

STATEMENT OF BERNARD FAGELSON ON BEHALF OF THE APPLICANT

Mr. FAGELSON. Colonel Rhea, ladies and gentlemen, my name is Bernard Fagelson. I am an attorney in Alexandria and I have, over the past several years, done title work in connection with this particular piece of property.

I have been asked to discuss with you and to give my opinion as to the status of title in order to indicate the continuity of the riparian rights and the access of the land now requested before you.

In order to do this, I think I will have to go back to the original conveyance made by Gardner L. Boothe, special commissioner and trustee, on September 8, 1926, recorded in Deed Book 88, page 300, in which he conveyed 26.46 acres of land with frontage on Hunting Creek to the Sun Lumber Co. of Weston, W. Va.

At successive times and periods, the land lying to the east of a right of way which was conveyed by the Sun Lumber Co. to the city council of the City of Alexandria, on the 28th day of the year—October of the year 1930, recorded in Deed Book 105 at page 80 of the Alexandria Land Records, was subsequently conveyed.

Now, it would look to me that the first important thing that you would consider would be this conveyance of the right of way to the city of Alexandria by the Sun Lumber Co.

At succeeding times, the Sun Lumber Co. conveyed to the Hunting Terrace Corp. by deed dated February 12, 1940, and recorded in Deed Book 160 at page 592, the land in question as a part and parcel of other lands.

Then, the Sun Lumber Co. also conveyed to Hunting Towers Corp. on the 26th day of 1944, as recorded in Deed Book 212 at page 366, other lands from which this title stems.

The Hunting Towers Corp. conveyed to Vaughn B. Connelly by deed dated May 28, 1949, recorded in Deed Book 282, page 526 of the Alexandria, Va., Land Records, the land of which this is a part, and in turn, Vaughn B. Connelly conveyed back to Hunting Towers Corp. by deed dated January 31, 1958, recorded in Deed Book 465, page 183 the same land.

Subsequently, on January 31, 1958, Hunting Towers Corp. also conveyed another parcel of land to Vaughn B. Connelly, the deed recorded in Deed Book 481 at page 155.

Subsequently, Vaughn B. Connelly conveyed a portion of the land to the Towers Operating Co. by deed dated December 27, 1958, recorded in Deed Book 482 at page 369.

Subsequently, Mr. Vaughn B. Connelly conveyed to Francis J. Murtha, trustee, by deed dated February 26, 1963, and recorded in Deed Book 577, page 296, the parcel of land to which this particular request is attached.

Your records will show, as our records show, that Mr. Connelly applied to the Corps of Engineers for permission to bulkhead an area of approximately 10 acres of land lying generally between two high and low water lines, together with permission to dredge a channel from a turning basin to the channel of the Potomac River.

Permit was issued by the Corps of Engineers on December 31, 1953.

So this was the first act of involving riparian line by Connelly, by erection of bulkhead pursuant to this permit for bulkheading and the filling of the fast land adjacent.

This fast land was used by Mr. Connelly as a site of a swimming pool and other improvements and encompassed 4.84 and a fraction acres.

Subsequently, I requested and secured title insurance for several loans on this particular parcel of land which had accreted and which resulted as a result of the riparian rights and the accretion to this particular piece of land.

Now, in 1963, it became obvious that we were having accreted as a result of certain natural and other forces which I will not attempt to discuss, and the question came up as to whether there was good title to this land. There was no question in the minds of myself as a title attorney or the title insurance companies with which we discussed this, that any land that had accreted and became fast land was insurable land and title to which was good and the owner of the then parcel of 4.84 and a fraction acres.

A bill was introduced and adopted, the bill was known as Chapter 546 of the Acts of the Legislature and was approved March 31, 1964, by Governor Harrison.

The area in question, outlined in the bill, was subject to rapid accretion due to the activities which I will not discuss in detail, but with which I am sure you are familiar, and has occurred as anticipated by that time, the quantity of fast