing of how it got in the hands of the grantor. In other words, the physical custody of the deed is the pivotal point under this case of how it got there, and it is the plaintiffs' burden to show that not just as a deed in the Banister case subsequent to the grantor's death--

THE COURT: That is not exactly what she said.

MR. MCDONALD: These cases cover that point to the Krupp case. It goes to the lack of corroboration about delivery, and in the first place, you see, Your Honor, there is no testimony before Your

1 Honor by the plaintiffs of anything about delivery.

2 The record is completely devoid of it. All  
3 they have done is come in and stated that they got the  
4 deed from the sister.

5 THE COURT: That is delivering, Mr. McDonald.

6 MR. MCDONALD: I respectfully ask the Court  
7 to review the case, the Krupp case and the Thrasher  
8 case which is cited on the third page. The citations  
9 to it is actually on the first page.

10 THE COURT: You think Mamie not delivered the  
11 deed?

12 MR. MCDONALD: Unless Mamie testifies under  
13 what circumstances she got the deed, and Mamie is not  
14 here. She had it and they came in and demanded it.

15 THE COURT: That is not in evidence.

16 MR. POOLE: That is not dealing with the  
17 evidence of this case.

18 MR. MCDONALD: I am responsible only to the  
19 point of the testimony of Mr. Slosjarik.

20 THE COURT: Who said he went over and got it?  
21 There is no testimony he demanded anything.

22 MR. MCDONALD: He physically went and got it  
23 over two years after his mother-in-law's death, and  
24 there is no evidence--

25 THE COURT: He has been hearing about it for

1  
2 a long time.

3 MR. MCDONALD: I have no control over that.

4 THE COURT: I assume you are making a motion  
5 to strike, and I am overruling it.

6 MR. POOLE: Do you wish for me to respond to  
7 this?

8 THE COURT: No, sir. I have already denied  
9 his motion.

10 MR. POOLE: Thank you, sir.

11 MR. MCDONALD: Could we have about a five  
12 minute recess?

13 THE COURT: Yes, sir. I think I will just  
14 sit here.

15 NOTE: A short recess is had, whereupon the  
16 hearing is resumed, viz:

17  
18 MR. MCDONALD: Your Honor, the defendant,  
19 Bulifant, offers the depositions of Marvin F. Cole,  
20 taken September 20, 1976, in evidence in this case,  
21 and the two deeds which are a matter of public record.  
22 They are designated as Cole Number 1 and Cole Number  
23 2 and should have been filed with the depositions.  
24 The reporter had those deeds.

25 THE COURT: They are here. I still have them.



MR. MCDONALD: We offer his testimony for this case. He is now sitting as judge, and it is so provided by the rules.

THE COURT: I sat Friday afternoon and read it again, Mr. McDonald.

MR. POOLE: The plaintiff wishes to emphasize the objections the plaintiff made to Judge Cole's testimony in that and wish those to be considered by the Court.

THE COURT: All right.

MR. MCDONALD: That is all the testimony we have, Your Honor. I would again renew the defendant's motion to strike the plaintiffs' evidence. This is an action at law to establish a boundary line. The plaintiff has not even proven a valid delivery of the deed which was recorded subsequent to her mother's death.

I will call the Court's attention further to the fact that in Cole Exhibit 2, which is the deed recorded in Deed Book 272, page 51, that the deed makes the differentiation in the second whereas clause between the deed to the plaintiff's brother, Louis; that it was executed and delivered to him, and--

THE COURT: Where are you talking about, now?

MR. MCDONALD: The second whereas clause in

the deed from Henry F. Ritter-- Excuse me, from Cary Ritter, the plaintiff's mother, to her brother, Henry F., and her sister, Mary Ritter Blankenship, Deed Book 272, 51, as Cole Exhibit 2.

THE COURT: You are talking about the deed from Cole?

MR. MCDONALD: No, sir. It is the Cole Exhibit 2 to his de bene esse depositions.

THE COURT: Yes, sir.

MR. MCDONALD: May I approach the bench?

THE COURT: Is this the plat we are talking about?

MR. MCDONALD: No, sir. It is the deed itself, Your Honor.

THE COURT: Well, I have got a lot of stuff here and a lot over here.

MR. MCDONALD: There were two exhibits filed.

THE COURT: Yes, sir. One of them was with this plat.

MR. MCDONALD: No, sir.

THE COURT: It is here, Mr. McDonald.

MR. MCDONALD: Could I check the Court's file?

THE COURT: Yes, sir. Here are the two exhibits. Number 1, May 26, and May--

MR. MCDONALD: The Cole depositions was taken

by Mr. Edwards. That was the Slosjarik discovery deposition. There they are right there, Cole Exhibit Number 1 and marked Cole Exhibit Number 2, and I am making reference at this point to Cole Exhibit Number 2.

THE COURT: This is the deed from Gertrude Ritter and others, Catherine Hicks?

MR. MCDONALD: That should be marked Cole Exhibit 1. That is dated April 9, 1964. It should be the second deed.

THE COURT: All right. Between Cary Ritter and Henry and Mary Blankenship?

MR. MCDONALD: Dated February 3, 1972, and it is recorded in Deed Book 272, page 51.

THE COURT: All right.

MR. MCDONALD: Now, the second whereas clause in that deed, Your Honor, makes reference to a deed to the plaintiff's brother, Louis, and it says it was executed and delivered to him.

It goes on down further in the third line and says has also executed a deed to Katherine Slosjarik, the plaintiff here, conveying to her approximately two and a quarter acres.

THE COURT: 1942?

MR. MCDONALD: Yes, sir. Sometime between

'42 and later, that was delivered to Mamie to deliver to--

THE COURT: No evidence of that.

MR. MCDONALD: It came from Mamie--

THE COURT: Well, I ruled on that if you are arguing that point again.

MR. MCDONALD: No, sir, just to what we have gained from the public records since there is no testimony on how it got into Mamie's hands. At that time when it was drawn, you will notice this is 1942, the deed is executed according to the notarial acknowledgement on February 23 of 1942. That is subsequent to the execution of the plaintiff's deed of January the 7th of '42.

So there is a restitution on the record that she has executed a deed, but it makes no reference to its having been delivered. The significance of Judge Cole's testimony in his depositions can be gained from his depositions and Cole Exhibit 1, which is parcel 15. Now, parcel 15 and that deed-- This is a deed from Henry Frank Ritter's widow conveying her interest back to her daughter who subsequently died within a very short time, at her death leaving two minor children.

In parcel 15 to that deed, which is a matter

1 of public record in this court in Deed Book 747, page  
2 365, there is a reference to the deed I just called  
3 Your Honor's attention to, which is Cole Exhibit 2,  
4 the one in Deed Book 272, page 51. Now, Judge Cole's  
5 testimony is that in preparing this Cole Exhibit  
6 Number 1, he had occasion to have a conversation with  
7 the plaintiff's husband. He doesn't recall whether he  
8 called him or whether it came the other way, but he  
9 recalls a conversation with him. And the important  
10 thing in that de bene esse deposition is that he  
11 admits, he, being the plaintiff's husband, that they  
12 didn't have a deed.

13 MR. POOLE: Excuse me, Mr. McDonald. I was  
14 at that deposition. I listened to it, and if Your  
15 Honor please, I can't for the life of me recall one  
16 thing that was said about that. Mr. McDonald on one  
17 hand says the deed was never delivered, and now he  
18 says it was.

19 If Your Honor please, Judge Cole was perfectly  
20 fair and honest about it. He said I don't remember,  
21 but I think now I objected to all of Judge Cole's  
22 testimony on that basis. Anything he knew he could  
23 say. Anything he did not know, I objected to and this  
24 is all based on the hearsay of Judge Cole, if it is  
25 even based upon that, sir.

