

KOPELMAN AND PAIGE, P.C.

MEMORANDUM TO MUNICIPAL CLIENTS

August 9, 2004

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exemption under the Subdivision Control Law allowing approval-not-required endorsement of a plan by arguing that the way, although not formally accepted, is "maintained and used as a public way" within the meaning of Mass. G.L. c.41, §81L, paragraph 12, Clause (a).

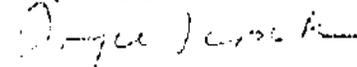
In a case tried by this firm for one town, we were successful in establishing that both public maintenance and public use must be established by an applicant for subdivision approval before such applicant can benefit from the referenced provision. Thus, even if an applicant can show that a way is used as a public way, there would still be an issue remaining whether one repair constitutes "maintenance" as a public way, particularly if the town obtains stipulations to the contrary from the abutters.

IV Snow and Ice Budgets

Massachusetts G.L. c. 44, §31D, allows cities and towns to incur liability and make expenditures in any fiscal year in excess of available appropriations for snow and ice removal, provided that the appropriations for such purposes in this fiscal year equal or exceeded the appropriations for these purposes in the prior fiscal year. Such expenditures must be approved by the Town Manager and the Finance or Advisory Committee in a town having a Town Manager; by the Selectmen and Finance or Advisory Committee in any other town; by the City Manager and the City Council in a city having a City Manager; or by the Mayor and City Council in any other city.

Expenditures made under authority of this section 31D must be certified to the Board of Assessors and included in the next annual tax rate. In addition, the total amounts appropriated and expended for snow and ice removal, including any funding or reimbursement received from the Commonwealth, must be reported to the Division of Local Services of the Department of Revenue no later than September 15 following the end of the preceding fiscal year.

Very truly yours,



Joyce Frank

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