
Abandonment of Secondary Roads

There are two circumstances for abandoning a road that is a part of the secondary system of state highways.

1. When the Board of Supervisors decide that:
 - (a) "No public necessity exists for the continuance of the secondary road as a public road" (i.e., lack of public use), or
 - (b) "The safety and welfare of the public would be served best by abandoning the section of road."
2. When a new road "which serves the same citizens as the old road" has been constructed to Department standards and accepted into the secondary system. In practice, the order of abandonment of the old road and request for acceptance of the new road are combined in the same resolution and enacted simultaneously, in that sequence.

The first circumstance requires the Board of Supervisors to announce its intent to abandon a road, including providing formal notice to the Commissioner, and posting of a Willingness Notice to hold a public hearing.

Following a public hearing, assuming one is requested and properly held, the Board of Supervisors acts to either dismiss the abandonment or to abandon the road within a prescribed time frame.

For roads that have only a prescriptive easement for right of way, a lawful abandonment, under either of the above circumstances, extinguishes the prescriptive easement and the road ceases to be a public road.

For roads that have right of way dedicated to public use, abandonment has the effect of closing the road to public use, but interests in the real property dedicated for right of way may only be transferred by a separate conveyance; right of way dedicated to a county government may be conveyed by the county after the Commissioner certifies that the right of way is no longer necessary for transportation purposes; right of way dedicated to the Commonwealth may be conveyed only by the Department. The conveyance of right of way may follow abandonment, but may not precede an abandonment.

If the intent is to cease VDOT maintenance and responsibility but retain public road status, discontinuance should be considered.