
OLR Bill Analysis

HB 6637

AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.

SUMMARY:

This bill requires that the selectmen of any town must have a signed "certificate" rather than a "writing," and obtain majority approval before discontinuing (1) a highway (including streets and roads), private way, or land dedicated as such either partially or in its entirety or (2) any property right of the town or public within the town.

The bill requires the selectmen to (1) give notice to each property owner adjoining the discontinued highway or private way, or land dedicated as such and (2) file a copy of the notice in the office of the town clerk. The notice must be given in the same manner required by law for taking land for state highway improvements or highway maintenance storage areas or garages (see BACKGROUND).

The bill also specifies that any person aggrieved by the discontinuance or partial discontinuance may apply to the Superior Court for relief. It appears that such application must be filed within eight months, but it is unclear when that period begins to run.

EFFECTIVE DATE: October 1, 2013

DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES

Majority Approval by Signed Certificate

By law, the selectmen of any town may discontinue (1) any highway, private way, or land dedicated as such either partially or in its entirety or (2) any property right of the town or public within the town, with the following exceptions:

1. when laid out by a court or the General Assembly or

2. where the highway is within a city, or within a borough having control of highways within its limits.

Under current law, a signed "writing" by the selectmen approved by a majority vote at a regular or special town meeting is needed for the discontinuance. The bill requires that the document be a signed "certificate."

Application to Superior Court for Relief

The bill allows any person aggrieved by the discontinuance or partial discontinuance of a highway or private way, or land dedicated as such to apply, within eight months, to the Superior Court for the judicial district in which the town is located for relief in the same manner available when land is taken for highway purposes. It is unclear what action triggers the beginning of the eight-month period.

BACKGROUND

Notice Required When Land is Taken for State Highway Purposes

By law the commissioner of transportation may take any land he finds necessary for the layout, alteration, extension, widening, change of grade, or other improvement of any state highway or for a highway maintenance storage area or garage. An assessment of damages and benefits must be done by the commissioner and notice must be given to each person having an interest of record as follows:

1. by mailing the assessment to each person, postage prepaid;
2. if notice cannot be given to any person because his or her whereabouts or existence is unknown, notice may be given by publishing a notice at least twice in a newspaper published in the judicial district and having a daily or weekly circulation in the town in which the affected property is located (any such notice must state that it is a notice to the last owner of record or his or her surviving spouse, heirs, administrators, assigns, representatives or creditors if he or she is deceased, and must contain a brief description of the property taken);
3. by mailing to each such person at his or her last-known address,

by registered or certified mail, a copy of the published notice; or

4. if, after a search of the land and probate records, the address of any interested party cannot be found, an affidavit stating such facts and reciting the steps taken to establish the address of any such person, must be filed with, and accepted by, the clerk of the court and mailed to the last known address of the person in lieu of service of such notice (CGS § 13a-73).

Related Law

CGS § 13a-55 gives property owners bounding a partially or completely discontinued or abandoned highway a right-of-way to the nearest or most accessible highway.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 1 (04/12/2013)