77

1 THE COURT: Where are you?

2 MR. MCDONALD: Page 5 and 6.

3 THE COURT: Cole 1 or Cole 2?

4 MR. MCDONALD: I am referring to both exhibits.

5 It is on page--

6 THE COURT: Are you talking about the September  
7 20 depositions or the other one?

8 MR. MCDONALD: Yes, sir, that one which has  
9 now been received into evidence.

10 THE COURT: Your page 5 and 6?

11 MR. MCDONALD: Yes, sir. My question starts  
12 on page 5 and his answer is at the bottom of page 5  
13 and on page 6. He indicates he is not sure who made  
14 the first contact. The references I am making is to  
15 the words in the second paragraph of his answer on  
16 page 6 beginning at line 9: but nobody during the time  
17 that I was talking to him could produce a deed.

18 THE COURT: When was that?

19 MR. MCDONALD: That is at the time he is  
20 drawing Cole Exhibit Number 1 which is dated--

21 THE COURT: Call it by something else.

22 MR. MCDONALD: That is the way it is in the  
23 record. It is attached to his deposition.

24 THE COURT: It's a deed from who to who?

25 MR. MCDONALD: Gertrude Ritter, widow of  
78

Henry Frank Ritter to Catherine R. Hicks.

THE COURT: What is the date of that?

MR. MCDONALD: April 9, 1964. It is attached to his de bene esse deposition.

THE COURT: You don't have to make the point. It's conceded in the papers. It is stipulated, and it's been that way all along.

MR. MCDONALD: Well, I think that it is important.

THE COURT: He owned the property, but he didn't have the deed according to Mr. Cole.

MR. MCDONALD: Well, my point is when he is confronted with it at that time when it was germane to the settlement of his wife's brother's estate and the affairs of his wife's brother's widow and the fact of conveying her interest to her daughter who subsequently died which reinstituted the need for the partition suit, he didn't say anything about delivery of it.

He didn't say anything else except he didn't have it.

The plaintiffs have come before Your Honor with this this morning. I would respectfully ask the Court to review the authority cited and the letter of memorandum submitted to the Court of this date and particularly the three cases that I brought to the

Court's attention dealing directly with this point,  
that it is not the defendant's burden in this case.

THE COURT: Are you renewing your motion?

MR. MCDONALD: Yes, sir.

THE COURT: Well, I am again denying it.

MR. MCDONALD: I just want the record clear.

THE COURT: It's perfectly clear, and I will  
do it again. Motion is denied.

MR. MCDONALD: Please note our exception to  
the Court's ruling. What I was asking the Court to  
do was to take the case under advisement and to  
consider those authorities.

Now, that is my motion more than my nature to  
strike the plaintiffs' evidence at this junction.

THE COURT: As of this time for the third time,  
I have denied your motion.

MR. MCDONALD: I understand.

THE COURT: All right, sir.

MR. MCDONALD: Has the depositions of Judge  
Cole been received and marked?

THE COURT: I am getting ready to mark it  
right now. What number will this be?

MR. MCDONALD: Defendant's Exhibit A was the  
LaPrade plat of October 6, 1941.

THE COURT: Defendant's Exhibit B



NOTE: The above mentioned deposition is marked and filed as Defendant's Exhibit Number B.

THE COURT: Anything further, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Do you care to argue?

MR. POOLE: If Your Honor please, I don't want to belabor the point, but the evidence is clear. Mrs. Slosjarik said her mother gave her this property. She did not get the deed. It was in the hands of her sister.

Mr. Slosjarik said that they owned the property but they didn't have the deed. So he then went over to Mamie's house. They had been notified to come. Anyhow, she had the deed for them, which she had been keeping. He did not go over there and demand it or use any force at all. He just went over there as an emissary for his wife.

The two of them went and recorded it as soon as they got it. Now, if Your Honor please, the cases that Mr. McDonald is relying on are based upon completely different evidence where the deed is found in the possession or the safety deposit box or the

control of the deceased grantor but he does not cite any case where the deed has been given to a sister, and the mother told them that they have the property, the deed is in the hands of the sister, the sister is holding it.

Why she held it that long, sir, I can't answer that. No one can answer it as to why it was held. There was a complete delivery of the grantor to the sister who was the agent, if you will, of these people. She was told to hold it. That, she did. She delivered it. As soon as she delivered it, they put it on record.

The case is just simply that, and as far as a boundary line is concerned, the plat speaks for itself, showing that Mr. Bulifant is over 24 feet on their property.

MR. MCDONALD: I will beg to differ with Mr. Poole. Clearly, there is no evidence of what Mamie's capacity was. The record is devoid of her testimony. She is alive. She has not been called to testify here today, and her absence, I would submit, can only be construed by the Court that there was something there that they didn't want the Court to hear about.

Now, again, under the authorities cited to the Court and our letter of memorandum, it's the

plaintiffs' burden to prove the delivery, and they have not carried this burden, and therefore, when the deed went from the commissioner to Bulifant, the conveyance was perfectly proper and that the strip of land, which is shown of a configuration as parcel 2 in Defendant's Exhibit - and this is the LaPrade plat of October 26, 1941 - was correct, there having been no delivery of the deed at the time of the conveyance to Bulifant, and for that reason, you end up, and there is no logic to what happened.

If the Court will recall that there is a strip shown on the LaPrade plat of .35 acres at the rear, that is still outstanding in the heirs of Cary Ritter, and I would submit to Your Honor that not only that .35 acres is outstanding, but also a parcel shown on LaPrade's current survey which is Plaintiffs' Exhibit B, footage, 155 feet on Turner Road, it is still outstanding on the heirs of Cary Ritter, and in fact, there is no overlap. For that reason, this being an action at law to establish the boundary line, the line is where it is shown on the Austin Brockenbrough plat of April 30, 1965, which is of record in the Clerk's office of this court and attached to the deed from Judge Cole as special commissioner to the defendant, Bulifant, recorded in Deed Book 7846, page 83.

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THE COURT: Gentlemen, it is quite obvious what happened here. I am convinced that exactly what happened is that Mr. Brockenbrough or someone in the office went down to LaPrade's office and LaPrade had made it and made it with an error. They all failed to notice that LaPrade went back and corrected and made a new plat in December, and that has caused all this confusion, and somebody is probably liable, and I don't know if that is up to me to decide this morning.

But it is the decision of this Court that the line is as shown on the north most line on Plaintiffs' Exhibit B, and the plaintiffs' position in this matter is sustained. We now have a question of damages. Could we discuss that a little bit, gentlemen?

MR. POOLE: Discussion, I believe, is the only proper way of doing it, sir. It has always been a duty to try to tell the Court what the law is as I see it.

Now, the Code provides that when you bring an action like this on motion for judgment, as I understand it, the issue is the boundary line, sir. Now, if the defendant asked the Court to sustain that judgment and brings in evidence himself on it, then

another section later provides that the plaintiff may then bring in his evidence or her evidence of the damages.

Now, if this were a suit in ejectment, we could go right through it, but it's under our Code for the motion for judgment. Mr. McDonald has said nothing about damages. He said nothing about it.

Sir, the damage to this property is a complete issue which we will decide or have a discussion with Mr. McDonald about it. Now, sir, as I understand it, that is the law.

THE COURT: I believe that to be correct. Knowing my friend, Mr. McDonald, I am certain that he is already making plans for appeal and probably doesn't want to talk damages until that is over. Isn't that correct?

MR. MCDONALD: I am not sure of what Mr. Poole is making reference to. There is no evidence of damages on his part, and I think that is the end of it. Whether we appeal the case, the Court's decided where the line is, and that is the end to the plaintiffs' case.

MR. POOLE: That is another issue, if Your Honor please, and I do not want to belabor the point. It's not here before the Court. It is a complete,

1  
2 separate issue.

