

STATE OF MAINE
YORK COUNTY, ss

SUPERIOR COURT
CIVIL COURT
DOCKET NO. RE-05-005

1/27/06

JOHN SUPINO, JR.

Plaintiff,

vs.

LONG SANDS GROCERY STORE

Defendant.

ORDER

Came on this day to be heard Plaintiff's motion for partial summary judgment, on Count II of the Complaint (Quiet Title). Plaintiff has moved the Court for summary judgment on the grounds that he has a 14 feet wide and 100 feet long easement by implication and prescription over Defendant's land immediately abutting Plaintiff's property.

Having duly considered Plaintiff's motion, statement of undisputed material facts, and the Defendant's opposition, and finding that this case falls within the class of implied easements recognized by *Young v. Braman*, 75 A. 120, 121, 105 Me. 494 (1909) and *Brown v. Dickey*, 75 A. 382, 384, 106 Me. 97 (1909) and that Plaintiff has shown the existence of prescriptive rights *PAP* to the easement the Court will **GRANT** the motion and **ENTER** summary judgment in Plaintiff's favor on Count II of the Complaint. Plaintiff shall provide to the Defendant a proposed easement deed within 20 days following the date of this Order, Plaintiff shall review in good faith any comments Defendant may have, and Defendant shall execute a deed to a passageway 14 feet wide and 100 feet long not later than 30 days from the date of this Order. *PAP* If the parties are unable to agree, after good faith conference, the Plaintiff will provide to the Court the proposed easement deed for review and the Court will enter a further order as may be appropriate. *a hearing will be necessary to determine the extent and location of the easement absent an agreement between the families*

Further, Defendant is hereby **PERMANENTLY ENJOINED** from interfering with or obstructing in any manner the above-referenced 14 feet wide and 100 feet long easement and shall immediately remove any existing obstructions from that easement.

IT IS SO ORDERED.

Dated: 3/7, ²⁰⁰⁶2005-

Paula F. Schutz

Justice, York County Superior Court

Sigmund D. Schutz, Esq. - PL
John McVeigh, Esq. - PL
James Bartlett, Esq. - DEF