

## Railroad Rights-of-Way in Michigan

- o When a railroad receives property with the condition that "said strip of land is to be used for railroad purposes only, and ceasing to be used for such purposes, shall revert to said parties of the first part, their heirs and assigns" held to create a fee subject to divestment, a fee upon a condition subsequent. Dolby v. State Highway Commissioner 283 Mich. 609 (1938).
- o An attempt of a grantor of a fee upon a condition subsequent to assign his right of reverter before the breach of the condition not only failed to effect the assignment but extinguishes the right. Dolby v. State Highway Commissioner. (e.g. the grantor or his heirs must keep the reverter, it does not run with the land.)
- o Rights of reverter, if not renewed every thirty years, are extinguished. M.C.L.A. 554.62. If created prior to March 1, 1968 and not renewed prior to March 1, 1969, it is extinguished. M.C.L.A. 554.65
- o The State of Michigan has the right-of-first refusal to acquire railroad right-of-way upon abandonment for railroad use. Public Law 210, 1984 Session.
- o The public may gain a right to use a corridor as a public highway (including trails) by prescription (e.g. adverse possession) if the corridor is (1) defined, (2) used and worked upon by public authorities, (3) travelled and used upon by the public for 10 consecutive years without interruption, and (4) the use is open, notorious and exclusive. Missaukee Land Lakes Co. v. Missaukee County Road Commission, 333 Mich. 372 (1952). M.C.L.A. 221.20.

*rights of reverter ok?*

*for public, ok. for road + gas*