3 THE COURT: We are here to discuss the  
4 boundary line.

5 MR. MCDONALD: If we could look at the statute  
6 for just a minute that this suit is bound under. That  
7 is what I was checking while Mr. Poole was making his  
8 statement to the Court. The way to do this says if  
9 the plaintiff filed statement of profits and other  
10 damages which he means to demand, and we are talking  
11 about a jury and the Court sitting here, and I am  
12 referring to 8-827.

13 It reads as follows: If the plaintiff file  
14 with his motion for judgment a statement of the profits  
15 and other damages which he means to demand, and the  
16 jury find in his favor, they shall, at the same time,  
17 unless the Court otherwise order, assess the damages  
18 for mesne profits of the land for any period not  
19 exceeding five years previously to the commencement  
20 of the suit until the verdict, and also the damage  
21 for any destruction or waste of the buildings or  
22 other property during the same time for which the  
23 defendant is chargeable.

24 Now, they filed a statement of damages with  
25 their pleadings, and we came to trial on the assumption  
that we were not going to try this case in bits and

pieces. If the Court has some difficulty--

THE COURT: I don't. It is my understanding, Mr. McDonald, that we are here today to determine the boundary issue. Let's wait a minute. Mr. Poole has gone out to get a section of the Code.

MR. MCDONALD: I direct the Court's attention to the prayer in the motion for judgment.

THE COURT: I know what that is.

MR. MCDONALD: In Exhibit C.

MR. POOLE: If Your Honor please, the Code is what we proceeded under here. Section 836 reads as follows: Any person having a subsisting interest in real estate and a right to its possession, or to the possession of some share, interest or portion thereof, upon motion for judgment filed pursuant to the Rules of Court filed in the Court which would have jurisdiction in an action of ejectment concerning such real estate shall have the right to have ascertained and designated by such Court the true boundary line or lines to such real estate as to one or more of the coterminous land owners. That is a section relating to ejectment and shall describe with reasonable certainty such real estate and the boundary line or boundary lines thereof which he seeks to establish. It also provides a plat showing such real estate, and

boundary line or lines filed with the motion for judgment may serve the purpose of such description.

Now, if we turn to Section 827, it reads as follows: If the plaintiff file with his motion for judgment a statement of the profits and other damages which he means to demand, and the jury find in his favor, they shall, at the same time, unless the Court otherwise order, assess the damages for mesne profits of the land for any period not exceeding five years previously to the commencement of the suit until the verdict, and also the damage for any destruction or waste of the buildings or other property during the same time for which the defendant is chargeable.

Now, if we refer to the section which deals with the motion for judgment procedure, that is 839. Section 839 reads as follows: In a proceeding under this article, no claim of the plaintiff for rents, profits or damages shall be considered.

Now, the following section deals with how the plaintiff will present his damages. Now, this deals with how damages of the plaintiff are assessed. The jury, in assessing such damages, either under this article or article 2 of the chapter, shall estimate against the defendant the clear annual value of the premises during the time he was in possession, exclusive



of the use by the tenant of the improvements thereon made by himself or those under whom he claims, and also the damages for waste or other injury to the premises committed by the defendant. Excuse me, that is not the particular section that I am dealing with.

Now, Section 842 says: Any defendant against whom a decree or judgment shall be rendered for land, when no assessment of damage has been made under article 2 of the chapter, may, at any time before the execution of the decree or judgment present a petition to the Court rendering such decree or judgment, stating that he, or those under whom he claims while holding the premises under a title believed by him or them to have been good, have made permanent improvements thereon, and praying that he may be allowed for the same over and above the value of the use and occupation of such land; and thereupon the Court may, if satisfied of the probable truth of the allegation, suspend the execution of the judgment or decree, and impanel a jury to assess the damages of the plaintiff, and the allowances to the defendant for such improvements.

If Your Honor please, I just broke my glasses and I am having a little difficulty with it, so bear with me, if you please. Now, I made reference

of this, if Your Honor please, and the law according to the sections as I have stated before that where you have a motion for judgment, there ought to be no determination of damages. That comes in your ejection.

Now, if the defendant comes in and ask the judgment be delayed and ask judgment himself, then the plaintiff may likewise petition in the section dealing with the motion for judgment. The defendant has not done that, and the plaintiff has not done so.

I can't see any damages that he might claim, but I didn't know whether he would or wouldn't, so that is why the motion for judgment was filed with the exhibit attached thereto. And we are here this morning, certainly, to determine the boundary line, and the damages are a separate issue.

THE COURT: I would like to ask you one question, a purely common sense matter. How could the plaintiff possibly know what damages he has or how could the defendant possibly know what credit to be given for payment until both of you know what the Court is going to establish?

MR. MCDONALD: Construed by plaintiffs' counsel, all I can do is rely on the motion for judgment and try the case established--

CRANE - SNEAD & ASSOCIATES

COURT REPORTERS  
1108 EAST MAIN STREET  
RICHMOND, VIRGINIA  
PHONE 648-01

53.

THE COURT: It has been decided, and if the order will be granted, I will so enter it. I will give you a hearing on the damages.

MR. MCDONALD: Please note an exception to the Court's ruling on this.

THE COURT: Yes, sir.

MR. MCDONALD: And that exception is both in the case in chief and the boundary line and as to the method of procedure on damages.

THE COURT: Yes, sir.

MR. MCDONALD: Thank you, sir.

MR. POOLE: Thank you, Your Honor.

HEARING CONCLUDED

91

Commonwealth  
of Virginia  
County of  
Chesterfield

Real Estate Tax For Year 1962

To GEO. W. MOORE, JR., Treasurer, Chesterfield, Va.

Manchester  
DISTRICT  
1962

NAME AND ADDRESS

TAX  
ASSESSED  
ON  
THIS  
PROPERTY

BITTER CARRIE A  
ROUTE 9  
RICHMOND, VA

DESCRIPTION OF PROPERTY  
MIDLOTHIAN PINE

VALUE OF LAND  
OR LOTS AND TIMBER  
840

VALUE OF BUILDINGS  
AND IMPROVEMENTS

TOTAL VALUE  
840

BILL NO.  
8827

PAY THIS  
AMOUNT  
BEFORE  
DEC. 5TH

TAXPAYER'S RECEIPT

PAID  
APR 28 1964  
EVERETT WADDEY CO. INC.  
ST. LOUIS, MO.

TOTAL VALUE	COUNTY RATE ON \$100	AMOUNT OF COUNTY TAX
840	2.60	21.84

5% Penalty after Dec. 5, 1962  
Total Tax & Penalty  
Interest at 6% Annually  
from July 1, 1963  
Total Tax, Penalty & Interest

1.09  
22.93  
1.38  
24.31

IF A CHECK OR DRAFT WAS GIVEN IN PAYMENT OF THIS TAX,  
THIS RECEIPT SHALL BE VOID. SHOULD SAID CHECK OR DRAFT  
NOT BE PAID ON PRESENTATION.

EVERETT WADDEY CO. - TRANSMIT U. S. PAT. NO. 1,709,408

CAS 3 A

CLERK'S OFFICE

CIRCUIT COURT, CHESTERFIELD COUNTY, VA.

RECEIVED OF *Katherine R. Sloan* *Apr. 28, 1964*  
DOLLARS

FOR THE ACCOUNT OF *1*

FOR RECORDATION OF THE FOLLOWING DEED

FROM *Caroline Ketter*

TO *Katherine Rister Sloan*

DESCRIPTION  
*Parcel on Turner Road*

CONSIDERATION \$ *2,000 -* *Manchester*

TIME OF RECORDATION *11:55* A.M. KIND OF CONVEYANCE *B & D*

ARTHEN CO., LYNCHBURG, VA.

ACCOUNT	AMOUNT
101 STATE TAX	3 00
204 A COUNTY TAX	1 00
204 TRANSFER FEE	1 00
301 CLERK'S FEE	4 00
4 REV. STAMP	
5 PLATE	
TOTAL	9 00

Nº 27882

DEED No. *3978*

WILLIAM R. SHELTON

CLERK

DEPUTY CLERK

Commonwealth  
of Virginia  
County of  
Chesterfield

Real Estate Tax For Year 1963

To GEO. W. MOORE, JR., Treasurer, Chesterfield, Va.

