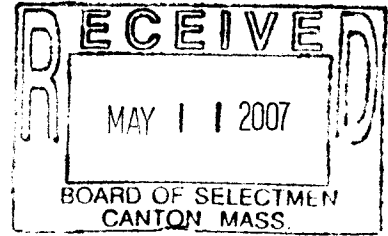


Louis M. Ross
lross@dwboston.com

May 10, 2007



County Commissioners
Administrative Offices
614 High Street, Suite 201
Dedham, MA 02027-0310

**RE: Notice of Appeal of Town of Westwood
Alteration of Canton Street, Westwood**

Dear Commissioners,

Enclosed please find an Appeal by the Town of Canton to the Town of Westwood's decision to alter, by creating a cul de sac, the county highway known as Canton Street in Westwood and Dedham Street in Canton, Massachusetts, as further described by your May 3, 2007 letter and received by us on May 4, 2007.

The Town of Canton respectfully requests the County Commissioners to vote in favor of our appeal, overturning the Town of Westwood's decision and rejecting any action by the Town of Westwood to alter, by creating a cul de sac, Canton Street in Westwood either temporarily or permanently.

If you have any questions regarding this matter or this appeal, please call.

Very Truly Yours

A handwritten signature in black ink, appearing to read "Louis M. Ross". The signature is fluid and cursive.

Louis M. Ross

- cc. Mr. Dan Matthews, County Director
- Canton Board of Selectmen
- Representative William Galvin
- Senator Brian Joyce
- Mr. William T. Friel, Town Administrator
- Mr. Michael Trotta, Supt. Public Works
- Mr. Paul R. DeRensis, Town Counsel

COMMONWEALTH OF MASSACHUSETTS
NORFOLK COUNTY COMMISSIONERS

NORFOLK, ss.

In Re. Alteration of County Highway in the
Town of Westwood Known as Canton Street

**APPEAL BY THE TOWN OF CANTON
BOARD OF SELECTMEN OF
THE DECISION BY THE
TOWN OF WESTWOOD TO ALTER
CANTON STREET, WESTWOOD
PURSUANT TO M.G.L. c. 82, § 19**

I. INTRODUCTION

1. This is the formal appeal by the Town of Canton (“Canton”), a body politic and corporate and political subdivision of the Commonwealth of Massachusetts having an address of Town Hall, 801 Washington Street, Canton, Massachusetts 02021, acting by and through its Board of Selectmen on behalf of Canton and all its inhabitants, pursuant to Massachusetts G.L. c. 82, § 19 regarding the decision (“Decision”) by the Town of Westwood (“Westwood”) to “alter,” and in effect to discontinue, a county highway located near the Canton-Westwood town border in Westwood, Massachusetts and known as Canton Street.

2. Canton Street in Westwood (“County Highway”), which is known as Dedham Street in Canton and East Street in Dedham, is a county highway.

3. Canton received the Commissioners’ May 3, 2007 notice of the Decision on May 4, 2007.

4. Canton is appealing the Decision to the Norfolk County Commissioners (“Commissioners”) on the grounds that Westwood’s Decision to “alter,” and in effect to discontinue the County Highway is not authorized by law, was procedurally defective and was inadequately conceived and crafted without due consideration to the significant negative effects upon Canton and the region.

5. Canton has an interest in ensuring the continued operation and maintenance of the County Highway on behalf of itself and its inhabitants, which the Canton Board of Selectmen is charged by statute and duty to protect.

6. Canton submits this Appeal to safeguard the rights of the Town of Canton and its inhabitants, of maintaining the County Highway as a functional, operating roadway for and the common convenience, necessity and public safety, and respectfully requests that the Commissioners summarily overturn the Decision for the following reasons.

II. OBJECTIONS TO THE DECISION

7. The so-called “alteration” of the County Highway resulting from the creation of a cul de sac will terminate travel over and use of portions of the County Highway; therefore such action constitutes in effect a discontinuance of the County Highway, and is not in reality an alteration or even a relocation. See Quinn v. Mayor and Aldermen of City of Springfield, 233 Mass. 595, 598 (1919) (an alteration is substitution of one way for another); Tufts v. Somerville, 122 Mass 273, 275 (relocation means to locate anew for the purpose of establishing boundary lines or a road that are in doubt or dispute and is distinguished from laying out, altering and discontinuing).

8. Westwood is not authorized to discontinue the County Highway pursuant to G.L. c. 82, § 17, which only authorizes Westwood to exercise concurrent jurisdiction with the Commissioners to alter, relocate or repair a county highway. See G.L. c. 82, § 17 attached hereto as Exhibit A. (“[A] town may exercise original jurisdiction, concurrent with the county commissioners, of petitions for altering, relocating or making specific repairs upon a highway within the town limits, but except as to such parts thereof as, by such action, become unnecessary for public use, a city or town shall not discontinue any highway” (emphasis added).)

