

Clerk's Office

Maine Superior Court (York County)

45 Kennebunk Rd.

P.O. Box 160

Alfred, ME 04002

RE: Almeder v Town of Kennebunkport C.A. No: RE-09-111

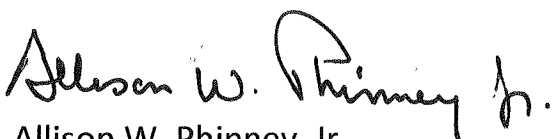
November 24, 2010

Dear Sir or Madame:

We wish to thank the Court for the extension of the deadline for filing of response in this case.

I am enclosing for filing as referenced above the Answer of A.W. Phinney, Jr., to Plaintiffs' Complaint and Counterclaims of Town of Kennebunkport.

Sincerely,

  
Allison W. Phinney, Jr.

Cc: Sidney St. F. Thaxter and Amy K. Tchao

STATE OF MAINE  
YORK, ss.

SUPERIOR COURT

Civil Action

DOCKET NO., RE-09-111

Almeder v Town of Kennebunkport C.A. No: RE-09-111

ANSWER OF A.W. PHINNEY, JR TO PLAINTIFFS' COMPLAINT AND  
COUNTERCLAIMS OF TOWN OF KENNEBUNKPORT

(1) I am a beachfront owner of property at 179 King's Highway at Goose Rocks Beach, Kennebunkport, Maine. But I am neither a "supporter" of the plaintiffs' claims in this action, nor do I concur with the counterclaims of the Town of Kennebunkport. I have been involved through no action of my own but through the action of the Court and parties to this litigation. I am not a registered member of any group that has been formed because of interests in the outcome of this litigation.

(2) I wish to state for the record the following: For many years, Goose Rocks Beach has existed as a special blend of oceanfront access for those who own property and those who do not, with its sizeable stretch of public beach and its beaches included in individually owned property. but not restricted for those who wish to stroll, sit, run, play, swim or fish, on this beach property. Owners have never felt restricted in using the beach adjacent to the sand in front of their own homes or the whole range of beach from river to river. And visitors and others from the public beach likewise have not been restricted from using established public access paths and the beach itself. Occasional abuse has been rare, and town

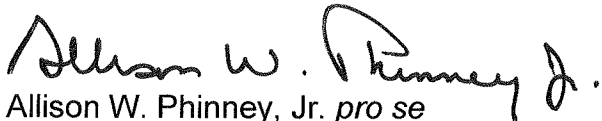
police have been responsive to reasonable objections by property owners. This comfortable mutuality has been part of the charm and attraction of this piece of the Maine coast. For many generations it has brought peace, refreshment, and memorable times for generations of families and other visitors. It would be most unfortunate for either a suit by plaintiffs or a counterclaim by the Town of Kennebunkport to result in penalizing both owners and visitors, causing expense and decline of property values, as well as possible conflict and division in the community for generations to come.

- (3) I generally admit to whatever items in the plaintiffs' claims agree with the fact that beachfront property owners have for many decades understood and acted in accord with the fact that their property extended to the low-tide mark in the sand directly in front of their property.
  
- (4) I deny, however, that this ownership can or should be exercised to restrict reasonable access, walking, running, sunning, playing sports, picnicing, etc., on this individually owned property. In other words, while the property owner has priority in the utilization of this space, subject to specific town and beach ordinances, it remains an integral part of a whole, a natural area that should be preserved as it exists for the enjoyment of all now and in the future.
  
- (5) I also admit that the Town and its policing have responsibility for preventing inappropriate use or invasion of the beachowner's sand property as definitely as his beachfront property. Excessive drinking, drug use, nudity, loud parties and music at late hours, should obviously be prohibited and prevented in view of the fact that families and children are in residence.

- (6) With respect to the Town's counterclaims, I also deny that the Town owns any fee simple title in any portion of my property, including the beach area in front of my home that is included in my property. I believe that the Town has waived and is stopped from assert any such claims by its past record of conduct.
- (7) I also deny the Town's counterclaims to the extent that they would give rise to any public rights in my property that exceed the customary usage I have described above. I would not agree with any increased opening by the town of so-called public right of ways, other than those already established and maintained by ongoing public usage and by legal definition.
- (8) To the extent that I have not addressed any specific allegations by the parties in what I have written above, any such allegations should be deemed to be denied.

November 24, 2010

I certify that I have served copies of this document on counsel of record for the plaintiffs and the Town of Kennebunkport this 24<sup>th</sup> day of November 2010 by first class mail.

  
Allison W. Phinney, Jr. *pro se*