

District 5  
Certcode 0412-0

CERTIFICATE OF HIGHWAY MILEAGE  
YEAR ENDING FEBRUARY 10, 2023

VTrans Mapping Section

Fill out form, make and file a copy with the Town Clerk, and submit the Mileage Certificate on or before February 20, 2023 to: Vermont Agency of Transportation, Division of Policy, Planning and Intermodal Development, Mapping Section via email to: aot.mileagecertificates@vermont.gov or if necessary via mail to: VTrans PPAID - Mapping Section, 219 North Main Street, Barre VT 05641.

We, the members of the legislative body of SAINT GEORGE in CHITTENDEN County on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305, added 1985, is as follows:

PART I - CHANGES TOTALS - Please fill in and calculate totals.

Town Highways	Previous Mileage	Added Mileage	Subtracted Mileage	Total	Scenic Highways
Class 1	0.000	—	—	0.000	0.000
Class 2	0.370	—	—	0.370	0.000
Class 3	1.02	—	0.15	<del>1.02</del> 0.87	0.000
State Highway	3.693	—	—	3.693	0.000
<b>Total</b>	<b>5.083</b>			<del>5.083</del> <b>4.933</b>	<b>0.000</b>
* Class 1 Lane	0.000	—	—	0.000	
* Class 4	0.72	—	0.17	<del>0.55</del> 0.72	0.000
* Legal Trail	0.00	—	—	0.00	

\* Mileage for Class 1 Lane, Class 4, and Legal Trail classifications are NOT included in total.

DS  
PO

Subtracted Class 3 mileage entered and corrections made by P. DeAndrea VTrans 3/17/2023 per correspondence 3/17/2023

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

1. NEW HIGHWAYS: Please attach Selectmen's "Certificate of Completion and Opening".

2. DISCONTINUED: Please attach SIGNED copy of proceedings (minutes of meeting).

Class 3  
Winterton TH-5 0.15 miles; 2017 discontinuance confirmed by Court June 5, 2019 attached signed Selectboard minutes May 11, 2018 attached

3. RECLASSIFIED/REMEASURED: Please attach SIGNED copy of proceedings (minutes of meeting).

~~Re-measured TH#4 section 4: - Class 4 - reduce mileage by 0.17 miles; add 0.17 to Ayer Rd + Willow Brook TH # 4~~

4. SCENIC HIGHWAYS: Please attach a copy of order designating/discontinuing Scenic Highways.

Note added by P. DeAndrea VTrans 3/17/2023

These changes require reclassification, not remeasurement. See correspondence 3/17/2023 P. DeAndrea VTrans 3/17/2023

IF THERE ARE NO CHANGES IN MILEAGE: Place an X in the box and sign below.

PART III - SIGNATURES - PLEASE SIGN.

Signatures of Selectmen/ Aldermen/ Trustees:

*[Signature]*

*[Signature: Sarah G. Fiscal]*

Signature of T/C/V Clerk: *[Signature]*

Date Filed: 2-16-23

Please sign ORIGINAL and return it for Transportation signature.

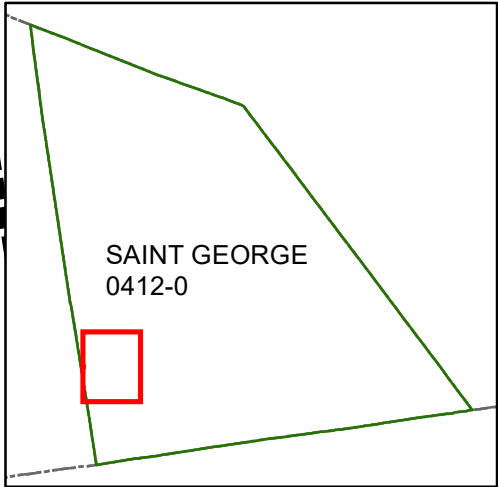
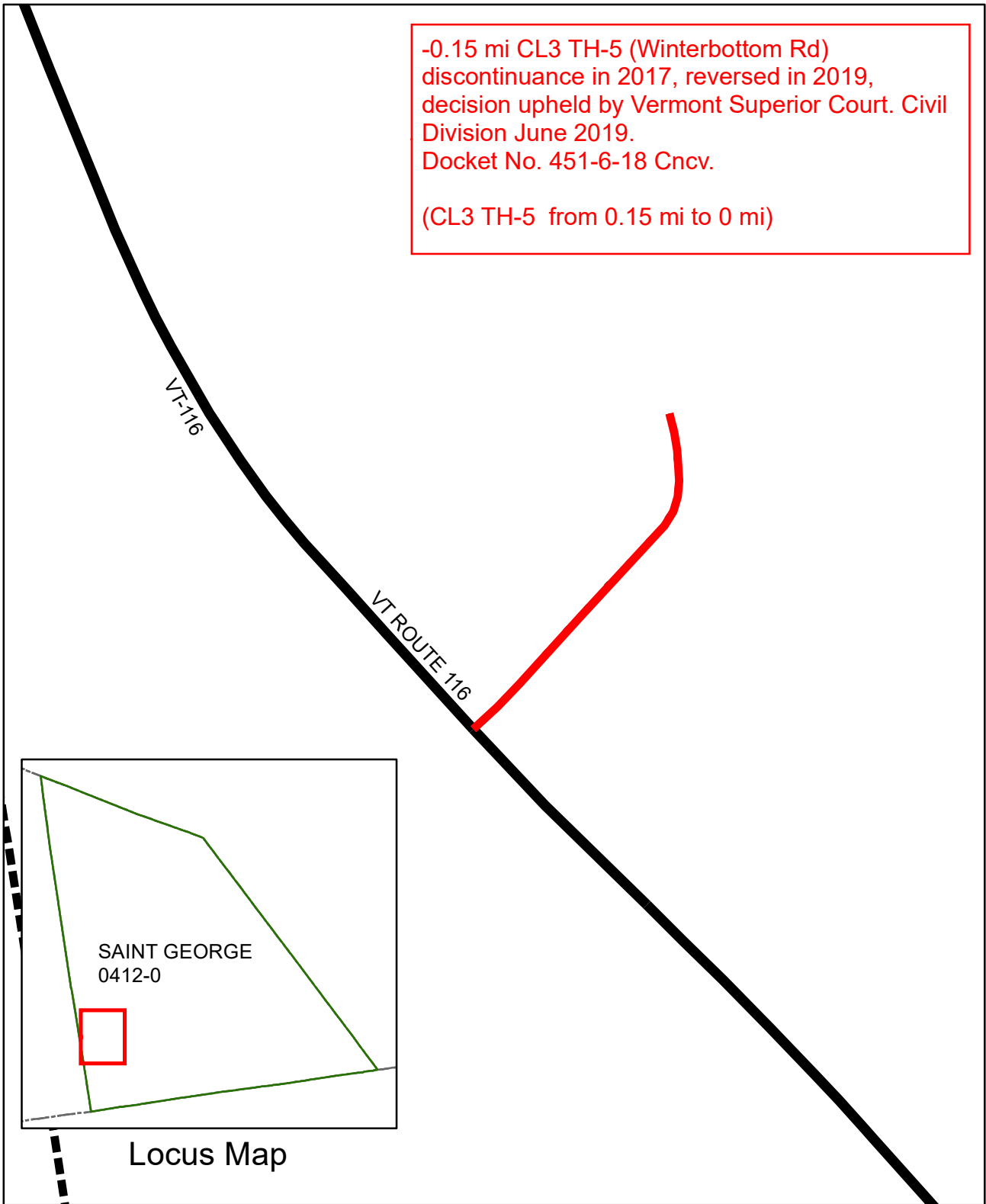
AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED:

