



WYOMING COUNTY
DEPARTMENT OF HIGHWAYS

GARY R. WEIDMAN, Superintendent

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To: All Town Superintendents
All Village Superintendents
Wyoming County

Dear Sir:

We have had requests for the inter-office memorandum sent to us from John Evans, State Auditor, concerning mailboxes, so are sending copies for your information. This memorandum was dated March 22, 1961 as follows:

INTER OFFICE MEMORANDUM

OPINION NO. 61-132

HIGHWAY LAW - SECTION 319: A town would not be responsible for the damage to mail boxes by town snow plows where such mail boxes are illegally erected within the bounds of the highway.

Inquiry

Is a town responsible if mail boxes and/or supports, erected on the right-of-way on town roads are damaged or knocked down by town snow plows?

Statement of Law

Obstructions within the meaning of Section 319 of the Highway Law include, among other things, fences, buildings or other structures erected in any ditch or waterway along the highway; telegraph, telephone, trolley and other poles, and the wires connected therewith, erected within the bounds of the highway in such a manner as to interfere with the use of the highway for public travel.

If the mail boxes in question interfere with the removal of snow from the roads, such obstructions may be moved pursuant to the provisions of Section 319 of the Highway Law. It is our opinion that the town would not be responsible for the damage of mail boxes by town snow plows where such mail boxes are illegally erected within the bounds of the highway.

Conclusion

A town would not be responsible for the damage to mail boxes by town snow plows where such mail boxes are illegally erected within the bounds of the highway.

Sincerely yours,

GARY R. WEIDMAN
County Superintendent of Highways

W:lm

(over)



NEW YORK STATE ASSOCIATION OF TOWN SUPERINTENDENTS OF HIGHWAYS,

RICHARD J. BROWN, Executive Secretary-Treasurer

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MAILBOXES ON HIGHWAY RIGHTS OF WAY WHICH ARE DISPLACED BY HIGHWAY PLOWS IN THE COURSE OF SNOW REMOVAL

There is no statutory or legal authority which grants a property owner or resident along a public highway any right to place a mailbox in a highway right of way. The owner may have an informal license, but this does not endow the owner of the mailbox with any legal rights in the highway when needed for highway purposes.

The Highway Superintendent and the State have a duty to keep the highway available for public use. Snow removal and snow storage are an incident of that use.

"The highways of the state are made for and devoted to public travel and the whole public have the right to their use in their entirety and when obstructions to public travel are found within their bounds, the commissioners of highways are clothed with power to remove them without waiting for the slow process of law, even though travel be not absolutely and entirely prevented." (Emphasis supplied). VAN WYCK v. LENT, 33 Hun 301.

When the necessity of keeping the highway open conflicts with the individual's receipt of the mail, the latter must stand aside. The owner might even be compelled to remove the box under Highway Law 8319.

The owner has no right to interfere with the speedy and efficient removal of snow by placing the mailbox in such a position as to cause

this result, and no liability results on the part of the public official charged with the duty of snow removal if such a box is so placed that it may be injured by proper highway maintenance. (Informal opinion, Attorney General 2/28/66).