

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF WILLIAMSBURG/
COUNTY OF JAMES CITY**

P.W. DEVELOPMENT, INC., *et al.*,

Plaintiffs,

v.

CASE NO.: CL20-0034

EARTHTON HOLDINGS, LLC, *et al.*,

Defendants.

EARTHTON HOLDINGS, LLC,

Defendant and Cross-Claim Plaintiff,

v.

CASE NO.: CL20-0034-01

IVY HILL, LLC, *et al.*,

Defendants and Cross-Claim Defendants.

**FINAL ORDER OF DEFAULT JUDGMENT AS TO DEFENDANTS, TOBY G.
ROBINSON, JR.; TOBY G. ROBINSON, SR.; GERALD L. FERGUSON; AND JEAN L.
FERGUSON AND FINAL AGREED ORDER**

THIS CAUSE came to be heard upon the motion of Plaintiffs, P.W. Development Inc. ("PWD") and James H. Newman Jr. a/k/a James H. Newman ("Newman") (jointly, the "Plaintiffs"), by counsel, for default judgment and entry of a final order against the Defendants, Toby G. Robinson, Jr. ("Robinson, Jr."); Toby G. Robinson, Sr. ("Robinson, Sr."); Gerald L. Ferguson ("G. Ferguson"); and Jean L. Ferguson ("J. Ferguson") (collectively, the "Defaulting Defendants"), and entry of a final agreed order (collectively, the "Final Order"), by counsel, as to

Prepared by/return to: John D. Konstantinou, Esq. (VSB No. 36837)
Gregory E. Morris, Esq. (VSB No. 94223)
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Williamsburg, VA 23185

Parcel ID Numbers: 1110100013
1110100014
1110100015
1110100016
1110100017
1020100020
1020100021
1020100022

the remaining Defendants, Earthton Holdings, LLC (“Earthton”) and Ivy Hill, LLC (“Ivy Hill”). It appears to the Court that all of the parties in this action have either (1) by counsel, endorsed this Final Order, indicating their agreement with the relief sought, or (2) are in default. Accordingly, the Court finds as follows:

1. PWD is a Virginia corporation and the owner of real property located at 324 Hill Lane, Toano, Virginia 23168, Parcel ID 1020100022, which is designated, and hereinafter referred to, as “Parcel N” consistent with its designation on a survey entitled “Easement Exhibit Various Parcels Adjacent to Hill Lane Powhatan District, James City County, Virginia” made by Gardy & Associates PC on May 19, 2020 (revised August 31, 2021) (the “2021 Survey”). A reduced copy of the 2021 Survey is attached hereto as Exhibit 1 and incorporated herein by reference, with the original to be simultaneously recorded herewith in the land records and indexed in the Clerk’s Office of this Court as set forth below.

2. Newman is a citizen and resident of the Commonwealth of Virginia and the owner of real property located at 374 Hill Lane, Toano, Virginia 23168, Parcel ID 1020100020, which is designated, and hereinafter referred to, as “Parcel G” consistent with its designation on the 2021 Survey.

3. Earthton is a Nevada limited liability company and the owner of real property located at 217 Hill Lane, Toano, Virginia 23168, Parcel ID 1110100017, which is designated, and hereinafter referred to, as “Parcel E” consistent with its designation on the 2021 Survey.

4. Ivy Hill is a Virginia limited liability company and the owner of real property located at 101 Ivy Hill Road, Toano, Virginia 23168, Parcel ID 1110100013, which is designated, and hereinafter referred to, as “Parcel A” consistent with its designation on the 2021 Survey.

5. Robinson, Sr. and Robinson, Jr. are citizens and residents of the Commonwealth of Virginia and are the owners of real property located at 170 Hill Lane, Toano, Virginia 23168, Parcel ID 1110100014; 184 Hill Lane, Toano, Virginia 23168, Parcel ID 1110100015; and 188 Hill Lane, Toano, Virginia 23168, Parcel ID 1110100016, which are designated, and hereinafter referred to, as “Parcel B”, “Parcel C”, and “Parcel D”, respectively, consistent with their designations on the 2021 Survey.

