

March 27, 2023

The Honorable Timothy Nangle
The Honorable Holly Stover
Joint Standing Committee on State & Local Government
State House Station
Augusta, ME 04330

Re: Abandoned and Discontinued Roads Commission Comments on LD 461 “An Act Regarding Private Roads”

Dear Senator Nangle, Representative Stover and Committee Members:

As requested by the Joint Standing Committee on State & Local Government, the Abandoned and Discontinued Roads Commission met on March 24, 2023 to review LD 461 “An Act Regarding Private Roads” and to make a recommendation to the Committee regarding this bill. We also understand that the Maine Alliance for Road Associations (“MARA”) has by letter dated March 13, 2023 proposed amendments to LD 461 to the bill’s sponsors. Please accept this letter as the Commission’s comments “neither for nor against” regarding LD 461 and the proposed amendments for the March 28, 2023 public hearing on LD 461.

The Commission unanimously recommends withdrawal of Sec.12, directing municipalities, to develop or update lists of town ways, private ways and private roads, from LD 461 and from the MARA proposed amendments. The purpose of such lists primarily would be to inform persons (potential buyers or renters, for example) whether a particular road is publicly maintained. The Maine Department of Transportation already maintains a tool on its website (the “MaineDOT Public Mapviewer”) that allows the public to determine whether a road is publicly maintained, and will be making this material available in a spreadsheet format that members of the public or a municipal government can download. Therefore, there is no need or benefit for municipalities to individually develop such lists.

The Commission also unanimously recommends withdrawal of Sections 6, 13, and 14 from LD 461; we note that MARA also recommends withdrawal of these provisions in its proposed amendments. The reason for our recommendation is that most municipalities already have road construction standards for public and private roads in their subdivision and site plan ordinances, so that there are standards to guide the construction of private roads in subdivision and condominium developments where the roads are to be privately maintained.

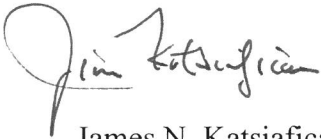
As to the remainder of LD 461 and the MARA proposed amendments, the Commission supports the goal of definitional consistency within Maine statutes that these amendments seek to promote, but achieving this goal will be an involved undertaking. An examination of how the terms “public way,” “private way,” “private road,” and “public easement” are used throughout Titles 12, 23, 29-A and 33 M.R.S., among other Titles, will be necessary to determine whether

these uses are correct, should be amended, or require new or changed definitions in order to eliminate the current confusion and contradictions among these terms. As the MARA letter indicates, they are listing some 30-40 additional uses of the term "private way" that may require elimination and perhaps replacement, which demonstrates the scope of work required here. While some of these uses of contradictory terminology involve road associations (as in 23 M.R.S. §§ 3101-3104) and other road issues that, strictly speaking, might be outside the jurisdiction of a Commission formed to address abandoned and discontinued road issues, the Commission's members have a sufficient understanding of the terms and issues to be able to contribute to that overall discussion if LD 461 is held over.

The Commission therefore recommends that the State & Local Government Committee hold LD 461 over to the next session to permit the Commission, MARA, and other interested parties to comprehensively review the use of these terms in State statutes and to make recommendations as to how to promote and achieve greater accuracy and consistency in their use. The Commission will be glad to participate in that review and preparation of recommendations.

Thank you for your consideration of the Commission's comments.

Sincerely,



James N. Katsiaficas, Chair
Abandoned and Discontinued Roads Commission

cc: Abandoned and Discontinued Roads Commission Members