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December 26, 2014
Rev. January 12, 2015

Hon. Jayme Stevenson
First Selectman
2 Renshaw Road
Darien, CT 06820

Sarah C. Seelye, Moderator
Representative Town Meeting
2 Renshaw Road
Darien, CT 06820

Jeremy B. Ginsberg, Town Planner
Planning and Zoning Department
2 Renshaw Road
Darien, CT 06820

**Re: Request for Review under Conn. Gen. Stat. § 8-24
Request for Approval of Right of Way Adjustment
Pursuant to Conn. Gen. Stat. §§ 13a-48 & 13a-49
Locust Hill Road Right of Way at Settlers Trail**

Dear First Selectman Stevenson, Ms. Seelye and Mr. Ginsberg:

We represent Knobel Hill, LLC, which is the record owner of property located at 40 Locust Hill Road, at the intersection of Settlers Trail (the "Subject Property"). The purpose of this letter is to request approval for an adjustment of the boundary of Locust Hill Road along the northerly boundary of the Subject Property.

I. BACKGROUND

Locust Hill Road has been a Town road for well over 200 years. Despite diligent searches of the Darien and Stamford land records, however, we have found no records of the original laying out or dedication of the road. An unrecorded, internal map prepared for the Darien Department of Public Works in the early 1980s (the "DPW Map") showed the width of the right of way to be inconsistent along the road's mapped length, with some portions more than 50 feet wide, and other portions less than 50 feet wide. Indeed the right of way width along roughly one half of the Subject Property's frontage is greater than 50 feet, and less than 50 feet along the other half. The proposed adjustment addresses this nonconformity with the 50-foot minimum right of way width of residential streets. (Darien Subdivision Regulations § IV.G.6)

The standard method of correcting irregular right of way boundaries in circumstances similar to the present case is to adjust the boundary of the abutting property so that the distance from the boundary to the centerline of the road is 25 feet. This is based, at least in part, on the presumption that the abutting owners own the land under the road to the centerline. As depicted on the attached map, the right of way adjacent to the Subject Property reveals that the easterly half of the frontage is less than 25 feet from the centerline, and the westerly half of the frontage is greater than 25 feet from the centerline. The proposed adjustment will correct this nonconformity.

II. THE PROPOSED TRANSACTIONS

The proposed adjustment will involve two simultaneous transactions. Both of which require a finding of consistency with the Darien Town Plan of Conservation and Development, under Conn. Gen. Stat. § 8-24.

First, the property owner proposes to dedicate to the Town 1,089± square feet of right of way adjacent to the easterly half of the frontage. This requires the acceptance of the Representative Town Meeting in accordance with Conn. Gen. Stat. § 13a-48. The portion to be dedicated is depicted as Parcel Y on the attached map.

Second, the owner proposes that the Town discontinue the 417± square foot portion of the right of way along the westerly portion of the frontage. This requires an action of the Board of Selectmen, and is subject to approval of the Representative Town Meeting, in accordance with Conn. Gen., Stat. § 13a-49. The portion to be discontinued is depicted as Parcel X on the attached map. The discontinuance will result in the reversion of the 417± square feet to the abutting property.

The result will be the adjustment of the property owner's half of the Locust Hill Road right of way to a conforming width of 25 feet from the Settlers Trail intersection to the westerly end of the Subject Property's Locust Hill Road frontage. In addition, the adjustment will result in the creation of a conforming flare at the intersection, instead of the 90-degree corner.

III. ADDITIONAL CONSIDERATIONS

The proposal will enable the property owner to build an empty nester housing development for residents over 62 years of age. The adjustment will also result in a marked improvement to the sight line from Settlers Trail to the west, by the removal of a retaining wall, and reduction in the grade to meet the current intersection sight line standards. The specific design of this improvement will be subject to approval of both the Department of Public Works and the Planning and

Zoning Commission, details of which will be presented to the Planning and Zoning Commission in a subsequent special permit and site plan review application.