6. G. Ferguson and J. Ferguson are citizens and residents of the Commonwealth of Virginia and are the owners of real property located at 348 Hill Lane, Toano, Virginia 23168, Parcel ID 1020100021, which is designated, and hereinafter referred to, as “Parcel K” consistent with its designation on the 2021 Survey.

7. Access to and from Parcel N, owned by PWD, and Parcel G, owned by Newman, to State Route 657, a public road more commonly known as Ivy Hill Road (“Ivy Hill Road”) exists over an existing fifteen foot (15’) wide gravel road known as Hill Lane (“Hill Lane”), which is not a public road, and which, with respect to access to Parcel N, owned by PWD, and Parcel G, owned by Newman, begins at Ivy Hill Road and runs through Parcel A, Parcel B, Parcel C, Parcel D, Parcel E, and Parcel K (collectively, hereinafter the “Defendant Parcels”), as such parcels are shown on the 2021 Survey.

8. The Plaintiffs and their predecessors-in-title and/or their respective invitees, guests and/or lessees, and other adjacent property owners, along with their predecessors-in-title and/or their respective invitees, guests and/or lessees, have used Hill Lane to access their respective parcels for a period in excess of at least twenty (20) years and perhaps as long as thirty-five (35) years.

9. On January 3, 2020, the Plaintiffs filed their Complaint against the Defaulting Defendants, Earthton, Ivy Hill, and others seeking to establish its access or legal right of ingress and egress to and from Parcel N and Parcel G over Hill Lane to Ivy Hill Road, the public road. Thereafter, certain parties were nonsuited by the Plaintiffs, such that the Defaulting Defendants, Earthton, and Ivy Hill are the only remaining defendants.

10. The Defaulting Defendants were properly served with a Summons and a copy of the Complaint in accordance with *Virginia Code* §§ 8.01-296(1) and -296(2)(a)&(b), and more than twenty-one (21) days have elapsed during which no responses have been filed.

11. Earthton and Ivy Hill consent to the relief set forth herein, as evidenced by the signature of their counsel below, and join in the relief requested in this Final Order.

THEREFORE, it is ADJUDGED, ORDERED, and DECREED as follows:

a) The Defaulting Defendants, Robinson, Jr., Robinson, Sr., G. Ferguson, and J. Ferguson, are hereby declared in default and are hereby deemed to have admitted the allegations of the Complaint filed by the Plaintiffs as true.

b) Judgment by default is hereby entered in this Final Order against the Defaulting Defendants, Robinson, Jr., Robinson, Sr., G. Ferguson, and J. Ferguson;

c) Pursuant to Count I of the Complaint, PWD and Newman shall be, and hereby are, granted an easement by prescription for the use of the fifteen foot (15') width of Hill Lane for access for ingress and egress to and from Parcel N and Parcel G to Ivy Hill Road, as shown on the 2021 Survey;

d) Pursuant to Count III of the Complaint, PWD and Newman shall be, and hereby are, granted an easement by estoppel for the use of the fifteen (15') width of Hill Lane for access

for ingress and egress to and from Parcel N and Parcel G to Ivy Hill Road, as shown on the 2021 Survey;

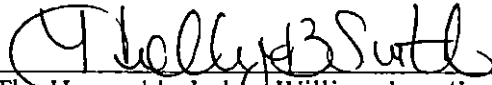
e) The easements granted herein shall run with the land, be appurtenances to Parcel N and Parcel G and shall inure to the benefit of the successors-in-title, successors, and assigns of the Plaintiffs, pursuant to this Final Order;

f) In light of the rulings regarding Counts I and III, Count II is hereby deemed moot and the Court makes no ruling thereon;

g) The Clerk is hereby ORDERED to record this Final Order and the 2021 Survey in the land records of this jurisdiction, indexing them in the names of **P. W. DEVELOPMENT, INC.; JAMES H. NEWMAN, JR. a/k/a JAMES H. NEWMAN; EARTHTON HOLDINGS, LLC; IVY HILL, LLC; TOBY G. ROBINSON, JR.; TOBY G. ROBINSON, SR.; GERALD L. FERGUSON;** and **JEAN L. FERGUSON** as both Grantors and Grantees; and

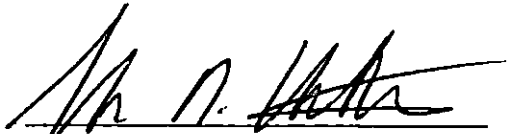
h) A final order is being entered simultaneously herewith regarding Defendant and Cross-Claim Plaintiff Earthton Holdings, LLC's Cross-Claim which concludes the Cross-Claim matter. There being nothing further to be done, this is a FINAL ORDER, and the Clerk is hereby ordered to remove this case from the docket, placing it among the ended cases.