Johnathan Croft  
8B1F350F309C4C9  
Representative, Agency of Transportation

DATE: 4/28/2023

-0.15 mi CL3 TH-5 (Winterbottom Rd)  
discontinuance in 2017, reversed in 2019,  
decision upheld by Vermont Superior Court. Civil  
Division June 2019.  
Docket No. 451-6-18 Cncv.  
  
(CL3 TH-5 from 0.15 mi to 0 mi)

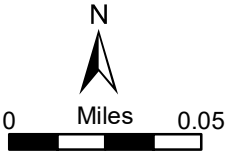


Locus Map

**Mileage Certificate Changes 2023**  
**SAINT GEORGE**

(CTUA:0412-0)  
(CERTCODE:0412-0)

Mapping Section  
Division of Policy and Planning  
Vermont Agency of Transportation -- March 20, 2023



County-Town Code: 0412

448,000

482,000

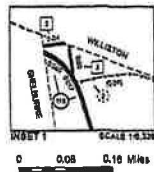
TOWN HWY. No.	LENGTH IN MILES CLASS 3	CLASS 4
2	0.88	(0.09)
4	0.15	(0.05)
8	0.17	
9	0.10	
19	0.02	
<b>TOTAL</b>	<b>1.02</b>	<b>0.09</b>

MILEAGE SUMMARY		
<b>CLASS 3</b>		
TH-1	0.300	
TH-2	0.070	
<b>TOTAL CLASS 3</b>	<b>0.370</b>	
<b>CLASS 4</b>		
<b>TOTAL CLASS 4</b>	<b>1.02</b>	
<b>TOTAL TOWN</b>	<b>1.390</b>	
<b>STATE HIGHWAY</b>		
VT-2A	1.882	
VT-118	1.590	
<b>TOTAL STATE HIGHWAY</b>	<b>3.440</b>	
<b>STATE HIGHWAY - Ramps</b>		
VT-2A	0.598	
<b>TOTAL STATE HIGHWAY - Ramps</b>	<b>0.583</b>	
<b>TOTAL STATE</b>	<b>3.993</b>	

TOWN HWY. No.	LENGTH IN MILES "NOT UP TO STANDARD"
8	(0.03)
<b>TOTAL</b>	<b>0.03</b>

\*The sections of the town highways listed above are legally Class 3, but have been deemed "Not Up to Standard" and are functionally Class 4 Town Highways

**TOTAL TRAVELED HIGHWAYS, FEB. 10, 2019: 5.083**  
(Excludes Class 4 and Legal Trail Mileage)



INSET 1

*Re-measured Select B2 VOTE 1/19/23*

*Discontinued by Select Bd May 11, 2018  
Confirmed by Court June 5, 2019*

- HIGHWAYS**
- INTERSTATE OR DIVIDED HIGHWAY
- STATE - HARD SURFACE OR PAVED
- TOWN - HARD SURFACE OR PAVED
- GRAVEL
- SOIL OR GRADED AND DRAINED EARTH
- UNIMPROVED OR PRIMITIVE
- DIRT ROADS OR UNTRAVELED
- LEGAL TRAIL
- DISCONTINUED
- HIGHWAY CLASS CHANGE
- RAILROAD
- INACTIVE RAILROAD
- PUBLIC LAND - NATIONAL FOREST
- PUBLIC LAND - STATE/NATURAL
- NATIONAL FOREST ROAD
- STATE FOREST HIGHWAY

- POLITICAL SUBDIVISIONS**
- STATE BOUNDARY
- COUNTY BOUNDARY
- TOWN BOUNDARY
- VILLAGE BOUNDARY
- URBAN CONTRACT BOUNDARY
- WATER BODY
- STREAM OR BROOK
- BRIDGE OR CULVERT
- BRIDGE OR CULVERT > 20'
- BRIDGE OR CULVERT < 20'
- BIKE PATH STRUCTURE
- VIADUCTS BRIDGE
- VIADUCTS CULVERT > 8'
- STATE BRIDGE OR CULVERT IDENTIFIER
- TOWN BRIDGE OR CULVERT IDENTIFIER

**DISCLAIMER**  
The untraveled highways (dashed town highways), discontinued highways, and legal trails herein are those of which the Agency of Transportation has records; others may exist.  
Highway and bridge data by the Agency of Transportation. Then spot structures drawn from the VT/CULVERTS (formerly VDBCT) online database. All other data from the Vermont Open Geospatial Portal. City names systems shown.

