

**STATE OF MAINE
SUPREME JUDICIAL COURT SITTING AS THE LAW COURT**

LAW COURT DOCKET NO. CUM-26-53

**ALISON GOWENS, AS PERSONAL REPRESENTATIVE OF THE
ESTATE OF RAMONA GOWENS, and SONIA HALL
Plaintiffs-Appellants
v.
BPI PARTNERS, LLC, and MIGIS HOTEL GROUP, LLC
Defendants-Appellees**

On Appeal from the Superior Court Civil Docket, Cumberland County

**Brief of Appellants Alison Gowens, as Personal Representative
of the Estate of Ramona Gowens, and Sonia Hall**

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I. INTRODUCTION AND STATEMENT OF FACTS

A. The Black Point Inn: Gateway to Prouts Neck

In September 2022, Sonia Hall and Ramona Gowens, sisters from Georgia, came to Maine on vacation. They stayed at the Black Point Inn, an upscale luxury hotel located on Prouts Neck, in Scarborough, Maine.

The sisters travelled to the Inn on Black Point Road, the only road in or out of Prouts Neck. As they crossed the “Neck” on Black Point Road, they were greeted by the Inn itself, which stands sentry on a hill (Red Arrow). The remaining features of Prouts Neck—the Cliff Walk, the Beach Club, the Bird Sanctuary, the multi-million-dollar residences—emanate from the Inn, all one tiny, exclusive enclave surrounded by ocean.

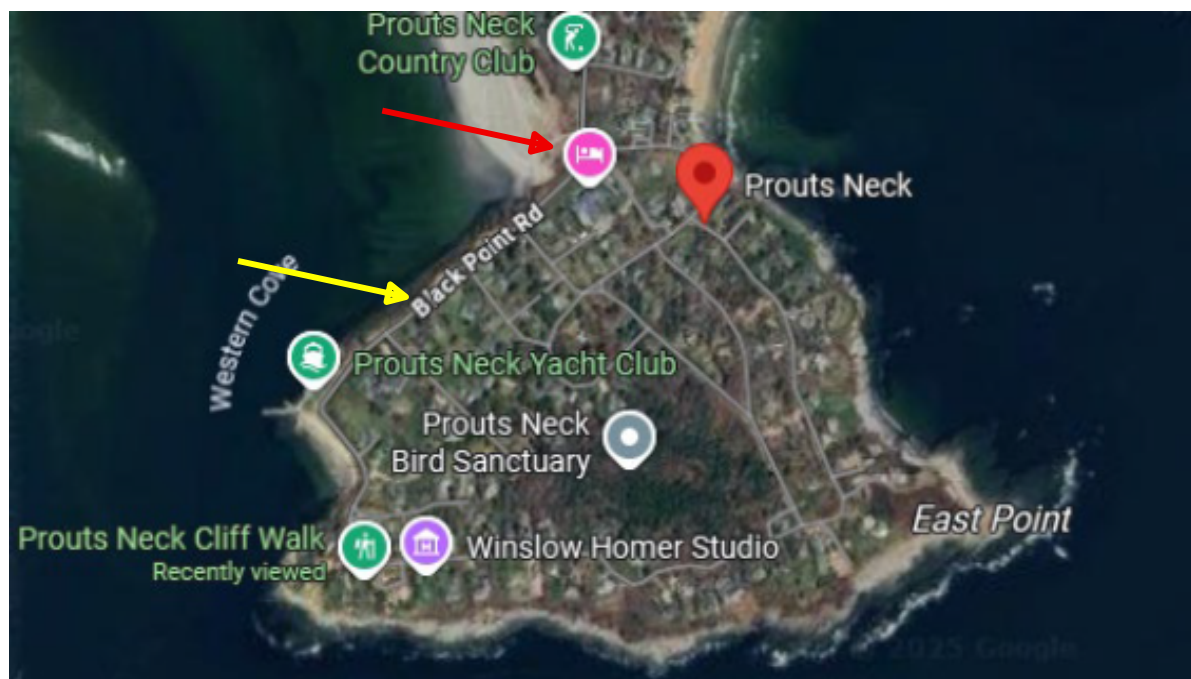


Figure 1. The Prouts Neck Peninsula (A12; A229) (from Google Maps).