Entered this 28th day of September, 2021.


The Honorable Judge, Williamsburg/James City County
Circuit Court

[Attorney endorsements begin on the next page.]

WE ASK FOR THIS:



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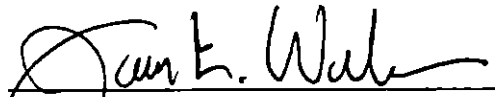
Facsimile: (757) 229-4882

office@wmbglaw.org

Counsel for Plaintiffs, P.W. Development, Inc.

and James H. Newman, Jr. a/k/a James H. Newman

SEEN AND AGREED:



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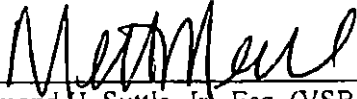
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Counsel for Defendant, Earthton Holdings, LLC

SEEN AND AGREED:



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raysuttle@jbwk.com
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Counsel for Defendant, Ivy Hill, LLC

NOTICE GIVEN AND ENDORSEMENT WAIVED PURSUANT TO RULE 1:13:

Toby G. Robinson, Sr.
8768 Richmond Road
Toano, VA 23168

Toby G. Robinson, Jr.
8768 Richmond Road
Toano, VA 23168

Gerald L. Ferguson
P.O. Box 256
Barhamsville, VA 23011

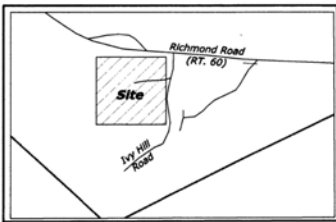
Jean L. Ferguson
P.O. Box 256
Barhamsville, VA 23011

INSTRUMENT 210020423
RECORDED IN THE CLERK'S OFFICE OF
WMSBG/JAMES CITY CIRCUIT ON
OCTOBER 14, 2021 AT 01:09 PM
MONA A. FOLEY, CLERK
RECORDED BY: EEO

