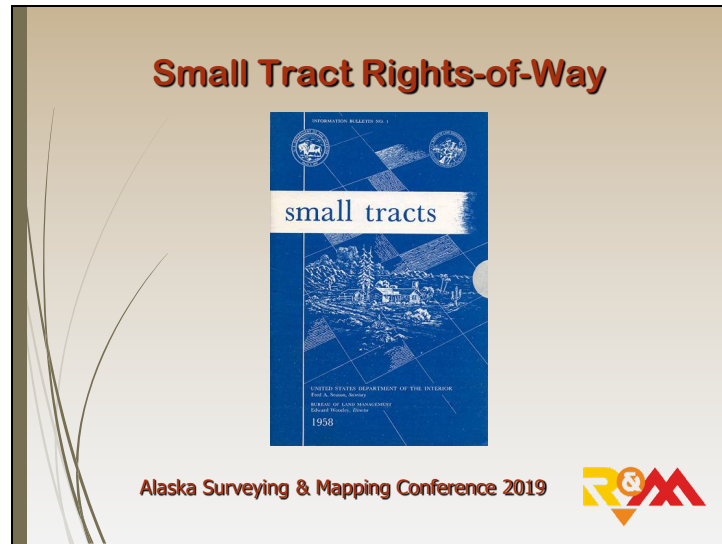


Slide 1



Back in 2015, Karen Tilton & I presented a half-day short course on ROW Mapping case studies. I titled my portion "The older I get, the less I know." Today I'm happy to report that I have apparently reached that point where I now know nothing at all. And this morning's discussion of Small Tract ROW should make that revelation painfully clear.

Slide 2

Small Tract ROW

- 1938 Small Tract Act (Alaska in 1945)
- "Jack Rabbit" Homesteads (5 ac. or less)
- 1954 Alaska's most popular disposal type
- Includes ROW for Roads & Utilities
- 33' or 50' along one or more boundaries
- 5,600 Small Tract patents issued in Alaska
- Other disposal types include:
 - Homesteads, Homesites, HQ Sites
 - Trade & Manufacturing Sites
 - Townsite Lots, Mining Claims
 - Native Allotments

Small Tracts typically in rectangular blocks – the only express statement of access right in a federal land disposal patent.

Slide 3

Small Tract ROW

- ROW that served other types of disposals
 - Townsites – street dedications
 - RS-2477 (Mining Law of 1866)
 - ANCSA 17(b)(2) easements
 - Generally to other public lands
 - Also protects valid existing rights
 - Stewart IBLA 84-148 Mining Claim
 - FLPMA Sec. 701 (a) – existing rights

We had taken comfort in Small Tract ROW. They were expressed in black and white: width, location & interest defining an access right. What more was necessary.

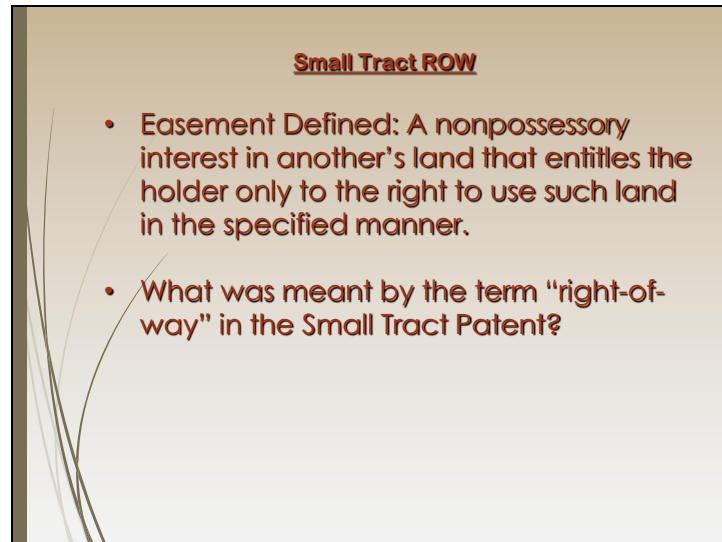
Slide 4

Small Tract ROW

- Patent – similar to a quitclaim deed
- Prior Existing Rights – patent “subject to”
- Small Tract Patents were “subject to” a specific road & utility right-of-way
- Right-of-Way?: The right to pass along a specific route through another’s land.
- Unless otherwise stated, a ROW is considered to be an easement interest

Terms & Definitions – Patent is not “perfect” or pure conveyance of title. Bruce & Ely: “Subject to” implies “existing right” but because of erroneous use, may be used to create rights.

