

grantor.¹⁸ The current tendency, however, is to treat reservation and exception alike and to find that the reserved easement did not pass to the deed grantee.¹⁹ Some jurisdictions achieve this result by treating a reservation as an exception.²⁰ This leaves the excepted easement in the grantor and permits the grantor to make a further disposition.²¹

Where the common-law rule is still in force, a prudent drafter should not seek to reserve an easement for the benefit of a third party.²² Instead, a grantor should by the same instrument convey title to one person and grant an easement to the other. Caution might even suggest that two deeds be employed to accomplish this result.²³

§ 3:10 Express dedication

Research References

West's Key Number Digest, Dedication ◊17

Dedication of public easements may be express or implied.¹ Only express dedication is treated here; implied dedication is considered in Chapter 4.² Express dedication may be made under the common law or it may be made pursuant to statute.³ Common-law dedication requires intent to dedicate by the owner

¹⁸Harris, *Reservations in Favor of Strangers to the Title*, 6 Okla. L. Rev. 127, 134 (1953).

¹⁹*Davis v. Gowen*, 83 Idaho 204, 209–210, 360 P.2d 403, 406, 88 A.L.R.2d 1192 (1961) (“If in a conveyance any reservation is made in the property conveyed, the part reserved remains in the grantors therein, and does not inure to the benefit of a stranger to the instrument.”). See also *Brademas v. Hartwig*, 175 Ind. App. 4, 8, 369 N.E.2d 954, 957 (1977) (permitting reservation of easement in favor of third party, but noting that under common-law rule, “a reservation in a deed reserves the specific interest named therein from the operation of the grant and leaves that interest vested in the grantor”).

²⁰*Hidalgo County Water Control and Imp. Dist. No. 16 v. Hippchen*, 233 F.2d 712 (5th Cir. 1956); *Allen v. Henson*, 186 Ky. 201, 206–207, 217 S.W. 120, 123 (1919) (as discussed in text, Kentucky now permits reservations of easements to third parties).

²¹See sources cited supra note 20.

²²Cribbet, *Principles of the Law of Property* (2d ed.) p 337.

²³Cribbet and Johnson, *Principles of the Law of Property* (3d ed.) p 371.

[Section 3:10]

¹*McCarrey v. Kaylor*, 301 P.3d 559, 567 (Alaska 2013) (citing this treatise).

²See § 4:35 to 4:41.

³*McCarrey v. Kaylor*, 301 P.3d 559, 567 (Alaska 2013) (citing this treatise); *Worley Highway Dist. v. Yacht Club of Coeur D’Alene, Ltd.*, 116 Idaho 219, 222, 775 P.2d 111, 114 (1989); *Limestone Development Corp. v. Village of*

of the property and acceptance of the proffered dedication by the public or a governmental unit.⁴ Statutory dedication involves a procedure for dedicating land to the public by appropriate designation on a subdivision plat.⁵

Lemont, 284 Ill. App. 3d 848, 858, 219 Ill. Dec. 910, 672 N.E.2d 763, 770 (1st Dist. 1996); Tibert v. City of Minto, 2004 ND 97, 679 N.W.2d 440, 444 (N.D. 2004); Richardson v. Cox, 108 Wash. App. 881, 890–892, 26 P.3d 970, 975–976 (Div. 3 2001), opinion amended on other grounds on denial of reh'g, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (finding no dedication of easement); Kratovil and Werner, Real Estate Law § 32.01 (8th ed.).

