Michigan local government leaders’ views on private roads

By Debra Horner, Sarah Mills, and Thomas Ivacko

This report presents the opinions of Michigan local government leaders on issues related to private roads—that is, local roads owned or maintained not by public agencies, but by developers or by private entities such as homeowners’ associations. The report examines policies regulating private roads and jurisdiction problems, if any, with respect to these roads. The findings in this report are based on a statewide survey of local government leaders in the Fall 2014 wave of the Michigan Public Policy Survey (MPPS).

Key Findings

- Private roads are relatively common in jurisdictions throughout Michigan. Overall, 64% report that they have one or more private roads, including 87% of the state’s largest jurisdictions (those with over 30,000 residents).
  - However, private roads are much more commonly found in townships (70%) than in either cities (57%) or villages (33%).
- Although roads may be privately owned, they can still be subject to public regulation. Among jurisdictions with any private roads, 62% report having at least one kind of policy to regulate those roads. The most commonly-reported local policies are those regarding road design (e.g., lane width, turn lanes, grading/drainage, surface type, etc.). Significantly fewer jurisdictions report they have specific requirements for surface maintenance, or for seasonal maintenance in the summer or winter.
- Although most local jurisdictions (58%) report they have had no problems or controversies caused by private roads, approximately a third (34%) say they have experienced problems.
  - According to open-end responses, most of these problems revolve around ongoing maintenance of the private roads. In particular, private roads have inspired confusion over who is responsible for maintenance and have led to subsequent requests for the local jurisdiction to take over maintenance of these private roads.
- When determining whether new local developments should have public or private roads, most Michigan local officials report that their jurisdiction’s decisions are made on a case-by-case basis. However, jurisdictions that have experienced controversies over private roads in the past are somewhat more likely to encourage public roads for new development compared with jurisdictions where there have been no controversies (32% vs. 25%).
- Most local officials say they are neither particularly for nor against allowing private roads in their jurisdictions. However, where there already are private roads, there is more support (33%) than opposition (20%) for allowing them. Conversely, in jurisdictions where there aren’t private roads currently, there is more opposition (36%) than support (10%).
Nearly two-thirds of Michigan jurisdictions contain private roads

Private roads can be both a blessing and a curse to local governments. On the one hand, turning over the development and maintenance of roads to a private entity has the potential to save local governments time and money. On the other hand, private roads can lead to controversies over road design or the responsibility for upkeep. Michigan local governments currently have a wide amount of leeway in terms of allowing or prohibiting new private roads, adopting regulations to govern them, or authorizing special assessment districts to charge property owners along the roads to pay for their improvement.

The Fall 2014 MPPS explored local policies surrounding the presence of private roads in Michigan communities and whether they pose any problems for local governments.

Overall, nearly two-thirds (64%) of Michigan local officials report the presence of one or more private roads in their communities. Larger jurisdictions are most likely to report having private roads, including 87% of jurisdictions with over 30,000 residents (see Figure 1a). Meanwhile, in the state’s smallest jurisdictions (those with fewer than 1,500 residents), less than half (46%) report having private roads. Of course larger jurisdictions may simply have more roads overall, and therefore may also have a higher likelihood of also having private roads. In addition, as shown in Figure 1b, county officials (85%) and township officials (70%) are more likely to report that their jurisdictions contain private roads than are officials from cities (57%) or villages (33%).

Although roads may be privately owned, they can still be subject to public regulation. Among those Michigan jurisdictions with any private roads, 62% of officials report having at least one kind of policy to regulate those roads. The most common local regulations on private roads govern some aspect of road design, with over half (43%) of jurisdictions that have some kind of private road policies having these regulations (see Figure 2). This category includes elements such as lane width, turn lanes, grading/drainage, surface type, etc. Fewer jurisdictions with private road policies report that they regulate the maintenance of private roads after they are built, such as having requirements for surface maintenance (16%), or seasonal maintenance in the winter (15%) or summer (10%).

Policies on private roads may not be top-of-mind for many officials, however, as 18% say they “don’t know” whether their jurisdiction has any specific policies regarding private roads.
### One in three Michigan jurisdictions report controversies over private roads

Among jurisdictions with any private roads, approximately 34% report they have experienced problems or controversies regarding those roads. Jurisdictions in Southeast Michigan are most likely to report trouble with private roads, with 41% experiencing some kind of local problems or controversies (see Figure 3).

When asked to describe the problems they’ve experienced, officials often say problems revolve around ongoing maintenance of the private roads. In particular, confusion or disagreement arises over responsibility for maintenance, and subsequently there may be requests to the local government to maintain the road. A number of local jurisdictions report having solved this by taking over maintenance of the roads after establishing special assessment districts, which charge property owners along the roads in order to cover the maintenance costs.

### Voices Across Michigan

**Quotes from local leaders on the problems or controversies regarding private roads in their communities**

“Many property owners on a private street do not know that their street was never dedicated to the use of the public. Therefore, they are frustrated when the County’s Department of Roads will not plow or patch their road.”

“[Homeowners’] Association members would like the township to fix their road issues but do not want to pay for repairs or in some cases road building. In my opinion we have at least 8 private roads that are not suitable for fire and safety during the spring break up.”

“The problems arise several years down the road when the original homeowners have sold their property to others who don’t have the same commitment to maintaining the roads and refuse to pay their share.”

“Consensus about priorities among property owners often becomes an issue at the township level—a headache a small township doesn’t need.”

“Developer indicates roads are built to city standards, but when assessing infrastructure, drainage, etc. they have not been built and maintained correctly.”