Vermont State Plane Coordinate System  
North American Datum of 1983  
SPCR Zone Identifier: 4400  
Geographic Reference System: GCS  
4,000-meter grid, Easting - Northing

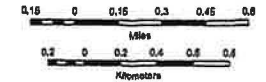


**VERMONT  
GENERAL HIGHWAY MAP  
Town of St. George**

CHITTENDEN COUNTY  
Transportation District #5

Prepared by the  
Vermont Agency of Transportation  
Division of Policy, Planning and Intermodal Development  
in cooperation with  
U.S. Department of Transportation  
Federal Highway Administration

Mileage as of February 10, 2019  
Map prepared April 26, 2018  
SCALE 1:12,872



448,000

482,000

## STATE OF VERMONT

SUPERIOR COURT  
Chittenden UnitCIVIL DIVISION  
Docket No. 451-6-18 CncvALAN R. PATUNOFF et al.,  
Plaintiffs,

v.

TOWN OF ST. GEORGE,  
Defendant.VERMONT SUPERIOR COURT  
FILED

JUN - 5 2019

CHITTENDEN UNIT

RULING ON TOWN'S MOTION FOR SUMMARY JUDGMENT

This is an appeal from a town selectboard's decision to discontinue a town highway. On December 17, 2018, the court granted the Town's motion for judgment on the pleadings as to Counts A, B, and D. In January 2019 the parties submitted a stipulation that "the Court may treat the remaining pending motions as motions for summary judgment." The court now considers the only remaining dispositive motion, the Town's motion for summary judgment as to Count C, a takings claim, and F, a claim for equitable relief. Claudine C. Safar and Christian S. Chorba, Esqs. represent Plaintiffs, and John H. Klesch, Esq. represents Defendant.

For purposes of deciding this motion for summary judgment, the court relies on the facts recounted in the background section of its December 17, 2018 ruling.

Count C: Regulatory Taking/Inverse Condemnation

Plaintiffs request in Count C that the court issue declaratory judgment stating that the discontinuance is a regulatory taking/inverse condemnation. They allege that they have been deprived of "reasonable and convenient access" to their properties because of the maintenance required to render Winterbottom Road safe for winter use. The takings clause of the Vermont Constitution reads as follows: "That private property ought to be subservient to public uses when

necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money." Vt. Const. Ch. I, Art. II. Plaintiffs argue that the Town's discontinuance of Winterbottom Road effectively deprives them of their right of access to their properties due to the lack of maintenance and snow plowing. *See* 19 V.S.A. § 717(c) ("A person whose sole means of access to a parcel of land or portion thereof owned by that person is by way of a town highway or unidentified corridor that is subsequently discontinued shall retain a private right-of-way over the former town highway or unidentified corridor for any necessary access to the parcel of land or portion thereof and maintenance of his or her right-of-way."); Okemo Mountain, Inc. v. Town of Ludlow, 171 Vt. 201, 209 (2000) (common law right of access).

Under Okemo, a prohibition of the use of a road, even if only during the winter, would be a taking of the right of access, and thus require compensation. 171 Vt. at 211. However, the mere loss of public maintenance of the road "is not a right for which an abutting landowner is entitled to compensation, since it is not a right in the landowner, but is a right held in common by all the citizens and taxpayers of the state." Perrin v. Town of Berlin, 138 Vt. 306, 307 (1980); *see also* Whitcomb v. Town of Springfield, 123 Vt. 395, 397 (1963) (noting that downgrading road to trail "closely approaches a discontinuance of the highway [. . .] in which no hearing upon damages is needed or required"); Luf v. Town of Southbury, 449 A.2d 1001, 1007 (Conn. 1982) (holding that "[e]ven if such upgrading would impose an economic burden and might allow free-loading by neighbors who would benefit from improvement of access, such economic costs would not establish a present total destruction of the plaintiffs' right of access"). In this case, Plaintiffs have the right to use the discontinued road to access their properties.

Plaintiffs argue that under Okemo, they have a right to “reasonable and convenient access,” and whether the lack of maintenance deprives them of that right remains a question of fact. They argue that “[i]f these elderly residents, much less any resident, cannot afford the maintenance, because they are on limited, fixed incomes [ . . . ] then access will disappear.” Plaintiffs’ Response to Sections (II)(C) and (F) of Appellee’s Motion to Strike Counts and Allegations and Motion for Judgment on the Pleadings at 7–8. Plaintiffs argue that Perrin does not apply because (1) this case is a discontinuance of a road on land deeded to the Town, rather than a reclassification as a trail, and (2) Winterbottom Road involves a “unique” combination of safety issues. Neither of these arguments are availing because they do not show that the discontinuance involved a taking of a private right. The court has located no authority to support the theory that the right to reasonable and convenient access imposes a duty on a town to provide maintenance and plowing on a private right of way.

Plaintiffs cite Gabriel v. Town of Duxbury for the proposition that “[t]he private interest at stake in the classification process is the quality of access abutting landowners have to their property via a town road, which may affect the use and value of the piece of property.” 171 Vt. 610, 611 (2000) (mem.). However, Gabriel concerned the question of whether a town’s notice of a reclassification decision met due process requirements when it did not advise an abutting landowner of her right to appeal the decision. Id. at 610. Gabriel does not apply to the question of whether an abutting landowner who retains a right of access on a discontinued road is entitled to compensation for the loss of public maintenance of the road.

