



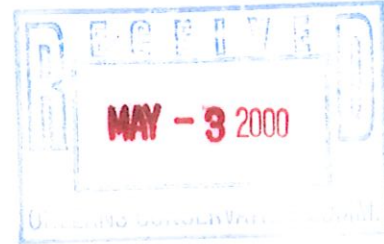
# TOWN OF ORLEANS

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BOARD OF  
SELECTMEN  
TOWN  
ADMINISTRATOR

May 2, 2000

Mr. Sherman Reed  
55 Keziah's Lane  
Orleans, MA 02653



RE: Kent's Point Access

Dear Sherm:

I am writing as a follow up to your recent inquiry as to the Kent's Point Management Plan and the requirement to maintain the access to Kent's Point. I have reviewed the matter with Town Counsel Michael Ford and have enclosed a copy of his opinion on this matter for your review.

A copy of the opinion will be forwarded to both Paul Fulcher and the Conservation Commission for their review as to the issue of required Town maintenance of the access to Kent's Point in accordance with both the Agreement for Judgment in the Barnstable Superior Court Case and the Kent's Point Management Plan.

Please let me know if you have any questions.

Very truly yours,

John F. Kelly  
Town Administrator

Cc: Conservation Commission  
Paul Fulcher, Parks Superintendent  
Bob Bersin, Highway Manager

|      |  |        |                    |  |
|------|--|--------|--------------------|--|
| T.A. | <input checked="" type="checkbox"/> O.M. | T.A.S. | <i>[Signature]</i> |  |
|------|--|--------|--------------------|--|

**Town Counsel**

# Memo

RECEIVED  
TOWN OF ORLEANS  
**APR 20 2000**  
SELECTMEN/  
TOWN EXECUTIVE'S OFFICE

**To:** John F. Kelly, Town Administrator  
**From:** Michael D. Ford, Town Counsel  
**Date:** 4/20/00  
**Re:** KENT'S POINT MANAGEMENT PLAN

You have asked what town obligation exists, by virtue of the Agreement for Judgment in Barnstable Superior Court Case No. 95-420 (the "Agreement") and the adoption of the Kent's Point Management Plan, (the "Plan") to maintain the access to Kent's Point.

At the time of the execution of the Agreement (1995), the Town had undertaken certain improvements to the access to Kent's Point. The Agreement provides in Paragraph 4 that the Town has the right to perform maintenance of the access road (Frosh Fish Lane) over time for the purpose of "maintaining said road in a safe and passable condition, provided, however, the width of said road shall not be increased". While the future maintenance was a right, not an obligation, the Agreement, Paragraph 4 provides as follows:

"While limiting the generality of the foregoing, the Defendants agree to maintain the existing improvement, including the existing speed bumps, speed limit signs and drainage facilities."

Therefore, the Agreement does create an obligation on the part of the town to maintain the improvements to Frosh Fish Lane, which existed at the time of the execution of the Agreement (1995). This obligation would appear to be consistent with the provision of the Plan, which urged the town "to maintain Frosh Fish Lane in a well-drained, safe and convenient condition as a country lane." The Plan further provides that if the access becomes "impracticable" at any time, the Conservation Commission would close Kent's Point to public use until deeded by the Highway Manager to be "suitable" again. (see Plan p. 15).

Therefore, it is my opinion that the extent of the Town's current obligation is to maintain Frosh Fish Lane in the condition it was in at the time of the 1995 Agreement for Judgment, during any period that Kent's Point is open to the public.