

# TOWN OF DURHAM

Office of the First Selectman

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(203) 349-3625

Maryann P. Boord  
First Selectman

January 30, 1990

Mr. James Clementel  
Thorpe Ave.  
Wallingford, CT 06492

RE: DAVID ROAD

Dear Jim:

In recent months you have been excavating the unimproved portion of David Road as part of your plan to subdivide property you own adjoining the road.

After the settlement in Maslar vs. Planeta, the town expected that you would work on the road. But the town did not expect, and cannot tolerate, that you leave the road in an impassable condition. Because the excavated part of the road has turned to mud, the Planetas and Mr. Smith have been unable to reach their driveways. Also, oil trucks have been unable to reach both properties.

Town Counsel has advised me that you have no right to create or maintain any condition on David Road that makes the road unsafe or unfit for public travel. Furthermore, you have no right to prevent other abutting owners from using the highway for access to their homes. Also, under the settlement in Maslar vs. Planeta, you, along with Messrs. Rebesch and Planeta, agreed to bear the entire cost of improving David Road as necessary to develop your properties. That includes the expense necessary to keep the road passable while construction goes on.

During recent weeks, I have asked you a number of times to restore the road to a condition fit for the public and other abutting owners to use. You have been unwilling, inaccessible, or unable to do so. So, as First Selectman, I am taking the following steps to protect the rights of the public and the other abutting owners to use David Road:

1. I have had the town road crew restore the road to passable condition by putting down stone and bulldozing the road where needed. We are also applying process as a sealer against future weather conditions. Additionally, we have had to employ other

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contractors and their equipment during the project. I will forward you a bill for the town's expenses in restoring the road. The bill will cover materials, overtime labor for the town road crew (I am not billing you for their normal workday), additional contractors' participation, and engineering expense. I expect that you will reimburse the town at once.

2. I request that you do no further work on David Road unless you (a) consult in advance and regularly afterwards with the Road Improvement Inspector and (b) take any steps that the Road Improvement Inspector may recommend to keep the road passable while the work goes on. You will be notified of any change in that authority.

3. I have instructed the town engineer to estimate the amount of a bond that will protect the town should it be forced to restore the road again because of future work you do. I have also instructed the town engineer to prepare written specifications governing the improvement of unimproved town roads. I expect you to post a bond once the estimate is communicated to you. I also expect you to agree in writing to honor the written specifications when they become available.

If you ignore any request in this letter, I am prepared to instruct Town Counsel to take appropriate legal action, including if necessary, suing to enjoin you from doing any further work on David Road. I do not anticipate the necessity for such action, assuming we can continue to cooperate in this matter.

I have sent a copy of this letter to Messrs. Rebesch and Maslar. The terms of this letter will govern any work they may plan to do on David Road while subdividing their properties. If they have participated in making the road impassable, the town will also hold them responsible for paying the costs of restoring the road to passable condition.

Sincerely,



Maryann P. Boord  
First Selectman

MPB:dda

cc: Mr. Robert J. Rebesch  
Mr. J. Bruce Maslar  
Kenneth H. Antin, Esq.  
Mr. Goeffrey L. Colegrove  
Mr. Brian Curtis  
Mr. George Wallace  
Mr. Ed Burns