⁴Media General Cable of Fairfax, Inc. v. Sequoyah Condominium Council of Co-Owners, 737 F. Supp. 903, 911–912 (E.D. Va. 1990), decision aff'd, 991 F.2d 1169 (4th Cir. 1993); McCarrey v. Kaylor, 301 P.3d 559, 567–569 (Alaska 2013) (remanding for determination of acceptance issue); Kadlec v. Dorsey, 224 Ariz. 551, 552–553, 233 P.3d 1130, 1131–1132 (2010); Pleak v. Entrada Property Owners' Ass'n, 207 Ariz. 418, 423–424, 87 P.3d 831, 836–837 (2004); Celentano v. Rocque, 282 Conn. 645, 660–661, 923 A.2d 709, 719 (2007); Ventres v. Town of Farmington, 192 Conn. 663, 666–667, 473 A.2d 1216, 1218 (1984); Bonifay v. Dickson, 459 So. 2d 1089, 1093–1094 (Fla. Dist. Ct. App. 1st Dist. 1984); Smith v. State, 248 Ga. 154, 158, 282 S.E.2d 76, 82, 24 A.L.R.4th 282 (1981); Ponderosa Homesite Lot Owners v. Garfield Bay Resort, Inc., 143 Idaho 407, 409–410, 146 P.3d 673, 675–676 (2006); Worley Highway Dist. v. Yacht Club of Coeur D'Alene, Ltd., 116 Idaho 219, 224, 775 P.2d 111, 116 (1989); Limestone Development Corp. v. Village of Lemont, 284 Ill. App. 3d 848, 858–859, 219 Ill. Dec. 910, 672 N.E.2d 763, 770–771 (1st Dist. 1996) (common law dedication not found because of lack of evidence of dedicatory intent); North Snow Bay, Inc. v. Hamilton, 657 N.E.2d 420, 422–423 (Ind. Ct. App. 1995) (finding no intent to dedicate road); Marksburry v. State, 322 N.W.2d 281, 284 (Iowa 1982); Town of Kittery v. MacKenzie, 2001 ME 170, 785 A.2d 1251, 1253–1255 (Me. 2001) (concluding acceptance not established); Shapiro Bros., Inc. v. Jones-Festus Properties, L.L.C., 205 S.W.3d 270, 277–278 (Mo. Ct. App. E.D. 2006), reh'g and/or transfer denied, (Nov. 9, 2006) (adding requirement “that the land dedicated is used by the public” and concluding dedicatory intent unproven); Wagemann v. Elder, 28 S.W.3d 351, 354 (Mo. Ct. App. E.D. 2000) (adding requirement of current public use and finding no common law dedication because intent, acceptance and use all lacking); Nowotny v. Ryan, 534 S.W.2d 559, 561 (Mo. Ct. App. 1976); Heller v. Gremaux, 2002 MT 199, 311 Mont. 178, 186–187, 53 P.3d 1259, 1265 (2002); Tower Development Partners v. Zell, 120 N.C. App. 136, 140–142, 461 S.E.2d 17, 20–21 (1995) (offer and acceptance found); Tibert v. City of Minto, 2004 ND 97, 679 N.W.2d 440, 445 (N.D. 2004); Tupper v. Dorchester County, 326 S.C. 318, 326–327, 487 S.E.2d 187, 191–192 (1997) (dedication of right-of-way not accepted); Tonsager v. Laqua, 2008 SD 54, 753 N.W.2d 394, 397–398 (S.D. 2008); Selway Homeowners Ass'n v. Cummings, 2003 SD 11, 657 N.W.2d 307, 312–315 (S.D. 2003) (finding “future use right-of-way” was not dedicated, or accepted by a public entity”); Spinuzzi v. Town of Corinth, 665 S.W.2d 530, 532 (Tex. App. Fort Worth 1983); Richardson v. Cox, 108 Wash. App. 881, 890–892, 26 P.3d 970, 975–976 (Div. 3 2001), opinion amended on other grounds on denial of reh'g, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (finding no dedication of easement).

⁵Limestone Development Corp. v. Village of Lemont, 284 Ill. App. 3d 848,

Although dedication creates rights only in the general public, courts sometimes improperly speak of private rights created by dedication.⁶ This misconception arises because the same set of instruments may dedicate public easements and also create private easements.⁷ Although individual landowners may acquire private express or implied easements from subdivision plats and associated documents,⁸ these easements are not created by dedication.⁹

858, 219 Ill. Dec. 910, 672 N.E.2d 763, 770 (1st Dist. 1996) (statutory dedication not found); *Anderton v. Gage*, 726 S.W.2d 859, 862 (Mo. Ct. App. S.D. 1987); *Richardson v. Cox*, 108 Wash. App. 881, 890-892, 26 P.3d 970, 975-976 (Div. 3 2001), opinion amended on denial of reh'g, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (finding no dedication of easement); *McQuillin*, *The Law of Municipal Corporations* § 33:4 (3d ed.); 3 *American Law of Property* § 12.133.