Section 717(c) ensures that an abutting landowner retains a private right of access when a town discontinues a road, but does not provide for compensation of the loss of public maintenance and plowing of the discontinued road. In this case, Plaintiffs retain their right of access via the

discontinued road. The court has not located any case law that would support a claim that the loss of publicly funded maintenance can amount to a taking requiring compensation. Therefore, Plaintiffs cannot succeed on Count C, and Defendants are entitled to summary judgment.

Count F: Failure to Maintain Winterbottom Road as a Class 3 Highway

Plaintiffs allege in Count F that the Town has failed to maintain Winterbottom Road as a class 3 highway. They seek an injunction requiring the Town to reclassify Winterbottom Road as a class 3 highway and to continue its maintenance of the road, or in the alternative, damages including the cost of ongoing maintenance and additional maintenance necessitated by the Town's prior failure to maintain the road to class 3 standards. Plaintiffs characterize Count F as an equitable claim.

Plaintiffs argue that the Town misrepresented to the Vermont Department of Transportation that the Town previously maintained Winterbottom Road to class 3 highway standards. However, they do not provide any authority as to how this alleged misrepresentation affects their right to sue the Town for failure to maintain the road. Plaintiffs further contend that the Town's failure to grade the road has caused the road surface to degrade, groove, and crack, and that the road is now crumbling at its sides. Again, Plaintiffs fail to show that they are entitled to compensation for the alleged lack of maintenance, and they do not allege that the deteriorated state of the road actually cut off their right of access during the period preceding the discontinuance decision.

Plaintiffs argue that the Town has shirked its duties under 19 V.S.A. § 302(a)(3)(B), which sets out standards for class 3 highways, and 19 V.S.A. § 310(a), which requires a town to keep class 3 highways "in good and sufficient repair during all seasons of the year." Although neither

of those statutes provide for damages or a private right of action, Plaintiffs request that the court grant relief under its equitable powers.

The Town argues that Plaintiffs failed to avail themselves of statutory remedies provided under 19 V.S.A. § 971 *et seq.* and therefore failed to exhaust administrative remedies before requesting relief from this court. Section 971 provides the following:

When a highway or bridge is out of repair or unsafe for travel, any three citizens or taxpayers in the State may give written and signed notice of the insufficiency to the selectmen of the town in which the highway or bridge is situated, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. If the town neglects for seventy-two hours to respond by either denying the allegation or to commence work upon the highway or bridge, or fails to continue the work in good faith and with reasonable dispatch until the highway or bridge is put in good and sufficient repair, the citizens may file with one of the County Road Commissioners or the Superior Court for the county in which the highway or bridge is situated, a written complaint signed and sworn to, setting forth in general terms the location of the highway or bridge and the nature of the insufficiency. The complainants shall also give the Commissioners security by deposit or otherwise for the costs of proceedings under the complaint.

The statute provides for notice and hearing, a written report of the commissioners' findings, and appeal to the superior court. 19 V.S.A. §§ 972–976. During all the years in which Plaintiffs claim that the Town neglected repair of Winterbottom Road, Plaintiffs did not avail themselves of the procedure.

Plaintiffs reach for equity as a catch-all to allow the court to impose duties and costs on the Town that the Town specifically, and lawfully, sought to avoid by discontinuing Winterbottom Road. According to Plaintiffs, if the court disallows their equitable claim after the Town discontinued the road, it would undermine the public policy behind 19 V.S.A. §§ 971–976, “because it would allow a Town to turn over its poorly maintained and failing roads in a severely dilapidated condition.” Plaintiffs’ Response at 17. This argument ignores the procedure and



standard that a town must satisfy under Title 19, Chapter 7, before it may discontinue a road, and the availability of a legal remedy under sections 971–976. The statutes clearly provide a remedy for residents seeking to compel repairs to a road, and also a procedure for towns seeking to discontinue their obligation to maintain a road. *See Demarest v. Town of Underhill*, 2013 VT 72, ¶ 21, 195 Vt. 204 (affirming trial court’s affirmance of a town’s decision to reclassify a road as a trail when “[t]he fact that the road was in disrepair was material to that decision”).

By Plaintiffs’ own admission, “the Town has neglected maintenance for decades,” yet Plaintiffs never pursued the remedy available under sections 971–976. They now seek equitable relief not because a legal remedy was unavailable, but rather, because they neglected their right to pursue one. *See Gerety v. Poitras*, 126 Vt. 153, 155 (1966) (“Equity will not afford relief where there is a plain, adequate, and complete remedy at law.”); *Sandstrom v. ChemLawn Corp.*, 904 F.2d 83, 87 (1st Cir. 1990) (“Having eschewed these avenues [to legal remedies], plaintiff’s invocation of equitable principles rings hollow. Equity, after all, ministers to the vigilant, not to those who slumber upon their rights.”). “Courts of equity do not sit to restore lost opportunity, or to renew possibilities that have been permitted to pass by neglect.” *Aldridge & Stroud, Inc. v. Am.-Canadian Oil & Drilling Corp.*, 357 S.W.2d 8, 11 (Ark. 1962).

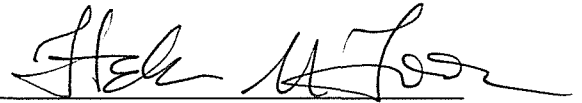
Plaintiffs have not alleged that Winterbottom Road was ever impassable during the period in question, nor do the facts support any theory under which the Town would be responsible for maintaining the road after discontinuance or compensating Plaintiffs for the cost of maintenance. *See Titchenal v. Dexter*, 166 Vt. 373, 377 (1997) (“[A] court may exert its equitable powers to grant appropriate relief only when a judicially cognizable right exists, and no adequate legal remedy is available.”). Even if all of Plaintiffs’ factual allegations were true, Plaintiffs could not succeed in their claim for equitable relief.