Slide 5

A rectangular box with a light beige background and a dark border. The title "Small Tract ROW" is centered at the top in a bold, dark font. Below the title, there are two bullet points in a dark font. The first bullet point defines an easement as a nonpossessory interest in another's land that entitles the holder only to the right to use such land in the specified manner. The second bullet point asks what was meant by the term "right-of-way" in the Small Tract Patent. On the left side of the box, there are several thin, dark, curved lines that resemble grass or reeds.

Small Tract ROW

- Easement Defined: A nonpossessory interest in another's land that entitles the holder only to the right to use such land in the specified manner.
- What was meant by the term "right-of-way" in the Small Tract Patent?

Nonpossessory interests include easements, profits, restrictive covenants & licenses (permissions). The land crossed by the easement is in the possession of another.

Slide 6

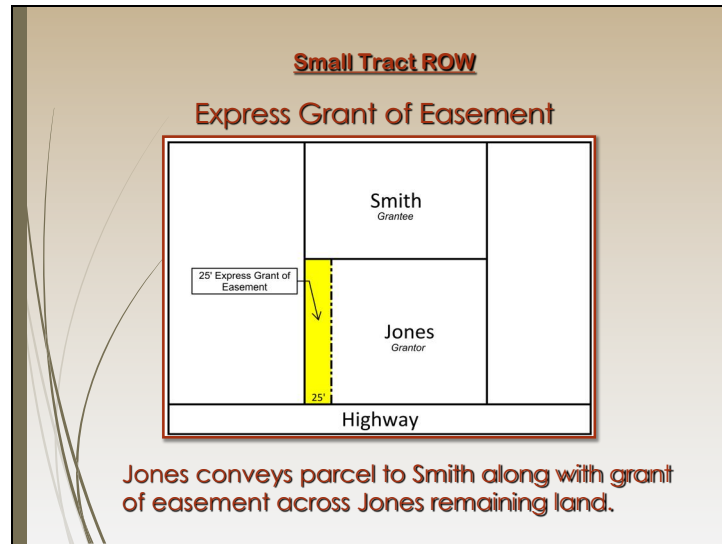
A rectangular box with a light beige background and a dark border. The title "Small Tract ROW" is centered at the top in a bold, dark font. Below the title, there are three main bullet points in a dark font. The first main bullet point is "Easement Appurtenant", which has two sub-bullet points: "Servient Estate: Parcel burdened by easement" and "Dominant Estate: Parcel benefiting from easement". The second main bullet point is "Easement in Gross – Personal to holder", which has three sub-bullet points: "No dominant estate", "Does not run with land", and "Assignable – i.e. Utility Easements". The third main bullet point is "How are easements established?". On the left side of the box, there are several thin, dark, curved lines that resemble grass or reeds.

Small Tract ROW

- Easement Appurtenant
 - Servient Estate: Parcel burdened by easement
 - Dominant Estate: Parcel benefiting from easement
 - Passes with the land
- Easement in Gross – Personal to holder
 - No dominant estate
 - Does not run with land
 - Assignable – i.e. Utility Easements
- How are easements established?

