



Maine Municipal
Association

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www.memun.org

To: Sen. Ned Claxton, Rep. Anne Matlack
Fr: Rebecca Graham, Legislative Advocate, Maine Municipal Association
Re: Stakeholder Group on Discontinued Road Maintenance
Date: December 8, 2021

I'm writing to you to express some frustration not only on behalf of myself but of the municipalities that I represent regarding the way in which the discussions of the discontinued road maintenance stakeholder group have proceeded to date.

Municipal officials understand that residents can be frustrated with the lack of knowledge regarding Maine's historic road adoption and maintenance responsibilities regulations and laws. They are equally sympathetic to individuals who have difficulty not only maintaining their properties but also simply heating their homes, placing food on the table, and paying for medical care. While municipal officials are frequently painted by the other stakeholders as agents of arrogance and apathy, this is simply not the case. These unnamed municipal officials are us. They make decisions based on what is legally allowed, proportional to the rest of public burden and use, and at the direction of their residents who must shoulder that inescapable (non-means tested) property tax burden.

Through the course of the stakeholder group process, I have repeatedly asked proponents of the legislation for specific examples of the communities where road issues have arisen. Although, via the proponents' testimony it is alluded to being a significant wide spread problem, my repeated request for examples have been ignored. As a result, we are unable to explore the facts around each case and see where there may be a consistent and common problem that can be addressed. The proponents claim that the complaints are private information. When information has been provided, the facts are very different from what has been presented. This makes it extremely difficult to find out what, if any, consistent issue can be addressed through this process.

MMA is deeply committed to achieving a good public policy response to an identified problem that is consistent statewide, and facts are central to uncovering what the uniform problem is, if any.

Unfortunately, not all stakeholders share this approach.

I have attached an example that was mentioned in the process that MMA subsequently became aware of through the Governor's Office which illustrates the crux of the frustration we have with this continued stakeholder approach. For such processes to be effective there should be clear commitment to an honest attempt to solve a statewide problem.

The gentleman in the attached email sent a version of his story that indicates he is homeless and it is the municipal officials to blame. He posted further complaint about the situation, which is framed differently, on the MaineROADWAYS public post, which in part misrepresents most of the discussion that had occurred during the meeting. The facts are he purchased a clearly disclosed seasonal property, on a clearly disclosed private road, with clearly advertised access to ATV trails, and now desires to make the community pay for year-round access to his property through the proposed forced maintenance legislation.

A municipality cannot repair a private road with public funds. It is unconstitutional.

This is not the first time the facts of these road concerns presented to the committee are incomplete. While officials are very sympathetic to the laborious court processes that an individual must pursue for remedy, MMA firmly believes this process is protective, fair, and just, particularly because of our extremely robust private property protections in law. Funding a way for such landowners who lack the ability or resources to pursue claims or providing mediation amongst neighbors to come to an agreement on shared responsibilities from the state is the only solution that could weigh both individual need and public interest fairly, while also holding officials accountable if they have not acted in their scope of authority.

Maintenance of public easements on discontinued roads by a municipality can be, and is often provided after the fact, if the residents approve that budgetary expenditure. Because it is maintenance of an easement and not a public way, the standard is not prescriptive as to how it should be maintained. This happens frequently where development expands, access to resources is needed, or local desire changes. While many communities have done this (I live on such a road) it may be beneficial to clarify in statute that a municipality may, but is not required, to provide a level of maintenance decided by the municipality on these easements without obligating them further to alleviate concerns.

The law to date has been established with a proportional balance that allows the courts to weigh the facts of each case and protect the private property interests of all parties regarding road disputes and protect the public from involuntary increases to their inescapable property tax burden. This is mainly because every road in Maine has a detailed and unique history just as each property does, and we have incredibly protective private property statutes born from our state's foundation.

Public easements belong to the public not municipal officials who are simply the agents of their residents' will. Municipal officials must trust their residents with deciding how much of a burden they have capacity to shoulder. The facts as presented by the proponents of the underlying legislation to date are not complete, frequently contain generic attacks against unnamed officials which can't be explored for veracity, leaving municipal officials to be inappropriately impugned. The attached email highlights why this is so vital to consider when hearing complaints presented regarding discontinued roads and public easements.

Because of the need for stakeholder transparency, MMA feels continued engagement on this topic is unproductive and cannot address any real issue better than the fact-based judicial processes already in place.

From: [Ward, Sarah](#)
To: [Kate Dufour](#); [Rebecca Graham](#)
Subject: RE: Constituent Inquiry from Gov. Mills Office.
Date: Tuesday, December 7, 2021 12:50:26 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thank you, so much Kate!

Best,
Sarah

From: Kate Dufour <kdufour@memun.org>
Sent: Tuesday, December 7, 2021 12:49 PM
To: Ward, Sarah <Sarah.Ward@maine.gov>; Rebecca Graham <RGraham@memun.org>
Subject: RE: Constituent Inquiry from Gov. Mills Office.

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Sarah,

I'm a little confused by the statement "the town owns property as do I."

However, I suspect Mr. Shaw purchased property that abuts a discontinued road over which the public easement has been extinguished, therefore cannot be access by the public. The town cannot maintain a road that is privately owned. The status of the road should have been disclosed at the property's closing. If these assumptions are correct, the constituent can request a private easement from the logging company. If on the other hand a public easement has been retained by the municipality, Mr. Shaw is free to use the road. Again, this information would have been disclosed at the closing.