Because the court has resolved the motion in favor of the Town based on the unavailability of the remedies sought by Plaintiff, the court will not address the question of whether the claim for damages for failure to maintain Winterbottom Road is barred by municipal sovereign immunity.

Order

The Town's motion for summary judgment is granted as to Counts C and F. As this resolves all remaining issues in the case, judgment shall issue.

Dated this 5<sup>th</sup> day of June, 2019.

A handwritten signature in black ink, appearing to read "Helen M. Toor", written over a horizontal line.

Helen M. Toor  
Superior Court Judge

STATE OF VERMONT

SUPERIOR COURT  
Chittenden Unit

CIVIL DIVISION  
Docket No. 451-6-18 Cncv

Alan R. Patunoff,  
Pamela A. Patunoff,  
Elwin Isham,  
Appellants

v.

Town of St. George,  
Appellee

VERMONT SUPERIOR COURT  
FILED

JUN - 5 2019

CHITTENDEN UNIT

FINAL JUDGMENT

The court having:

found for Plaintiff after a court trial

granted Plaintiff's motion for

summary judgment

judgment on the pleadings

found for Defendant after a court trial

granted Defendant's motion for

summary judgment

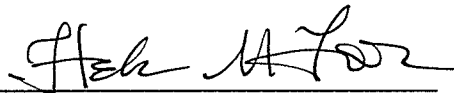
dismissal

Judgment is entered for Plaintiff(s): \_\_\_\_\_

Judgment is entered for Defendant(s): \_\_\_\_\_

This action is dismissed.

Dated at Burlington, Vermont, June 5, 2019.



Helen M. Toor  
Superior Court Judge

According to data listed in the Town Plan, a significant portion of St. George residents have modest economic means. Again, however, the vast majority of such residents live on roads which are maintained at the expense of the people who live on those roads. Thus, statements that at least some Winterbottom residents are “on fixed incomes” or the like do not reasonably suggest road safety would be adversely affected by discontinuance of the town highway. As there is no actual evidence in the record that the residents could not afford to pay a fair share of the cost for plowing and sanding of the road, the Selectboard has no basis on which to conclude that economic circumstances are likely to negatively impact possible safety concerns related to winter maintenance.

- Another fact which the Selectboard finds irrelevant is the age of the Winterbottom Road residents. There is no reason to determine that residents’ ability to maintain a private road is related to the residents’ age, as the reasonable expectation is that residents unable or unwilling to actually maintain a road with their own equipment and own labor will hire someone to provide such services. The plowing and sanding maintenance situation for Winterbottom Road, if discontinued from a town highway to a private road, would be virtually no different than at present, since the Town simply pays a contractor to plow and sand the road. The only difference would be that it is the Winterbottom residents who would pay for such plowing and sanding as opposed to the St. George taxpayers.

In sum, the record indicates that there is nothing uniquely dangerous about the intersection of Winterbottom Road and Route 116, especially nothing dangerous which is possibly related to whether it is or is not a town highway. Any safety issues related to sight distances, grade, and location of the road would not be changed by discontinuance. Reasonable winter maintenance will most likely be provided by the residents. While safety concerns were raised during the discontinuance process, careful review of the facts leads the Selectboard to conclude the evidence does not indicate such concerns pose any barrier to discontinuance.

Additional Procedural Note

The Selectboard notes that, at the time it entered into deliberations based on the Court’s remand order, the Selectboard was comprised of four members. Three members of the Selectboard signing this Addendum participated in the discontinuance proceedings in 2016. A new Selectboard member, Sarah Tischler, was appointed to the Selectboard on February 27, 2018. Ms. Tischler reviewed the record sufficiently to become familiar with it and she viewed the Winterbottom Road site prior to participating in deliberations which led to this decision. All four current Selectboard members participated in the deliberations leading to this Addendum, and all four voted unanimously in favor of it.

Order

**For all of the foregoing reasons, the Selectboard determines that potential safety issues do not make discontinuance of Town Highway # 5 / Winterbottom Road inconsistent with the public good, necessity and convenience of the inhabitants of the Town of St. George. The Selectboard therefore hereby declares Town Highway # 5 shall be discontinued based on this determination and the Selectboard’s prior December 29, 2016**



**Return.** All Town residents who rely on Winterbottom Road for access to their property shall retain a private right-of-way over the former town highway pursuant to 19 V.S.A. § 717(c). In order to allow the Winterbottom residential property owners reasonable time to arrange for taking-over maintenance of Winterbottom Road, the Selectboard hereby declares discontinuance shall take effect on May 21, 2018, such that the Town shall continue to provide reasonable plowing and sanding as necessary until that date.

**The description of the discontinued highway is as follows:**

**Winterbottom Road (Town Highway No. 5), extending easterly and then curving northerly for a total length of 750 feet from Vermont Route 116, may be more particularly bounded and described with reference to the Warranty Deed of Clara Peet, dated March 12, 1945, recorded in Book 4, Pages 3-4 of the St. George Town Land Records, and re-recorded in Book 4, Pages 100-01 of said Land Records, as follows:**

**Being a strip of land (24) twenty-four feet wide for the purposes of a highway, commencing on the easterly side of the Main Road from Burlington to Hinesburg (Vermont Route 116), the points marked by the Selectmen and then extending through the lands and premises formerly owned by Clara Peet, northeasterly seven hundred fifty (750) feet, more or less, to and connecting with the lands and premises formerly owned by Katherine Winterbottom. Said strip of land passing just northerly of a big Hemlock tree.**

**Meaning and intending to discontinue the entirety of the 0.15-mile, more or less, Winterbottom Road (Town Highway No. 5) right-of-way.**

DATED at St. George, Vermont, this 11 day of May, 2018.