“One developer had very narrow roads on a very hilly terrain constructed in his development. Because there were no standards for private roads he was able to choose the narrow roads even though he was advised against it by the local emergency services providers.”

“Developers want them if they maximize sellable lots and minimize their cost. Years later, when the road is deteriorated, the residents want the City to take it over and can’t understand why they pay the same tax as everyone else but can’t get maintenance.”

“It always comes to maintenance for the road. Without an entity to take care of the road, or a plan in place when the road is created, those that live there the longest (year round) begin to carry the burden of maintenance. Soon they begin to look for help, either money or labor, and those that only live there for short terms in the summer, don’t want to help. Then they come to the township for help. When they look at the process to develop a special assessment district to pay for upgrades or maintenance, they usually get overwhelmed and realize that they won’t be able to convince most of the property owners to go along with it. That’s why our ordinance is pretty strict about design standards for the new roads being developed, to help prepare the road ahead of time to be adopted by the County Road Commission.”
Most jurisdictions determine policies on roads for new developments on case-by-case basis

Overall, nearly half (46%) of local Michigan jurisdictions determine whether new developments should have public or private roads on a case-by-case basis. Approximately another quarter (26%) say they generally encourage the use of public roads for new development, while only 6% overall say they encourage the use of private roads in new development. However, as Figure 4 shows, jurisdictions that have experienced past problems over private roads are somewhat more likely to encourage public roads for new development (32%) compared with jurisdictions where there have been no such controversies (25%).

Local leaders overall are ambivalent toward the presence of private roads in their jurisdictions. A plurality (42%) neither support nor oppose having private roads in their jurisdictions and another 9% are unsure how they feel. As shown in Figure 5, there are some differences based on prior experience with private roads, with officials from jurisdictions that currently have private roads reporting greater support (33%) than opposition (20%). By comparison, officials from jurisdictions without private roads currently are more likely to oppose (36%) than support (10%) having private roads.

Interestingly, even in jurisdictions where there have been controversies in the past, local leaders express more ambivalence than opposition to private roads. Among those who report past or current problems, 35% of officials say they oppose private roads and 28% support them, but 37% are neither in support nor opposition.
Conclusion

Private roads are relatively common throughout Michigan, with 64% of all jurisdictions saying they have at least one such road within their borders. Among the 62% of these jurisdictions that report having at least one policy to regulate private roads, the most common policies identified by local leaders regulate the design of these roads; many fewer jurisdictions report having formal policies regarding private road maintenance. It is perhaps not surprising, then, that in jurisdictions where there have been problems with private roads, such disputes have largely revolved around their ongoing maintenance. Even so, past problems do not seem to have significantly soured local leaders’ opinions of private roads, though these jurisdictions are somewhat more likely to encourage public roads for new development than jurisdictions where there have not been controversies surrounding private roads. Overall, though, most jurisdictions in Michigan determine whether new developments should have public or private roads on a case-by-case basis.

Notes


Survey Background and Methodology

The MPPS is a biannual survey of each of Michigan’s 1,856 units of general purpose local government, conducted once each spring and fall. While the spring surveys consist of multiple batteries of the same “core” fiscal, budgetary and operational policy questions and are designed to build-up a multi-year time-series of data, the fall surveys focus on various other topics.

In the Fall 2014 iteration, surveys were sent by the Center for Local, State, and Urban Policy (CLOSUP) via the internet and hardcopy to top elected and appointed officials (including county administrators and board chairs; city mayors and managers; village presidents, clerks, and managers; and township supervisors, clerks, and managers) from all 83 counties, 278 cities, 255 villages, and 1,240 townships in the state of Michigan. The Fall 2014 wave was conducted from October 6 to December 11, 2014. A total of 1,356 jurisdictions in the Fall 2014 wave returned valid surveys (64 counties, 210 cities, 177 villages, and 905 townships), resulting in a 73% response rate by unit. The margin of error for the survey as a whole is +/- 1.4%. The key relationships discussed in the above report are statistically significant at the p<.05 level or below, unless otherwise specified. Missing responses are not included in the tabulations, unless otherwise specified. Some report figures may not add to 100% due to rounding within response categories. Quantitative data are weighted to account for non-response. “Voices Across Michigan” verbatim responses, when included, may have been edited for clarity and brevity. Contact CLOSUP staff for more information.

Detailed tables of the data analyzed in this report broken down three ways—by jurisdiction type (county, city, township, or village); by population size of the respondent’s community, and by the region of the respondent’s jurisdiction—are available online at the MPPS homepage: http://closup.umich.edu/mpps.php.

The survey responses presented here are those of local Michigan officials, while further analysis represents the views of the authors. Neither necessarily reflects the views of the University of Michigan, or of other partners in the MPPS.
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The Center for Local, State, and Urban Policy

University of Michigan
Center for Local, State, and Urban Policy
Gerald R. Ford School of Public Policy
Joan and Sanford Weill Hall
735 S. State Street, Suite 5310
Ann Arbor, MI 48109-3091

The Center for Local, State, and Urban Policy (CLOSUP), housed at the University of Michigan’s Gerald R. Ford School of Public Policy, conducts and supports applied policy research designed to inform state, local, and urban policy issues. Through integrated research, teaching, and outreach involving academic researchers, students, policymakers and practitioners, CLOSUP seeks to foster understanding of today’s state and local policy problems, and to find effective solutions to those problems.

web: www.closup.umich.edu
email: closup@umich.edu
twitter: @closup
phone: 734-647-4091

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