

To: Maine State Local Government Committee  
March 28, 2023  
Margaret Cardoza  
Portland, Maine

Dear Senator Nangle, Representative Stover and members of the State and Local Government Committee.

I am a member of a road association, former treasurer, current road commissioner in Windham Maine that serves 74 property owners, 4 public easements and 2 that benefit from these public easements. I am in favor of LD 461 with some improvements.

I am in favor of removing the private way definition and correcting it as a public easement. The judicial system clearly understands the definition of public easement whereas the general public find it difficult and contradictory because of the word, "public". When municipalities classify a road as a public easement owners on such a "way" (road) are still troubled that the public has access on this land but there is NO POLICING and FUNDING by the town to maintain and repair it, thus burdening the cost for private citizens. So though redefining private way's to public easement, this does NOT resolve the obvious problem to taxpayers. I hope that throughout the statutes, ALL the words using private way are corrected to public easements.

I am in favor of defining a private road. Private roads are known to most owners that the public is not allowed on their road and can install a gate. My only concern is how courteous are the neighborhoods on such a road? Will neighbors deny access to another neighbor? Will the police help owners if one neighbor prevents another neighbor from accessing his/her property? Thereby I encourage you to elaborate on the word "restricted" so that anyone may understand this definition.

I am not sure why the item about signs is in this proposal. Can you force a private owner to require a sign to go onto his property? I am aware of one Warranty Deed that does require the right to have their commercial sign viewed by the public on our public easement but expect that the property owner affected is aware of it.

I am 100% in agreement with removing the 18 month extension on Notice of Claims (NOC). I am a member of MARA, Maine Alliance of Road Associations and have contacted the Maine realtor associations and Maine County Commissions Association (which involves the Registry of Deeds). I have done some research to obtain a need for a mutual collaboration of this proposal. I am NOT in favor of MARA's request to add a 6 year extension. I expect that not a single volunteer, especially those with seasonal property, on a road association board will remember the deadline to record a 6 year extension. Realtors are NOW required to publish if there's a road association to sell property, therefore the intent of the 18 month extension was in place for realtors is now null and void. Although the registry of deeds has no position on this change, I am aware that they have been suffering over the overwhelming recordings of NOC's. They categorize NOC's as liens, whether it's an extension, a NOC or a NOC with an extension. Just like a title search, the number of listings for new liens, extension on first lien, new lien with an extension on the previous lien is exhausting. I am in favor of making the process easier for volunteers willing to deal with this paperwork by just submitting liens and if an owner wants it removed then the owner pays ALL of the COSTS to remove them all.

I ask that more research be conducted before proposing road construction. I am unaware what the Maine Department of Environmental Protections position is for this subject. I totally agree that there is an issue of road construction due to the new law on housing. The problem for road associations is due to people

converting their summer camp to a year round residents. The roads were not surveyed for this purpose. Fire trucks are getting bigger but the road is not, thus people are losing more of their land to widen roads. Has the Land Use Planning Commission been consulted? Your co chair, Timothy Nangle, may also relate to this issue on road construction from his court case in 2016 (DOCKET NO. CUMSC-AP-15-00401). I looked at the Woolwich ordinance and their terrain is not the same as other towns. Further research is needed to create a standardized requirement for private road construction before submitting a proposal.

I am in favor of municipalities providing DOT an updated list of the various types of roads from municipalities, but I ask that you include E911 for the purpose of providing safety and protection of people in Maine. I have witnessed 2x a fire truck that did not have the correct directions to access a property / owner in distress.

Finally, I am opposed to MARA's proposed amendment on paving. A 3/4ths vote of ALL owners is totally impossible. We have owners in the hospital, live in another country, are in the middle of conservator cases and some only provide a Post Office Box to be contacted with NO response. The way MARA's statement is written FORCES people to vote instead of the freedom to choose to vote or not, as well as forcing people to pick a side. Unfortunately, one issue was forgotten and remains unnamed. Public easements that had paving done after 2007 can not form a road association. I propose instead:

Title:23: 3101, section 1: B.

"Repairs and maintenance" does ~~not~~ include paving, ~~except~~ in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain existing pavement existing as of July 1, 2007. "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

Thank you for this consideration.