⁶3 *Tiffany*, *Law of Real Property* (3d ed.) § 800; *Kratovil*, *Easement Draftsmanship and Conveyancing*, 38 Cal. L. Rev. 426, 432 (1950); Note, *Dedication—Prerequisite of Private Rights Arising Therefrom*, 31 NCL Rev. 202 (1953). See also *Media General Cable of Fairfax, Inc. v. Sequoyah Condominium Council of Co-Owners*, 737 F. Supp. 903, 908-912 (E.D. Va. 1990), decision aff'd, 991 F.2d 1169 (4th Cir. 1993) (distinguishing between private easements and easements dedicated to public in interpreting Cable Communications Policy Act of 1984); *Cable Associates, Inc. v. Town & Country Management Corp.*, 709 F. Supp. 582, 584-586 (E.D. Pa. 1989) (discussing what are “dedicated” easements under provisions of Cable Communications Policy Act of 1984 and properly concluding that term “dedicated” referred to public use).

For cases using “private dedication” terminology, see *Ponderosa Homesite Lot Owners v. Garfield Bay Resort*, 143 Idaho 407, 146 P.3d 673 (2006); *Little v. Hirschman*, 469 Mich. 553, 677 N.W.2d 319 (2004); *Martin v. Beldean*, 469 Mich. 541, 677 N.W.2d 312 (2004); *Beach v. Lima Twp.*, 283 Mich. App. 504, 770 N.W.2d 386 (2009); *Chapman v. Catron*, 220 W. Va. 393, 647 S.E.2d 829 (2007); *Bauer Enterprises, Inc. v. City of Elkins*, 173 W. Va. 438, 317 S.E.2d 798 (1984). See also *Plunkett v. Weddington*, 318 S.W.2d 885 (Ky. 1958) (deed “dedication” of private roadway).

⁷Note, *Dedication—Prerequisite of Private Rights Arising Therefrom*, 31 NCL Rev. 202 (1953). See generally *Anderton v. Gage*, 726 S.W.2d 859, 862 (Mo. Ct. App. S.D. 1987) (“Factual situations may result in the dedication of a use to the public and the creation by grant of a private easement in the same property.”).

⁸*Maddox v. Katzman*, 332 N.W.2d 347, 351-352 (Iowa Ct. App. 1982); *McQuillin*, *The Law of Municipal Corporations* § 33:27 (3d ed.); 3 *Tiffany*, *Law of Real Property* (3d ed.) § 800. See also § 3:5 (examining creation of easements by express grant), § 4:31 to 4:34 (treating implied easements based on plat).

⁹*Easton v. Appler*, 548 So. 2d 691, 694 n.2 (Fla. Dist. Ct. App. 3d Dist. 1989); *Grinestaff v. Grinestaff*, 318 S.W.2d 881 (Ky. 1958); *Anderton v. Gage*, 726 S.W.2d 859, 862 (Mo. Ct. App. S.D. 1987) (“[T]here cannot be a dedication, in the strict sense of the word, in favor of an individual or a limited number of individuals.”); *Fieder v. Terstiege*, 56 N.Y.S.2d 837, 841-842 (Sup 1945), judgment aff'd, 273 A.D. 982, 79 N.Y.S.2d 513 (2d Dep't 1948). See also *McQuillin*, *The Law of Municipal Corporations* § 33:27 (3d ed.); 3 *Tiffany*, *Law of Real*

Express common-law dedication of easements for streets and roads is commonplace.¹⁰ It is usually accomplished by deed or other instrument of conveyance,¹¹ but an offer to dedicate need not be in writing.¹² The offer, however, must be for the benefit of the public at large, not for a specific group of individuals.¹³ Acceptance of such offers by the public or by governmental officials on behalf of the public is sometimes a problem. Acceptance may be express¹⁴ or implied. Such implication may be based on municipal improvement or repair of the dedicated area.¹⁵ Acceptance also

Property (3d ed.) § 800; Comment, Private Easements in Public Ways, 35 Wash. L. Rev. 657, 658-661 (1960).

