

**EXHIBIT “3”**



4. We purchased the property from my long time friends, Ned Kopald, a local attorney, and his sister-in-law, Susan Kopald. My best friend, Jonathan Kopald, Esq., was married to Susan Kopald until his untimely death in 2006. At the time I was negotiating the purchase, I informed the Kopald family that I intended to build a single family home on the parcel for my daughter, Jaidin Paisley Tonneson, who is engaged to be married.

5. The sellers of the real property are related to the Petitioner. Ned Kopald, Esq., is the uncle of the Petitioner and Susan and the late Jonathan Kopald are the parents of the Petitioner, Deborah Kopald. Upon information and belief, Ned Kopald and Susan Kopald are also principals of the Canterbury Forest Corp., the owner of neighboring parcels of land. In August 2019 Deborah Kopald came onto the subject parcel and I informed her that my family had purchased the land. She told me that she was unaware that her family had sold the subject parcel.

6. Soon after closing of title I made plans to improve the property with the construction of a single family home. I proceeded to obtain the appropriate building permits and approvals from the Town of Highlands Building Department.

7. After obtaining the appropriate building permits, I performed site work, installed a foundation, and contracted for the installation of a modular home upon the foundation. Modular construction allows for the actual construction of the home off-site which is then transported to the site for assembly. This type of construction generates less noise and is less intrusive to the neighborhood and area homeowners as there is no need for the various trades to be on site for extended periods of time. Also, less construction and traffic noise is generated.

8. Once I started to develop the property and perform site work, I began to receive complaints and multiple phone calls from my up-hill neighbor, the Petitioner, Deborah Kopald.

She resides in a home on an adjacent parcel at 88 Forest Hill Road, which I believe was recently gifted to her by her mother. 88 Forest Hill Road is located approximately 260 feet to the northwest of the home I was building on my property.

9. I have been in the business of developing real property for approximately 50 years and have done so in the Town of Highlands for many decades. The development of the subject property was done consistent with my business practice of always respecting my neighbors and obtaining all lawful Town approvals for the improvements that I was making to the property.

10. During the course of development, the Petitioner made numerous complaints to local authorities and to others about my work on the subject parcel. She claimed that the noise generated by the development was disturbing her. However, at the same time a conventional stick built home was under construction in the neighborhood and Petitioner made no complaints concerning that work to the best of my knowledge. In a telephone conversation I had with Ms. Kopald on September 20, 2019, she demanded that I notify her in advance of turning on any machine or causing any noise on the subject property pursuant to development of my property. I informed her that her demand was not reasonable and that any noise generated by the development would not be excessively loud and would be consistent with ordinary construction practices.

11. The Petitioner, Deborah Kopald, became agitated and responded to me, "You must obey my commands." She then stated to me what I understood to be a threat, claiming, "I will destroy you with my legal knowledge." She further warned me to, "Watch your back." It is my understanding that Ms. Kopald claims she has an unusually high sensitivity to any noise and/or particular noises and/or sound waves. I believe she also claims to have a particular sensitivity to

electromagnetic fields and/or radio waves and/or cellular communication signals and Wi-Fi signals. I believe she did not want us to have these necessities of modern life in our new home.

12. I have read Ms. Kopald's motion papers submitted on her Order to Show Cause, dated May 5, 2020, and also the Exhibits annexed to her papers. Her instant application to this Court is asking for an Order to stop all work and noise making activity on the subject property and directing the Town to deny a certificate of occupancy for my home. She demanded this same relief in her numerous Article 78 actions commenced in the Supreme Court (now all dismissed) and presently by her application before the Town's Zoning Board of Appeals.

13. During the course of the State of Emergency declared by the Governor of the State of New York due to the pandemic, I have been staying in my nearby home with my wife and daughter. I have complied with the Governor's Orders to the best of my knowledge. I have not had work crews present on my property during the pandemic.

14. However, I am aware that the Petitioner, Deborah Kopald, has made numerous false claims to law enforcement and code enforcement officers complaining about activities allegedly taking place on the subject premises. On March 11, 2020 I learned that the Petitioner complained to the Town of Highland's Building Department that a chain saw was being used to remove a tree on the property. At that time I hired Mr. Mellard Jennings of Mel's Old School Tree Cutting Company of Highland Falls to remove a dead and previously fallen tree on the property that was in close proximity to the new house. The building inspector came to my property, and upon information and belief, took photographs of the dead tree that was being removed. I was not advised of any objection by the Building Inspector concerning anything he observed at that time. There was no Order, "Notice to Remedy" or "Notice of Violation" issued to me with respect to that occurrence.

15. On Saturday, March 28, 2020, at about 2:40 p.m. I observed a New York State Police patrol vehicle (#2F10) driving on my driveway outside of the new home that we built. The Trooper appeared to be observing the area but the officer did not speak to me or seek to interact with my in any way. Thereafter I communicated with the NYS Police and learned they were present at that time in response to a complaint they received from the Petitioner, Ms. Kopald. The dispatcher informed me that the complaint was unfounded and there was no violation.