Manchester  
DISTRICT  
1963

NAME AND ADDRESS

TAX  
ASSESSED  
ON  
THIS  
PROPERTY  
NAME AND  
ADDRESS  
→ RITTER, CARRIE A  
→ 7531 MIDLOTHIAN PIKE  
→ RICHMOND, VA

DESCRIPTION OF PROPERTY

→ MIDLOTHIAN PIKE

2.41  
ACR

VALUE OF LAND  
OR LOTS AND TIMBER

840

VALUE OF BUILDINGS  
AND IMPROVEMENTS

TOTAL VALUE

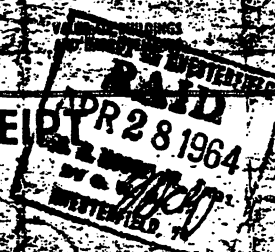
840

BILL NO.

9145

PAY THIS  
AMOUNT  
BEFORE  
DEC. 5TH

TAXPAYER'S RECEIPT



TOTAL VALUE	COUNTY RATE ON \$100	AMOUNT OF COUNTY TAX
840	260	21.84

5% Penalty after Dec. 5, 1963  
Total Tax & Penalty  
Interest at 6% Annually  
from July 1, 1964  
Total Tax, Penalty & Interest

1.09  
22.93

IF A CHECK OR DRAFT WAS GIVEN IN PAYMENT OF THIS TAX,  
THIS RECEIPT SHALL BE VOID, SHOULD SAID CHECK OR DRAFT  
NOT BE PAID ON PRESENTATION.

GENERAL SYSTEMS, INC. PAT. NO. 1,799,469

Commonwealth  
of Virginia  
County of  
Chesterfield

REAL ESTATE TAX FOR YEAR 1964

To GEO. W. MOORE, JR., Treasurer, Chesterfield, Va.

MANCHESTER  
DISTRICT  
1964

NAME AND ADDRESS

TAX  
ASSESSED  
ON  
THIS  
PROPERTY  
NAME AND  
ADDRESS  
→ RITTER, CARRIE A  
→ 7531 MIDLOTHIAN PIKE  
→ RICHMOND, VA

DESCRIPTION OF PROPERTY

→ MIDLOTHIAN PIKE

2.41  
ACR

VALUE OF LAND  
OR LOTS AND TIMBER

840

VALUE OF BUILDINGS  
AND IMPROVEMENTS

TOTAL VALUE

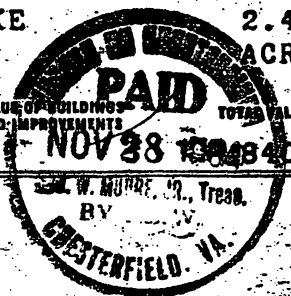
840

BILL NO.

9688

PAY THIS  
AMOUNT  
BEFORE  
DEC. 5TH

TAXPAYER'S RECEIPT



TOTAL VALUE	COUNTY RATE ON \$100	AMOUNT OF COUNTY TAX
840	280	23.52

5% Penalty after Dec. 5, 1964  
Total Tax & Penalty  
Interest at 6% Annually  
from July 1, 1965  
Total Tax, Penalty & Interest

IF A CHECK OR DRAFT WAS GIVEN IN PAYMENT OF THIS TAX,  
THIS RECEIPT SHALL BE VOID, SHOULD SAID CHECK OR DRAFT  
NOT BE PAID ON PRESENTATION.

GENERAL SYSTEMS, INC.

To GEO. W. MOORE, JR.,  
Treasurer, Chesterfield, Va.

COUNTY OF CHESTERFIELD

BILL NO.

25773

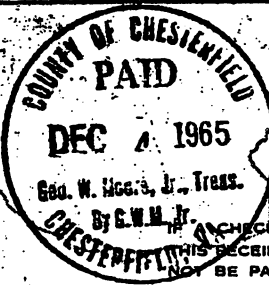
1965 REAL ESTATE TAX BILL 1965

SLOSIARIK KATHERINE RITTER  
7439 MIDLOTHIAN PIKE  
RICHMOND VA

1-BEDROOM  
2-CLIPPED HILL  
3-DALE  
4-ETTER  
5-RANCHESTER  
6-MATYACA  
7-MIDLOTHIAN

					PAY BEFORE DEC. 5, 1965	
DIS.	ACCOUNT NUMBER	LAND VALUE	IMPROVEMENT VALUE	TOTAL ASSESSED VALUE	RATE PER \$100	TOTAL TAX DUE
	56434209	\$ 840	\$ .	\$ 840.280		\$ 2352

PROPERTY  
DESCRIPTION  
MID PIKE  
TAXPAYER'S RECEIPT



2 410  
ACRES ▲ THOUSANDTHS

IF CHECK OR DRAFT WAS GIVEN IN PAYMENT OF THIS TAX,  
THIS RECEIPT SHALL BE VOID, SHOULD SAID CHECK OR DRAFT  
NOT BE PAID ON PRESENTATION.

To Middleman Tp. →

ROAD

N 6 3/4° W.

TURNER

IRON PIN

131'

IRON PIN

150'



DWELLING

RITTER ESTATE

S. 89 1/2° E. → 757.5'

IRON PIN

PARCEL - 2  
RITTER ESTATE  
2.26 ACRES

S. 89 1/2° E 755.1'

IRON PIN

131'

FENCE

PARCEL - 1  
LEWIS RITTER  
3.09 ACRES

CL OF OLD CHESTERFIELD R.R. (ABANDONED)

← N. 89 1/2° W. 751.8'

PINE 2

180'

FENCE

S. 5 3/4° E.

J. H. CAUDLE

R. ANGUS WOOD

Map of two parcels of land situated in Manchester District, Chesterfield County, Virginia.

Oct. 26, 1941

Scale: 1" = 100'

W. W. LaPrade & Bros.  
Civil Engineers  
Richmond, Virginia.

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

\*\*\*\*\*

KATHERINE RITTER SLOJARIK and  
STEVE SLOJARIK,

Plaintiffs

-vs-

ROBERT L. BULIFANT, JR.,

Defendant

\*\*\*\*\*

DE BENE DEPOSITION of MARVIN F. COLE

taken at the Instance of the Defendant by Notice and Agree-  
ment before Robert A. Tierney, RPR and a Notary Public in and  
for the State of Virginia at Large, on September 20, 1976,  
at 9:20 o'clock a.m., in the Law Offices of COLE, WELLS,  
MORANO, AXSELLE & JOHNSON, 201 North Boulevard, Richmond,  
Virginia 23220, and all pursuant to the Rules of the Supreme  
Court of Virginia.



CRANE - SNEAD & ASSOCIATES

COURT REPORTERS  
108 EAST MAIN STREET  
RICHMOND, VIRGINIA  
PHONE 648-2801

2.

APPEARANCES:

Travis W. Poole, Attorney at Law of POOLE & POOLE, 601 Mutual Building, Richmond, Virginia 23219, Counsel for the Plaintiffs;

John E. McDonald and Robert S. Bozarth, Attorneys at Law of MCDONALD & CRUMP, Universal Leaf Building, Broad and Hamilton Streets, Richmond, Virginia 23230, Counsel for the Defendant.

I N D E X

DIRECT

Marvin F. Cole

3

EXHIBITS

PAGE

Cole Exhibit No. 1  
(Deed)

4

Cole Exhibit No. 2  
(Deed)

5

Cole - Direct

3.

1  
2 MR. MCDONALD: For the record, it is  
3 the intent of the Defendant, Robert L. Bulifant,  
4 Jr., to use the Deposition taken today pursuant  
5 to Rule 4(7) which provides that the Court may  
6 allow the use of such Deposition when it finds  
7 that the witness is a Judge. This is under 4(7)  
8 A3F.

