



**THE STATE OF NEW HAMPSHIRE**  
DEPARTMENT OF TRANSPORTATION



**JEFF BRILLHART, P.E.**  
ACTING COMMISSIONER

Bureau of Rail & Transit  
March 10, 2015

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Pursuant to RSA 4:40 and 228:67, authorize the Department of Transportation to amend the deed for a 0.12 +/- acre parcel of former State owned railroad land by removing the provision that states, "Should the Grantee wish to dispose of the property, it must first be offered to the Grantor. Eighty (80%) percent of any proceeds from such sale shall be returned to the Grantor".

The parcel located on the Mountain Division Railroad corridor in the Town of Bartlett was previously sold to the Cabin Fever Properties, LLC for \$13,500 and a one-time administrative fee of \$1,100, per Governor and Executive Council approval, July 16, 2014 Item #11.

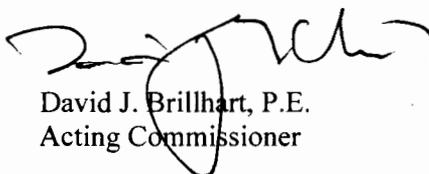
**EXPLANATION**

The Department erroneously included the above provision, which allowed the State the right of first refusal if Cabin Fever Properties were to ever sell the referenced parcel, and also required that Cabin Fever return 80% of any future sales proceeds to the State. However, the statute RSA 228:60-b, Section I, which grants the State a right of first refusal only applies to railroad property that is being sold directly by a railway corporation and does not apply to other properties, including former railroad properties such as the parcel the State sold to Cabin Fever.

The Department purchased the Mountain Division Railroad Corridor, of which this subject parcel was a part, using 80% federal funds and has an obligation to repay the federal government 80% of the sales proceeds for any parcels up to the federal government's original participating amount. This repayment provision was previously satisfied by the first transaction and thus that obligation was made whole after the State sold the parcel to Cabin Fever Properties.

In order to provide Cabin Fever Properties with a clear title and the use of the subject parcel as they envisioned, the Department requests approval of this resolution to remedy the erroneous provisions contained in the previous transaction.

Sincerely,



David J. Brillhart, P.E.  
Acting Commissioner

Attachments

**KNOW ALL PERSONS BY THESE PRESENTS**

**THAT**, The State of New Hampshire, whose mailing address is the Department of Transportation, Hazen Drive, P.O. Box 483, Concord, NH 03302-0483, pursuant to RSA 4:40 and RSA 228:67, for considerations paid to it in hand before the delivery hereof, well and truly paid by Cabin Fever Properties, LLC, whose mailing address is PO Box 489, Bartlett, NH 03812, has remised, released and forever QUITCLAIMED, and by these presents, does remise, release and forever quitclaim unto said Cabin Fever Properties, LLC, its successors, and assigns forever:

Any and all interest the State of New Hampshire has in a tract of land, which is a portion of the State-owned Mountain Division railroad corridor, in the Town of Bartlett, County of Carroll, State of New Hampshire, bounded and described as follows:

Beginning at a point in the division line between the land of the State of New Hampshire, land now and formerly of Cabin Fever Properties and the land abutting Cabin Fever's to the east, said point being forty nine and five tenths (49.5) feet northerly of the centerline of the State-owned Mountain Division Railroad Corridor as shown on aforementioned Exhibit, and nearly opposite Engineering Station 3352+50, Valuation Sheet 17/21, thence southerly 23 feet to a point, thence westerly 227.5 feet to a point, thence northerly more or less 23 feet to a point forty nine and five tenths (49.5) feet northerly of the centerline of the State-owned Mountain Division Railroad Corridor and nearly opposite Engineering Station 3354+77, thence easterly more or less 227.5 feet to the point of beginning, and containing 5,232.5, square feet, more or less.

**Excepting and Reserving**, any easements that may cross said property that may be record, and whether shown on the above-mentioned plan or not.

Meaning and intending to convey a portion of that railroad corridor conveyed by the Maine Central Railroad Co. to the State of New Hampshire by Release Deed, and recorded in the Carroll County Registry of Deeds on September 27, 1994, in Book 289, Pages 291. The State of New Hampshire hereby releases the right of first refusal and the right to receive eighty percent (80%) of sale proceeds paid to the Grantee or its successors upon subsequent transfer of the within described premises all of which was reserved by the State of New Hampshire in a deed dated August 12, 2014 and recorded in the Carroll County Registry of Deeds at Book 3161, Page 224.

The grantees for themselves, their personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjects to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the grantees shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

**TO HAVE AND TO HOLD** said premises, with all the privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

**IN WITNESS WHEREOF**, The State of New Hampshire has caused its name to be set and its seal to be hereunto affixed by the Commissioner of the New Hampshire Department of Transportation, duly authorized and executed this 24<sup>th</sup> day of March, 2015.

Signed, Sealed and Delivered  
in the presence of



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

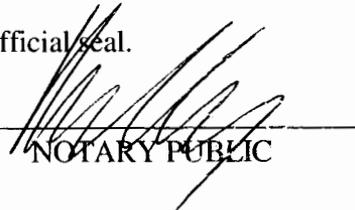
  
Acting Commissioner

THE STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

On this 24<sup>th</sup> day of March, 2015, before me, Bonnie Angel Berry the undersigned officer, personally appeared the Acting Commissioner of the Department of Transportation, and that as such Acting Commissioner, being authorized so to do, executed the forgoing instrument for the purposes therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

BONNIE ANGEL BERRY  
Notary Public-New Hampshire  
My Commission Expires Sept. 18, 2015

  
NOTARY PUBLIC

Approved by Long Range Capital Planning and Utilization Committee on April 21, 2014.  
Approved by Governor and Executive Council on July 16, 2014, Item # 11.