SELECTBOARD OF THE TOWN OF ST. GEORGE

By:   
Jeff Pillsbury, Chair

By:   
Harry Bowen

By:   
Wayne Ring

By:   
Sarah Tischler



Road Commissioner &lt;stgeorgeroads@gmail.com&gt;

---

**Orders re: Winterbottom Road Discontinuance**

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David W. Rugh &lt;drugh@firmspf.com&gt;

Mon, Jan 23, 2023 at 1:51 PM

To: "stgeorgeroads@gmail.com" &lt;stgeorgeroads@gmail.com&gt;

Cc: ST GEORGE TOWN CLERK - TREASURER &lt;stgeorgevtclerk@comcast.net&gt;

Hi Scotty,

It was good speaking with you this afternoon. Per your request, attached is the Selectboard's order discontinuing Winterbottom Road, effective as of May 21, 2018, which came after the Winterbottom Road residents' first appeal of the original 2016 discontinuance order and after a remand of the proceeding from the Civil Division to the Selectboard so it could more sufficiently address safety concerns.

Following the issuance of the revised discontinuance order, the May 2018 order was appealed again by the Winterbottom Road residents, and in response the Town filed a Motion for Judgment on the Pleadings addressing all but one count in the residents' appeal. By the attached decision, dated December 17, 2018, the Civil Division granted the Town's Motion, dismissing the residents' challenge (the decision is attached as "18-12-17 Ruling on Appellee's Motion to Strike Counts & Allegations.pdf") and upholding the discontinuance decision. After the December 2018 decision dismissed all but one of the residents' claims, the parties asked that the residents' remaining claim of regulatory taking/inverse condemnation be considered by way of summary judgment motions. }

By a final decision, dated June 5, 2019, the court dismissed the residents' claim that the Town's discontinuance and failure to maintain the road amounted to a regulatory taking or inverse condemnation and issued its Judgment Order dismissing the challenge (at the end of the .pdf labeled "19-06-05 Ruling on Town's Motion for Summary Judgment.pdf"). }

I've copied April on this email just so she has copies of the attached for the Town's records in case we ever need to reference them again.

Please feel free to call with questions.

Thanks,

Dave

---

David W. Rugh, Esq.

Stitzel, Page & Fletcher, P.C.

171 Battery Street

P.O. Box 1507

Burlington, VT 05402-1507

St George Selectboard Meeting Minutes  
January 19, 2023

<https://meet.goto.com/337488405>  
United States: +1 (646) 749-3122  
Access Code: 337-488-405

Selectboard members present: Jeff Pillsbury, Sarah Tischler, and Joel Colf,  
Other Town Officers Present: April Pillsbury, Charles Scott  
Others: None  
Jeff Pillsbury called the meeting to order at 7:15 PM  
Changes to agenda: None  
Public comments: None

**Approve November 17, 2022 Minutes**

MOTION by Jeff Pillsbury, SECOND by Joel Colf to approve minutes as drafted. VOTING: unanimous; motion carried.

**Annual Highway Mileage Certificate** – Charles Scott

Scotty identified a few errors on the certificate for approval provided to the Town by the State of Vermont. To rectify the issues, he requested that the following motion be approved by the Selectboard: “That the Selectboard accepts the remeasurement of the Class 4 sections of TH-4 of Ayer Road and TH-4 of Willow Brook Lane and the reduction of the mileage in the Class 4 section by 0.17 of a mile and the increase in the Class 3 sections of TH-4 Ayer Road and TH-4 Willow Brook Lane by 0.17 of a mile as measured by the then St. George Road Commissioner Neil Boyden on October 25, 2017.”

MOTION to approve by Jeff Pillsbury, SECOND by Joel Colf. VOTING: unanimous; motion carried.

**St. George Community Coop Schoolhouse Usage Request** – Sandra Jarvis

Sandra Jarvis was unable to attend. April commented that occasionally the Coop has been using the schoolhouse for emergency usage and a contracted rate and terms needed to be discussed moving forward. They had been granted permission to use the schoolhouse for free once per month to hold their board meetings. The Coop had been provided with a schoolhouse key for their scheduled monthly meeting but was not consistently notifying the town when additional usage had occurred. Due to scheduling and charging of rental fees for other interested parties, April felt it was in the best interest of all to come up with a detailed usage agreement. Agenda item tabled until a representative of the St. George Community Coop was present to discuss.

**M&T Bank Resolution – approve \*new\* non-interest-bearing account for Community Coop Grant**

Resolution had been approved by the Selectboard in the summer of 2022, but with the Peoples/M&T Bank merger the account was not transferred. The resolution is required naming M&T Bank as the financial institute to receive the water infrastructure funds once the grant money has been distributed.

MOTION by Jeff Pillsbury, SECOND by Joel Colf to approve opening the account with M&T Bank. VOTING: unanimous; motion carried.

**Approve March 7, 2023 Town Meeting Warning**

Sarah Tischler would like the Selectboard to consider adding an article to create a Conservation Committee. The agenda item was tabled until further review. A special Selectboard meeting will be held to approve in time to satisfy statute requirements.

**Approve FY23/24 Budget for 2023 Town Meeting**

Discussed; tabled. A special Selectboard meeting will be held to approve in time to satisfy statute requirements.

**Approve Order**

Approved

**Executive Session (if needed)**

None

**Happenings Around Town**

None

**Adjourn**

MOTION by Jeff Pillsbury, SECOND by Sarah Tischler to adjourn meeting at 8:30PM. Voting: unanimous; meeting adjourned.

