

Paper Street Project Report

Section 2. State Law Related to Paper Streets

The following quotation was taken from the Maine Municipal Association's **Municipal Roads Manual**.

“Paper streets have been a significant source of title problems over the years because of the uncertainty associated with public and private rights of access. This is because at common law, once a lot is sold with reference to a recorded subdivision plan, there is an incipient dedication of the ways shown on that plan, and that incipient dedication is of infinite duration. The Legislature acted in 1903 to provide for termination of the public and private rights through the “vacation” process. The Law Court has observed that vacation is the exclusive process for the termination of the public right of incipient dedication once a lot has been sold with reference to the subdivision plan. However, because vacation of a paper street is an expensive, time-consuming, case-by case process, in 1987, the Legislature amended the State road and title statutes in an attempt to resolve the title problems associated with ancient paper streets. As explained below, these amendments provide for a deemed vacation of older subdivision ways and, prospectively, provide for the termination of unaccepted dedications of public rights and of unused private rights in subdivision ways.”

The following sections of state law related to paper streets,

- MSRA Title 23 Section 3032. PROPOSED, UNACCEPTED WAYS DEEMED VACATED
- MSRA Title 23 Section 3033 RIGHTS OF ACTION CONCERNING WAYS DEEMED VACATED
- MSRA Title 23 Section 469-A TITLE TO PROPOSED, UNACCEPTED WAYS

are reproduced in the remainder of this document.

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Title 23 Section 3032

Maine Revised Statutes Title 23: TRANSPORTATION

Chapter 304: ACQUISITION OF PROPERTY FOR HIGHWAY PURPOSES

§3032. PROPOSED, UNACCEPTED WAYS DEEMED VACATED

1. Deemed vacation.

[1997, c. 386, §1 (RP) .]

1-A. Deemed vacation. A proposed, unaccepted way or portion of a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds prior to September 29, 1987 is deemed to have been subject to an order of vacation under section 3027 if, by the later of 15 years after the date of the recording of the subdivision plan laying out the way or portion of the way or September 29, 1997, both of the following conditions have been met:

A. The way or portion of the way has not been constructed or used as a way; and [1997, c. 386, §2 (NEW).]

B. The way or portion of the way has not been accepted as a town, county or state way or highway or as a public, utility or recreational easement. [1997, c. 386, §2 (NEW).]

A way or portion of a way considered vacated under this subsection is subject to section 3033.

[1997, c. 386, §2 (NEW) .]

2. Extensions. The municipal officers of the affected municipality may except a proposed, unaccepted way or portion of a proposed, unaccepted way described in subsection 1-A from the operation of the time limitations of that subsection by filing, in the registry of deeds where the subdivision plan is recorded, a notice stating that the way or portion of the way is excepted from the operation of subsection 1-A for a period of 20 years from the filing of the notice. To be effective, this exception must be filed prior to the expiration of the time limitations of subsection 1-A. An extension accomplished under this subsection may be extended by the municipal officers for a subsequent 20-year period by the filing of a new notice within the preceding 20- year extension period.

[1997, c. 683, Pt. B, §10 (AMD); 1997, c. 683, Pt. B, §11 (AFF) .]

SECTION HISTORY 1987, c. 385, §2 (NEW). 1997, c. 386, §§1,2 (AMD). 1997, c. 683, §B10 (AMD). 1997, c. 683, §B11 (AFF) .

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MRS Title 23 §3032. PROPOSED, UNACCEPTED WAYS DEEMED VACATED

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Title 23 Section 3033

Maine Revised Statutes Title 23: TRANSPORTATION

Chapter 304: ACQUISITION OF PROPERTY FOR HIGHWAY PURPOSES

§3033. RIGHTS OF ACTION CONCERNING WAYS DEEMED VACATED

1. Notice by person claiming ownership. Any person claiming to own a proposed, unaccepted way or portion of a proposed, unaccepted way deemed vacated under section 3032 may record, in the registry of deeds where the subdivision plan, to which the notice set forth in this subsection pertains, is recorded, a conformed copy of the notice set forth in this subsection, with an alphabetical listing of the names of the current record owners of lots on the subdivision plan to which the notice pertains and their mortgagees of record. The person shall give notice of his claim to these current record owners and their mortgagees of record. Within 20 days of recording of the notice, the person shall give this notice by mailing, by the United States postal service, postage prepaid, to the current record owners and mortgagees, a copy of the notice set forth below:

