

5/21/96

Ms. Sallyann Hadyniak
218 Washington Avenue
Carteret, New Jersey 07008

Dear Ms. Hadyniak,

I was very pleased to hear from you regarding the discontinued portion of road to the land you purchased. The road still remains under the selectmen's control. I am very sure that you will be pleased with the work that Clayton Larrabee will do for you. I will be looking forward to meeting you this summer.

Sincerely,


Harold (Red) Mitchell

Selectman

Town of Freedom

May 27, 1996

Mr. Harold Mitchell
P. O. Box 88
Freedom, Maine 04941

Re: Beaver Ridge Road
Freedom, Maine

Dear Mr. Mitchell,

I am in receipt of your letter dated May 21, 1996 in which you state "the road still remains under the selectmen's control."

I would appreciate it if you would kindly define that statement.

I have a copy of the petition of Selectmen of the Town of Freedom to close road leading from O. B. Ward residence in a North East direction, 1/2 mile, during the months of Dec., Jan., Feb., Mar. and Apr. The petition was filed on Nov. 9, 1948 and the date of the hearing was Nov. 26, 1948. On Dec. 21, 1948 after full hearing and mature consideration, it was voted to close the road described in this petition for the months of Dec., Jan., Feb., March and April. (Recorded vol. 9, page 263)

On May 11, 1992, I received a letter from Marilyn C. Keene, County Clerk stating the "closed for maintenance" petition does not allow the Town of Freedom to ignore responsibility for Beaver Ridge Road, as they have not recorded follow-up petitions every 10 years as the current law states... They may have abandoned the road from lack of maintenance.

In your letter of August 28, 1992, you told me that the road from the Ollie Ward's residence to our property on Beaver Ridge qualified as an abandoned road. According to the statutes of a road, any road that hasn't had any maintenance done by the town for thirty five years reverts back to the land owners as an abandoned road. You also stated that you have been road commissioner and acting commissioner for forty plus years and you have not done or had any work done on this road, thus it becomes abandoned. In the same letter, you also stated that on March 3, 1956 the Town of Freedom voted at their Annual Town Meeting to discontinue the road from Ollie Wards to over Beaver Ridge Hill.

The procedure for towns to accept a road for maintenance is, road must be at least eighteen feet wide, including shoulders, eighteen inches of gravel upon a solid sub base, also culverts and ditches to make proper drainage. This would have to be okayed by the Selectmen and Planning Board. Then it would be inserted in an article at the Town Meeting, to accept or reject. Since you stated that all towns are in an economy crunch, you felt that voters would refrain from accepting any new liability. Because of this statement, I am led to believe that it would have to be voted upon by the residence of the Town of Freedom. Is my understanding correct?

Now this is where the confusion comes in. The road was abandoned, it is then reverted back to the landowners. Therefore, I own 1/2 of the road. Now you say the road still remains under the selectmen's control. Exactly what does that mean?

I would appreciate your kind and immediate attention regarding this matter. I want to clear up any misunderstandings before we begin to work on the road. I need to know exactly where we stand with this situation.

Very truly yours,

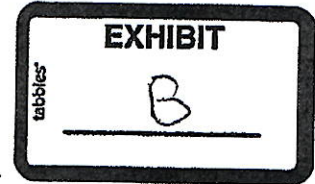
Sallyann Hadyniak

CC: James Phillips, second selectmen

Addison Chase, third selectmen

5/21/96

Ms. Sallyann Hadyniak
218 Washington Avenue
Carteret, New Jersey 07008



Dear Ms. Hadyniak,

I was very pleased to hear from you regarding the discontinued portion of road to the land you purchased. The road still remains under the selectmen's control. I am very sure that you will be pleased with the work that Clayton Larrabee will do for you. I will be looking forward to meeting you this summer.

Sincerely,

Harold Mitchell
Harold (Red) Mitchell

Selectman

Town of Freedom

Town Letterhead

EXHIBIT B

August 26, 1997

Mrs. Becky Seel
Maine Municipal Association
60 Community Drive
Augusta, ME 04330

Dear Mrs. Seel:

The Town of Freedom and the residents of that portion of Ollie Ward Road (now known as Beaver Ridge Road due to the 911 designation, hereinafter referred to as "Beaver Ridge Road") after Ollie Ward place would like to submit the following question for your review and determination:

"Given the facts below, who owns Beaver Ridge Road after Ollie Ward's place?"

These are the facts as agreed upon by the Town of Freedom and the residents of Beaver Ridge Road after Ollie Ward's place:

- Until March 3, 1956, the Town of Freedom maintained the entire length of Beaver Ridge Road.
- On March 3, 1956, the Town of Freedom voted to discontinue Beaver Ridge Road from Ollie Ward's place.
- Since March 3, 1956, the Town of Freedom has had no involvement with Beaver Ridge Road after Ollie Ward's place.
- According to Statute 23 MRSA Section 3029:

It shall be prima facie evidence that a Town or County way established prior to January 1, 1946 and not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years next prior to January 1, 1976, has been discontinued by abandonment.

- Beaver Ridge Road was established prior to January 1, 1946.

- The Town of Freedom acknowledges that they have not kept the section of Beaver Ridge Road past Ollie Ward's place passable for 30 or more years, beginning March 3, 1956.

As more than 30 years have passed since March 3, 1956, the section of Beaver Ridge Road after Ollie Ward's place is now arguably abandoned.

- According to Statute 23 MRSA Section 3026:

... If any town way was discontinued under the pre-1965 version of section 3004, no public easement would remain unless the vote approved by the legislative body expressly retained an easement. Caselaw dictated that ownership of the land reverted to the abutters to the centerline, in the absence of the showing of a greater interest. [Caselaw omitted from quote]

- There was no vote by the legislative body retaining an easement, nor was there a showing of greater interest.

Therefore, pursuant to statutes and the caselaw, the ownership of the land arguably reverted to the landowners on either side of the centerline, as of March 3, 1986.

We appreciate your time on our behalf and look forward to your response.

Sincerely yours,

Harold Mitchell
First Selectman

Everett Lingley
Second Selectman

Heidi Bruger
Third Selectman

Charles and Sallyann Hadyniak
Residents of Beaver Ridge Road after Ollie Ward's Place

Charles and Lynn Hadyniak
Residents of Beaver Ridge Road after Ollie Ward's Place

Walter and Rebecca Woods
Residents of Beaver Ridge Road after Ollie Ward's Place