¹⁰3 American Law of Property § 12.132.

¹¹3 American Law of Property § 12.133. See also *Tibert v. City of Minto*, 2004 ND 97, 679 N.W.2d 440, 444 (N.D. 2004).

The requisite offer for an express common-law dedication may be found in a survey. See *Pleak v. Entrada Property Owners' Ass'n*, 207 Ariz. 418, 420, 423-424, 87 P.3d 831, 833, (2004).

¹²*Cherokee Valley Farms, Inc. v. Summerville Elementary Sch. Dist.*, 30 Cal. App. 3d 579, 584, 106 Cal. Rptr. 467, 470 (5th Dist. 1973); *Terwelp v. Sass*, 111 Ill. App. 3d 133, 136, 66 Ill. Dec. 878, 443 N.E.2d 804, 806 (4th Dist. 1982); *Anderson v. Town of Hemingway*, 269 S.C. 351, 354, 237 S.E.2d 489, 490 (1977); *Brown v. Tazewell County Water and Sewerage Authority*, 226 Va. 125, 129, 306 S.E.2d 889, 891 (1983).

When there is no writing, the issue of implied dedication often arises. See §§ 4:35 to 4:41 (discussing implied dedication).

¹³*Mingledorff v. Crum*, 388 So. 2d 632, 634-635 (Fla. Dist. Ct. App. 1st Dist. 1980); *Coward v. Hadley*, 150 Idaho 282, 288-289, 246 P.3d 391, 397-398 (2010); *Tower Development Partners v. Zell*, 120 N.C. App. 136, 143-144, 461 S.E.2d 17, 21 (1995); *Price v. Walker*, 95 N.C. App. 712, 715, 383 S.E.2d 686, 688 (1989); *Knudsen v. Patton*, 26 Wash. App. 134, 141-142, 611 P.2d 1354, 1360 (Div. 1 1980).

¹⁴*Brown v. Tazewell County Water and Sewerage Authority*, 226 Va. 125, 131-132, 306 S.E.2d 889, 891 (1983) (formal acceptance may be made by enactment of resolution); *Nowotny v. Ryan*, 534 S.W.2d 559, 561 (Mo. Ct. App. 1976) (express acceptance by passing ordinance); *Emanuelson v. Gibbs*, 49 N.C. App. 417, 419-420, 271 S.E.2d 557, 558-559 (1980) (clerk's stamp on plat constituted evidence of acceptance). Cf. *Waterway Drive Property Owners' Ass'n, Inc. v. Town of Cedar Point*, 737 S.E.2d 126, 132 (N.C. Ct. App. 2012) (neither Resolution nor Notice of Acceptance of Dedication constituted express acceptance).

¹⁵*Smith v. State*, 248 Ga. 154, 161, 282 S.E.2d 76, 83, 24 A.L.R.4th 282 (1981); *Tower Development Partners v. Zell*, 120 N.C. App. 136, 141-142, 461 S.E.2d 17, 21 (1995) (acceptance found where city maintained street, included it on official map, and removed it from tax rolls); *Bauer Enterprises, Inc. v. City of Elkins*, 173 W. Va. 438, 317 S.E.2d 798, 800 (1984). See generally *Construction or Maintenance of Sewers, Water Pipes, or the Like by Public Authorities in Roadway, Street, or Alley as Indicating Dedication or Acceptance Thereof*, 51 A.L.R.2d 254, 271-279.