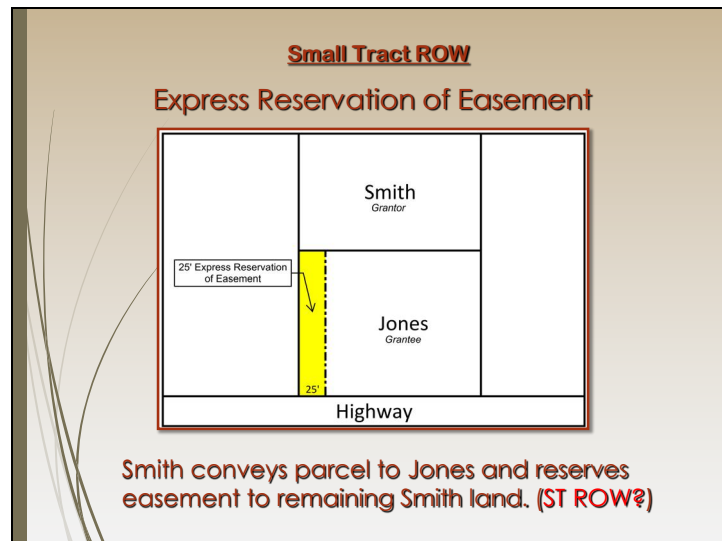
Appurtenant requires both a servient and dominant estate.

Slide 7



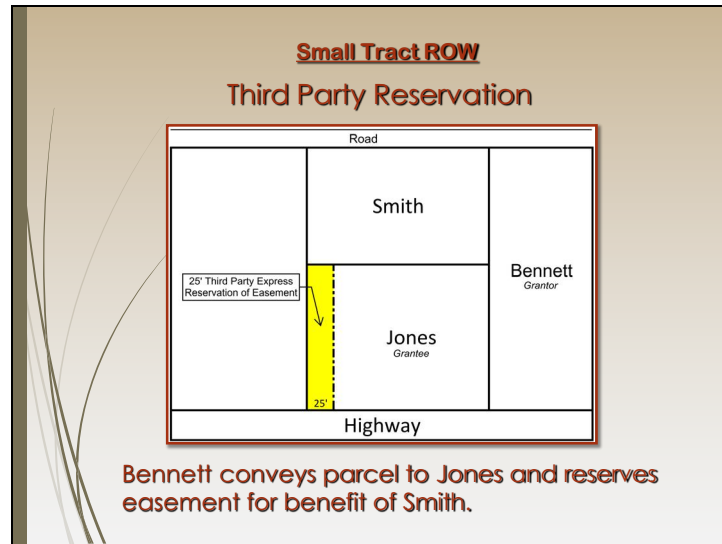
Clearly an easement appurtenant. Runs with the land.

Slide 8



Another easement appurtenant. Runs with the land. This is what we always thought was happening with Small Tract "subject to" rights of way.

Slide 9



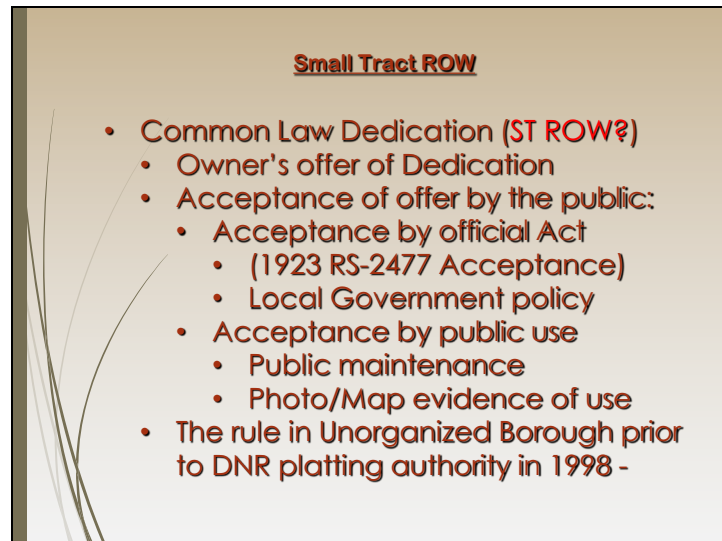
Some states do not recognize this type of reservation as the servient estate (Smith) is not a party to the transaction. Alaska does.