10 MARVIN F. COLE, called as a witness  
11 by Counsel for the Defendant, first being duly sworn, tes-  
12 tified as follows:

13  
14 DIRECT EXAMINATION

15 BY MR. MCDONALD:

16 Q Would you state your full name and  
17 business address, for the record, please?

18 A Marvin F. Cole, 201 North Boulevard,  
19 Richmond, Virginia.

20 Q And, did you have occasion to represent  
21 the estate of Henry Frank Ritter, and his widow, Gertrude  
22 H. Ritter?

23 A I represented the estate of Henry F.  
24 Ritter, yes. In that connection I did work out a settlement  
25 with his widow, Gertrude.

Cole - Direct

4.

1 Q In connection with that, did you draw  
a deed, and I ask you if you can identify this deed as being  
the one I have reference to? (Indicating)

2 Q Yes, I did.

3 MR. MCDONALD: Let's have that marked:  
4  
5 Cole Exhibit No. 1.

6  
7  
8 NOTE: The above referred to deed was  
9 marked by the Court Reporter as: Cole Ex. #1,  
10 R. Tierney, Court Reporter RPTR, Sept. 20, 1976.

11  
12 MR. MCDONALD: For the record, this  
13 Exhibit is an attested copy from the Clerk's  
14 office of Chesterfield County recorded in Deed  
15 Book 747, Page 365.

16  
17 BY MR. MCDONALD: (Continuing)

18 Q Would you direct your attention to  
19 Parcel 15 in that deed, and I ask you: In connection with  
20 drawing the description to that Parcel if you ever had oc-  
21 casion to have any contact with the Plaintiffs in this pro-  
22 ceeding?

23 A I assume -- tell me who the Plaintiffs  
24 are?

25 MR. POOLE: Mr. and Mrs. Slosjarik.

Cole - Direct

5.

A (Continuing) Yes, I had some conversation with Mr. Slosjarik.

MR. MCDONALD: I also ask that this deed, which is referred to in the source clause of Parcel 15, as recorded in Deed Book 272, Page 51 in the Clerk's office of the Circuit Court of Chesterfield County, that this attested copy be marked as Cole Exhibit #2.

NOTE: The above referred to deed was marked by the Court Reporter as: Cole Ex. #2, R. Tierney, Court Reporter, Sept. 20, 1976.

MR. MCDONALD: This has a notation with a red check, and that was placed on the deed by me, but with the exception of that, it is as furnished by the Clerk's office.

BY MR. MCDONALD: (Continuing)

Q Mr. Cole, I hand you what has now been marked Cole Exhibit No. 2, which is the first deed referred to in the source clause to Parcel 15, and ask you, referring to Cole Exhibit No. 1 and 2, if you could state, for the record, first of all, what the reason for your contact with Mr. Steve Slosjarik was?

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6.

2 A Well, I rather suspect that Mr.  
3 Slosjarik contacted me, but I'm not sure who made the first  
4 contact, but Mr. Slosjarik claimed, and told me that he had  
5 a deed to a Parcel of this real estate.

6 This deed here refers to two and a  
7 half acres, and I recollect it was in approximately that  
8 amount, that he was talking, or what we were talking in the  
9 timeframe about, two acres. He told me that he owned two  
10 and a quarter acres of that land at that corner, but nobody,  
11 during the time that I was talking to him, could produce a  
12 deed, and I told Mr. Slosjarik that I could not find such a  
13 deed on record at Chesterfield, and he couldn't find one on  
14 the records at Chesterfield, and I told him that unless he  
15 could produce a deed, that there was really nothing that I  
16 could do for him, and I told him to look for the deed and get  
17 it to me and that there was nothing that I could do for him  
18 until he could produce a deed showing that he did, in fact,  
19 own some of the land.

20 Q All right. Now is this the deed which  
21 is referred to in Cole Exhibit 2 as being a deed to Katherine  
22 Slosjarik conveying to her approximately two and one quarter  
23 acres of said ten-acre tract?

24 A I can only assume that it refers to it --  
25 I mean, I would certainly make that assumption, but it is  
not enough information there to say absolutely, because he

Cole - Direct

7.

could own two and a quarter acres some place else, but that's the approximate amount of acreage which Mr. Slosjarik was discussing with me.

Q All right, sir. Now, again, referring to Cole Exhibit No. 1, do you know who caused that deed to be recorded?

A No, but I wouldn't be too surprised if I didn't record it.

MR. POOLE: Objection is made to the witness surmising, and conjecturing, and assuming. If the witness knows, the witness may so state, but objection is made to the surmises and assumptions.

BY MR. MCDONALD: (Continuing)

Q Mr. Cole, is there anything in your files to indicate that you, or someone in your office, or on your behalf, caused this deed to be recorded?

A Well, let me tell you that I have got two dozen files on the estate of Henry Ritter, and I have not reviewed those to look for a recordation receipt for this deed, and I know the transaction that I had with Gertrude Ritter, and this particular piece of property, wouldn't have really been vital, because what was of interest is that I calculated what Mrs. Ritter's dower interest would be, and

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1 she executed this deed conveying all of her interests in  
2 Mr. Ritter's estate, as we knew it at that time, to Mr.  
3 Ritter's daughter, Katherine Hicks, and I would have to go  
4 through and see who actually paid the cost. I would have no  
5 record to show recordation of that deed.

6 Q Was this transaction, that you de-  
7 scribed whereby Gertrude Ritter -- excuse me, Gertrude H.  
8 Ritter, the widow of Henry H. Ritter, was paid for her dower  
9 interest; was that completed?

10 A Yes.

11 Q And did you handle that part of the  
12 settlement?

13 A Yes.

14 Q And, do you recall the actual passage  
15 of funds to Gertrude H. Ritter?

16 A Yes, and as soon as that occurred,  
17 Mrs. Ritter moved to Lynchburg and I haven't seen her since.  
18 I have heard from her, but I have not seen her.

19 Q Now, subsequently, to your knowledge,  
20 do you know what happened to Katherine Ritter Hicks, her  
21 daughter?

22 A Yes, Mrs. Hicks had a heart attack and  
23 died very suddenly.

24 Q And did you undertake to represent her  
25 family in settling her affairs?

Cole - Direct

9.

A Yes.

Q To your knowledge, what action did you take on behalf of her heirs in connection with these various Parcels of real estate that are described in Cole Exhibit No. 1?

A Well, none of these people had Wills, and Henry Ritter had a substantial inheritance tax to be paid, and he had no cash money to pay it with and so a partition suit was brought to sell all of the real estate, and the purpose of that was that Katherine Hicks had two minor children, and because they were under age, a suit had to be brought to sell the real estate.

Q Now, in connection with that partition suit, did you have occasion to have any contact with any of the children of Louis Ritter?

A Mary Ritter Blankenship was one of his children and I did have some contact with her.

Q She was, or is a child of his, and what was the occasion for your contacting her?

A Well, I contacted Mrs. Ritter because Mr. Ritter and Mary Ritter Blankenship owned some real estate together.

Q Mr. Ritter being Henry Frank?

A Yes, Henry Frank, and Mary Ritter Blankenship owned some real estate together, and also I talked



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10.

1 with her because I was led to the belief that Henry Frank  
2 Ritter and his sister, Mary Ritter Blankenship, were fairly  
3 close to one another, which was something that I couldn't  
4 say of he and his wife, and I thought she probably would  
5 know more about his affairs than his wife, and so I went over  
6 to her house to talk with her.