There is no parking available for visitors to Prouts Neck except for that provided by the Inn to its guests. (A143, ¶ 14). Road parking on the peninsula is forbidden. (A143, ¶ 16). Past the Inn, all roads are private except for the short portion of Black Point Road to the west (Yellow Arrow). (A141, ¶ 5). Many of the roads on Prouts Neck are gated, including Marginal Way, which is another name for the Cliff Walk on the Inn side. (A142, ¶ 11; A197-200). Inn guests have the same right to access all private roads as Prouts Neck homeowners. The general public does not. (A142, ¶ 11).

The point is: To outsiders like Sonia and Ramona, the entire tip of the peninsula, including its attractions, appears to be a single, exclusive resort, beginning with and centered on the Black Point Inn.

B. The Black Point Inn promoted the Cliff Walk as an “amenity” of the Inn to which it provided its guests exclusive access.

The Inn did nothing to dispel that impression. Just the opposite. It profited from it. For example, as the Trial Court noted, before guests even reach the front desk, “The Inn featured the Cliff Walk on [its] website, listing the Cliff Walk *as a recreational resort amenity* and activity along with the Inn’s heated swimming pool, fitness room, in-room massage, and several other hotel attractions.” (MSJ Order, A15) (emphasis added). The Inn also promoted the Prouts Neck Beach Club, adjacent to the Cliff Walk, as an amenity. (A50, A55, A161).



Figure 2. Photo from the Inn’s website with annotations by counsel. (A121).

When guests—like Sonia and Ramona—checked in, each guest room contained a booklet stating, “[The Cliff Walk] is a favorite indulgence while at the Inn.” (A214). The Inn gave out Cliff Walk maps. (A145, ¶ 29; A226). The Inn’s written materials specifically “invited” paying guests to get a map and directions to the Cliff Walk at the Inn’s front desk. (A144–45, ¶ 28; A212).

Inn employees instructed paying guests to access the Cliff Walk and Beach Club using the hotel Beach Path (Figure 3A below).

The Beach Path is deeded to the Inn, may be used only by hotel guests, and runs directly to Marginal Way, which is another name for the Cliff Walk. (A145–46, ¶ 31; A138, ¶22). The Inn specifically retained this “Pedestrian

Easement” in a 2006 Deed creating three other lots between the Inn and Marginal Way that were sold to private owners. (A197–202 (Aff. of David Silk)). The deed reserved for the Inn the “use, maintenance, improvement and enjoyment” of the Pedestrian Easement. (A197–98).



Figures 3A & B showing the Beach Path and the Inn’s sign at the entrance. (A232–33).

The Trial Court observed that the Cliff Walk entrance contained no “warnings or safety instructions,” (MSJ Order, A14), nor did it include a disclaimer that the Cliff Walk is unconnected to the Inn.

The Inn is well aware that its guests often are confused whether it owns the Cliff Walk. (A145, ¶ 30). This is unsurprising. Neither the head of the Prouts Neck homeowners association nor the Scarborough police officer who patrols Prouts

Neck is sure who owns the Cliff Walk. (A146, ¶ 38). Yet none of the Inn's guest materials mention the hotel has no connection to the Cliff Walk. Nor did Inn employees volunteer the information unless asked. (A15).

It is hard to overstate the unique access to the Cliff Walk and level of control over that access the Inn has. It is the only game in town. This is not like a beach, or a lake, or a state park, with abundant local accommodations and means of access. It was not obvious that the Inn was separate from the Cliff Walk. Indeed, the Inn's exclusive Beach Path, cutting through private deeded land, connects the Inn's property to the Cliff Walk. And the Inn's advertising and guest materials suggest a proprietary connection between the Inn and Cliff Walk.