**From:** [AOT - Mileage Certificates](#)  
**To:** [ST GEORGE TOWN CLERK - TREASURER](#); [AOT - Mileage Certificates](#)  
**Subject:** RE: SAINT GEORGE: 2023 Mileage Certificate Not Yet Received  
**Date:** Friday, March 17, 2023 3:45:25 PM  
**Attachments:** [image001.png](#)  
[St George RoadMeasurementsInventory.pdf](#)

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Good afternoon April,

Thank you for sending us the 2023 Mileage Certificate for the Town of Saint George. We have some comments and clarifications for what was reported on the Mileage Certificate, which should be conveyed to the Selectboard.

Both of the roads on the Certificate were on the 2019 Mileage Certificate included here in this link: [https://maps.vtrans.vermont.gov/Maps/Publications/MileageCertificates/ArchivedMileageCertificates/CHITTENDEN\\_Co/SAINT\\_GEORGE/ST\\_GEORGE\\_\\_MILEAGECERT\\_2019\\_C\\_OCR.PDF](https://maps.vtrans.vermont.gov/Maps/Publications/MileageCertificates/ArchivedMileageCertificates/CHITTENDEN_Co/SAINT_GEORGE/ST_GEORGE__MILEAGECERT_2019_C_OCR.PDF)

**For TH-5**, we need the mileage change for the discontinuance included in Part 1. I can correct that with a change in **Class 3 mileage from 1.02 miles to 0.87 miles**. As mentioned in 2019, it would be great if we could have a copy of the court decision for the Certificate Packet so we can reference the actual docket number. Looks like you included an email from the lawyer but not the actual decision document.

**For TH-4**, back in 2019, my co-worker Kerry Alley worked with Neil Boyden to nail down what was Class 3 and Class 4 on this road, but as noted on the 2019 certificate, these changes need to be made through the reclassification process. Attached is the Road inventory from 1993, which clearly states the Class 3 mileage to be 0.11 and 0.47 miles. We have no record of reclassification for TH-4 after this date.

To reclassify a section of road, the Town needs to go through the reclassification process per 19 V.S.A. Chapter 7.

**(9) "Reclassify" means to change the classification of a highway using the legal process described in this chapter. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2021, No. 20, § 96.)**

Here is the link with information on what the process entails:

<https://legislature.vermont.gov/statutes/chapter/19/007>.

In general, the Town Selectboard needs to:

- Provide public notice and notice to adjacent landowners on site visit and hearing
- Conduct site visit and public hearing

We would need you to send back to us the following:

- Evidence of public and landowner notice
- Minutes from hearing on Selectboard decision to reclassify



- Sketch map of changes

If this process has already been followed, it would be great to send along that documentation to us and then we can make the change. We cannot change a road's classification through remeasuring the road. Kerry or I would be happy to speak with someone on the Selectboard to help them with this process and get the mileage corrected next year.

Thank you so much,

Pam

**Pamela DeAndrea (she/her)** | AOT GIS Professional III  
Policy, Planning & Research Bureau – Mapping Section  
Policy, Planning & Intermodal Development Division  
Vermont Agency of Transportation  
219 North Main Street | Barre, VT 05641  
[802-793-7555 phone](tel:802-793-7555) | [pam.deandrea@vermont.gov](mailto:pam.deandrea@vermont.gov)  
<http://vtrans.vermont.gov>



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**From:** ST GEORGE TOWN CLERK - TREASURER <stgeorgevtclerk@comcast.net>

**Sent:** Tuesday, February 28, 2023 11:02 AM

**To:** AOT - Mileage Certificates <AOT.MileageCertificates@vermont.gov>

**Subject:** Re: SAINT GEORGE: 2023 Mileage Certificate Not Yet Received

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Please see attached

**April Pillsbury**

Town Clerk-Treasurer

Town of St George  
21 Barber Road  
St George, VT 05495

PH 802.482.5272

FX 802.482.5548

Hours:

Mon-Tue-Wed 8:00am-2:00pm

Thur 4:30-6:30pm

Fri Closed

On 02/27/2023 4:27 PM AOT - Mileage Certificates  
<[aot.mileagecertificates@vermont.gov](mailto:aot.mileagecertificates@vermont.gov)> wrote:

Greetings from the VTrans Mapping Section,

The VTrans Mapping Section sent you an email on 01/03/2023 with Saint George's 2023 Mileage Certificate attached. To date, we have not yet received this certificate, and therefore want to remind Saint George to sign and return the Certificate to the Mapping Section as soon as possible. For your convenience we have also attached a copy of the certificate to this email. Certificates can be scanned and returned to us at [aot.mileagecertificates@vermont.gov](mailto:aot.mileagecertificates@vermont.gov).

Please note that the Mileage Certificates need to be signed and returned to the Mapping Section, even if there are no changes. VTrans uses this certificate to confirm highway mileage for the purpose of allocating state aid for town roads. If we do not receive a completed mileage certificate from you by March 18, 2023, we will assume there are no changes from last year's certificate and state aid will be based on those mileages.

Sincerely,

Kerry Alley

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Kerry Alley | GIS Professional III  
Policy, Planning & Research Bureau - Mapping Section  
Policy, Planning & Intermodal Development Division  
Vermont Agency of Transportation  
219 North Main Street | Barre, VT 05641  
802-917-2621 (cell) | [Kerry.Alley@vermont.gov](mailto:Kerry.Alley@vermont.gov)  
<https://vtrans.vermont.gov/planning/maps>

**From:** [Croft, Johnathan](#)  
**To:** [Chris Dubin](#); [Charles Scott](#)  
**Cc:** [DeAndrea, Pam](#); [AOT - Mileage Certificates](#)  
**Subject:** RE: Municipal road surface type mapping review  
**Date:** Tuesday, September 20, 2022 10:04:03 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)

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Good morning Charles and Chris,

We are showing TH-5 (Winterbottom Road) in Saint George as a class 3 town highway and it is currently receiving state aid, and since it is discontinued, it should not be receiving aid. We will need to receive the documentation from the Town regarding the discontinuance process, any Selectboard minutes, and an order of discontinuance. This can be submitted to us at any point and we can include this change on the next Mileage Certificate, which will then prompt an update to the Town Highway Map.