1 Large/Small Plat(s) Recorded
herewith as # 210020423

EXHIBIT 1

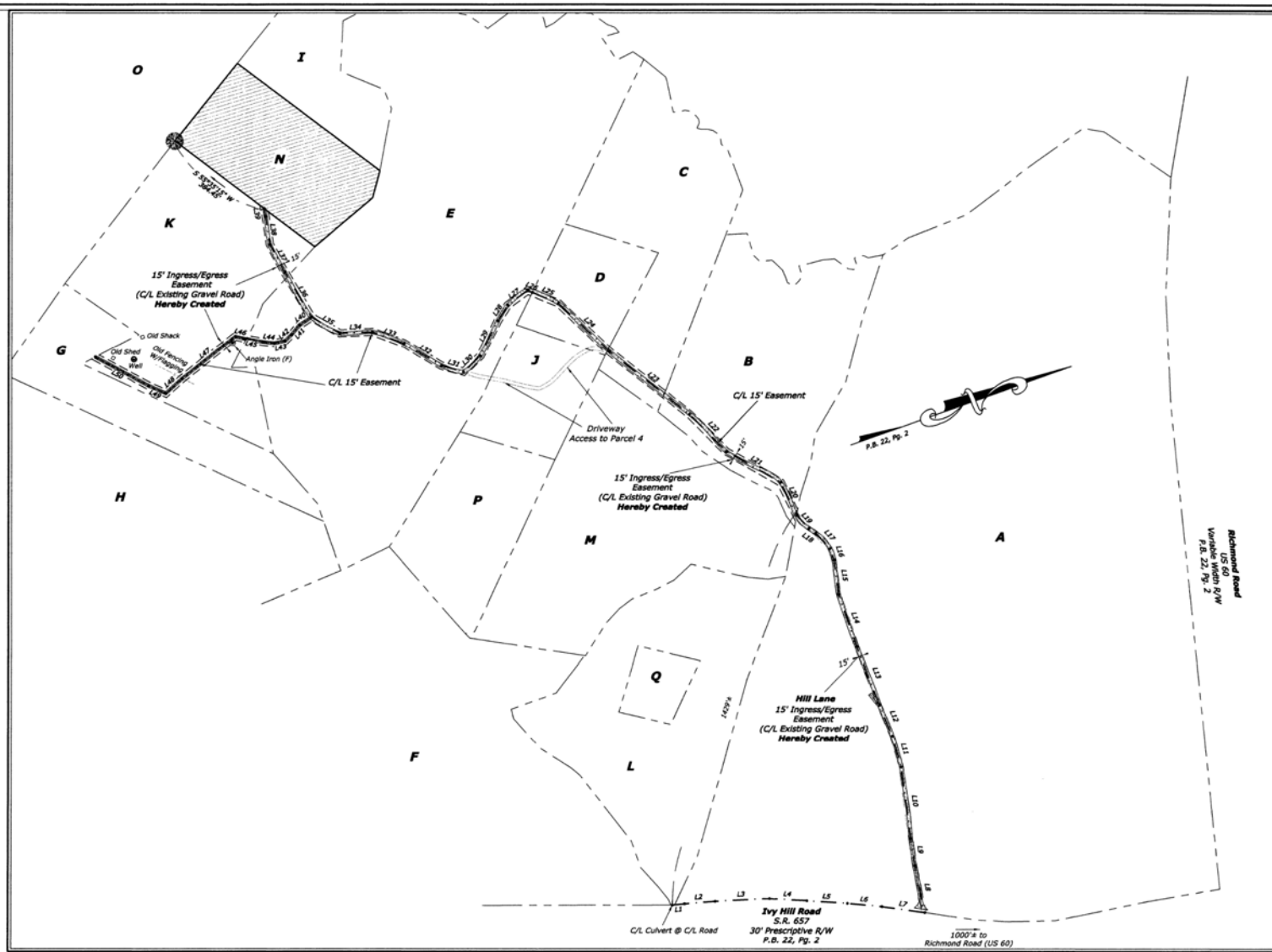
2021 Survey



Vicinity Map
Scale: 1" = 3000'

Parcel Ownership Table:

A) Ivy Hill L.L.C. c/o Ellen Lightman PID 1110100013 LRSN: 1516 Inst.: 000002879	J) Steven Ray Moore and Nicole Ashley Moore PID 1110100018 LRSN: 4968 Inst.: 190014738
B) Toby Garnett Robinson, Sr. and Toby Garnett Robinson, Jr. PID 1110100014 LRSN: 3917 Inst.: 100009711	K) Gerald L. Ferguson and Jean L. Ferguson PID 1020100021 LRSN: 1451 Inst.: No Data
C) Toby Garnett Robinson, Sr. and Toby Garnett Robinson, Jr. PID 1110100015 LRSN: 3916 Inst.: 100009711	L) Louise V. Harris and Lonnie Robinson PID 1110100020 LRSN: 16991 D.B. 699, Pg. 668
D) Toby Garnett Robinson, Sr. and Toby Garnett Robinson, Jr. PID 1110100016 LRSN: 3938 Inst.: 100009711	M) Kimberly Winn PID 1110100021 LRSN: 2256 Inst.: 05AP/LH
E) Earthon Holdings, LLC. PID 1110100017 LRSN: 21318 Inst.: 060008817	N) P.W. Development, Inc. PID 1020100022 LRSN: 12166 Inst.: 150019524
F) Wilber Robinson and Lucy Robinson c/o L. Davis & C. White PID 1110100022 LRSN: 3943 Inst.: No Data	O) Donald Lee Hazelwood PID 1040100002 LRSN: 4753 Inst.: 180013108
G) James Henry Newman, Jr. PID 1020100020 LRSN: 12165 Inst.: 990008732	P) Steven Ray Moore and Nicole Ashley Moore PID 1110100019 LRSN: 4963 Inst.: 190014738
H) Jennie Taylor EST. c/o Drucilla A. Bills PID 1020100019 LRSN: 4505 Inst.: No Data	Q) Summerfield E. Robinson c/o Louise Harris PID 1110100023 LRSN: 3940 Inst.: No Ownership Data P.B. 59, Pg. 78
I) Mandy Kathleen Knight Taylor Life Estate PID 1020100023 LRSN: 15920 D.B. 662, Pg. 607	