Associating itself with the Cliff Walk was just good for business. Before this tragedy occurred, the Inn knew that out of all its amenities, the Cliff Walk is the most popular. The majority of Inn guests use it (more than the pool and beach club combined). (A115; A144, ¶ 26).

C. Ramona Gowens falls through a broken fence on the Cliff Walk to her death while her sister Sonia Hall watches.

On the morning of September 19, 2022, after sleeping and having breakfast at the Inn, Sonia Hall and Ramona Gowens walked from the Inn down the Inn's Beach Path (Figure 3A) and turned right onto Marginal Way/the Cliff Walk (Figure 2, red line). (A146–47, ¶¶ 41–43).

Quickly, they stopped for pictures by a fence with the ocean behind it. (A147, ¶ 44). The spot is pretty and looked innocuous. Sonia posed first:



Figure 4. Photograph of Sonia Hall taken just before Ramona's fall. (A234).

Ramona photographed Sonia. (Figure 4; A147, ¶ 45). Then Sonia took the phone. Ramona posed in the same spot. When Ramona leaned against the fence, it gave way suddenly and unexpectedly. (A147, ¶ 45). Ramona tumbled backward. *Id.* Unfortunately, the tall brush hid a steep drop. Ramona fell backward, headfirst, through the brush into a chasm as her sister watched.



Figure 5. Photograph of location of Ramona's fall from the other side of the gorge. (A238).

Above shows what the chasm looks like from the *other* side. This was taken *after* a new fence was installed, and, importantly, during winter, when the plants had lost their leaves (unlike early fall, when Ramona fell, and the drop-off was *not* visible from their vantage point). The broken rail was not preserved, but the rotten and jerry-rigged post remained (Figure 5, cliff-side of new fence; Figure 6 below).



Figure 6. Photograph of rotten fence post taken by counsel. (A285).

This flimsy fence, next to a chasm hidden by brush, was a latent, highly dangerous defect, which should have been corrected. The sole issue presented here is whether the Inn had a duty to fix it or warn about it.

II. PROCEDURAL HISTORY

On October 2, 2023, plaintiffs, the Estate of Ramona Gowens and Sonia Hall, filed a complaint against BPI Partners, LLC (BPI), and Migis Hotel Group, LLC (Migis). (A4; A24).¹ Defendants moved to dismiss under Rule 12(b)(6) alleging they had no duty to plaintiffs for an off-premises accident. (A8). The Trial Court (per Justice Kennedy) denied defendants' motion to dismiss. (A9).

After discovery was complete, Defendants moved for summary judgment, re-alleging, *inter alia*, that they had no duty to plaintiffs for an off-premises accident. (A45). The Trial Court (per Justice Cashman) granted defendants' motion for summary judgment on that basis. (MSJ Order, A13).

On February 3, 2026, both plaintiffs filed timely notices of appeal from the Trial Court's decision and order.

¹ BPI owns the property and building where the Inn is located. Migis operates the Inn itself.

III. STATEMENT OF THE ISSUE

Maine law recognizes that the innkeeper-guest relationship is a “special relationship” imposing on innkeepers a heightened, affirmative duty to aid or warn guests of foreseeable peril. *Est. of Cilley v. Lane*, 2009 ME 133, ¶ 17, 985 A.2d 481. Separately, Maine premises liability law extends a landowner’s duty of care beyond its strict property boundaries to “approaches which [invitees] are expressly or impliedly invited to use or which they would be reasonably expected to use.” *Libby v. Perry*, 311 A.2d 527, 535 (Me. 1973).

This appeal asks whether those two principles, taken together, require an innkeeper to protect its guests from dangers on property the Inn advertised as a hotel amenity, provided exclusive access to through an Inn-controlled private path, profited from commercially, and never disclosed it did not own, inspect, or maintain—such that guests on that property had no reason to believe they had left the Inn’s oversight. Specifically:

1. Did the Inn expressly and impliedly invite its guests to use the Cliff Walk as a hotel amenity, satisfying *Libby*’s invitation and reasonable-expectation standard?
2. Did the Inn’s active promotion, exclusive access pathway, and commercial exploitation of the Cliff Walk create reasonable grounds for guests to believe the property was under the Inn’s safety oversight?
3. Did the Inn’s heightened duty as an innkeeper require it to inspect the Cliff Walk, or otherwise warn guests that this heavily promoted “amenity” was not inspected, not maintained, and not owned by the Inn?