The proposed right of way adjustment is consistent with the Town Plan of Conservation and Development (the "Town Plan"). The Town Plan describes the Subdivision Regulations as follows:

"Subdivision Regulations, last updated in 1992, are another important tool to control the property development of the Town. While zoning regulates the use of land, the Subdivision Regulations guide the layout and design of new road and lots, and ensure that all required improvements are properly accomplished. Subdivision review by the Planning and Zoning Commission makes it possible to continue Darien's long history of well planned development." (Town Plan Appendix A9 at p. A9-1)

The Town Plan also considers adequate right of way widths as considerations in recommending the improvement of traffic flow at certain intersections. (Town Plan Appendix A4)

The proposed right of way adjustment will bring the Settlers Trail intersection into compliance with the standards set forth in the Subdivision Regulations, and thereby improve the safety of the Settlers Trail intersection.

Prior to the dedication of Parcel Y to the Town, the owner will remove the retaining wall and lower the grade to make the sight line conforming, and obviously, create a safer intersection than exists today. This improvement will be at no cost to the Town, and the Town will receive 672± square feet more right of way than it will discontinue and convey back to the property owner.

Finally, the proposed adjustment will complete an effort that began and apparently ended in 1970, when the Planning and Zoning Commission requested the then owner of the Subject Property to set aside an area to bring the right of way and intersection into conformance. Although Parcel Y has been shown on subsequently recorded maps, there is no evidence that the owner actually dedicated that area, or that the Town took any action to accept such a dedication. Nor is there any evidence that the excess width along the westerly portion of the frontage was considered as consideration in exchange for the dedicated right of way area. The current proposal follows through on this.

We respectfully request the following actions:

Planning and Zoning Commission. We request the Commission, pursuant to Conn. Gen. Stat. § 8-24, to issue a report to the Board of Selectmen and

Hon. Jayme Stevenson
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the Representative Town Meeting finding that the proposed dedication and acceptance of Parcel Y, and the proposed discontinuance of Parcel X are consistent with the Town Plan of Conservation and Development.

Board of Selectmen. We request the Board, pursuant to Conn. Gen. Stat. § 13a-49, to discontinue the Parcel X portion of the Locust Hill Road right of way, as depicted on the attached map.

Representative Town Meeting. We request the Representative Town Meeting to approve the proposed right of way adjustment by (a) pursuant to Conn. Gen. Stat. § 13a-48, accepting the dedication of Parcel X as depicted on the attached map, (b) pursuant to Conn. Gen. Stat. § 13a-49, approving the discontinuance of the Parcel X portion of the Locust Hill Road right of way as depicted on the attached map, and (c) authorizing the First Selectman or other appropriate Town official to execute any and all documents necessary to effect the right of way adjustment on behalf of the Town.

We will be happy to provide any additional information that may be necessary to process this request.