NOTICE

By virtue of the Maine Revised Statutes, Title 23, section 3032, the following proposed, unaccepted ways or portions of proposed, unaccepted ways were deemed by law to have been vacated by the municipal officers of (name of town or city) _____. The ways or portions of ways so vacated are shown on a plan (named) (dated) (and) recorded in the _____ County Registry of Deeds, Book of Plans, Volume _____, Page _____, (Folio #) and are described as follows:

(Herein list vacated ways or portions of ways)

The undersigned claims to own the (way or ways) (portion of way or ways) described above. Any person claiming an interest in (this way or these ways) (a portion of this way or these ways) adverse to the claim of the undersigned, within one year from the date of recording of a copy of this notice in the registry of deeds, must file a written claim, under oath, in the same registry and, within 180 days thereafter, must commence an action in Superior Court in _____ County in accordance with the Maine Revised Statutes, Title 23, section 3033. A copy of this notice was recorded in the registry of deeds on _____, 19____.

[1987, c. 385, §2 (NEW) .]

2. Rights of action by persons receiving notice. All persons receiving a notice under subsection 1, who claim any private right of any kind in the way or portion of a way to which the notice pertains, are forever barred from maintaining any action at law or in equity to establish, recover, confirm or otherwise enforce any right claimed to or in the way or portion of a way by reason of the ownership by the person, or by a predecessor in title, of a lot or parcel of land shown on the recorded subdivision plan to which the notice pertains, unless, within one year from the date of recording of the notice, the person files in the registry of deed where the pertinent subdivision plan is recorded a statement, under oath, specifying the nature, basis and extent of the claimed interest in the way or portion of a way. The claim is forever barred unless, within 180 days of the recording of the statement, the claimant, or a person acting on his behalf, commences an action in equity under Title 14, chapter 723, to establish the rights asserted to or in the

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way or portion of a way.

The limitation periods in this section are not tolled or interrupted by any disability, minority, lack of knowledge or absence from this State by the claimant.

[1987, c. 385, §2 (NEW) .]

3. Trial of an action. Upon trial of an action initiated under subsection 2, the court shall grant judgment for the claimant only if it finds that:

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Maine Revised Statutes Title 33: PROPERTY

Chapter 7: CONVEYANCE OF REAL ESTATE

§469-A. TITLE TO PROPOSED, UNACCEPTED WAYS

1. Reservation of title. Any conveyance made before September 29, 1987 that conveyed land abutting upon a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds is deemed to have conveyed all of the grantor's interest in the portion of the way that abuts the land conveyed, unless the grantor expressly reserved the grantor's title to the way by a specific reference to this reservation in the conveyance of the land.

[2011, c. 312, §1 (AMD) .]

2. Intent to reserve. Any grantor who, before September 29, 1987, conveyed land abutting a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds with the intent to reserve title to the way, but who did not expressly reserve title to the way as required in subsection 1, or any person who claims title to the way by, through or under the grantor, may preserve the grantor's claim by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within 2 years after September 29, 1987.

[2011, c. 312, §1 (AMD) .]

3. Notice. The notice required under subsection 2 shall contain:

A. An intelligible description of the way or portion of a way in which title is being claimed; [1987, c. 385, §4 (NEW).]

B. The name and address of the person on whose behalf the title is being claimed; [1987, c. 385, §4 (NEW).]

C. A description, including specific reference, by date of recording and the volume and page numbers, to that conveyance, of the recorded instrument in which the person claims title to the way or portion of the way which was intended to be reserved; and [1987, c. 385, §4 (NEW).]

D. A duly verified oath taken by the person claiming title before a person authorized to administer oaths. [1987, c. 385, §4 (NEW).]

[1987, c. 385, §4 (NEW) .]

4. Register's duties. The register of deeds shall enter upon the margin of the recorded conveyance, described in the notice under subsection 3, paragraph C, the volume and page numbers where the notice is recorded.

The register of deeds may charge the same fee for recording the notice that is charged for recording deeds.

[1987, c. 385, §4 (NEW) .]

5. Who may present notice for recording. The notice required under subsection 2 may be presented for recording by the person claiming title or a person acting on his behalf. Disability or lack of knowledge by the person claiming title shall not extend the time limitations related to the recording of the notice.

[1987, c. 385, §4 (NEW) .]

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