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Tupper Lake triggers right-of-way law

By KIM SMITH DEDAM, Staff Writer

TUPPER LAKE —

► OWD and developers can't access Moody Pond through Nature Conservancy land

Tupper Lake's Highway Department wants to secure access on Oval Wood Dish property targeted for development.

The landlocked parcel — the Moody Pond Tract — sits beyond Follensby property, which is owned by the Nature Conservancy.

A gravel road provided logging access for Oval Wood Dish, a wood-products company that operated here for nearly 100 years. Now, Adirondack Club and Resort developers have an option to buy that Oval Wood Dish parcel to include as a remote lot in their proposed ski resort.

But the Nature Conservancy has recently begun to deny access to that road.

TAKING THE LAND

Established in the early 1900s, Town Highway Law 300 allows the town to "take" access, in a process similar to eminent domain, to solve a right-of-way dispute.

Tupper Lake Highway Superintendent Rick Dattola said the law prevents private landowners from land-locking neighbors out.

"OWD sent a letter to the town, saying we want to maintain a right-of-way. I then started the procedure.

"The issues discussed are twofold: one, the necessity for the road; and two, how much money is it worth?"

Because of the option to buy the land, attorneys for the Adirondack Club and Resort are representing Oval Wood Dish Liquidating Trust in the matter.

"OWD Liquidating Trust said through Preserve Associates' attorneys, we are requesting a right-of-way," Dattola said.

"We are looking at this as strictly an issue between two private landowners."

LOCKED OUT

Adirondack Resort lead developer Michael Foxman said they have no access to the lot.

"The Nature Conservancy asserts there is not an easement in place and has put in a locked chain across the road to stop anyone from using it, including OWD and us," he said.

"Town Highway Law Section 300 sets out procedure for taking the right-of-way."

LAWSUIT LAUNCHED

The Nature Conservancy has filed suit.

"(We) are seeking a court declaration about whether the proper procedures have been followed in the local 'highway court' and whether Preserve Associates has standing to apply for a private road," the conservancy said in a statement.

The green group maintained legal filings are neutral concerning the proposed Adirondack Club and Resort project.

"We've said it before and we will say it again: The Nature Conservancy has no opinion about Preserve Associates' proposed development plans," Michael Carr, executive director of the Adirondack Chapter of the Nature Conservancy, said in the formal statement.

"We do, however, strongly object to Mr. Foxman and his associates trying to 'take' a section of our own property for their development."

HALF-ACRE SITE

David Tomberlin, chairman of the Adirondack Residents Intent on Saving Their Economy, published a recent letter about the issue.

"The portion of the 14,000-acre Follensby property that is the subject of the proposed road condemnation is 50 feet wide and 400 feet long (half an acre). It is the same half-acre used by the owners of the OWD property for access to the Moody Pond tract since 1920, when Oval Wood Dish sold what now is the Follensby tract to John Barbour."

COUNCIL OBJECTS

The Nature Conservancy is saying very little about the road or the chain across it.

But John Sheehan, spokesman for the Adirondack Council, said they question whether the town can take a road with a land deal in process.

"You also have to have an already approved project before you can take property for a public purpose," he said.

PAYMENT INCLUDED

Tupper Lake's highway supervisor says development permits have nothing to do with establishing a right-of-way.

"If you owned a property that you might sell someday, you'd like to know access is guaranteed. OWD Liquidating Trust is asking the town board to look at this right-of-way; it is that simple.

"Twelve jurors are going to review this and make a determination on Aug. 10.

"We're not stealing anyone's land," Dattola added.

Part of the proceeding sets fair market value.

"OWD Liquidating Trust would then purchase that right-of-way and give the money to the Nature Conservancy."

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