IV. STANDARD OF REVIEW

The existence of a duty of care owed to another is a matter of law. *Pelletier v. Fort Kent Golf Club*, 662 A.2d 220, 221 (Me. 1995). The Court reviews “evidence in the summary judgment record in the light most favorable to [the nonmovant] to determine, de novo, whether there is any genuine dispute of fact and whether the movant is entitled to judgment as a matter of law.” *Janusz v. Bacon*, 2022 ME 57, ¶ 7, 285 A.3d 288.

V. ARGUMENT

A. The Trial Court overlooked the Inn’s heightened duty of care.

Maine recognizes that the innkeeper-guest relationship is a “special relationship” that includes “an affirmative duty to aid or warn another person in peril. . . .” *Est. of Cilley*, 2009 ME 133, ¶ 17; *see also Brewer v. Roosevelt Motor Lodge*, 295 A.2d 647, 651 (Me. 1972) (innkeeper’s affirmative duty to protect its guest from attacks by third parties). This Court has distinguished the heightened duty innkeepers owe to inn guests with the “general duty to provide a reasonably safe premises owed to all persons lawfully on the land.” *Belyea v. Shiretown Motor Inn, LP*, 2010 ME 75, ¶ 11, 2 A.3d 276 (Inn did not owe a heightened duty of care to guest of lounge on Inn premises who was not staying at Inn).

The Trial Court concluded that a landowner’s duty of care extended beyond its own premises only where the use of adjacent property was “integral to the use

of the actual premises.” (Order, A20). But the Inn was not an ordinary landowner here—it was an innkeeper. This case is about that special relationship between an innkeeper and paying guests—a special relationship that creates a heightened duty to protect guests from a potentially dangerous condition that guests reasonably believe the Inn controls. It is thus legally and factually distinguishable from the cases involving approaches to premises that are “necessary” for guests to access the property owner’s premises—none of which involved innkeepers. *See, e.g., Libby*, 311 A.2d 527, 535 (host of a New Year’s Eve dance); *Pelletier*, 662 A.2d 220 (golf course owner); *see also* Order, A20 n.1 (citing cases from other jurisdictions involving “necessary” approaches, none involving innkeepers).

Like any guest at any inn in Maine, Sonia and Ramona relied on the Inn for safe accommodations, and the Cliff Walk was prominently advertised by the Inn as a hotel amenity.

And beyond its representations to its guests, the Inn took affirmative steps to ensure that it was geographically tethered to the Cliff Walk. In 2006, the Inn retained a pedestrian easement to provide exclusive access for its guests to the Cliff Walk, keeping its own property adjacent to the Cliff Walk and further solidifying its apparent control over the Cliff Walk to Inn guests. (A196–200, affidavit of expert David Silk; *see* Figs. 2 and 3A above).

Indeed, the Cliff walk was one of the reasons Ramona and Sonia went to the Black Point Inn (A185, Belanger Depo. at 90:12-15 (testifying that one of the things the sisters wanted “to do was do the Cliff Walk...”). The special relationship between an innkeeper and guest does not make the Inn an absolute insurer of a guest’s safety, but the heightened duty of an innkeeper to its guests on property that it holds itself out as exercising control over informs the duty analysis here.

B. The Trial Court erred in holding that the Black Point Inn did not manifest an intent to control the Cliff Walk to its guests because it ignored the unique geographical access the Inn exploited for profit.

i. Arguments in the Trial Court.

An innkeeper has a special relationship with its guests that creates “a ‘positive duty’ to exercise reasonable care to protect guests from dangerous conditions on the premises of which he knew or reasonably should have known.” (Trial Court Order, A18) (*Quoting Est. of Smith v. Salvesen*, 2016 ME 100, ¶20, 143 A.3d 780).

