

The Road Blog Part 5: You Can't Just Abandon That Public Road

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This blog is the fifth in a municipal law series on all things roads. Legal issues involving roads are fact specific and require an analysis of the facts and circumstances of your situation. This blog addresses the issue of abandonment of public roads.

There is never a shortage of material for blogs on road case law in Pennsylvania. Road disputes are ubiquitous. The Commonwealth Court recently spoke again on the vacation of public roads in [*Basinger v. Adamson \(Pa. Cmwlth. Court, June 2, 2023\)*](#).

This case began like almost every road dispute, with a not-so-neighborly exchange of letters about the status of a road that neighbors jointly utilize. This dispute led to a declaratory judgment action in the court of common pleas.

During the trial, all parties agreed that the road had been a public road at one point in time. Witnesses testified as such. Counsel argued as such. The issue was whether a public road, established before the Second Class Township Code was enacted in 1933, was abandoned either before or after 1933.

Some important takeaways from the Commonwealth Court decision:

The moving party has the burden of proof to establish that the road is a public road.

The judicial admissions “proved” that the road was public road. Once admitted by counsel, it became a fact which has been admitted for the advantage of the admitting party and could not subsequently be refuted by that party.

Once established as a public road, the road could only be “abandoned” through formal action.

Importantly, “the Township could not vacate a road before the Code’s enactment, unless there was a statute authorizing the same, and the Township could not vacate a road after the Code’s enactment simply by abandoning it.” *Basinger* at *15.

Read Part 1 [here](#).

Read Part 2 [here](#).

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Read Part 4 [here](#).

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National Law Review, Volume XIV, Number 5

Source URL: <https://natlawreview.com/article/road-blog-part-5-you-cant-just-abandon-public-road>