

The Defendants' Request for Judgement

(1) Declare, in accordance with Count I, that:

(a) The Trail was never laid out as a public way subject to the meaning of that term under G.L. c. 82, §§ 1 *et seq.*;

After four years, the Town has not been able to produce any of the necessary documentation to show that the Trail was ever a public way and has admitted that such documentation may be "missing or not in our possession".

(b) The Trail was never dedicated as a public way;

After four years, the Town has not been able to produce any evidence that the Trail was gifted to the Town by the owners, which is what "dedicated" means.

(c) The Town has no prescriptive rights over or on the Trail;

A Town may only gain a prescriptive easement if they can show they have been treating and maintaining a way as a public way for 20 years. The Trail has been gated closed for the past 85 years and there has been no Town maintenance or other action since then.

(d) The Trail is not a public way; and

(e) They are the owners in fee simple of the portions of the Trail abutting their property to the midpoint of the Trail; and,

The Town has now admitted that the Trail is a private way

(f) The Plaintiffs are entitled to control access to and on the Trail, including, but not limited to, erecting and maintaining a gate, maintaining the landscape, and imposing reasonable rules and regulations; and

The Town has now admitted that the landowners own the Trail

If the court were to agree on the above points, then the control of the Trail is given to the owners of it.

(2) Enter any other relief the Court deems just and appropriate.