Slide 10

- Small Tract ROW**
- **Dedication:** An appropriation of land by the owner for the benefit of the public. Requires an Offer and an Acceptance.
 - **May be:** Express (Clearly stated) or Implied (by factual evidence)
 - **Statutory Dedication**
 - Conforming to provision of statute
 - Certificate of Dedication
 - Certificate of Acceptance

Previous easements were private transactions. A dedication is a grant to the public. Express or Implied – Statutory or Common Law

Slide 11

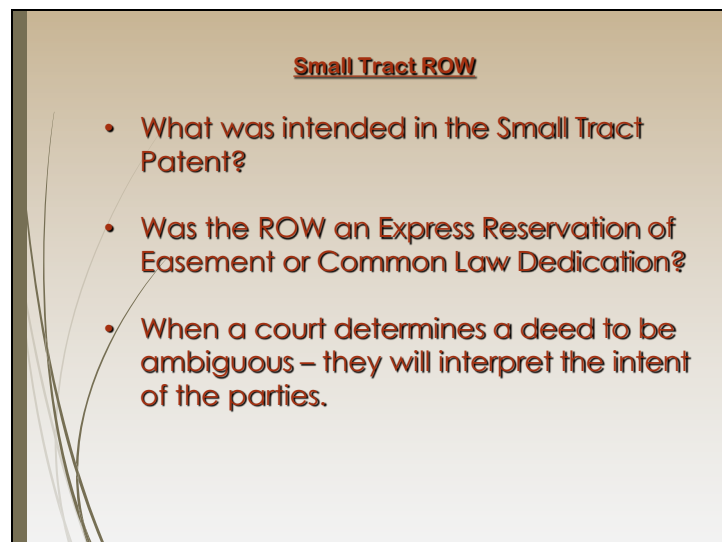
A rectangular box with a light beige background and a dark border. The title "Small Tract ROW" is centered at the top in a bold, dark red font. Below the title is a bulleted list of points in a dark red font. The list includes "Common Law Dedication (ST ROW?)", "Owner's offer of Dedication", "Acceptance of offer by the public:" followed by sub-bullets for "Acceptance by official Act" (with "1923 RS-2477 Acceptance" and "Local Government policy" as sub-points), "Acceptance by public use" (with "Public maintenance" and "Photo/Map evidence of use" as sub-points), and "The rule in Unorganized Borough prior to DNR platting authority in 1998 -".

Small Tract ROW

- Common Law Dedication (ST ROW?)
 - Owner's offer of Dedication
 - Acceptance of offer by the public:
 - Acceptance by official Act
 - (1923 RS-2477 Acceptance)
 - Local Government policy
 - Acceptance by public use
 - Public maintenance
 - Photo/Map evidence of use
 - The rule in Unorganized Borough prior to DNR platting authority in 1998 -

Was the “subject to” clause a Common Law dedication? Unorganized Borough prior to DNR platting authority – plat may provide “express offer” but not “express acceptance”.

Slide 12

A rectangular box with a light beige background and a dark border. The title "Small Tract ROW" is centered at the top in a bold, dark red font. Below the title is a bulleted list of points in a dark red font. The list includes "What was intended in the Small Tract Patent?", "Was the ROW an Express Reservation of Easement or Common Law Dedication?", and "When a court determines a deed to be ambiguous – they will interpret the intent of the parties."

Small Tract ROW

- What was intended in the Small Tract Patent?
- Was the ROW an Express Reservation of Easement or Common Law Dedication?
- When a court determines a deed to be ambiguous – they will interpret the intent of the parties.

Small Tract ROW

- Alaska Supreme Ct. 3-step process:
 - Look first to the four corners of the deed – can the intent of the parties be determined unambiguously?
 - If ambiguous – determine the intent
 - Examine the deed
 - Extrinsic evidence
- Rules of Construction – Ambiguities found
 - In favor of government
 - In favor of grantee
 - In favor of land free of easements

If the legal description is in reference to a plat, the examination for ambiguity must include the plat.

