



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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

Bureau of Rail & Transit
February 5, 2016

REQUESTED ACTION

Pursuant to RSA 228:57 and RSA 4:40, authorize the Department of Transportation to release any rights to the State for a railroad easement, acquired in the 1840's, to Denis Girard and Florence Leduc of 2417 West Lunt Avenue, Chicago, Illinois 60645, over privately owned former railroad property in Plymouth, NH effective upon Governor and Council approval.

EXPLANATION

The Department of Transportation received a request from Attorney William B. Pribus, through the Office of the Attorney General, on behalf of his clients Denis Girard & Florence Leduc to clear title for a parcel of former Boston & Maine Railroad property that was originally subject to an easement obtained by the State of New Hampshire in the 1840's. Mr. Girard & Ms. Leduc are the owners of an adjacent property and a portion of the former railroad property at this location. This granting of a Confirmatory Quitclaim Deed and Release of Easement per RSA 228:57-a and subject to Governor & Council approval per RSA 4:40 will allow Mr. Girard and Ms. Leduc who have demonstrated ownership of the parcel in question to clear title on the property.

To our knowledge, the State never acquired this parcel subsequent to the disposal of this parcel by the Boston and Maine Railroad after railroad service terminated on this line. The issue is that the State of New Hampshire was a party to the original layout and acquisition of railroad corridors during the construction of railroads in the 1840's and 1850's. This is an effort by the Department to cooperate with the property owner to resolve any potential confusion due to the complicated history of railroad acquisition in the 19th Century.

The proposed Confirmatory Quitclaim Deed and Release of Easement has been reviewed and approved by the Office of the Attorney General for form and execution. Subsequent to the Governor and Council approval, a copy of the registered deed will be on file with the Department of Transportation.

Sincerely,

Victoria F. Sheehan
Commissioner

UPON RECORDING, PLEASE RETURN TO:

CONFIRMATORY QUITCLAIM DEED AND RELEASE OF EASEMENT

WHEREAS, Denis L. Girard (“Girard”) and Florence L. Leduc (“Leduc”), with a mailing address of 2417 West Lunt Avenue, Chicago, Illinois 60645, own certain property located in the Town of Plymouth, Country of Grafton and State of New Hampshire being situated on Fairgrounds Road, being Tax Map 207, Lot 002, and being the same premises conveyed to Girard and Leduc by deed of Eldwin A. Wixson, Jr., dated December 10, 1976 and recorded in the Grafton County Registry of Deeds at Book 1298, Page 843 and certain property also located on Fairgrounds Road, being Tax Map 207, Lot 033, and being the same premises conveyed to Girard and Leduc by deed of Brian G. Young, dated September 17, 1983 and recorded in said Registry at Book 1483, Page 751 (collectively, the “Girard Property”); and

WHEREAS, Girard and Leduc, along with Katharina M. Kelsey, Trustee of the Katharina M. Kelsey Revocable Trust of 2003 (“Kelsey”), with a mailing address of 78 Chaisson Road, Plymouth, New Hampshire 03264, and William F. Batchelder (“W. Batchelder”) and Elizabeth H. Batchelder (“E. Batchelder”), both with a mailing address of 452 Fairgrounds Road, Plymouth, New Hampshire 03264 (W. Batchelder, E. Batchelder, Girard, Leduc and Kelsey are collectively the “Fairgrounds Property Owners”), own certain property located in the Town of Plymouth, Country of Grafton and State of New Hampshire being situated on Fairgrounds Road, being Tax Map 207, Lot 001, and being the same premises conveyed by deed of Norco Corporation, dated May 1, 1996 and recorded in the Grafton County Registry of Deeds at Book 2193, Page 777 (the “Fairgrounds Property”); and

WHEREAS, the State of New Hampshire currently holds, or at one time held, certain easement rights or fee interests in portions of the Girard Property and the Fairgrounds Property relating to an abandoned railway grade. The location of the abandoned railway grade is shown as “Old Railroad Grade Now Owned By Public Service Co. 100 Ft. Right of Way” on a plan entitled “Subdivision Land of Norco Corporation, Lot Number 3, Fairgrounds Road, Plymouth, NH” and recorded in the Grafton County Registry of Deeds as Plan 5352 (the “Abandoned Railway Grade”); and

WHEREAS, Girard and Leduc have requested that the State of New Hampshire Department of Transportation confirm its release of, and affirmatively abandon, each and every right it held relating to the Abandoned Railway Grade.

