



January 15, 2013

The Honorable Marjorie Porter, Chair  
House Municipal & County Government Committee  
Legislative Office Building, Room 301  
Concord, NH 03301

***Subject: HB 113, relative to lot access for erection of buildings.***

Dear Representative Porter:

The New Hampshire Planners Association, representing over 200 land use planning professionals in our state, working at all levels of government and in the private sector, takes this opportunity to express its opposition to HB 113 which would permit the erection of a building on a lot that has access to a class VI or better highway via a private right-of-way.

RSA 674:41.I establishes that buildings may be constructed only on lots having access to streets that meet certain criteria. Subsection I(c) of the statute provides that a house may be constructed on a Class VI highway only upon approval of the governing body and only after notice has been recorded regarding the limits of the municipality's responsibility with respect to the road. These safeguards and procedures are designed to protect the municipality from liability for roadways that, in some cases, may have been abandoned decades ago and are in complete disrepair.

The proposed language under HB 113, however, seems to bypass the requirements of 674:41, I(c) thereby making it substantially easier to build on Class VI highways and potentially exposing municipalities across the state to substantial liability. In order to support this bill, the NHPA would seek a clarification that rights-of-ways are still subject to subsections I(c) and I(d), in which case the proposed language set forth in HB 113 would arguably be moot.

It is worth pointing out that with the numerous changes made to RSA 674:41 over the past decade or so, the municipality has almost full control over how the statute is enforced and implement. HB 113 however moves in the completely opposite direction by tying a municipality's hands with respect to controlling Class VI roads and at the same time exposing a municipality to significant liability.

For these reasons, we urge your committee to recommend that HB 113 be found "inexpedient to legislate". Thank you for this opportunity to provide comment on the bill.

Sincerely,

Timothy J. Corwin, Esq.  
NHPA Legislative Liaison