

From: [Paul Haverty](#)
To: [Douglas Hausler](#)
Cc: [Cohen, Paul](#)
Subject: RE: Charles Way
Date: Thursday, August 11, 2022 8:24:38 PM
Attachments: [image001.png](#)
[image002.jpg](#)

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Doug,

It was my understanding that there was a question about the right to use Charles Way for at least a portion of your client's property. Leaving this question aside, an ANR plan shall be endorsed if it has the required frontage and is "[a] way shown on a plan approved and endorsed earlier by the Planning Board under this chapter[.]" Furthermore, the definition of street in the Chelmsford Zoning Bylaws includes "a way established by a subdivision plan approved in accordance with the Subdivision Control Law[.]" Given these provisions, I do not see why a building permit would not issue for ANR lots having sufficient frontage on Charles Way.

Regards,

Paul

Paul J. Haverty
Blatman, Bobrowski, Haverty & Silverstein, LLC
9 Damonmill Square, Suite 4A4
Concord, MA 01742

From: Douglas Hausler <DHausler@lhrlaw.com>
Sent: Thursday, August 11, 2022 7:53 PM
To: Paul Haverty <paul@bbhslaw.net>
Subject: RE: Charles Way

Paul

In your view, what prevents my client from seeking building permits right now for his ANR lots?

He has access thru Charles Way as does any other member of the general public. His frontage is the exact same as the homes on the other side of the street.

Doug

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Paul Haverty
Date: 8/11/22 7:28 PM (GMT-05:00)
To: Douglas Hausler <DHausler@lhrlaw.com>, "Cohen, Paul" <pcohen@chelmsfordma.gov>

Cc: Christine Clancy <cclancy@chelmsfordma.gov>, Mike Shyjan <wrfc@comcast.net>
Subject: RE: Charles Way

[EXTERNAL Email Proceed with Caution]

Attorney Hausler,

I'm not sure what obligation the Town has to improve an existing private way, nor am I aware of any requirement that the Town accept a particular way as a public way. My understanding was that your client was desired to have the Town do the necessary work to bring this street up to a standard where it could be accepted as a public way, and that your client would be willing to pay for some or all of that work. If that is no longer the case, please advise.

Regards,

Paul

Paul J. Haverty
Blatman, Bobrowski, Haverty & Silverstein, LLC
9 Damonmill Square, Suite 4A4
Concord, MA 01742

From: Douglas Hausler <DHausler@lhrlaw.com>
Sent: Wednesday, August 10, 2022 5:01 PM
To: Cohen, Paul <pcohen@chelmsfordma.gov>
Cc: Paul Haverty ; Christine Clancy <cclancy@chelmsfordma.gov>; Mike Shyjan <wrfc@comcast.net> **Subject:** RE: Charles Way

The Town needs to fix this issue. Perhaps a court will agree, but I am quite certain that Mike has no responsibility to do so

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Cohen, Paul" <pcohen@chelmsfordma.gov>
Date: 8/10/22 4:47 PM (GMT-05:00)
To: Douglas Hausler <DHausler@lhrlaw.com>
Cc: Paul Haverty; Christine Clancy <cclancy@chelmsfordma.gov>, Mike Shyjan <wrfc@comcast.net> Subject: RE: Charles Way

[EXTERNAL Email Proceed with Caution]

Doug,

I did not request that you prepare the language for a Town Meeting Warrant Article.

I do not foresee the Town taking the roadway without an agreement with your client Mike Shyjan.

I have asked Town Counsel Paul Haverty to contact you.

Sincerely,

Paul E. Cohen
Town Manager
Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824
978-250-5202

Chelmsford Town Offices Hours:
Monday, Wednesday, Thursday: 8:30 AM – 4:00 PM
Tuesday: 8:30 AM – 7:00 PM
Friday: 8:30 AM – 1:00 PM

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From: Douglas Hausler <DHausler@lhrlaw.com>
Sent: Tuesday, August 9, 2022 4:57 PM
To: Cohen, Paul <pcohen@chelmsfordma.gov>
Cc: Paul Haverty; [Christine Clancy <cclancy@chelmsfordma.gov>](mailto:cclancy@chelmsfordma.gov); [Mike Shyjan <wrfc@comcast.net>](mailto:wrfc@comcast.net) **Subject:** RE: Charles Way

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Paul:

The language that you desire to include on any Town Warrant should be prepared by Town Counsel since it is the Town that needs to resolve these long-standing problems. Only the Town can take the street by eminent domain. To my knowledge, Fre-West continues to own the property. I saw nothing at the Registry of Deeds showing that the road has been conveyed to anyone else.

Sooner or later, the Town needs to fix this mess – Mike Shyjan did not create this problem. It is on the Town to get this process moved forward so Mike can be in a position to assist.

