

*Resolution 2018-02*  
**TOWN OF FORESTVILLE**  
**DOOR COUNTY, WISCONSIN**

**Resolution Disallowing Claim of Andrew Romdenne**

WHEREAS, Andrew Romdenne served on the Town the Notice of Claim attached hereto as Exhibit A on or about September 20, 2018; and

WHEREAS, the Notice of Claim relates to a Highway Order that was adopted on May 23, 1902 and subsequently certified by a Certification of Proceedings and Highway Order that was adopted on April 20, 2018; and

WHEREAS, the May 23, 1902 Highway Order established the highway described therein as a public highway; and

WHEREAS, the April 20, 2018 Certification of Proceedings and Highway Order further certified the records establishing the highway described in the May 23, 1902 Highway Order as a public highway; and

WHEREAS, a copy of the Certification of Proceedings and Highway Order was sent to Mr. Romdenne on or about August 6, 2018; and

WHEREAS, the status of the subject highway as a public highway is further confirmed by a document entitled "Town of Ahnapee Property Research," which was prepared by Ayres Associates in 2005 and is attached hereto as Exhibit B; and

WHEREAS, a copy of the Town of Ahnapee Property Research document was shared with Mr. Romdenne shortly after it was prepared; and

WHEREAS, based on the information described above, the highway is a public highway; and

WHEREAS, under Wis. Stat. § 82.16, any order laying out a highway under Chapter 82, and any order restoring the record of a highway, is presumptive evidence of the facts stated therein and the regularity of all the proceedings prior to the making of the order; and

WHEREAS, under Wis. Stat. § 82.16(2) the validity of any order laying out a highway under Chapter 82, or restoring the record of a highway, that is fair on its face, is not open to collateral attack but may be challenged in an action brought under Wis. Stat. § 82.15;

WHEREAS, under Wis. Stat. § 82.15, any person aggrieved by a highway order must seek judicial review of the order under Wis. Stat. § 68.13 within thirty days of the receipt of the final determination; and

WHEREAS, for purposes of a highway order, the "final determination" occurred as early as May 23, 1902, and certainly no later than May 29, 2018; and

WHEREAS, under Wis. Stat. § 68.13, any action to contest the Certification of Proceedings and Highway Order is untimely.

NOW, THEREFORE, BE IT RESOLVED, that for the reasons stated above, the Notice of Claim is hereby disallowed under Wis. Stat. § 893.80(1g).

FURTHER RESOLVED, that this Resolution, as adopted, is a Notice of Disallowance of the Notice of Claim under Wis. Stat. § 893.80(1g).

FURTHER RESOLVED, that the Town does not waive, and reserves the right to assert, the deficiencies in the Notice of Claim as noted above in any future action and reserves the right to assert any other deficiencies in the Notice of Claim.

FURTHER RESOLVED, that the Town shall serve this Resolution upon the Claimant by certified or registered mail and proof of service shall be obtained by the Town.

FURTHER RESOLVED, that pursuant to Wis. Stat. § 893.80(1g), no action under the Notice of Claim against the Town or its officers, agents, or employees may be brought after six months from the date of service of this Resolution.

FURTHER RESOLVED, that the Town shall publish or post this Resolution in three places in the Town likely to give notice to the public.

Dated this 20th day of December, 2018.

TOWN OF FORESTVILLE

By:   
Town Chairperson

Attest:   
Town Clerk