Here, the Trial Court observed,

[T]he Law Court has held that a landowner or possessor’s duty to invitees may extend beyond the premises “under his control or occupancy to include the approaches which they are *expressly or impliedly invited to use or which they would be reasonably expected to use*, even though these approaches be not under the invitor’s absolute control.”

Id. (*Quoting Libby*, 311 A.2d at 535) (emphasis in original).

Appellants argued in the trial court that the above duty should apply for an innkeeper that extends its business activities onto adjacent land uniquely accessible to Inn guests, when the Inn expressly invited and expected its guests to use it. Relying on this Court’s opinions in *Libby* and *Pelletier*,² The Trial Court rejected that position, holding that defendants only have a duty of care on non-owned land that they actually control or that is “necessary” for the use of the landowner’s premises. (Order, A19). The Trial Court stated:

[U]se of Defendants’ land—the Inn—does not *necessitate* the use of the Cliff Walk, land which Defendants undisputably do not own. And while it is further undisputed that the Inn heavily promoted the Cliff Walk and provided directional information to the Cliff Walk at Guest Reception, the court does not find that such advertisement of a nearby, recreational attraction creates a manifestation of intent by Defendants to control the Cliff Walk.

(Order, A21) (emphasis added).

But two factors make this situation different from the cases the Trial Court relied on. First, the Trial Court did not analyze the duty in the context of the heightened duty of care that every innkeeper owes to its guests. Second, the Trial Court did not consider the unique geographical exclusivity that the Inn enjoyed *vis a vis* the Cliff Walk, particularly in the summary-judgment context.

² In *Libby*, the Court reasoned that the off-premises “approaches” to the premises “could not be used by the” attendees of a New Year’s Eve ball, and thus “the dance itself could not be held.” *Libby v. Perry*, 311 A.2d 527, 535 (Me. 1973). And in *Pelletier*, the Court recognized that using the golf course “necessarily involved traversing” the train tracks that the course owner did not own. *Pelletier v. Fort Kent Golf Club*, 662 A.2d 220, 222 (Me. 1995).

The difference here is that the Inn’s heightened duty of care should extend to guests on the Cliff Walk—not out of necessity—but because it promoted and invited guests to use land that it does not *actually* control but *has created the appearance that it does*. That is manifesting intent to control.

ii. The Black Point Inn’s unique, exclusive proximity and access to the Cliff Walk makes this case different.

As the Trial Court noted, the summary judgment record must be “taken in the light most favorable to the nonmoving party.” (Order, A16–17). Here, for purposes of summary judgment, the following is assumed to be true, most of which is undisputed:

- Sonia Hall and Ramona Gowens, sisters, visited the Inn from out-of-state on vacation. (A26, ¶¶ 1–2; A146, ¶ 41).
- They were paying guests of the Inn. (A146, ¶ 41).
- The southeastern point of the Prouts Neck peninsula, *i.e.*, the portion *past* the neck, starting with the Inn, is a small, contained area, all of which appears to be part of a unified resort enclave. (A227).
- The enclave includes the Cliff Walk, the Beach Club, the Bird Sanctuary, and expensive homes. (A226).
- There is no public parking in this enclave. (A143, ¶ 16).
- The Inn advertised the Cliff Walk as a hotel amenity “along with the Inn’s heated swimming pool, fitness room, in-room massage, and several other hotel attractions.” (MSJ Order, A15).
- The Inn “heavily promoted” the Cliff Walk (Order, A21), including in its website and materials provided to guests on arrival. (A144–45, ¶¶ 27–29).