Cf. *Concerned Citizens of Brunswick County Taxpayers Ass'n v. Holden*

may be implied when the public purchases lots in a platted subdivision containing streets that have been offered to the city.¹⁶ Further, actual use by the public may constitute implied acceptance.¹⁷ Inaction by a municipality, however, does not constitute implied acceptance of a dedication.¹⁸

Acceptance, whether express or implied, must generally occur within a reasonable period¹⁹ and before the dedicator revokes the

Beach Enterprises, Inc., 95 N.C. App. 38, 46, 381 S.E.2d 810, 815 (1989), decision rev'd on other grounds, 329 N.C. 37, 404 S.E.2d 677 (1991) ("We hold that merely providing municipal services to homeowners in a subdivision within a municipality does not constitute an implied acceptance by the municipality of dedication of a road when the homeowners have paid for those services by the payment of their ad valorem taxes."); *Waterway Drive Property Owners' Ass'n, Inc. v. Town of Cedar Point*, 737 S.E.2d 126, 133-134 (N.C. Ct. App. 2012) (following *Concerned Citizens*).

¹⁶*Pleak v. Entrada Property Owners' Ass'n*, 207 Ariz. 418, 423-425, 87 P.3d 831, 836-838 (2004); *Pullin v. Victor*, 103 Idaho 879, 881-882, 655 P.2d 86, 88-89 (Ct. App. 1982); *Worley Highway Dist. v. Yacht Club of Coeur D'Alene, Ltd.*, 116 Idaho 219, 224, 775 P.2d 111, 116-118 (1989) (stating that "an offer to dedicate is accepted when lots are purchased with reference to a filed plat" and finding acceptance under rule stated).

¹⁷*Ventres v. Town of Farmington*, 192 Conn. 663, 666-668, 473 A.2d 1216, 1218-1219 (1984); *Smith v. State*, 248 Ga. 154, 160-162, 282 S.E.2d 76, 82-84, 24 A.L.R.4th 282 (1981); *Postnieks v. Chick-fil-A, Inc.*, 285 Ga. App. 724, 730, 647 S.E.2d 281, 287 (2007) ("Nor is a finding of public acceptance precluded by the fact that only a small number of the public actually use the dedicated land."); *State ex rel. Matthews v. Metropolitan Government of Nashville and Davidson County*, 679 S.W.2d 946, 949 (Tenn. 1984).

"In North Carolina, the use by the public of dedicated land must be coupled with control of the property by the proper public authority for at least twenty years. In other words, North Carolina does not recognize public user as a legal manner of acceptance of an offer of dedication." *Bumgarner v. Reneau*, 105 N.C. App. 362, 367, 413 S.E.2d 565, 569 (1992), aff'd as modified on other grounds, 332 N.C. 624, 422 S.E.2d 686 (1992). See also *Kraft v. Town of Mt. Olive*, 183 N.C. App. 415, 420-421, 645 S.E.2d 132, 137 (2007). Cf. *Ferrell v. Doub*, 160 N.C. App. 373, 377, 585 S.E.2d 456, 459 (2003) ("dedication was accepted by implication by continuous public use for more than 35 years").

¹⁸*Walker v. Guignard*, 293 S.C. 247, 249, 359 S.E.2d 528, 529 (Ct. App. 1987) (government failed to maintain property or assess taxes on property).

¹⁹*Katz v. Town of West Hartford*, 191 Conn. 594, 598, 469 A.2d 410, 413 (1983); *Vetter v. Diamond State Telephone Co.*, 450 A.2d 877, 884 (Del. 1982); *Marksbury v. State*, 322 N.W.2d 281, 286 (Iowa 1982); *Ocean Point Colony Trust, Inc. v. Town of Boothbay*, 1999 ME 152, 739 A.2d 382, 385 (Me. 1999) ("The incipient dedication in the present case has not lapsed because a reasonable time has not yet expired."); *Walker v. Guignard*, 293 S.C. 247, 249, 359 S.E.2d 528, 529 (Ct. App. 1987). But see *Bauer Enterprises, Inc. v. City of Elkins*, 173 W. Va. 438, 317 S.E.2d 798, 801 (1984) ("[O]rdinarily there is no time limitation on when acceptance must be made."). See generally *Dedication: time for acceptance*, 66 A.L.R. 321.

offer.²⁰ In some jurisdictions, acceptance must occur within a certain statutory period.²¹

Statutory dedication of easements for public streets and roads is a standard part of the subdivision process.²² Filing a plat designating streets, parks, schools, or other areas²³ for dedication and otherwise complying with the statute constitutes an offer to dedicate.²⁴ In some states, approval of the plat by the municipal body charged with that task amounts to acceptance of the offer.²⁵ In other jurisdictions, further action by the municipality is

²⁰See McQuillin, *The Law of Municipal Corporations* § 33:59 (3d ed.); *Revocation or Withdrawal of Dedication by Grantees or Successors in Interest of Dedicator*, 86 A.L.R.2d 860.

