

ATTORNEY WRITES

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“Passing the Buck” – Poor Rural Roads Around Lakes

In Michigan, most public roads accessing inland lakes and rivers are under the jurisdiction of the local county road commission. And, quite often, those roads are not in great shape.

The following is a story repeated almost daily throughout Michigan. A resident of a township lake is tired of the condition of the public road next to her house. She complains to an official of the county road commission. That official indicates that there is nothing the county road commission can do due to a lack of funding and suggests that the property owner contact her local township official, thus implying that the condition of local public roads is the responsibility of the township. Sound familiar? Unfortunately, that is an all too common example of a county road commission employee being less than candid with a local resident.

In Michigan, townships do not own public roads or have any legal responsibility for the snowplowing, maintenance, paving, upgrading or repair of such roads. Apart from federal or state roads, the county road commission of the county where the road is located has the legal responsibility for all aspects of those county roads. Over 80 years ago, Michigan enacted the McNitt Act which required that all township roads be transferred to the local county road commission. With a few very rare exceptions, there are no township roads in Michigan.

Furthermore, MCL 224.21(2) requires county road commissions to keep all roads within their jurisdiction “in reasonable repair” and “reasonably safe and convenient for public travel”.

Unfortunately, citizens are generally without a legal remedy regarding the condition of such roads, as Michigan courts have ruled that citizens, property owners and local municipalities generally cannot sue to enforce MCL 224.21(2) (i.e. they do not have “standing”). See *Canton Township v. Wayne County Road Commission*, 141 Mich App 322 (1985).

It is fairly common for townships to contribute money to the local road commission for better maintenance of or improvements to a particular county road within that township. Such contributions can partially pay for paving a gravel road, applying salt brine to a gravel road to minimize dust or adding gravel to a gravel public road. However, those are voluntary contributions by the township involved, and are not mandatory.

To some extent, most county road commissioners may be immune to public protest or lobbying regarding the condition of their roads. In most counties, board members of the county road commission are appointed by the county board of commissioners, and the county commissioners often try to claim that they have “no control” over road commissioners. Of course, that is not entirely true because road commissioners are generally appointed by the county commission and since they usually want to be reappointed, road commissioners often do take seriously any complaint by county commissioners. In those counties where road commissioners are elected, local voters can replace them.

It is unfortunate that employees and officials of many county road commissions throughout Michigan are not entirely honest with local residents about which local government has the legal responsibility for maintaining and upgrading local county roads. Falsely indicating or implying that townships have such responsibility only adds to the public’s general cynicism regarding government.