NOW, THEREFORE, THE STATE OF NEW HAMPSHIRE, whose mailing address is PO Box 483, Concord, NH 03302-0483, by the Commissioner of the Department of Transportation, for consideration paid, pursuant to a vote of the Governor and Executive Council on [insert date], (Item #__) and in accordance with the provisions of New Hampshire RSA 228:56 and RSA 4:29, with WARRANTY covenants, hereby:

:

1. Grants and releases unto Girard and Leduc, with QUITCLAIM COVENANTS, any and all easement rights and other interests in the Abandoned Railway Grade located on the Girard Property.
2. Grants and releases unto the Fairgrounds Property Owners, with QUITCLAIM COVENANTS, any and all easement rights and other interests in the Abandoned Railway Grade located on the Fairgrounds Property.

EXECUTED this ____ day of _____, 2016.

STATE OF NEW HAMPSHIRE

By: _____
Commissioner, Department of Transportation

STATE OF NEW HAMPSHIRE
COUNTY OF _____,

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, the _____ of the Department of Transportation.

Notary Public/Justice of the Peace
Name:
My Commission Expires:

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

From: Louis A. Barker
Railroad Planner

Date: February 5, 2015

At: Dept. of Transportation
Bureau of Rail and Transit

thru: Shelley Winters *SW 2/12/16*
Administrator, Bureau of Rail & Transit

SUBJECT: Proposed Deed for Easement Release - Plymouth, NH
Former Plymouth-Woodsville Railroad Corridor – Abandoned 1954

TO: Patrick Herlihy, Director *PH 2/12/16*
Division of Aeronautics, Rail & Transit

Attached is the proposed Confirmatory Quitclaim Deed and Release of Easement for a parcel of property in the referenced railroad corridor. This privately-owned railroad corridor in the Town of Plymouth was sold to the Public Service Company by the Boston & Maine Corporation around 1960, which was well before the State program of railroad corridor preservation commenced. Of note, other segments of this corridor were acquired by the Department for Highway improvements.

In doing title research for a parcel the property owners of the parcel references to the Easements granted to the State of New Hampshire for the layout of the former Boston, Concord and Montreal (a predecessor to the Boston & Maine Railroad) were found in predecessor's deeds. The attorney for a Mr. Denis Girard and Ms. Florence Leduc, who now own the property, contacted the Office of the Attorney General to clear title. Subsequently, Attorney Matthew Broadhead inquired about possible responses and actions the State could take to facilitate the Clearing of Title. I referenced action that the Bureau took to resolve a title issue on a parcel of the former Concord and Claremont Railroad corridor in Warner, owned by a Mr. Peter Ladd, in which a Quitclaim Deed was prepared and signed by Director Ferns.

In lieu of preparing the document a draft of the attached Document was furnished to the Office of Attorney General and the Bureau of Rail & Transit. It was reviewed, revised, and approved by Mr. Broadhead (email attached).

I propose the attached Confirmatory Quitclaim Deed and Release of Easement document, and Governor and Council Resolution to facilitate the Clearing of Title that the State has no current (and in my opinion, future) interest in.

Please review and, if acceptable, I will submit the Resolution and deed into MTS for Governor & Council review and approval.

Attachments

Louis Barker

From: Broadhead, Matthew T <Matthew.Broadhead@doj.nh.gov>
Sent: Thursday, February 04, 2016 2:56 PM
To: Louis Barker
Cc: Shelley Winters; Patrick Herlihy
Subject: RE: Release of Historical Easement Rights Plymouth parcel.doc

Good to go on this

Matthew T. Broadhead
Assistant Attorney General
New Hampshire Department of Justice
Office of the Attorney General
33 Capitol St.
Concord, NH 03301
Tel. (603) 271-3675
Fax (603) 271-2110

STATEMENT OF CONFIDENTIALITY

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From: Louis Barker [<mailto:LBarker@dot.state.nh.us>]
Sent: Thursday, February 04, 2016 9:26 AM
To: Broadhead, Matthew T
Cc: Shelley Winters; Patrick Herlihy
Subject: Release of Historical Easement Rights Plymouth parcel.doc

Matt: I put this together for your consideration. If this fits the bill I'll run it past Shelley and Pat. Then put it into the G&C process. Lou B.