²¹See *Borough of Lehigh v. Katz*, 75 Pa. Commw. 388, 462 A.2d 889 (1983); *Mushel v. Town of Molitor*, 123 Wis. 2d 136, 146–147, 365 N.W.2d 622, 627 (Ct. App. 1985).

²²See *Kratovil and Werner, Real Estate Law* § 32.02–32.04 (8th ed.); *Kiely v. Graves*, 173 Wash. 2d 926, 928–935, 271 P.3d 226, 228–231 (2012); *Richardson v. Cox*, 108 Wash. App. 881, 890–892, 26 P.3d 970, 975–976 (Div. 3 2001), opinion amended on denial of reh'g on other grounds, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (finding no dedication of easement).

In many states, statutory dedication of a street or a highway gives the government a fee or a defeasible fee, not merely an easement. E.g., *Bonifay v. Dickson*, 459 So. 2d 1089, 1095 (Fla. Dist. Ct. App. 1st Dist. 1984) (fee title); *Terwelp v. Sass*, 111 Ill. App. 3d 133, 136–138, 66 Ill. Dec. 878, 443 N.E.2d 804, 806–807 (4th Dist. 1982) (defeasible fee simple); *Brown v. Tazewell County Water and Sewerage Authority*, 226 Va. 125, 128, 306 S.E.2d 889, 890–891 (1983) (fee simple); *Town of Moorcroft v. Lang*, 779 P.2d 1180, 1184 (Wyo. 1989) (“fee simple determinable in surface estate”). See generally McQuillin, *The Law of Municipal Corporations* § 33:73 (3d ed.) (discussing nature of property interest transferred by statutory dedication).

²³See *Owsley v. Robinson*, 2003 WY 33, 65 P.3d 374, 376–377 (Wyo. 2003) (noting that “the primary application of the statute is in the dedications of streets, alleys, and other means of access,” observing that “[o]ther examples of typical dedications for public use include dedications for cemeteries, schools, bridges, and parks,” and finding no dedication of utility easements noted on plat because they “were not set apart for public use”); McQuillin, *The Law of Municipal Corporations* § 33:9 (3d ed.) (cataloging purposes for which real estate is dedicated).

²⁴*Smith v. State*, 248 Ga. 154, 159, 282 S.E.2d 76, 82, 24 A.L.R.4th 282 (1981); *Blue Ridge Realty Co. v. Williamson*, 247 S.C. 112, 118, 145 S.E.2d 922, 924–925 (1965); *Bergin v. Bistodeau*, 2002 SD 53, 645 N.W.2d 252, 254–256 (S.D. 2002) (discussing meaning of word “dedicated”); *Richardson v. Cox*, 108 Wash. App. 881, 890–892, 26 P.3d 970, 975–976 (Div. 3 2001), opinion amended on other grounds on denial of reh'g, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (finding no dedication of easement).

²⁵*Harshbarger v. Jerome County*, 107 Idaho 805, 693 P.2d 451 (1984); *Moore v. City of Lawrence*, 232 Kan. 353, 654 P.2d 445 (1982); *Ginter v. City of Webster Groves*, 349 S.W.2d 895, 899 (Mo. 1961). See also *Bergin v. Bistodeau*, 2002 SD 53, 645 N.W.2d 252, 256 (S.D. 2002); *Richardson v. Cox*, 108 Wash.

required.²⁶ Even if all statutory requirements are not met, an express or implied common-law dedication may result.²⁷

