

From: "Murray, Brian - Rep. (HOU)" <Brian.Murray@mahouse.gov>
Date: December 13, 2020 at 8:04:44 AM EST
To: lgradyma6@gmail.com
Cc: "Suazo, Crawling (HOU)" <Crawling.Suazo@mahouse.gov>
Subject: [External]: Hopedale railroad concerns

Ms. Grady,

Yes, I am certainly familiar with the Grafton Upton Railroad issues with the Town of Hopedale.

I have been working with town officials and residents concerned with the RR expansion to provide guidance, advice and involvement by the Department of Environmental Protection in the process, among other things.

I am also aware of the litigation initiated by the town in the Land Court that is pending and now in mediation.

The short answer to your question is that I am a state representative, not federal, and have no ability to change federal laws. That would be within the purview of our Congressman, now Joe Kennedy but soon to be Jake Auchincloss, and our Senators, Elizabeth Warren and Ed Markey.

Moreover, any attempt to change these federal laws would be a significant undertaking that I do not believe would help the present situation even if successful at some point, because the process in place has been initiated under existing law. However, that would be a question to be posed to our federally elected officials.

As I read the article you sent, what the RR has done is a very clever, and what I think is manipulative, legal maneuver by skirting the right to purchase at least the ch. 61 land by the town by transferring the beneficial interest of the trust that owns the land, not the land itself, from the original owner to the RR, but then transferring the land to the RR through the trust. This way, the RR asserts that it did not "purchase" the land itself from the owner, which is subject to the 61 protection, but rather a beneficial trust interest, which is not.

The RR tries to take it a step further with the STB by asserting that because the RR now owns the land, through the trust transfer, the town cannot assert the 61 rights against it.

It is a very clever legal move, but to me it is a house of cards that tries to rely on form over substance.

Whether the initial transaction was a traditional buy and sell, or transfer of trust interest, which it was, should not matter. The reality is that the land transferred and a large portion of that land was subject to Hopedale's right to purchase which I believe was properly executed. That transfer should not be allowed to stand under ch. 61, which is what Hopedale is trying to obtain a ruling on with the Land Court action.

If the Land Court were to so rule, then the STB action could not successfully proceed for the RR because the RR would not be the owner of the land subject to claimed federal pre-emption.

So what you have is a very complicated legal proceeding at multiple levels. Hopedale, from what I have seen, is well represented by very competent legal counsel that I believe will most capably articulate these legal arguments.

The problem for Hopedale is at what cost, which the RR is obviously aware of.

I hope that this information is helpful, but if you have any further questions please do not hesitate to reach out to me on this.

And I know that there are a number of residents quite concerned about this. If you are in communication with others, feel free to share this email if you think it is helpful.

Sincerely,

Brian W. Murray
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10th Worcester District
Room 136
State House, Boston, MA
Brian.Murray@mahouse.gov
617.722.2396 Ext. 8766

On Dec 12, 2020, at 6:41 PM, lgradyma6@gmail.com wrote:

Dear Mr. Murray,

I am writing to you in concern of recent disputes between the Grafton Upton Railroad and Hopedale, MA.

Attached, please find an article that states the GURR is trying to grab land and bypass the state Ch. 61 law.

<https://railsandports.com/2020/12/gu-petitions-stb-for-preemption-declaration-on-hopedale-parcel/>

How is it possible that in this modern day and age, the US has an antiquated federal law allowing the possibility of RR exemption, which could lead to severe ramification for future generations to come?

The parcel of land under dispute is essential to protecting Hopedale's watershed, our open space, our flood basin, the Mill River, our future water supplies and everything downstream to the Narragansett Bay.

The future of this land and its water sources are more important to Hopedale and the surrounding areas than ever before. By allowing GURR to move forward with this supposed exemption, the tainting and pollution to our watershed is in jeopardy. An environmental impact that would be felt for years to come.

As my representative, I implore you to review the possibility of removing these exemptions from Federal Law and protecting the land for your constituents.

Sincerely,

Laura Grady
211 Hopedale St
Hopedale, MA 01747
Sent from my iPhone