- The Inn’s guest materials described the Cliff Walk as “a favorite indulgence while at the Inn.” (A214).
- The Inn “invited” guests to get Cliff Walk maps at its front desk. (A214).
- The Inn controlled a special Beach Path going directly from the Inn to the Cliff Walk. (A197, ¶¶ 9, 15; A232–33).
- Members of the general public who are not guests of the Inn cannot park on the peninsula, and the nearest parking areas are two miles away from the only public entrance to the Cliff Walk (Inn guests are permitted to use the private entrance). (A143, ¶¶ 18–20).
- Although there is a dispute whether the Beach Path leads directly to the Cliff Walk itself or to a short, gated private road that leads to the Cliff Walk (Order, A22 n.3), at this point, the Court must assume that the evidence will show that the Cliff Walk is contiguous with the Beach Path (*see* Silk Aff., A196-200).
- At the Cliff Walk entrance, there were no “warnings or safety instructions,” including no disclaimer that the Cliff Walk is unconnected to the Inn. (Order, A14).
- The Inn was aware that guests often were confused whether the Inn owns the Cliff Walk. (A145, ¶ 30).
- Even members of the Prouts Neck homeowner’s association and the Scarborough Police officer who patrolled the area didn’t know who owns the Cliff Walk. (A146, ¶ 38).
- The Inn did nothing to apprise its guests that it does not own or control the Cliff Walk *unless a guest asked that question*. (Order, A15; *see also* A140, ¶ 31).
- The Inn was aware that of all its amenities, the Cliff Walk is the most popular. (A144, ¶ 26).
- The majority of Inn guests use the Cliff Walk. (A144, ¶ 26).

- The Inn took no steps to inspect the Cliff Walk or assure that there are no latent defects in the man-made structures that separate the Cliff Walk from steep cliffs. (A140, ¶ 30).

The takeaway—this is a unique set of facts. The Inn enjoyed virtually sole, exclusive access to an adjacent attraction—access that it sold for a price.

The Inn and the Cliff Walk were so synonymous that guests often believed the Inn owned it. The Inn didn’t disclose to its guests that it did not own the Cliff Walk, or that it never checked to ensure that the fences and bridges on it were safe.

iii. The totality of the circumstances show the Inn manifested an intent to control the Cliff Walk to its guests.

The Inn and the Cliff Walk were connected in a unique way. This was not a common city sidewalk next to the defendant’s property. *See Quadrino v. Bar Harbor Banking & Tr. Co.*, 588 A.2d 303 (Me. 1991). There, the Court declined to find that the Bank manifested an intent to own or control a city-maintained sidewalk accessible by any number of pedestrians coming from and going to any number of nearby locations. *Id.* at 305.

In *Pelletiere*, this Court held that the golf course owner “manifested an intention to have control” over a railroad track that it invited and required golfers to cross when playing one particular hole. *Pelletiere*, 662 A.2d at 222. Here, staying at the Inn does not *require* guests to use the Cliff Walk. But, practically, the Inn is the *only* way visitors can access the Cliff Walk easily, if at all. So when

Inn guests walk past a quaint sign stating “For Guests of the Black Point Inn Only” (Fig. 3(b)) on their way to the Cliff Walk, after being instructed to go that way by the Inn’s employees and invited to take the walk by the Inn’s website and in-room pamphlet, it is reasonable to believe that the Inn owned or otherwise exercised control over the Cliff Walk itself.

In Maine, a business owes its guests a “legal obligation . . . to use ordinary care to ensure” that the premises it invites and expects them to use “are reasonably safe in the light of the *totality of the existing circumstances*.” *Libby*, 311 A.2d at 535 (emphasis added). Here, the totality of the circumstances show that the Inn appeared to its guests to control the Cliff Walk. In light of the heightened duty of care that an innkeeper owes to each inn guest, the Inn owed its guests a duty to use reasonable care to maintain the Cliff Walk. The Trial Court erred in holding otherwise.

C. The Trial Court interpreted the law too narrowly.

As the Trial Court noted, “necessity” and apparent control are sufficient to create a duty of care related to adjacent, non-owned land. But those factors do not fully define its contours. There is a third prong: If a commercial establishment, particularly an Inn, promotes and uses adjacent land as an amenity for business purposes, creating the false impression with guests that it *does* control that land, a duty of reasonable care also attaches, even if it is not “necessary” to use the

adjacent land to access the owned property and the defendant does not actually “control” the adjacent land.

