

Bond Case Briefs

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EASEMENTS - MASSACHUSETTS

Athanasiou v. Board of Selectmen of Westhampton

Appeals Court of Massachusetts, Suffolk. - August 22, 2017 - N.E.3d - 92 Mass.App.Ct. 94 - 2017 WL 3597316

Landowners brought action against town, seeking declaration that they were the rightful fee title owners of a disputed area, and town counterclaimed, alleging that it had a prescriptive easement.

The Land Court Department granted summary judgment to landowners on the ownership claim and to town on the easement counterclaim. Landowners appealed.

The Appeals Court held that town acquired prescriptive easement rights over the disputed area.

Town acquired prescriptive easement rights over triangle parcel of property and abutting roadway, which were owned by landowners, where public's adverse use of disputed area was continuous and uninterrupted for 20 years, and town's highway superintendent and others maintained the area, plowed, sanded, oiled, and graveled the roadway, patched potholes, removed trees and fallen limbs from the area, and cleared sediments from the triangle parcel.