7 Q Did you discuss with her the deed,  
8 which Mr. Slosjarik had previously discussed with you?

9 A I had some conversation with her about  
10 that deed. I was talking to her mainly about the jointly  
11 owned property and of whether she wanted to buy the interest  
12 of the estate, or whether she would sell, and I also had the  
13 conversation with Mr. Slosjarik at that time and we were  
14 looking for the deed, or he was looking for the deed, and I  
15 wasn't looking for it except in the records, and I asked her  
16 if she knew anything about Mr. Slosjarik having a deed to  
17 some two acres of land in that area.

18 Now Mrs. Blankenship lived right in  
19 the middle of this property that we are discussing.

20 Q Was she then living on Route #60?

21 A Yes, she lived on this little Parcel  
22 as shown on these maps, and that's where I talked to her at.

23 Q What did she say about --

24 MR. POOLE: Objection to the hearsay  
25 on this.

Cole - Direct

11.

1 MR. MCDONALD: I'll make an offer of  
2 proof on this in the event that it becomes --

3 MR. POOLE: You may vouch the record.

4 MR. MCDONALD: -- in the event that  
5 Mrs. Mary Elizabeth Ritter Blankenship is not  
6 either competent, or able to testify.

7  
8 BY MR. MCDONALD: (Continuing)

9 Q Could you state what she stated to  
10 you about her knowledge of this deed?

11 A She told me that Steve Slosjarik did  
12 not have a deed to the property.

13 Q Do you recall if she stated how she  
14 happened to know this?

15 A No, I was just talking to her and one  
16 of the things I wanted to determine from her was whether  
17 there was really any controversy as to the boundary line of  
18 her home, and it was not, because the measurements that she  
19 gave me exactly coincided that I had from the tax records,  
20 and I just asked her about what Mr. Slosjarik had asked me  
21 about the two and a half acres, or two acres, and I inquired  
22 of her about it, and she simply told me that he didn't own  
23 any land like that, and that was the end of the conversation.

24 Q Right. Now did there come a time --

25 A Let me correct that. I'm not sure that

Cole - Direct

12.

1 she said he didn't own any. Her verbatim words to me, as I  
2 recall it now, was that he didn't have a deed.

Q Did there come a time when a portion  
of the property owned by the heirs of Katherine Ritter Hicks  
was sold to Mr. Robert L. Bulifant, Jr.?

A Yes.

Q And did you execute a deed to Mr.  
Bulifant as a special commissioner in the partition suit?

A Yes.

Q In connection with that transaction,  
do you recall if there were any collateral documents by the  
attorney examining the title for Mr. Bulifant?

A I got a preliminary report from an  
attorney, John Carter, and he set forth in that report cer-  
tain objections to the title and he desired some evidence as  
to payments of federal estate and state inheritance taxes,  
and he also requested an affidavit as to the names of the  
lawful heirs of Louis Ritter.

Q Do you recall whether such an affidavit  
was furnished?

A It would almost again be surmised on  
my part --

MR. POOLE: Objection is made to the  
surmise.

Cole - Direct

13.

A (Continuing) -- but the transaction was completed and evidently Mr. Carter was satisfied.

BY MR. MCDONALD: (Continuing)

Q But my question is whether you have any present recollection about you either furnishing, or causing to be furnished an affidavit?

A To be perfectly honest with you, I do not recall at this time. I have looked through my records and at this time I can't locate a copy of an affidavit which I may have sent Mr. Carter.

I did send Mr. Carter information to show him that the federal estate and state inheritance taxes had been paid.

MR. MCDONALD: All right. I have no further questions.

MR. POOLE: We have no questions.

And further this deponent saith not.

THE INSPECTION, READING AND SIGNING OF THE FOREGOING DEPOSITION IS WAIVED WITH THE EXPRESS AGREEMENT OF COUNSEL AND THE WITNESS.

THIS DEED made this 9th day of April, 1964, by and between GERTRUDE H. RITTER, Widow of Henry Frank Ritter, who was sometimes known as Henry F. Ritter and H. F. Ritter, party of the first part, and KATHERINE R. HICKS, party of the second part.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, receipt of which is hereby acknowledged, and other good and valuable consideration, the party of the first part doth hereby grant and convey, with GENERAL WARRANTY of TITLE, unto the party of the second part, in fee simple, her vested dower interest, and also all other right, title and interest which she has or may have in her own right and which she has or may have inherited from her husband, Henry Frank Ritter, in the following described real estate:

PARCEL (1)

That certain tract of land lying and being on the north side of U. S. Route 60 (Midlothian Turnpike), Chesterfield County, Virginia, about one and one-half miles from the city limits of Richmond, Virginia, described as follows:

Beginning at a point on the said north line of U. S. Route 60 (Midlothian Turnpike) at the east line of land owned by John Zakas; thence running and fronting on the said north line of said U. S. Route 60 (Midlothian Turnpike) in an easterly direction three hundred and fifty (350) feet to a point; thence running back between the said east line of land owned by John Zakas and line parallel five hundred and eighty (580) feet, containing approximately 4.66 acres, less and excepting therefrom a portion conveyed to the Commonwealth of Virginia for the widening of U. S. Route 60.

Being a portion of the real estate conveyed to H. F. Ritter from V. C. Adamson, Special Commissioner, by deed dated July 26, 1954, and recorded August 16, 1954, in Deed Book 448, page 366, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (2)

That certain tract of land lying and being on the north side of U. S. Route 60, Chesterfield County, Virginia, described as follows:

Beginning at a point at the southeastern corner of the land herein conveyed at its corner with the western line of parcel conveyed H. F. Ritter at the northern line of the new right-of-way of U. S. Route 60; thence along the new right-of-way of U. S. Route 60 in a westerly direction 25 feet; thence running back from said front between parallel lines in a northerly direction 500 feet, more or less.

Subject, however, to the life interest of Mike Adamskis to use a part of said land to locate a trailer or building and to occupy same.

Being the same real estate conveyed to H. F. Ritter from Emanuel Antonios Zervakis and Margaret Zervakis, his wife, by deed dated July 26, 1954, recorded August 16, 1954, in Deed Book 448, page 370, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (3)

All those two certain pieces, parcels or tracts of land, lying and being in the County of Chesterfield, in the State of Virginia, containing together twenty-four and one-half ( $24\frac{1}{2}$ ) acres, be the same more or less. The first tract or parcel fronts on the Southern line of the Midlothian Turnpike and is bounded on the West by the lands of Stephen Sheppardson on the East by a road twenty (20) links wide, which separates this land from the lands of Charles Dessner, and on the South by the land containing by recent survey four and one half ( $4\frac{1}{2}$ ) acres, more or less. The second piece or parcel of land contains twenty (20) and ten fortieths ( $10/40$ ) acres, the said land is bounded on the north by a road thirty five (35) links wide, on the east by the lands of the said Charles Dessner on the south by the Old Coal Pit Railroad, the said land above mentioned and described and clearly set forth on a map of the said land by W. W. LaPrade and Brother, Engineers and Surveyors, August 11th 1917; and the said two tracts or parcels of land are designated as parcels one and two on the said map; which said map is of record in the Clerk's Office of the Circuit Court of Chesterfield County, Virginia.

Being the same real estate conveyed to Henry F. Ritter from W. J. Parrish, Jr., and Brockenbrough Lamb, Trustees, by deed dated September 26, 1929, recorded September 27, 1929, in Deed Book 200, page 433, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (4)

That certain tract of land lying and being on the Southside of U. S. Route 60 (Midlothian Pike), in Manchester District, Chesterfield County, Virginia and further described as follows:

Beginning at a stone on the South line of Midlothian Pike, said stone being on the Eastern line of a road between the

properties of Ella A. Diessner and J. C. Cheatwood, and running thence along the South line of Midlothian Pike Easterly Three Hundred and Fifty-Two Feet, three inches (352'3"); thence a new line South 2° W. 1819.3 feet; thence along the center of the old coal pit or Bogy Railroad bed Westerly Three Hundred and Forty-Nine Feet and seven inches (349'7") to a stone; thence North 3° East along the boundary of J. C. Cheatwood Seven Hundred and Forty-five feet, eight inches (745'8") to a road across J. C. Cheatwood's property, thence in an Easterly direction Thirteen feet, two inches (13'2") to a stone, thence along the Eastern line of said road North 3° E. Seven Hundred and Two feet, nine inches (702'9") to a stone; thence continuing along Eastern line of said road N. 5° West Three Hundred and Forty-Six feet five inches (345'5") to point of beginning.