Kate

From: Ward, Sarah <Sarah.Ward@maine.gov>
Sent: Tuesday, December 7, 2021 12:35 PM
To: Rebecca Graham <RGraham@memun.org>; Kate Dufour <kdufour@memun.org>
Subject: Constituent Inquiry from Gov. Mills Office.

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Good afternoon,

I am the Director of Constituent Casework in Governor Mill's Office. I received this email from a

constituent in Rumford who is experiencing difficulty with right of way to his property. Is this something either of you can help assist with? If not, do you have guidance on where I can send this constituent? His original email and contact information is below:

Michael Shaw
703 Mountain View Annex
Rumford, ME 04276
Hm Phone: (603) 520-3972
Email: docdad3@gmail.com

“Purchased home in Maine, Rumford Maine
After several months I am told the logging company owns the road, after further investigation by attorneys find im in a landlocked situation after research this I find over 3000 roads are discontinued. This is a state wide issue.

No trespass sign are posted. Therefore I am homeless as I don't have legal rights to cross to get to my home. It's getting cold out.

Road Maintenance responsibility is that of the property owners even though it is a public road. The town manager refuses to assist in fixing the road as the town owns property as do I. However the town hides under the umbrella of the town vs landowners and that is just not equal application of the ordinances.”

Thank you!
Sarah

Sarah Ward
Director of Constituent Casework
Office of Governor Janet Mills
207.287.3418
<https://www.maine.gov/governor/mills/>



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703 Mountain View Annex, Rumford, ME 04276

\$115,000

Sold | Closed | Single Family | 3 Beds | 704 Sq. Ft. | 20.5 Acres



Looking to get away from it all? This off the grid camp is the perfect place. This camp has an open kitchen, dining room, living room area. The kitchen has a nice propane stove, a flat top propane griddle, and a wood stove for heat. Two bedroom are on the first floor and a loft provides a third bedroom option. The camp has propane lights but is also wired for lights and a generator. Outside you will find an out house with an electric composting toilet. The property has an amazing brook running along the camp and you can hunt, hike, ATV, snowmobile right from the property.

Full Property Details for 703 Mountain View Annex

General

Sold For: \$115,000
Taxes: \$1,798 (2019)
Status: Closed
Type: Single Family
MLS ID: 1477753
Added: 364 day(s) ago

Interior

Number of Rooms: 4
Appliances: Gas Range
Flooring: Wood

Lot Features

Lot Size (Acres): 20.5
Frontage Feet: 1210
Street/Road Desc.: Private, Seasonal
Driveway/Sidewalk: Gravel
Zoning: none

Rooms

BEDROOMS

Total Bedrooms: 3

Bedroom 1: Level 1

Bedroom 2: Level 1

Bedroom 3: Level 2

OTHER ROOMS

Kitchen: Level 1

Additional Information

Amenities: 1st-Floor Bedroom, Attic, Furniture Included, Outbuilding

Exterior

Color: BLUE

Parking

Parking Features: 5 - 10 Spaces

Garage Description: No Vehicle Storage

Location

County: Oxford

Location Details: Abuts Conservation, Interior Lot, Suburban

Heating & Cooling

Cooling Type: No Cooling

Heating Type: Space Heater, Stove

Heating Fuel: Propane, Wood

Water Heater: Other Water Heater

Utilities

Gas: Bottled Gas

Sewer: Other

Water: Private

Structural Information

Architectural Style: Camp

Construction: Wood Frame

Exterior Const.: Log Siding

Basement Desc.: None

Roof: Shingle

Square Feet: 704

Lot Description: Level

Water Features

Water Front: Yes

Water Front Type: Stream

Water Front Name: Logan Brook

Water Front Feet: 1230

Water Front Owned: 1230

Water Front Shared: 1800

Financial Considerations

Tax Amount: \$1,798

Tax Year: 2019

Disclosures and Reports

Lot Number: 3

Sq. Ft. Source: Public Records

Finished Total: 704 Sq. Ft.

Year Built: 1993


AmNet Realty

Price & Sales History for 703 Mountain View Annex

Date	Details	Price	Change	Source
7/29/2021	Sold	\$115,000	-3.77%	MLS
12/08/2020	Listed	\$119,500	—	MLS

Disclaimer: Historical sales information is derived from public records provided by the county offices. Information is not guaranteed and should be independently verified.

703 Mountain View Annex, Rumford, ME 04276 (MLS# 1477753) is a Single Family property that was sold at \$115,000 on July 29, 2021. Want to learn more about 703 Mountain View Annex? Do you have questions about finding other Single Family real estate for sale in Rumford? You can browse all [Rumford real estate](#) or contact a Coldwell Banker agent to request more information.

 Michael Shaw

How about this. My road discontinued 1950s
I was told maintenance is the responsibility of the
landowners. I would agree if it were a private rd vs a
unrestricted public easement. The town allows and has
declared it an ATVs access route a snowmobile trail 17N
17S

Now the ubutting property owners are responsible for
maintenance of this traffic.

Oh it gets better.

My neighbor is the town as they own 500 acres. Hmm
Yet hide under the umbrella of town vs landowners and
refuse to put a dime into the road 🙄

Two different lots. Town water shed and town

Not only landlocked but physical access is becoming
more and more difficult.

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 Author

Maine ROADWays

Yes, a road can provide access on paper, but if that road
is impassable, it can still leave properties physically land
locked. I keep going back to *Jordan v Canton*, where the
Maine Supreme Court said that a public road with no
public maintenance will ... **See more**

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Jordan v. Town of Canton

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