

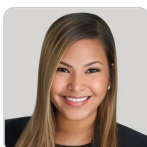
Waiting for the Sun

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The Long and Winding Road Does Not Need To Be Repaired!



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On April 15, 2026, the Supreme Court of the State of New York dismissed a public nuisance claim in *Village of Head of Harbor v. The Ward Melville Heritage Organization, LTD., et. al.* and held that a municipality on behalf of its resident's had no right to require that a private owner permit access to a private road and maintain or repair such road.

The property in question is a two-lane private road utilized by the public for pedestrian and vehicular traffic, such road crosses the border between two towns. In August of 2024, this road was damaged by severe rain storms that caused flooding, destroying a portion of the property and rendering it inaccessible. Due to this, residents have been forced to take longer alternate routes to travel in and out of the town to all destinations. The municipality argues that the owner's failure to repair and maintain the road is a public nuisance because such failure negatively interfered with residents' use of the road (e.g. residents were inconvenienced by the longer alternate routes) and that the conditions of the remaining property were unsightly.

To satisfy a public nuisance claim the following indicia need to be met: (1) there is an act or omission obstructing or damaging the public's exercise of rights common to all – there is a substantial interference with a common public right affecting a considerable number of persons or (2) the public's health is injured.

The municipality did not allege that the public's health was injured, so the Court only reviewed the claims under number (1) above. The road in question in this case, is a private road located on private land. For this reason, the Court concluded that there was no common right of the public to use the road, and any such historical access had merely been allowed due to the owner's permission. Due to the private status of this road, the Court confirmed that the owner owed no duty to permit access, and could not be compelled to maintain and repair the affected unsightly property because there was no actual interference with the resident's use of any public property.