



Sean Matthews
STATE REPRESENTATIVE
24th District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE 411
LEGISLATIVE AVENUE DOVER,
DELEWARE
19901

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House Transportation Committee Minutes

6.12.24

House Committee Recording

Chair Sean Matthews called the meeting to order at 4:02 p.m.

Members present:

Rep. Matthews, Chair

Rep. Osienki, Vice-Chair

Rep. Evelyn Harris

Rep. Jones Giltner

Rep. Morris

Rep. Parker Selby

Rep. Gray

Chair Matthews introduced Agenda Item No. 1: **HB 397 AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF DEPARTMENT**
Time Stamp: 12:37

HB 397, sponsored by Rep. Matthews, aims to address ownership of land encumbered by public right-of-way easements when the land has been abandoned by a prior owner and a current owner cannot be located. This would allow the Delaware Department of Transportation (DelDOT) in the name of the State, to obtain fee simple ownership of land encumbered by right-of-ways, previously conveyed to the Department by permanent easement, when such right-of-ways are part of a current Department project. This requires DelDOT to promulgate regulations that establish the procedures for abandoned land and for recording the fee simple ownership of the land.

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Shante Hasting, Deputy Secretary and Chief Engineer at DelDOT, joined the meeting to answer questions and share an infographic about this legislation. Dep. Secretary Hastings stated that the rectangle on the graphic represents a parcel from the 1900s, explaining that for DelDOT to pave dirt roads during the 1950s and 1960s DelDOT had to obtain an easement from the parcel owner, which allowed DelDOT to pave the roads but did not grant them ownership of the land. Over time, owners may have sold or divided their parcels, but those for which DelDOT obtained easements, still belong to the original owners. If the original owner is deceased, their heirs might now be the parcel owners. Over time, locating these owners or heirs has become increasingly difficult, which impedes DelDOT's ability to carry out current or future construction projects. This legislation enables DelDOT to find the original parcel owners or heirs, and if they cannot be located, and allows DelDOT to develop regulations and procedures for moving forward.

Rep. Parker Selby stated that she is working on similar legislation with DelDOT, and asked how this bill would interact with her own legislation. Dep. Secretary Hastings replied that the situation being addressed by Rep. Parker Selby is different from the current legislation. Rep. Parker Selby asked if this legislation was for instances in which DelDOT could not locate easement owners. Dep. Secretary Hastings answered that this was correct.

Rep. Harris asked about the current easement policy, confirming that the State may use the property, but that they don't own it. Dep. Secretary Hastings stated that this was correct. Rep. Harris sought clarification on the laborious process of locating owners. Dep. Secretary Hastings explained that there is an easement agreement documents that identifies the owner, but locating certain owners can be difficult or impossible. Therefore, this legislation would streamline the process and describe what can be done if the owners or heirs can't be identified. Rep. Harris asked if certain areas are more impacted by this issue. Dep. Secretary Hastings replied that Kent and Sussex counties are more affected by this issue. Rep. Harris raised concerns about the lack of knowledge surrounding property transfers, asking if this legislation could negatively impact people of color or low-income individuals. Dep. Secretary Hastings stated she does not believe so, but asked if Ken Feaster, Deputy Attorney General at DelDOT, had any thoughts on the matter. Ken Feaster answered that he does not believe this will affect any communities in particular because, the value of this ownership is quite small, meaning that if an individual did want to claim ownership, they would have to go through the Delaware Court of Chancery which would cost thousands of dollars, meaning that this could be a cost-saving tool for individuals.

Rep. Matthews asked why an individual could claim ownership if the State still has the easement for the roadway. Ken Feaster answered that most owners don't have a reason for

maintaining ownership because it's not financially feasible for property owners to go through the Delaware Court of Chancery process. Ken Feaster explained that if the State can locate owners, DelDOT can provide monetary compensation for this road.

Rep. Jones Giltner request an explanation of the process for notifying survivors or looking for original owners. Ken Feaster answered that as part of this legislation, DelDOT is looking to create more comprehensive guidelines. DelDOT's initial draft follows a similar process to existing mortgage satisfaction statutes. DelDOT intends to send certified mail to the best addresses they can locate of the property owners, specifying DelDOT's intent to acquire this property. Rep. Jones Gilder asked if a statement of intent would be placed in the newspaper. Ken Feaster answered yet, a legal notice would be in the back of the newspaper. The notification process is an intent to locate individuals and the deed of this property, allowing Delaware to acquire this property and give individuals compensation. Rep. Jones Gilder asked how many roads are affected by difficulties in locating an owner. Dep. Secretary Hastings states, a lot, and that DelDOT is still finding more roads affected by this issue.

Rep. Morris asked if this sort of predicament is still occurring for DelDOT. Dep. Secretary Hastings stated it's not happening anymore. Rep. Morris followed up by asking if this was an issue of the past. Dep. Secretary Hastings answered that this was correct, as this was an issue around 50 and 60 years ago.

Chair Matthews opened the floor for public comment. *Time Stamp: 4:18*

A motion was made by Rep. Carson and seconded by Rep. Parker Selby to release HB 247 from committee; motion carried. Yes = 5 (Gray, Harris, Matthews, Morris, Osienski, Parker Selby, Jones Giltner); No = 0; Absent = 2 (Baumbach, Carson). The bill was released from committee with a F=0, M=6, U=0 vote.

Chair Matthews adjourned the meeting at 4:19 p.m.

Respectfully submitted by,
Katherine Bowman

Attendance List

- Shante Hasting (Deputy Secretary and Chief Engineer at DelDOT)
- Ken Feaster (Attorney General at DelDOT)