

§3033. Rights of action concerning ways deemed vacated

1. Notice by person claiming ownership. Any person claiming to own a proposed, unaccepted way or portion of a proposed, unaccepted way deemed vacated under section 3032 may record, in the registry of deeds where the subdivision plan, to which the notice set forth in this subsection pertains, is recorded, a conformed copy of the notice set forth in this subsection, with an alphabetical listing of the names of the current record owners of lots on the subdivision plan to which the notice pertains and their mortgagees of record. The person shall give notice of his claim to these current record owners and their mortgagees of record. Within 20 days of recording of the notice, the person shall give this notice by mailing, by the United States postal service, postage prepaid, to the current record owners and mortgagees, a copy of the notice set forth below:

NOTICE

By virtue of the Maine Revised Statutes, Title 23, section 3032, the following proposed, unaccepted ways or portions of proposed, unaccepted ways were deemed by law to have been vacated by the municipal officers of (name of town or city) _____. The ways or portions of ways so vacated are shown on a plan (named) (dated) (and) recorded in the _____ County Registry of Deeds, Book of Plans, Volume _____, Page _____, (Folio #) and are described as follows:

(Herein list vacated ways or portions of ways)

The undersigned claims to own the (way or ways) (portion of way or ways) described above. Any person claiming an interest in (this way or these ways) (a portion of this way or these ways) adverse to the claim of the undersigned, within one year from the date of recording of a copy of this notice in the registry of deeds, must file a written claim, under oath, in the same registry and, within 180 days thereafter, must commence an action in Superior Court in _____ County in accordance with the Maine Revised Statutes, Title 23, section 3033. A copy of this notice was recorded in the registry of deeds on _____, 19____.

[PL 1987, c. 385, §2 (NEW).]

2. Rights of action by persons receiving notice. All persons receiving a notice under subsection 1, who claim any private right of any kind in the way or portion of a way to which the notice pertains, are forever barred from maintaining any action at law or in equity to establish, recover, confirm or otherwise enforce any right claimed to or in the way or portion of a way by reason of the ownership by the person, or by a predecessor in title, of a lot or parcel of land shown on the recorded subdivision plan to which the notice pertains, unless, within one year from the date of recording of the notice, the person files in the registry of deed where the pertinent subdivision plan is recorded a statement, under oath, specifying the nature, basis and extent of the claimed interest in the way or portion of a way. The claim is forever barred unless, within 180 days of the recording of the statement, the claimant, or a person acting on his behalf, commences an action in equity under Title 14, chapter 723, to establish the rights asserted to or in the way or portion of a way.

The limitation periods in this section are not tolled or interrupted by any disability, minority, lack of knowledge or absence from this State by the claimant.

[PL 1987, c. 385, §2 (NEW).]

3. Trial of an action. Upon trial of an action initiated under subsection 2, the court shall grant judgment for the claimant only if it finds that:

A. The claimant has acquired an interest in the way or portion of a way; and [PL 1987, c. 385, §2 (NEW).]

B. The deprivation of the claimant's rights in the way or portion of the way unreasonably limits the claimant's access from his land shown on the recorded subdivision plan to:

(1) A public way;

(2) A public body of water; or

(3) Common land or a common facility within the subdivision. [PL 1987, c. 385, §2 (NEW).]

Any judgment rendered by the court in an action under subsection 2, in the discretion of the court, may grant the claimant reasonable damages instead of establishment of the claimant's rights, except that under no circumstances shall a municipality be liable for any damages granted by any judgment rendered by the court under subsection 2.

[PL 1987, c. 385, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 385, §2 (NEW).

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