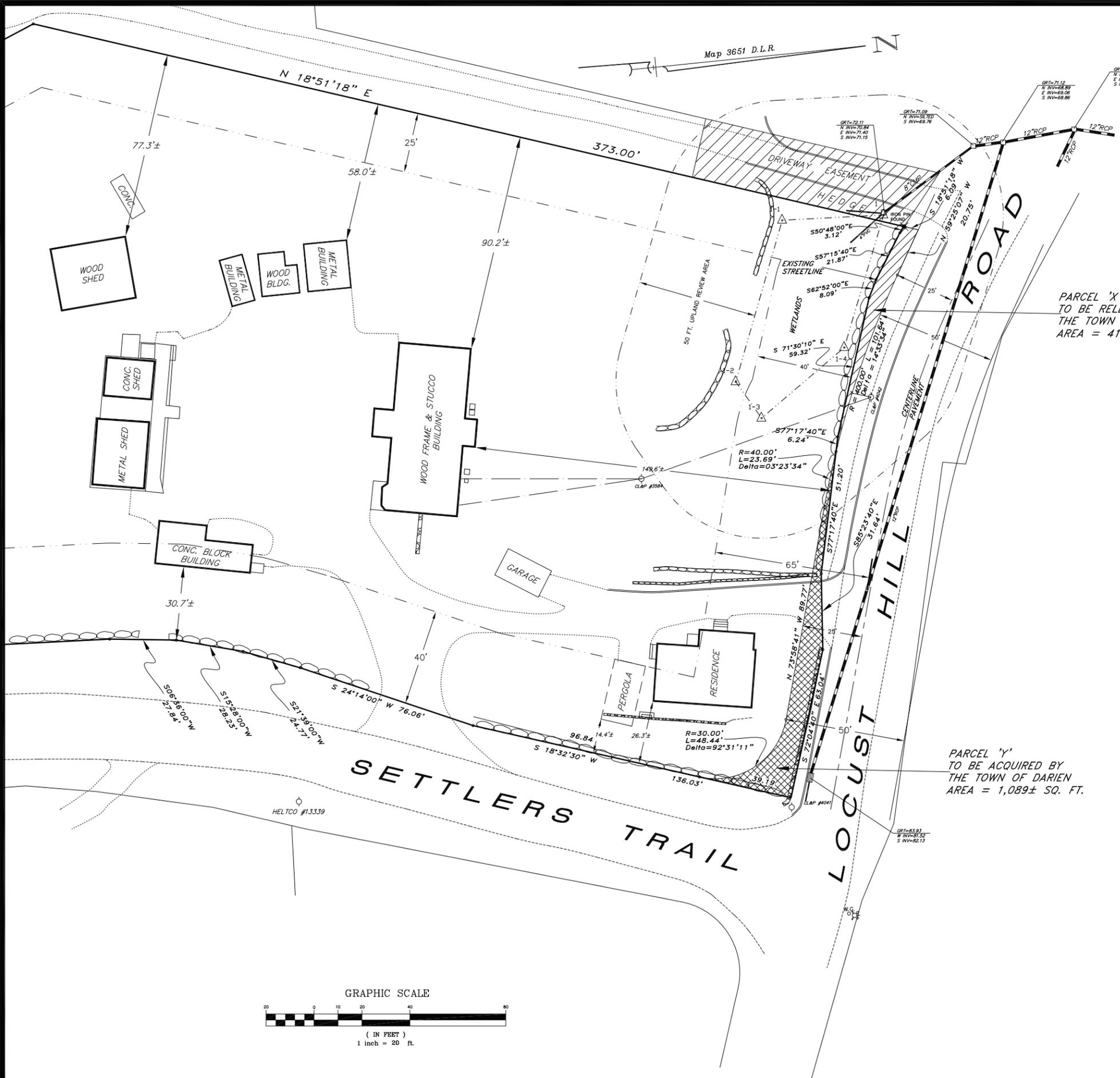
Thank you for your consideration.

Very truly yours,



Robert F. Maslan, Jr.

Attachments:
Right of Way Survey
Conn. Gen. Stat. §§ 13a-48 & 13a-49



THIS SURVEY AND MAP HAVE BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300B-1 THROUGH 20-300B-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT AS ADOPTED FOR USE BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. IT IS A ZONING LOCATION SURVEY THE BOUNDARY DETERMINATION CATEGORY OF WHICH IS A RESURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS "A - 2" AND A TOPOGRAPHIC SURVEY CONFORMING TO TOPOGRAPHIC ACCURACY CLASS "1 - 2" AND IS INTENDED TO DEPICT OR NOTE THE POSITION OF EXISTING OR PROPOSED IMPROVEMENTS WITH RESPECT TO APPLICABLE MUNICIPAL SETBACK REQUIREMENTS IN ORDER TO ENABLE DETERMINATION OF COMPLIANCE WITH SAID REGULATIONS.

THIS SURVEY WAS PREPARED FOR A SPECIFIC PURPOSE. ANY USE OTHER THAN FOR THAT WHICH WAS INTENDED IS A MISUSE OF THIS INFORMATION AND RENDERS THE PREPARER'S DECLARATION NULL AND VOID.

UNAUTHORIZED ALTERATIONS OR ADDITIONS TO THIS MAP RENDERS THE PREPARER'S DECLARATION NULL AND VOID.

DISTANCES NOTED +/- FROM BUILDINGS TO PROPERTY LINES ARE FOR REFERENCE PURPOSES ONLY AND ARE NOT TO BE USED TO ESTABLISH PROPERTY BOUNDARIES.

UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS, IF ANY, ARE NOT DEPICTED HEREON.

PROPERTY IS LOCATED IN A 'R - 1' ZONE.

REFER TO LOT B, MAP 3651, 3878 & 5159 OF THE DARIEN LAND RECORDS.