Line Table:

LINE	BEARING	DISTANCE
L1	N 11°46'58" E	41.66
L2	N 12°51'18" E	101.81
L3	N 14°46'53" E	185.02
L4	N 20°44'00" E	127.45
L5	N 21°39'15" E	137.77
L6	N 23°03'06" E	118.11
L7	N 25°41'43" E	146.35
L8	N 63°00'59" W	167.44
L9	N 80°29'36" W	95.41
L10	N 79°44'50" W	252.63
L11	N 87°44'43" W	113.37
L12	S 85°30'59" W	116.44
L13	S 87°07'10" W	219.48
L14	S 89°06'20" W	195.82
L15	N 79°44'43" W	121.75
L16	S 89°25'53" W	41.78
L17	S 66°11'07" W	73.94
L18	S 51°53'45" W	27.87
L19	S 65°38'28" W	62.15
L20	S 82°19'48" W	127.45
L21	S 48°06'22" W	214.37
L22	S 63°06'58" W	180.93
L23	S 59°38'50" W	359.36
L24	S 62°05'46" W	244.15
L25	S 40°17'35" W	96.44
L26	S 40°17'35" W	12.63
L27	S 19°17'58" E	84.65
L28	S 40°57'47" E	64.32
L29	S 46°15'09" E	138.07
L30	S 26°33'17" E	29.44
L31	S 33°34'51" W	77.75
L32	S 49°16'08" W	149.13
L33	S 36°15'23" W	115.05
L34	S 15°20'24" W	111.06
L35	S 48°01'59" W	112.01
L36	S 77°39'30" W	181.81
L37	S 86°54'11" W	110.93
L38	N 80°47'10" W	92.22
L39	N 82°43'57" W	29.76
L40	S 16°30'21" E	48.73
L41	S 33°55'20" E	43.29
L42	S 26°51'07" E	31.71
L43	S 05°49'07" W	36.29
L44	S 26°17'52" W	39.02
L45	S 28°03'24" W	66.63
L46	S 31°18'05" W	29.69
L47	S 21°43'10" E	233.75
L48	S 23°16'18" E	25.82
L49	S 42°58'50" W	63.06
L50	S 46°39'11" W	208.39

General Notes:

- This exhibit does not constitute a Virginia State Standard Boundary Survey of the overall properties. The property lines hereon were based on James City County G.I.S.
- The existing gravel road contained hereon is based on field-run surveys conducted during the month of May, 2020.
- This property is zoned A1 (Agriculture).
- Environmental constraints, if any, not researched or delineated for this exhibit.
- Property ownership information is based on Tax Data of James City County, Va., in conjunction with title examination provided by Stephanie Peri, Real Estate Title Abstractor, dated August 15, 2017, together with ownership information for parcels B, C, and D, provided by the Law Offices of John D. Konstantinou, Esq.

Large (Small Plat) Recorded
herewith is # 210020422

City of Williamsburg & County of James City
Circuit Court: This PLAT was recorded on
10-14-2021
at 1:06 AM @ PG 2
Document # 210020422
MONA A. FOLEY, CLERK
Mona Foley, Clerk

Large (Small Plat) Recorded
herewith is # 210020423

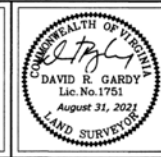
City of Williamsburg & County of James City
Circuit Court: This PLAT was recorded on
10-14-2021
at 1:09 AM @ PG 2
Document # 210020423
MONA A. FOLEY, CLERK
Mona Foley, Clerk



(804) 370-2551 • (804) 966-2820
www.gardysurveying.com
P.O. Box 11 • New Kent, VA 2124



Easement Exhibit
Various Parcels Adjacent to Hill Lane
Powhatan District,
James City County, Virginia.



Mesa District: Powhatan	County: James City
Date: August 31, 2021	Scale: 1"=200'
Sheet: 1 OF 1	J.M. 20-0101
Drawn By: RJL	Checked By: NNN/DRG
Rev.	Date