§ 3:11 Attempting to obtain easement in one's own land

Research References

West's Key Number Digest, Easements ¶2, 16, 27

An easement is by definition a nonpossessory interest in land of another.¹ Thus, it is axiomatic that a landowner cannot obtain an easement in the landowner's own property.² Several states

App. 881, 890–892, 26 P.3d 970, 975–976 (Div. 3 2001), opinion amended on other grounds on denial of reh'g, 34 P.3d 828 (Wash. Ct. App. Div. 3 2001) (noting: "Acceptance by the public is evidenced by approval of the final plat or short plat for filing with the appropriate governmental unit.", but finding no dedication of easement); Validity and construction of regulations as to subdivision maps or plats, 11 A.L.R.2d 524, 574-585.

²⁶Lewis v. DeKalb County, 251 Ga. 100, 101, 303 S.E.2d 112, 114 (1983); Water Products Co. of Illinois v. Gabel, 120 Ill. App. 3d 668, 672, 76 Ill. Dec. 194, 458 N.E.2d 594, 598 (2d Dist. 1983); Stambaugh v. Reed Tp., 86 Pa. Commw. 316, 320, 484 A.2d 853, 856 (1984); Tupper v. Dorchester County, 326 S.C. 318, 326-327, 487 S.E.2d 187, 192 (1997) ("The mere fact the County approved the plat does not constitute an acceptance of the proposed public dedication."). See also Validity and construction of regulations as to subdivision maps or plats, 11 A.L.R.2d 524, 574-585.

²⁷Hanshaw v. Long Valley Road Ass'n, 116 Cal. App. 4th 471, 476-483, 11 Cal. Rptr. 3d 357, 361-367 (3d Dist. 2004); Pullin v. Victor, 103 Idaho 879, 881, 655 P.2d 86, 88 (Ct. App. 1982); Village of Climax Springs v. Camp, 681 S.W.2d 529, 533 (Mo. Ct. App. S.D. 1984); McQuillin, *The Law of Municipal Corporations* §§ 33:5, 33:27 (3d ed.). See, generally, §§ 4:35 to 4:41 (discussing implied dedication).

[Section 3:11]

¹One Harbor Financial Ltd. Co. v. Hynes Properties, LLC, 884 So. 2d 1039, 1044 (Fla. Dist. Ct. App. 5th Dist. 2004); Borovilos Restaurant Corp. II v. Lutheran University Ass'n, Inc., 920 N.E.2d 759, 764 (Ind. Ct. App. 2010); Auman v. Grimes, 364 Pa. Super. 243, 247, 527 A.2d 1045, 1047 (1987); Butler v. Craft Eng Const. Co., Inc., 67 Wash. App. 684, 697, 843 P.2d 1071 (Div. 1 1992); Town of East Troy v. Flynn, 169 Wis. 2d 330, 338, 485 N.W.2d 415, 418 (Ct. App. 1992); Burby, *Handbook of the Law of Real Property* (3d ed.) § 64; *Restatement of Property* § 450 (1944). See also § 1:1 (defining easements).

²Hensel v. Aurilio, 417 So. 2d 1035, 1037 (Fla. Dist. Ct. App. 4th Dist. 1982); Gilbert v. Fine, 288 Ga. App. 20, 22–23, 653 S.E.2d 775, 777–778 (2007), cert. denied, (Feb. 25, 2008); Zingiber Inv., LLC v. Hagerman Highway Dist., 150 Idaho 675, 249 P.3d 868 (2011) (overruled on other grounds by, City of Osburn v. Randel, 152 Idaho 906, 277 P.3d 353 (2012)); Gardner v. Fliegel, 92 Idaho 767, 771, 450 P.2d 990, 994 (1969); Borovilos Restaurant Corp. II v. Lutheran University Ass'n, Inc., 920 N.E.2d 759, 764 (Ind. Ct. App. 2010); Enderle v. Sharman, 422 N.E.2d 686, 693 (Ind. Ct. App. 1981); Van Sandt v. Royster, 148 Kan. 495, 499, 83 P.2d 698, 700 (1938); Orfanos Contractors, Inc.