

Sudbury MBTA Suit/Court Story – Davi (874 Words)

# Sudbury Sues MBTA Over Abandoned Railway Lease

The town of Sudbury files suit in Land Court against the MBTA over their lease to Eversource

By Kyle Davi

Freelance Reporter | Sept 28, 2017

**SUDBURY** — Streams of sunlight pierce through a thin veil of branches as the soft crunching of leaves can be heard among whispers of a cool light breeze. The snapping of a dried twig sends an osprey flapping its wings into the distance while whistling its high-pitched call.

Art Hutson is taking one of his weekly strolls through the Hop Brook Conservation Land in Sudbury. The 25-year resident of the town frequents the multitude of trails and the abandoned railway track in the area with his wife, Mara.

“It’s beautiful, it’s unspoiled,” said Art Hutson in an interview. “It’s actually my favorite place in town.”

In the warmer months, Art and Mara hike for miles among 80 acres of wetlands, floodplains, meadows, and forest. Even in winter the fun doesn’t stop, with cross-country skiing being the couple’s activity of choice when snow blankets the ground in a soft white powder.

But that could all change if the Massachusetts Bay Transit Authority leases the area's railway to the energy company Eversource for a 115-kilovolt underground transmission line.

According to Hutson, thousands upon thousands of trees will be destroyed and the wetlands will be permanently transformed by alterations in groundwater flow if the project proceeds.

"It will completely change the nature of the area, and I'm horrified that it has gotten as far as it has," Hutson said in the interview, his voice shifting to a more solemn tone.

The town of Sudbury agrees with Hutson's position and filed a lawsuit on Wednesday against the MBTA, asking the state's Land Court to nullify the T's lease to Eversource on the grounds that the utility plans a use for the land that does not conform to the purpose for what the T originally spent taxpayer funds.

Back in 1976 and 1977, MBTA officials purchased the Mass Central rail corridor and surrounding land for the purpose of "providing and extending mass transportation facilities for public use."

Now, Sudbury town officials are using that language as the basis of their suit against the MBTA. Robert Haarde, chair of the Sudbury selectmen, is one of the officials leading the charge on this litigation.

“The government has a right to take land for the public good, but [they] can’t change that and lease it to a for-profit company down the road,” Haarde said in an interview. “It’s not the right thing to do on so many levels, including legally.”

Eversource is the for-profit company MBTA officials are attempting to lease the abandoned railway to. The company sells electricity and natural gas to residents across Massachusetts, and Eversource officials are looking to use the railway for a transmission line between Sudbury and Hudson.

The company signed a deal back in June with the MBTA to lease the land for \$9.3 million over 20 years. Eversource executives now have six years to decide whether to enter into a final agreement with the MBTA, but each year without a decision will cost the company \$10,000.

Michael Durand, a spokesman for Eversource, would not comment on any pending litigation.

“However, we stand behind the need for our project and have clearly demonstrated why our preferred route is the best option,” said Durand in an email.

That preferred route takes the transmission line directly next to the Hop Brook Conservation Land. Sudbury officials and residents claim the location would have disastrous effects on the wetlands environment and possibly on the town’s drinking water.

“Sudbury uses well water throughout the town,” said Art Hutson. “It’s infeasible to me that you could keep these carcinogens out of the soil and out of the water system.”

Contamination to Sudbury’s water supply from this project could cause a “public health crisis” according to Haarde.

Eversource’s agreement with the MBTA does contain \$2 to \$4 million worth of environmental cleanup if contamination is found. However, Sudbury residents are having a hard time finding any positives when it comes to Eversource’s transmission line project.

“We certainly don’t get any benefits out of this. It doesn’t increase the electrical hookups in Sudbury, it may or may not help Hudson, but we think they are better off with alternatives,” said Hutson. “And we certainly won’t see any transportation benefits from it.”

MBTA officials have remained relatively quiet on the litigation, stating that they cannot comment until their lawyers have thoroughly reviewed the lawsuit. However, a spokeswoman for the agency did release a short statement.

“The MBTA believes the complaint has no merit,” said the spokeswoman, Lisa Battiston.

The suit now moves to Massachusetts Land Court, where a decision is set to be made in the coming months by Judge Gordon H. Piper after both sides have argued their case.

Sudbury has scheduled a special town meeting on October 16 where the town's selectmen will be seeking approval for funds to seek litigation against Eversource. They are asking for \$220,000 to pursue legal action in Land Court to argue before officials on the state's Energy Facilities Siting Board, who will determine if the project can proceed.

"Sudbury is a community of people who are very interested in the health of their children, interested in the health of the environment," Art Hutson said, wrapping up the conversation.

"The entire town is really engaged in stopping this project."