I understand that you would like to have my client help fund this, but that is an entirely separate issue – the first issue that needs to be solved is the Town's rightful control of the Street. All of those steps are to be done by the Town, not by me as Mike's attorney. The road needs repairs. To spend money on those repairs or to perform any snow plowing or other municipal repair services, the Town needs to own the road regardless if Mike contributes to the costs of those repairs and regardless of the Town's formal acceptance of that road as a public way. By using its eminent domain power, the Town can at least acquire the road and then we can proceed with efforts to reach a binding agreement. I trust that the Selectmen will be made aware that the ball is in the Town's court and that this major problem can get solved by the Town taking the next steps within its powers, not Mike's.

I want to keep this door open and would like nothing better than for this to be resolved for Mike's benefit, the benefit of the abutters living on Charles Way, and the Town correcting what should have been done decades ago.

Please have Town counsel call me to discuss this further.

Douglas E. Hausler, Esq.
LAMPERT, HAUSLER & RODMAN, P.C.

10 North Road
Chelmsford, MA 01824
Office: (978) 256-6080
Fax: (978) 256-0515
Cell: (508) 864-5900
dhausler@lhrlaw.com

From: Cohen, Paul <pcohen@chelmsfordma.gov>
Sent: Tuesday, August 9, 2022 10:36 AM
To: Douglas Hausler <DHausler@lhrlaw.com>
Cc: Paul Haverty; [Christine Clancy](mailto:CChristine.Clancy@chelmsfordma.gov) <CChristine.Clancy@chelmsfordma.gov>; Mike Shyjan <wrfc@comcast.net> **Subject:** RE: Charles Way

[EXTERNAL Email Proceed with Caution]

Dear Attorney Hausler,

The Chelmsford Select Board is scheduled to meet on Monday evening, September 12th to sign the Warrant for the October 17, 2022 Fall Annual Town Meeting. I have a place holder on the draft Warrant for Charles Way. I need to have the final language for the Town Meeting Warrant Article by September 7th.

Progress needs to be made to determine who retains the beneficial interest in the lapsed entity that holds the property rights to Charles Way and to notify the property owner of Charles Way of an eminent domain taking by the Town.

The Town would also need to enter into an agreement with Mike Shyjan to fund the improvements to Charles Way.

The Town would also need to present this information to the Select Board and Finance Committee by the end of September, followed by a presentation to Town Meeting on October 17.

Also, to take advantage of the Town's current seasonal construction contracts, the work would need to be procured and completed prior to end of the current construction season in November.

Please contact Town Counsel Paul Haverty at your earliest convenience.

Thank you,

Paul E. Cohen
Town Manager
Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824
978-250-5202

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From: wrfc@comcast.net <wrfc@comcast.net>

Sent: Thursday, July 7, 2022 2:46 PM
To: Christine Clancy <cclancy@chelmsfordma.gov>
Subject: RE: Charles Way

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Good afternoon Christine,

Hopefully you and family had a great 4th of July Celebration.

Thank you for the work and time you put into preparing the Comparative Costs of getting Charles Way repaired.

With the understanding that your \$112,323.00 price is only good for 2022 and may be adjuster because DEP doesn't have bid numbers or costs for:

1. Fine Grading and Compaction
2. Dense graded crushed stone
3. Fuel and Asphalt are subject to escalation per price adjustment clause

your \$112,323.00 repair price based on the 2022 DPW unit bid prices is more in line with what we were told and budgeted for previously.

I agree, it may be a significant challenge (using Eminent Domain) to have the approvals in place to utilize the Town's contracts to perform this work prior to the end of the calendar year

However, If Chelmsford, utilizing other legal methods, can get possession of Charles Way this year and work can start this year, Shyjan would be ready to sign the "Chelmsford Shyjan Charles Way Repair Agreement" agreeing to pay for the repairs and repairs can start this year.