As is often the case in our relatively unpopulated state, Maine jurisprudence has not confronted a case with similar facts. But an analogous Florida case that discusses “off premises” liability is persuasive. The Court should endorse its reasoning here.

In *Holiday Inns, Inc. v. Shelburne*, 576 So. 2d 322 (Fla. 4th DCA 1991),³ a patron shot three other patrons after leaving Holiday Inn property. The shooting occurred in a parking area across the street from the Holiday Inn. The Holiday Inn did not own the parking area. The location was owned by “Ingram’s Fruit Stand,” a separate business which was temporarily closed. *Id.* at 324.

The Court noted, however, that Holiday Inn managers were aware that patrons parked “off premises on adjacent property.” *Id.* at 328. Like the Inn here, Holiday Inn claimed that “as a matter of law, their duty was circumscribed by the physical boundaries of the Holiday Inn property.” *Id.* at 328. The *Shelburne* Court discussed a similar off-premises liability case from Indiana, *Ember v. B.F.D., Inc.*, 490 N.E.2d 764 (Ind. Ct. App., 2 Dist. 1986). Citing *Ember*, the Court in *Shelburne* stated:

After finding that the pub owner knew that his patrons customarily used adjacent premises for parking in order to patronize the pub, the [*Ember*] court stated:

³ Overruled in part on other grounds by *Angrand v. Key*, 657 So. 2d 1146 (Fla. 1995).

An invitor's duty normally extends only to its “premises.” However, we recognize that in this case “the premises” may not be limited to the area actually owned or leased by the Pub because its business activities extended beyond its legal boundaries.

A duty of reasonable care *may be extended beyond the business premises* when it is reasonable for invitees to believe the invitor controls premises adjacent to his own or *where the invitor knows his invitees customarily use such adjacent premises in connection with the invitation.*

Shelburne at 329 (italics in original). The *Shelburne* Court noted that “the jury could well have found that the Holiday Inn and the bar were, in effect, utilizing the adjacent parking lots rent free for their own business purposes.” *Id.* Ultimately, the Court held that “extending an invitor's duty beyond the premises actually owned or leased where the invitor has extended its business activities beyond its legal boundaries would not conflict with any existing Florida decisions.” *Id.* at 330.

This situation is similar. The Inn encouraged and expected its guests to use a path that it described as a hotel amenity in the same document listing its *owned* amenities, such as the pool and fitness room. It knew that the Cliff Walk was its most popular amenity, used by most guests. It knew that guests were confused about whether the Inn owned or controlled the Cliff Walk. But it never warned guests that the it did not control this “amenity,” or that the Cliff Walk was not subject to the same safety standards as the Inn—to which its guests had paid money to stay.

As in *Shelburne*, the Inn used the Cliff Walk for business purposes—rent free and maintenance free. But its guests didn't know that. In this case, a reasonable jury could find that the Inn held out the Cliff Walk as an owned/controlled amenity, and that a reasonable guest would understand it to be so. A reasonable jury could find that the Inn extended its business enterprise beyond the strict boundaries of its property line to adjacent property that had every appearance to Inn guests as being connected to the Inn.

VI. CONCLUSION

The Black Point Inn is the only hotel from which a person can access the Cliff Walk. The Inn exploited this to its own benefit, advertising to potential guests a seamless vacation on beautiful Prouts Neck, with all Inn amenities including the Cliff Walk as part of the package. As an innkeeper, the Defendants owed its guests, Sonia Hall and Ramona Gowens, a *heightened* duty to use reasonable care to protect them from foreseeable perils. The Trial Court did not examine the duty here through the innkeeper-guest lens, nor did it consider the singular facts surrounding the extend of the Inn's control over the Cliff Walk. The Trial Court thus erred as a matter of law.

This Court should hold that under the unique facts alleged here, an innkeeper owes guests a duty of reasonable care relating to adjacent property which it invites and expects guests to use and over which it appears to exercise control.

Dated at Lewiston, Maine this 30th day of April 2026.

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