

Bond Case Briefs

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HIGHWAYS - NEW HAMPSHIRE

Bellevue Properties, Inc. v. Town of Conway

Supreme Court of New Hampshire - August 25, 2020 - A.3d - 2020 WL 4980818

Hotel owner appealed town's decision to discontinue road, which provided access to hotel property, as part of neighboring retail center's redevelopment plan.

The Superior Court affirmed, and hotel owner appealed.

The Supreme Court held that:

- As a matter of first impression, when the town's decision to discontinue a highway is based upon interests in addition to alleviating the burden of maintenance, the trial court may consider those interests in reviewing the decision, and
- Evidence was sufficient to support town's decision to discontinue road.

Evidence was sufficient to support town's decision to discontinue road which provided access to hotel, as part of retail center development project; retail center had agreed to build and maintain new road and historically had maintained and provided public access to portion of road ringing retail center and hotel, even if retail center failed to maintain or provide access to road, primary access road to hotel still existed, as well as secondary access road, and town had interest in cost-free construction of new road with additional amenities and the elimination of the town's yearly maintenance obligations.

Trial court's finding that new road constructed by retail center would be "dedicated to public use" did not constitute an improper finding in road discontinuance appeal that retail center would legally dedicate the new road to the town, but instead, that it would construct and maintain the new road for public use; court's findings and rulings demonstrated that it found that retail center, not town, would be responsible for operating and maintaining the new road upon its completion.