REFER TO VOL. 1481 PG. 427 OF THE DARIEN LAND RECORDS.

THE STRUCTURES DEPICTED HEREON ARE OLDER THAN 3 YEARS.

THIS PLAN IS NEITHER A SUBDIVISION NOR A RESUBDIVISION UNDER THE TERMS OF CHAPTER 8-18 OF THE CONNECTICUT GENERAL STATUTES, AS AMENDED.

PARCEL 'X'
TO BE RELEASED BY
THE TOWN OF DARIEN
AREA = 417± SQ. FT.

PARCEL 'Y'
TO BE ACQUIRED BY
THE TOWN OF DARIEN
AREA = 1,089± SQ. FT.

RIGHT OF WAY SURVEY
DEPICTING LAND TO BE CONVEYED TO AND FROM
KNOBEL HILL, LLC
40 LOCUST HILL ROAD
AND
THE TOWN OF DARIEN
DARIEN CONNECTICUT

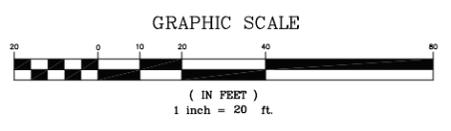
SCALE : 1" = 30' SEPTEMBER 26, 2014

WILLIAM W. SEYMOUR & ASSOCIATES, P.C.
LAND SURVEYORS ~ ZONING & LAND USE CONSULTANTS
170 NOROTON AVENUE ~ 203-655-3331 ~ DARIEN, CONN. ©

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS
SUBSTANTIALLY CORRECT AS NOTED HEREON
PREPARED TO CLASS 'A - 2' STANDARDS

Jeffrey W. McDougal Conn. L.L.S. Reg. No. 70090

12-13095_LOCUST_HILL_ROW.DWG



Connecticut General Statutes Annotated

Title 13A. Highways and Bridges (Refs & Annos)

Chapter 238. Highway Construction and Maintenance (Refs & Annos)

Part II. Acceptance and Abandonment of Highways

C.G.S.A. § 13a-48

§ 13a-48. Acceptance of highways by municipalities

Currentness

Any municipality whose duty it is to maintain the highways within its limits may, at any annual or special meeting held for that purpose, accept as a public highway any proposed highway situated in such municipality, provided any municipality in which a town meeting is the legislative body may by ordinance or resolution delegate the power to accept public highways to the board of selectmen in accordance with such procedures as the municipality may establish in the ordinance or resolution, and any municipality may, by charter, provide an alternative means for the acceptance of public highways.

Credits

(1963, P.A. 226, § 48, eff. June 6, 1963; 1991, P.A. 91-181, § 1, eff. June 3, 1991.)

Notes of Decisions (29)

C. G. S. A. § 13a-48, CT ST § 13a-48

Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly.

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Connecticut General Statutes Annotated

Title 13A. Highways and Bridges (Refs & Annos)

Chapter 238. Highway Construction and Maintenance (Refs & Annos)

Part II. Acceptance and Abandonment of Highways

C.G.S.A. § 13a-49

§ 13a-49. Discontinuance of highways or private ways

Currentness

The selectmen of any town may, subject to approval by a majority vote at any regular or special town meeting, by a writing signed by them, discontinue any highway or private way, or land dedicated as such, in its entirety, or may discontinue any portion thereof or any property right of the town or public therein, except when laid out by a court or the General Assembly, and except where such highway is within a city, or within a borough having control of highways within its limits. Any person aggrieved may be relieved by application to the Superior Court, to be made and proceeded with in the manner prescribed in section 13a-62. Whenever a petition has been presented to the selectmen for such discontinuance or partial discontinuance of any land dedicated as a highway or private way but which has not been actually used, worked or accepted, as a highway, by the town, and such discontinuance or partial discontinuance has not been made by the selectmen and approved by the town within twelve months after such presentation, any person aggrieved may be relieved by application to said court, to be made and proceeded with in the manner prescribed in section 13a-62.

Credits

(1963, P.A. 226, § 49, eff. June 6, 1963; 1976, P.A. 76-436, § 331, eff. July 1, 1978; 1990, P.A. 90-310, § 2.)

Notes of Decisions (25)

C. G. S. A. § 13a-49, CT ST § 13a-49

Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly.