

Senator Carney, Representative Moonan, Members of the Judiciary Committee,

My name is Roberta Manter, I live in Fayette, and I and the founder of Maine ROADWays, which is an acronym for Residents & Owners on Abandoned & Discontinued Ways. I am writing in favor of LD 564.

I am in contact with people all over the State who have difficulties due to living on or owning property on a discontinued road. Often these roads remain “public easements,” allowing the public to continue to use the road without restriction and damage the access to abutting properties. Yet the public has no responsibility for providing any maintenance. In other cases, the road was discontinued with no easement retained, leaving properties legally land locked.

In either case, disputes inevitably arise over who can use the road, and how, and when, and who is responsible for repairing any resulting damage. In many cases, the town isn’t even sure what the legal status of the road is, and thus is of little help. If law enforcement is called in, their usual response is, “That’s a civil matter. You’ll have to take it to court.”

The trouble is, residents on these roads are often struggling financially. In many cases, they bought the land because, being on a discontinued road, it was cheap, and it was all they could afford. Often the resident is a veteran with PTSD who was looking for peace and quiet and solitude. Sometimes the residents are young families, who were looking for a place where they could let their children play in the yard without worrying about traffic. In any case, as soon as the residents start putting money into the road to improve their own access, they find that public use increases, and soon wears out the road faster than the resident can afford to repair it. If the road becomes impassable at certain times of the year, holding a full time job becomes difficult if not impossible. Hiring an attorney to take on a civil suit is out of the question financially.

Conflict is almost inevitable. One resident or landowner gets tired of the road being torn up, and blocks it. Then another resident or landowner finds himself without access. Or one landowner who has been told for years that the road was extinguished without easement when it was discontinued is rudely awakened by a bulldozer as the owner of a back lot claims he has an easement by necessity and is going to put in a subdivision on his land. All too often, the lack of options leads to one landowner taking matters into their own hands, and violence erupts.

I know of three cases that are currently before Superior Court where one of the parties is pro se due to lack of finances to hire an attorney. Two of these cases appear to involve attempts to “resurrect rights long since extinguished,” to quote Martin & Crabbe v. Burnham 631A.2d 1239. Might should not make right, but often the person who can afford an attorney is likely to win simply because they have better representation, and not because the law is actually in their favor. The third case involves a person who was beaten to a pulp for trying to walk on a road which evidence indicates remains a public easement. The State has twice dropped Trespassing charges against him without explanation after being sent evidence of the road’s public status. Yet a pending civil suit to recover medical expenses from the assault doesn’t offer much hope. Attorneys are reluctant to take the case pro bono when the prospects of recovering their expenses from either party are slim.

I know of many others who are muddling along without the ability to have their issue addressed by the courts. I have seen people's trees cut, their yards bulldozed, and watercourses changed to flood their property. On the other hand, I have seen access to homes blocked with locked gates and/or a row of boulders. And there is a growing list of weapons people have used on each other out of frustration - fists, a hatchet, an iron bar, a machete, a medieval style battle axe, a pistol, a shotgun, ... the list keeps growing, fueled by the lack of availability of civil remedy. There have been anonymous death threats. (I have personal experience with that one, and I'm not the only such case.) One person's pigs were poisoned with antifreeze. Another received a threat that her house was going to burn down and the fire department would not respond.

If there were more funding for civil legal services, that could help tremendously. The other part of that puzzle is that the agencies that provide these services need to get the training they need to be able to address road cases, as they don't fit into the usual categories - evictions, child custody, domestic violence, etc. But providing more funding is at least a start. I ask you to support LD 564.

Thank you.