16. On April 1, 2020 I observed a "Notice" taped to the front door of my new home presumably by the Building Inspector, Bruce Terwilliger, of the Town of Highland's Building Department. The Notice indicated compliance with the Executive Order with respect to construction sites. However, I believe the Notice did contain qualifying information to the effect that the Notice shall not apply to construction work, "being performed by a single worker, who is the sole employee/worker on the job site."

17. During the time of the Executive Order I was in fact performing various work on the home. However, I was working on my own home, and I was working alone. The presence of my family (my wife and daughter) with whom I live does not violate the Governor's Orders, to the best of my knowledge.

18. On Friday, April 10, 2020 at about 4:30 p.m., I was performing landscaping work outdoors around my new home. At that time I did observe a parked silver Audi automobile and I believe the driver in the car was the Petitioner, Deborah Kopald. She appeared to be watching me perform work on my property and I had the impression she was stalking me.

19. On Saturday, April 11, 2020 at around 4:00 p.m., I was standing on the back deck of the new home with my wife, Deborah Tonneson, admiring the new pine trees that we had just planted. At that time I observed the Petitioner, Deborah Kopald, come out of her house quickly and onto her deck. Her hurried actions and threatening demeanor caused me to be alarmed. I observed that she was holding an object in her hands and aiming it in my direction. To calm her and to indicate a neighborly exchange I waved to her. I estimate that I was about 250 feet away from her at the time. She was also above where we were standing as her home is at a significantly higher elevation than our home.

20. In the afternoon on Saturday, April 11, 2020 at about 4:30 p.m., a Town of Highlands Police Officer by the name of P.O. Mark Unas arrived in a patrol car at the subject property. I had a conversation with Officer Unas at that time and I came to learn that he was investigating a report of a work crew at my premises that was not practicing social distancing. The complainant further alleged that there was illegal construction taking place at a non-essential job site. After telling Officer Unas what I was working alone at my own home, the officer left our property. He did not give me any warning or direct me to stop working, and there was no "Order to Remedy" or "Notice of Violation" issued to me. At that time my wife was also present on the property. Later that evening P.O. Unas contacted us and informed us we were doing nothing wrong and the Town's Chief of Police, Chief Pierri, indicated that we could continue working.

21. On Tuesday, April 14, 2020 at about 10:30 a.m. another NY State Trooper arrived at the subject property. At that time I engaged in a conversation with State Trooper Patrone and I informed him that I was working around my house and doing numerous chores. I learned that Trooper Patrone was present at the premises that day to investigate a complaint of improper

work taking place in violation of the Governor's Executive Order. I had a pleasant conversation with Trooper Patrone at that time and told him that the house I was building was eventually going to be occupied by my daughter and her future husband (he is presently with the NY National Guard deployed to NYC fighting the Covid-19 pandemic). The couple is planning to be married this summer. Trooper Patrone indicated to me that he is likewise about to be married. He wished us luck and he left the premises. Again, there were no cautionary warnings, "Order to Remedy", or "Notice of Violation" issued to me at that time.

22. Since the time I began developing my property up to the present time, I would estimate that Ms. Kopald has made in excess of 20 complaints to Town and State authorities concerning my development of the property. In all of that time I have never been issued Notices of Violation or directives to remedy any condition on the premises. All of the development of the property has been pursuant to valid building permits and development permits issued by the Town of Highlands. The Building Inspector on numerous occasions has been out to my premises to inspect the stage of the work and, upon information and belief, I have complied with all of the land development requirements of the Town. Ms. Kopald's conduct of filing serial false claims has diminished the enjoyment of our land, our daughter's upcoming wedding and our livelihood.

23. I believe that the Petitioner, Deborah Kopald, is intentionally harassing me and my family. I believe she is intentionally filing false complaints and making false allegations to law enforcement authorities at the Town and State level concerning my lawful development of my property. I can only speculate as to her motivation for doing so. However, it is extremely vexatious and disturbing to me and my family that her conduct continues and we are continually distressed and disturbed preventing the enjoyment of our property.

24. The Petitioner's numerous complaints to law enforcement, particularly during the time of this pandemic, has been extremely difficult. During the time of the pandemic my family and I have been practicing isolation at our home and on the property that I have developed next door. Due to the Petitioner's actions, she has needlessly caused numerous enforcement personnel to visit my premises and interact with my family. Accordingly, I am compelled to meet with the police and risk Covid-19 infection, but I have done so in order to address their concerns. The Petitioner's actions have and continue to diverted law enforcement resources and personnel from activities and locations where they are most needed during this state of emergency. By doing so, Ms. Kopald has violated the spirit and intent of the Governor's Executive Orders and has needlessly exposed me and my family to an increased risk of a potential Covid-19 illness. I am currently 76 years of age and without disclosure of specifics, I do have pre-existing health issues which increase my risk for severe illness from Covid-19.

