

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **ROADS - MASSACHUSETTS**

### **Town of Concord v. Rasmussen**

**Supreme Judicial Court of Massachusetts, Suffolk - August 15, 2025 - N.E.3d - 2025 WL 2370204**

Town brought action against abutters of disputed road, seeking declaration that public had access and use rights to road.

Following bench trial, the Land Court Department entered judgment in favor of town. Abutters appealed. The Appeals Court modified judgment and affirmed. Abutters sought further appellate review, which was granted.

The Supreme Judicial Court held that:

- Direct, as opposed to circumstantial, evidence documenting that a public way was laid out is not required to support a finding that a particular way is public on basis of layout by a public authority in accordance with statute;
- Evidence was sufficient to support finding that particular portion of road was properly laid out and thus was a public way;
- County commissioners' adjudication that road should be a "private way," pursuant to statute providing for adjudication of way as a private way whenever common convenience and necessity no longer required such way to be maintained in a condition reasonably safe and convenient for travel, did not eliminate public access to road but rather simply removed the requirement that town maintain the road; and
- Trial court acted within its discretion in excluding abutters' proffered evidence as to status of other public roads which had been adjudicated "private ways" pursuant to same statutory provision as was at issue in instant case.