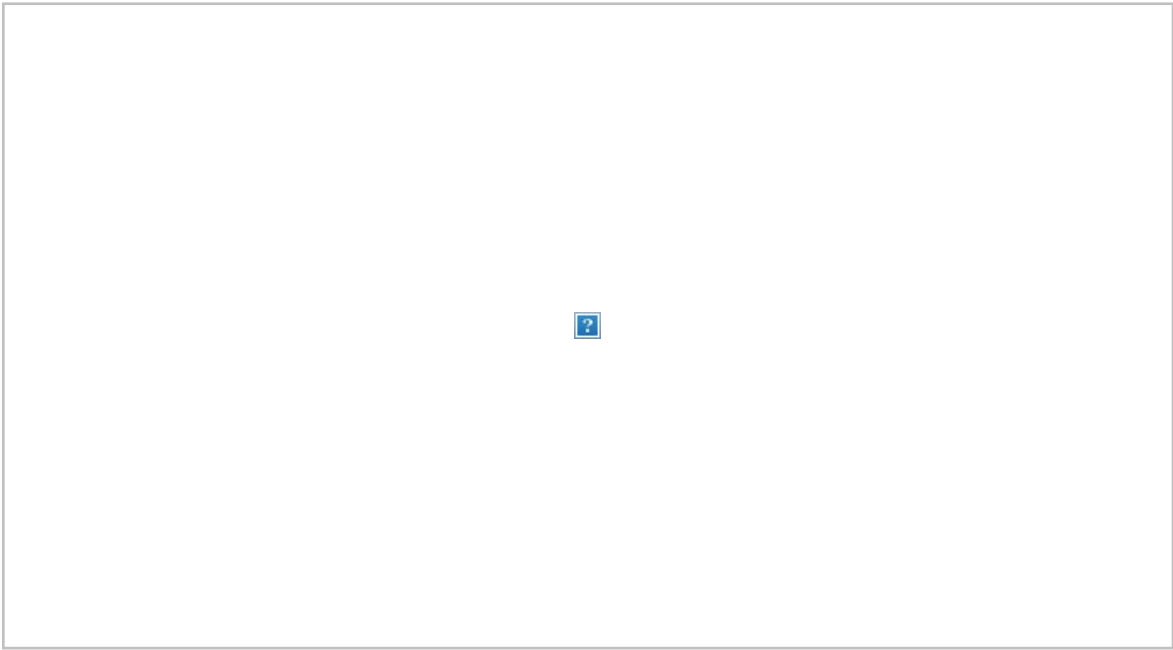
Question: Taking into consideration the unknowns in your \$112,323.00 estimate, what would the total final repair price be to be included in the Agreement?

Thank you for your help.
Best regards,
Mike

On 06/28/2022 3:38 PM Christine Clancy <cclancy@chelmsfordma.gov> wrote:

Good Afternoon Mike,

Below please find the comparison of current market prices vs. the 2022 DPW unit bid prices we discussed earlier this month for roadway work along Charles Way. The DPW unit bid prices are only valid this calendar year. As discussed, it may be a significant challenge to have the approvals in place to utilize the Town's contracts to perform this work prior to the end of the calendar year. Please let me know if you have any questions on the comparison summary provided below.



Thank you,

Christine

Christine Clancy, P.E.
DPW Director
9 Alpha Rd, Chelmsford, MA, 01824, USA
T: [978-250-5228](tel:978-250-5228) ext: 3350
cclancy@chelmsfordma.gov

Clickable Links



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From: wrfc@comcast.net <wrfc@comcast.net>
Sent: Thursday, June 16, 2022 10:04 AM
To: Christine Clancy <cclancy@chelmsfordma.gov>
Subject: RE: Charles Way

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On 06/16/2022 9:42 AM Christine Clancy <cclancy@chelmsfordma.gov> wrote:

Good morning Christine,
Thank you for your reply and help.

Please give me a "heads up" when you send the summary.
Best regards,
Mike

Hi Mike,
Sorry, I have not completed this yet this week. I will prepare a summary this week and will share with you shortly after sharing with Paul.
Thanks,
Christine

From: wrfc@comcast.net <wrfc@comcast.net>
Sent: Thursday, June 16, 2022 7:53 AM
To: Christine Clancy <cclancy@chelmsfordma.gov>
Subject: RE: Charles Way

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Good morning Christine,
In your last email you indicated that you would prepare a summary and send me a copy for review.
Please be advised that to date I have not received a copy for review.
If you emailed me a copy, I have not received it.
Please re-send to wrfc@comcast.net.
I don't want to be a pest. if you emailed it, I just don't want you to think that I received your summary and decided not to reply.
Sorry for any inconvenience.
Thank you for your time and help.
Best regards,
Mike

On 06/09/2022 2:15 PM Christine Clancy <cclancy@chelmsfordma.gov> wrote:

Hi Mike,

I will be preparing a summary and will share that with Paul first. I have not had a chance to prepare that summary yet, but will try to do so tomorrow or early next week.

Thank you,

Christine

From: wrfc@comcast.net <wrfc@comcast.net>
Sent: Thursday, June 9, 2022 11:59 AM
To: Christine Clancy <cclancy@chelmsfordma.gov>
Subject: Charles Way

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Good morning Christine,
Thank you for meeting with Michael and me and reviewing cost options.
You indicated that you would prepare a summary and send me a copy for review.
Please be advised that to date I have not received a copy for review.

If you emailed me a copy, I have not received it.
Please re-send to wrfc@comcast.net.
Thank you for your time and help.
Best regards,
Mike

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