25. From my observations, it appears that Ms. Kopald has been taking photographs of my home and of my family. It appears from the photographs annexed to her Motion papers that she is using a telephoto lens to capture images of my use of my property.

26. I have also been subjected to harassment for months by drones flying over and through my property and in close proximity to the ground on certain occasions. I believe these drone flights over my property were made at the direction of the Petitioner, Deborah Kopald. I presume that she is photographing and/or filming these flights to use in her continuing lawsuits against my family. Her affidavit threatens future lawsuits against me and my family. Ms. Kopald seems to gain satisfaction and a sense of self-worth from her litigiousness. She seems to enjoy the power she wields to cause extreme aggravation to others through her endless litigations and

use of bullying legal tactics and threats, including her libelous communications and defamations of my character.

27. On or about January 9, 2020, I was on the back deck of my home at 35 Hemlock Street when I observed a drone fly along the perimeter of my back deck. I feel that this is an outrageous invasion of my family's privacy and that it is an activity specifically designed to harass my family. On another occasion, while on the property, I observed a drone fly along the driveway to my daughter's new house also apparently for observation and/or filming purposes and with intent to harm us.

28. I have reviewed the photographs attached as Exhibit 4 to Ms. Kopald's motion papers. The yellow backhoe machine that is depicted in some of the photographs is a vehicle that I own and personally use. It is my New Holland EH35 Mini-Excavator. The various photographs appear to depict me operating the mini-excavator by myself on my property. These photos also depict the black silt fencing in place for erosion control purposes. There is no indication of a work "crew" present on my property in the photographs that Ms. Kopald has submitted. One of the photographs seem to depict me and my wife on the back deck of our home in front of the pine trees I recently planted.

29. Ms. Kopald's Affidavit indicates that a second structure was constructed on the subject parcel in addition to the modular home that I completed on the property. The second photograph in Exhibit 4 depicts a brown colored building in the center of the photograph behind the grey modular house depicted on the left side of the photo. However, that brown house is on a separate parcel and is the home I live in with my wife and daughter located at 35 Hemlock Street. That home has been in existence for a number of years prior to the construction of the

modular home on the subject parcel. Contrary to the Petitioner's allegation, there are no structures erected on the subject parcel other than the modular home.

30. While present on the subject premises I have often heard the sounds of leaf blowers, lawn mowers and various power tools and equipment in use. These are very common sounds produced by my neighbors and their lawn services. The subject premises is surrounded by developed residential properties consisting of single family homes with grass lawns (on Forest Hill Road, Eagle Crest, Hemlock and Poplar Streets) and a condominium complex (at Corbin Hill Road). At this time the subject property is mostly tree covered and there is no lawn. Consequently, I do not currently perform lawn mowing and leaf blowing on the property. However, the sounds I have heard are not excessively loud or generated for extended time periods. These are simply the sounds common to residential developments with grass lawns. My Mini-Excavator generates only minimal noise and I am told it does not disturb any other neighbors.

31. It is highly improper and I object to Petitioner Deborah Kopald's reference to and discussion of my health and medical condition in her motion papers. There is absolutely no legitimate reason to bring to the attention of the Court my medical condition and it has no bearing on the unsupported claims she is making in her papers. Any such references should be stricken and the Petitioner directed to refrain from such references in the future.

32. The Petitioner has made numerous groundless complaints to law enforcement concerning the development of my property. After numerous investigations by the State and local authorities no action was taken against me because no improper activities were, or have been, taking place upon the subject property during the times Petitioner has alleged.

33. The photographs and exhibits she has provided to the Court confirm that there has been no violations of the Executive Order issued by the Governor and that my working on my premises alone or in the presence of my wife and daughter with whom I reside, does not offend the Executive Order or any other code, rule or regulation.

34. I have been advised that this Court is not authorized to award us attorney's fees or other relief to restore us financially due to the expenses we have incurred and continue to incur due to Ms. Kopald's frivolous legal actions. However, I feel we should be entitled to some financial relief in this regard and also some protection from future frivolous litigation by this Petitioner.

35. I respectfully request that this Court deny the relief sought by the Petitioner herein. I further respectfully request that this Court direct that Petitioner be precluded from filing any further motions, requests or applications to this Court concerning the subject property or my family without prior written permission of this Court and that all applications for permission to this Court be made also on notice to the Respondents.

  
David Tonneson

**Remote Notary pursuant to  
Executive Order 202.7**

Sworn to before me this  
14<sup>th</sup> day of May, 2020

  
Notary Public  
(present in Rockland County NY)

STEPHEN M. HONAN  
NOTARY PUBLIC, State of New York  
No. 4942948  
Residing in Rockland County  
Commission Expires Oct. 11, 2022