Being the same real estate conveyed to Henry F. Ritter from J. D. Cockerham and Nettie Helen Cockerham, his wife, by deed dated November 18, 1941, recorded November 26, 1941, in Deed Book 269, page 498, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (5)

All that certain lot, tract or parcel of land lying and being in Chesterfield Magisterial District, Chesterfield County, Virginia, about four or five miles from the City of Richmond, and containing ten and one-half (10-1/2) acres, more or less and bounded as follows, to-wit: On the north

by D. K. Weisiger; on the South by William Ambrose; on the West by Jacob White; and on the East by William Harris.

Being the same real estate conveyed to Henry Ritter from John Snead, Trustee, by deed dated January 19, 1935, recorded February 27, 1935, in Deed Book 223, page 322, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (6)

All that certain piece, parcel or lot of land, lying and being in Manchester Magisterial District, in Chesterfield County, about four and one-half miles from the City of Richmond, Virginia, and more particularly described, as follows:

Beginning at a point on the South side of the Midlothian Turnpike, where the hereinafter described property corners with the land of S. L. Bass, thence running and fronting along the said Midlothian Turnpike North eighty and one-fourth (80¼) degrees, East three hundred and fifty-one and seven tenths (351.7) feet to the land of Dr. John Dunn, thence South nine and one-half (9½) degrees East eight hundred and ninety-eight (898) feet to old Chesterfield

Railroad line, thence South eighty-nine and three-fourths (89-3/4) degrees West three hundred and fifty-six and seven tenths (356.7) feet to the land of said S. L. Bass, thence North nine and one-half (9½) degrees West eight hundred and thirty-nine (839) feet to the point of beginning, containing seven acres, as shown on Map made of this property by W. W. LaPrade and Brothers, Civil Engineers and Surveyors, May 15th, 1930, said map being recorded with a deed dated May 17, 1930, between S. L. Bass and others and Henry Ritter, in Deed Book 205, page 114, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

Being the same real estate conveyed to Henry Ritter from S. L. Bass and others, by deed dated May 17, 1930, recorded May 24, 1930, in Deed Book 205, page 114, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (7)

All that certain parcel of land containing 1.91 acres on the south line of Midlothian Turnpike, with improvements thereon, about two miles from Richmond, Virginia, located in Manchester Magisterial District, Chesterfield County, Virginia.

Being the same real estate conveyed to Henry F. Ritter from W. A. Willeroy, Special Commissioner, by deed dated January 3, 1938, recorded January 22, 1938, in Deed Book 240, page 328, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

#### PARCEL (8)

All those two certain lots, pieces or parcels of land containing by actual metes and bounds One and Fifty-four Hundredths acres (1.54 acres) and Seventy-nine Hundredths acres (79/100 acres), aggregating Two and Thirty-Three Hundredths acres (2.33 acres), more or less, lying on the Midlothian Turnpike about three (3) miles from the City of Richmond, Virginia, and designated as Lots 3-A and 3-B on a plat of survey made by W. W. LaPrade and Bros., January 11, 1927 and platted for division among the heirs and legatees of Nathan Jones, deceased, January 30, 1928, and recorded with a deed from Edgar Jones to Clarence M. Jackson in the Clerk's Office of the Circuit Court of Chesterfield County, Virginia; said lots of land are the same conveyed Virginia Loving by Lucy Jones and others by their deed, dated February 15, 1928 and of record in the aforesaid Clerk's Office in D. B. 234, page 319, to which deed, reference is here made for further details and description.

Being the same real estate conveyed to Henry F. Ritter from Virginia Loving and Harvey Loving, her husband, by deed dated December 1, 1937, recorded December 2, 1937, in Deed Book 239, page 292, Clerk's Office, Circuit Court, Chesterfield County, Virginia.



PARCEL (9)

All that certain piece or parcel of land lying and being in Manchester District, Chesterfield County, Va. on the South side of the Midlothian Turnpike about four (4) miles West of the new Corporate limits of Richmond, Va. described as follows:

Commencing on the South side of the said Midlothian Turnpike at the eastern side of a road running South from said Turnpike and fronting on the south side of said Midlothian Turnpike toward Richmond, Va. the distance of 360 feet; thence running back from said front, one line being the eastern line of the road above mentioned and a line parallel therewith 786 feet more or less, or a sufficient depth to include six and one-half (6-1/2) acres.

Being the same real estate conveyed to Henry F. Ritter from Lewis Ritter and Caroline Ritter, his wife, by deed dated March 8, 1926, recorded May 27, 1926, in Deed Book 184, page 454, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (10)

All that certain piece or parcel of land lying and being in Manchester Magisterial District, Chesterfield County, Virginia, on the west side of German School Road and more particularly described as follows, to-wit:

Beginning at a point on the west line of German School Road 1436.18 feet from the north line of the right of way of U.S. Highway 60 (Midlothian Turnpike); thence from said point of beginning, running along the western line of German School Road north  $3^{\circ} 45'$  west 76 feet; thence back from said front between parallel lines south  $83^{\circ} 00'$  West 300 feet, designated as Lot 11 on the plan of the estate of Sarah Adamson, plat of which was made by W. W. LaPrade and Bros., Civil Engineers, dated August 22, 1946.

Being the same real estate conveyed to Henry F. Ritter from Alice Adamson Cowin, and others, by deed dated July 21, 1949, recorded August 3, 1949, in Deed Book 356, page 15, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (11)

All that certain piece or parcel of land lying and being in Manchester Magisterial District, Chesterfield County, Virginia, on the west side of German School Road and more particularly described as follows, to-wit:

Beginning at a point on the west line of German School Road 1208.18 feet from the north line of the right of way of U.S. Highway 60 (Midlothian Turnpike); thence from said point of beginning, running along the western line

of German School Road north 3° 45' west 76 feet; thence back from said front between parallel lines south 83° 00' west 300 feet, designated as Lot 8 on the plan of the estate of Sarah Adamson, plat of which was made by W. W. LaPrade and Bros., Civil Engineers, dated August 22, 1946.

Being the same real estate conveyed to Henry F. Ritter from Alice Adamson Cowin, and others, by deed dated July 18, 1949, recorded August 3, 1949, in Deed Book 356, page 13, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (12)

All that certain lot or parcel of land together with the improvements, rights, privileges and appurtenances, thereon and thereto belonging, containing one (1) acre of land, lying and being on the Midlothian Turnpike in Chesterfield County, Virginia, beginning at the point of intersection of the north line of the Midlothian Turnpike with the west line of Bliley Road, and fronting two hundred feet (200') on the said North line of the Mid-

lothian Turnpike in a westerly direction, and running back between the west line of Bliley Road and a line parallel therewith about two hundred and eighteen feet (218') to include one (1) acre of land.

Being the same real estate conveyed to Henry F. Ritter from Louis Ritter, Jr., unmarried, by deed dated January 3, 1929, recorded January 15, 1929, in Deed Book 197, page 7, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (13)

All that certain lot or parcel of land on the Midlothian Turnpike, about three and one-half (3-1/2) miles from the City of Richmond, Virginia, in Manchester Magisterial District, being the same land of which Joseph Jefferson died seized and possessed, and containing approximately two (2) acres, and fronting on the Midlothian Pike about seventy (70) feet, more or less, and running back sufficient depth to make the two (2) acres.