9. Only the Commissioners have the authority to discontinue the County Highway pursuant to G.L. c. 82, § 17. Westwood is not altering, relocating or repairing the County Highway and all portions of the County Highway are still necessary for public use.

10. Only the Commissioners are authorized to discontinue the County Highway and Westwood has no such authority to discontinue the County Highway. See G.L. c. 82, § 17. The proper legal avenue for Westwood to discontinue the County Highway is to file with the Commissioners a petition for such discontinuance pursuant to G.L. c. 82, § 2, a copy of which is attached hereto as Exhibit B. See G.L. c. 82, § 2. (“If common convenience and necessity require ... the alteration, relocation, specific repair, discontinuance or discontinuance of maintenance of an existing highway, application therefor shall be made, by petition in writing, to the county commissioners having jurisdiction thereof.”) Westwood has failed to file with the Commissioners a petition for the discontinuance of the County Highway as required by G.L. c. 82, § 2. This failure to comply with G.L. c. 82, § 2 invalidates the Decision to “alter” any portion of the County Highway by creating a cul de sac.

11. The Commissioners, and municipalities where so authorized, are charged by G.L. c. 82, § 2 to consider petitions requesting the alteration, relocation, repair or discontinuance of county highways when required for “common convenience and necessity.” See Chandler v. County Com’rs of Nantucket County, 437 Mass. 430, 435-36 (2002) (purpose of statute is to facilitate safe and convenient travel). Westwood has failed to follow all the procedures required by G.L. c. 82 and to make a determination that the alteration, relocation and/or repair of the

County Highway is for the common convenience and necessity and has failed to obtain a written report from the Westwood Planning Board. See G.L. c. 41, § 81I; Poremba v. City of Springfield, 354 Mass. 432, 436 (1968).

12. Common convenience and necessity do not require the alteration, relocation or discontinuance of the County Highway. In fact, the termination of the County Highway by creating a cul de sac and discontinuance of the County Highway will be detrimental to common convenience and necessity due to the significant, negative effects on travel and commerce of all kinds between Westwood and Canton, including but not limited to the exacerbation of current traffic problems, increases of travel time, delays and use of less suitable alternate ways, which are already struggling at full capacity and cannot absorb excess traffic diverted from the County Highway. Canton has caused licensed professionals to perform thorough traffic analysis with regard to the actions contemplated by Westwood in the Decision, and will forward the Commissioners upon request supporting such the likelihood of such effects.

13. Common convenience and necessity do not require the alteration, relocation or discontinuance of the County Highway. The County Highway is a major artery between Westwood and Canton and for the general region. The termination of the County Highway by creating a cul de sac and discontinuance of a major road will have costly, negative impacts upon area residents, businesses and commuters of Canton and will significantly harm travel and commerce in the region. Westwood failed to consider and address these impacts in adopting the Decision, which are inherently necessary to be considered when contemplating the discontinuance of a county way.

14. The termination and discontinuance of the County Highway will have negative effects on the public's safety (and also therefore upon the common convenience and necessity) by impairing response time and mutual aid of emergency services to and from Westwood, Canton and surrounding communities. The Decision fails to account for public safety issues.

III. REQUEST TO OVERTURN THE DECISION

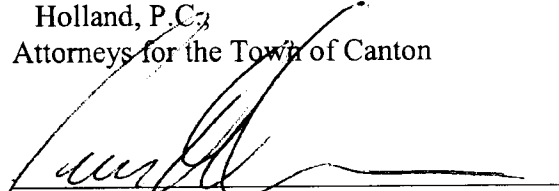
15. Canton urges the County to examine carefully the issues of authority, procedural defects, common convenience and necessity and public safety in considering this appeal by the Town of Canton and whether the termination of this County Highway by creating the cul de sac is truly in the public interest. For all the foregoing reasons, Canton respectfully requests the Commissioners to prohibit Westwood from terminating the County Highway by creating the cul de sac or discontinuing the County Highway pursuant to the Decision and to find and order that:

- a. Westwood is not authorized to "alter" or terminate or discontinue the County Highway pursuant to the Decision or otherwise;
- b. Westwood failed to follow applicable statutory procedures and that any such procedural defects invalidates Westwood's Decision;
- c. The alteration, relocation and/or discontinuance of the County Highway is not for common convenience or necessity;

- d. The termination of the County Highway will have significant detrimental effects upon traveling upon the County Highway and surrounding ways;
- e. The termination of the County Highway is not in the best interest of public safety; and
- f. The Decision shall be rejected and overturned on each of the foregoing grounds.

Respectfully submitted,
Deutsch Williams Brooks DeRensis &
Holland, P.C.
Attorneys for the Town of Canton

Dated: May 10, 2007



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