Thanks for the heads up on this and please feel free to forward any of the discontinuance documentation to [AOT.MileageCertificates@vermont.gov](mailto:AOT.MileageCertificates@vermont.gov)

Please let me know if you have any questions about what information we are seeking and we will be glad to provide assistance.

Johnathan

**Johnathan Croft** | Mapping Section Chief  
Policy, Planning & Research Bureau – Mapping Section  
Policy, Planning & Intermodal Development Division  
Vermont Agency of Transportation  
219 North Main Street | Barre, VT 05641  
802-828-2600 phone | [johnathan.croft@vermont.gov](mailto:johnathan.croft@vermont.gov)  
<http://vtrans.vermont.gov>



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**From:** Chris Dubin <[cdubin@ccrpcvt.org](mailto:cdubin@ccrpcvt.org)>  
**Sent:** Tuesday, September 20, 2022 9:56 AM  
**To:** Charles Scott <[clscott2nd@gmail.com](mailto:clscott2nd@gmail.com)>  
**Cc:** Croft, Johnathan <[Johnathan.Croft@vermont.gov](mailto:Johnathan.Croft@vermont.gov)>; DeAndrea, Pam <[Pam.DeAndrea@vermont.gov](mailto:Pam.DeAndrea@vermont.gov)>  
**Subject:** RE: Municipal road surface type mapping review

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Charles,

Did you happen to let the state know? I am somewhat unfamiliar with the formal process for this but I am looping in some of the Vtrans mapping colleagues for some guidance.

Pam and/or Jonathan – are you aware of this change or could help St. George formalize it?

Thanks,

Chris Dubin

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**From:** Charles Scott <[clscott2nd@gmail.com](mailto:clscott2nd@gmail.com)>  
**Sent:** Monday, September 19, 2022 1:01 PM  
**To:** Chris Dubin <[cdubin@ccrpcvt.org](mailto:cdubin@ccrpcvt.org)>  
**Subject:** Re: Municipal road surface type mapping review

Chris, good to hear from you. All the surfaces on the state map for ST. George are correct. The only major change is that road #5 (Winterbottom) was discontinued several years ago and is now a private road.

Best, Charles Scott, ST. George Road Commissioner

On Thu, Aug 4, 2022 at 2:07 PM Chris Dubin <[cdubin@ccrpcvt.org](mailto:cdubin@ccrpcvt.org)> wrote:

Dear Municipal Staff,

Vtrans is requesting that RPCs work with municipalities to review some information regarding the surface type of their class 3 and 4 roadways. They have already reviewed the surface type designation for Class 1 and 2 roadways. This data ultimately updates the official Vtrans Road Centerline GIS dataset, and then will update the official town highway maps. The goal is to have these updates to Vtrans by September 30<sup>th</sup> of 2022.

Your maps can be found at this link (<https://vtrans.vermont.gov/content/planning/maps/town-maps/highway-maps>). Please be sure to select the most current map of your town. We are specifically focused on **road surface type**. Below is a screenshot of the legend which shows how to determine the surface type that Vtrans currently has on file.

- INTERSTATE OR DIVIDED HIGHWAY
- ▬ STATE - HARD SURFACE OR PAVED
- ▬ TOWN - HARD SURFACE OR PAVED
- ▬ GRAVEL
- ▬▬ SOIL OR GRADED AND DRAINED EARTH
- = = UNIMPROVED OR PRIMITIVE
- u - u IMPASSABLE OR UNTRAVELED

**As a reminder – Vtrans is ONLY interested in any changes that need to be made to these maps.**

I suspect in some Chittenden County communities; the simple response may just be “no changes needed” Below is some additional language from the directive. Please email me a list of any changes, and at that point it may be good to field verify. Below is an excerpt from the Vtrans directive explaining the definitions in more detail.

*The surface type for some highways has not been reviewed or updated since the development of the road centerline data layer in the 1990’s and is based off the last field inventory that was performed in the 1980’s and 1990’s. Surface types may have changed since this point, either being upgraded through maintenance or downgraded. VTrans seeks input regarding the quality and content of the surface type data of the highway network.*

*The categories for [Road Surface Type \(SURFACETYPE\)](#) are:*

*1 Paved - A road whose surface is bituminous concrete or other treated surface such as cement concrete, bricks, or cobblestone*

*2 Gravel - A graded and drained road, the surface of which consists of gravel, broken stone, slag, slate and shale or other similar fragmental material coarser than sand. A gravel highway as applied to Town highways is defined as a highway having a gravel base and widths sufficient to provide reasonable transportation facilities at all times of the year, according to the classification of the highway.*

*3 Soil or graded and drained earth - A road which has been improved to provide more adequate traffic service by the addition of sand, coarse loam or light course of gravel, but not in sufficient amount to prevent a break-through in the spring, or a road of natural earth, aligned and graded*

*to permit reasonably convenient use by motor vehicles.*

*4 Unimproved - Unimproved/primitive - An earth road consisting of the natural ground and which is maintained in a condition of bare passability, or an unimproved road on which there appears to be no public maintenance, and which may or may not be traveled or passable.*

*5 Impassable or untraveled - A public highway in a primitive condition on which there appears to be no public travel, and which is not maintained.*

*6 Unknown*

As always – feel free to reach out for further questions.

Regards,

Chris Dubin

**Chris Dubin**

*Senior Transportation Planner*

*Chittenden County Regional Planning Commission*

*110 West Canal Street, Suite 202*

*Winooski, VT 05404*

*(802) 846-4490 ext. \*12*

*Cell: 908 420 8542*

*[www.ccrpcvt.org](http://www.ccrpcvt.org)*

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Charles Scott

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