Being the same real estate conveyed to Henry Ritter from Benjamin Jefferson and others, by deed dated July 5, 1932, recorded September 2, 1932, in Deed Book 214, page 1; also by deed to Henry Ritter from Grace Darling dated August 16, 1939, recorded November 6, 1939, in Deed Book 252, page 399; also by deed to Henry Ritter from Russell Elwood Slack and others, by deed dated November 17, 1938, recorded November 6, 1939, in Deed Book 252, page 398; also by deed to Henry Ritter from Jacob Jefferson and Junius Truman by deed dated November 18, 1938, recorded November 6, 1939, in Deed Book 252, page 398, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (14)

All those certain pieces or parcels of land, lying and being in the County of Chesterfield, Virginia, in Manchester Magisterial District and containing about 9.32 2/3 Acres, more or less, fronting on the Midlothian Turnpike, about 4 miles from the City of Richmond, Virginia, and designated on a plat of survey made by W. W. LaPrade & Bros. Jan. 11, 1927, and platted for division Jan. 30, 1926 and recorded with a deed from Robert Jones to the said Clarence M. Jackson in the Clerk's Office of Chesterfield County Court.

Being the same real estate conveyed to H. F. Ritter from John H. Braxton, Trustee, by deed dated March 3, 1937, recorded June 24, 1937, in Deed Book 236, page 361, Clerk's Office, Circuit Court, Chesterfield County, Virginia; also by deed to Henry F. Ritter from Virginia Loving and Harvey Loving, her husband, by deed dated June 22, 1937, recorded June 24, 1937, in Deed Book 236, page 358, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (15)

All that piece, parcel and tract of land being approximately 6½ acres and described generally as adjoining the land of Henry Ritter and Mary Ritter Blankenship and Katherine Slosjarik and Louis Ritter on the West; on the South by the lands of Angus Wood and J. H. Cordle; on the East by the lands of Steve Slosjarik; and on the North by U. S. Highway No. 60.

Being the same real estate conveyed to Henry F. Ritter and Mary Ritter Blankenship, by deed dated February 3, 1942, recorded February 23, 1942, in Deed Book 272, page 51, Clerk's Office, Circuit Court, Chesterfield County, Virginia. Reference is also made to a deed to Carrie A. Ritter from Peter Ritter and others, dated April 18, 1941, recorded October 15, 1941, in Deed Book 268, page 499; and also by deed to Carrie A. Ritter and Louis Ritter from Henry F. Ritter and others, dated March 3, 1950, recorded March 13, 1950, in Deed Book 366, page 203, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (16)

All of that certain lot or parcel of land lying and being in the County of Chesterfield, Virginia, in Manchester Magisterial District and containing by actual metes and bounds about 2-1/3 acres, more or less, fronting on the Midlothian Turnpike, about 3 miles from Richmond, Virginia, and designated as Lot 5 on a plat of survey made by W. W. LaPrade & Bros., January 11th, 1927, and platted for division among the heirs and legatees of Nathan Jones January 30th, 1928, and recorded with a Deed from Edgar

Jones to Clarence M. Jackson in the Clerk's Office of the Chesterfield Circuit Court; the said piece or parcel of land being identically the same conveyed the party of the first part by Lucy Jones, Virginia Loving, et als, by their deed dated February 15th, 1928, and of record in the Circuit Court, Clerk's Office, of Chesterfield County, Virginia, in D. B. 199, page 296; and reference is here made to the aforesaid plat and deed for a further and more accurate description of the real estate herein conveyed.

Being the same real estate conveyed to H. F. Ritter from Nathaniel Jones, unmarried, by deed dated December 27, 1929, recorded February 3, 1930, in Deed Book 203, page 307, Clerk's Office, Circuit Court, Chesterfield County, Virginia.

PARCEL (17)

Any and all other real estate which the said Henry Frank Ritter died siezed and possessed, located in Chesterfield County, Virginia, or elsewhere, it being the intent of the parties hereto that the party of the first part convey all of her interest of every kind and description in real estate to the party of the second part.

This deed is made subject to all public utility easements of record and also subject to all covenants, conditions and restrictions of record which may be running with the land, insofar as the same are applicable to the land conveyed.

Except as noted above, the party of the first part covenants that she has the right to convey the said land to the grantee; that she has done no act to encumber the said land; that the grantee shall have quiet possession of said land, free from all encumbrances; and that she will execute such further assurances of said land as may be requisite.

WITNESS the following signature and seal:

*Gertrude H Ritter* (SEAL)  
Gertrude H. Ritter

STATE OF VIRGINIA,

CITY OF RICHMOND, to-wit:

I, Virginia B. Lancell, a Notary Public in and for the City aforesaid, in the State of Virginia, do hereby certify that Gertrude H. Ritter, widow, whose name is signed to the foregoing writing, bearing date of April 9, 1964, has appeared before me and acknowledged the same in my City aforesaid.

Given under my hand this 7th day of May, 1964.

My commission expires July 16, 1967.



Virginia B. Lancell  
Notary Public

VIRGINIA:

In the Clerk's Office of the Circuit Court of Chesterfield County, the  
8<sup>th</sup> day of May, 1964, this deed was presented and  
with the certificate admitted to record at 1:30 o'clock P.M.  
Recordation Tax \$ 100.00; I. R. Stamps, annexed, \$ 55.00

Teste:

William R. Shelton, Clerk



~~Whereas, there now remains of the said original ten (10) acre lot belonging to the party of the first part about six and one-half (6-1/2) acres on which the store and old homestead is located; and,~~

Whereas, the party of the first part has sold the balance or remainder of the said ten (10) acre tract to the parties of the second part, and now desire to convey the same: Now, therefore, this deed WITNESSETH: That the party of the first part, for and in consideration of the sum of five dollars (\$5.00) and other good and valuable considerations paid unto her by the parties of the second part, doth grant unto the said parties of the second part, with General Warranty of Title, all her right, title and interest in and to the residue of the ten (10) acre tract hereinbefore described, being approximately six and one-half (6-1/2) acres, and described generally as adjoining the lands of Henry Ritter and Mary Ritter Blankenship and Katherine Slosjarik and Louis Ritter on the west; on the south by the lands of Angus Wood and J. H. Cordle; on the east by the lands of Steve Slosjarik, and on the north by U. S. Highway No. 60, and being the same land remaining of the land conveyed the party of the first part by the said Peter Ritter and others, less the conveyances hereinbefore referred to as made by the party of the first part.

It is understood and agreed between the parties hereto that this parcel of land

is sold in gross and not by the acre, and is intended to embrace only such lands as are left belonging to the party of the first part.

The party of the first part covenants that she has the right to convey the said land to the grantees; that she has done no act to encumber the same; that the grantees shall have quiet possession of the said land, free from all encumbrances; and that she, the party of the first part, will execute such further assurances as may be requisite.

Witness the following signature and seal:

Witness hand of Carrie A. Ritter: <sup>her</sup> Carrie A. (X) Ritter (Seal) <sub>mark</sub>

James E. Hedges

State of Virginia, County of Chesterfield, to-wit:

I, Margaret Eva Baker, a Notary Public in and for the City of Richmond, and as such authorized to act in Chesterfield County, Virginia, do hereby certify that Carrie A. Ritter, whose name is signed to the foregoing writing, bearing date as of February 3, 1942, has acknowledged the same before me in my County aforesaid.

Given under my hand this 12th day of February, 1942.

My commission will expire October 17, 1945.

Margaret Eva Baker, Notary Public.

VIRGINIA: In the Clerk's Office of the Circuit Court of Chesterfield County, the 23rd day of February, 1942, this Deed was presented and with the Certificate, admitted to record at 10:00 o'clock, A.M. \$1.65 In Internal Revenue Stamps being affixed and cancelled.

*Verified*  
*2/24/42*

Teste:

M. Walter J. Jendel Clerk.

A COPY. TESTE:

Lewis H. Vaden,

By Frances

Dej