Small Tract ROW

- **McCarrey v. Kaylor** – Alaska Supreme Court - March, 2013
 - McCarrey Small Tract - 50' ROW along north boundary - E136th Avenue
 - Kaylor parcel adjoins to the north
 - E136th signed gravel road/driveway but not maintained by Municipality

Slide 15

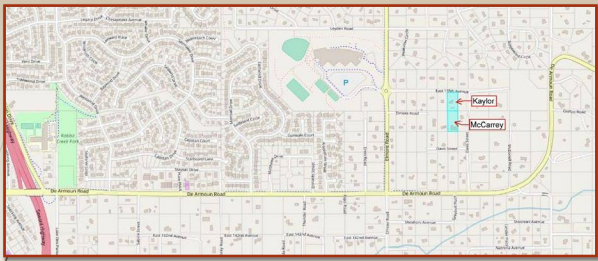
Small Tract ROW

- Kaylor uses ST ROW to access south portion of lot to park motorhome, boat and other vehicles.
- McCarrey proposes fence with locked gate on common boundary – must have 72-hour notice to open ~
- 2010 Superior Ct – Kaylor filed injunction and claim of prescriptive easement: Court agrees ~

Angry neighbors!

Slide 16

Small Tract ROW



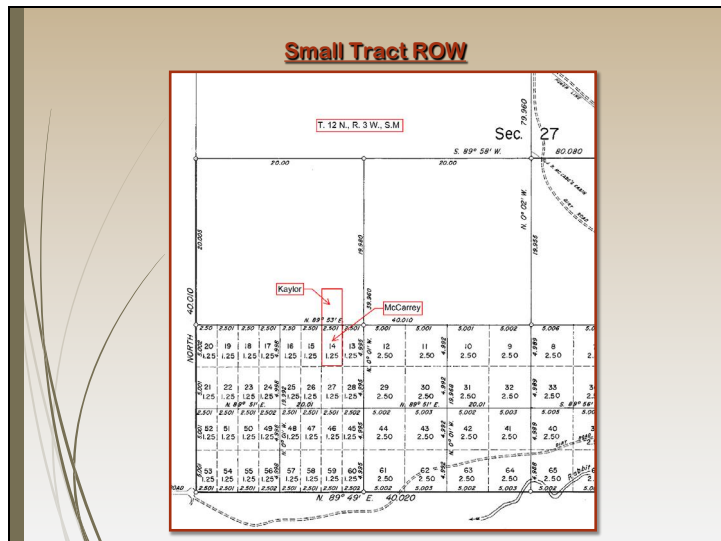
McCarrey v. Kaylor
North East of DeArmour & Elmore

Slide 17



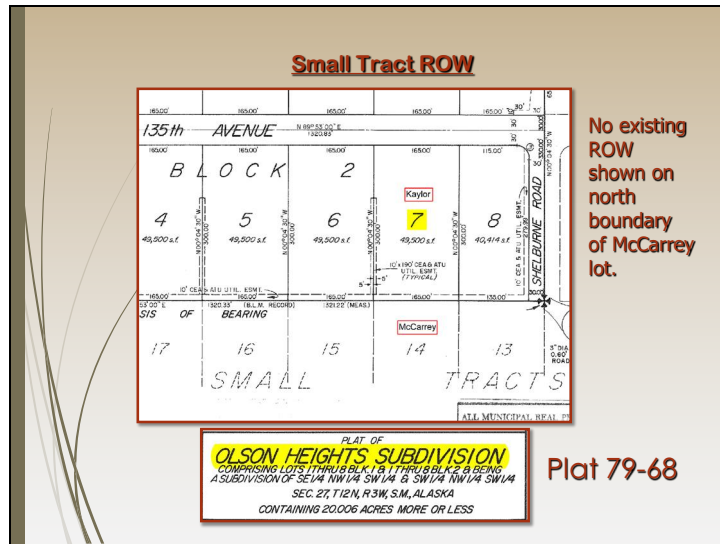
See vehicles on south side of Kaylor lot. Rental unit increased traffic along McCarrey frontage.

Slide 18



McCarrey had Small Tract while Kaylor lot was from subdivision of a homestead.

Slide 21

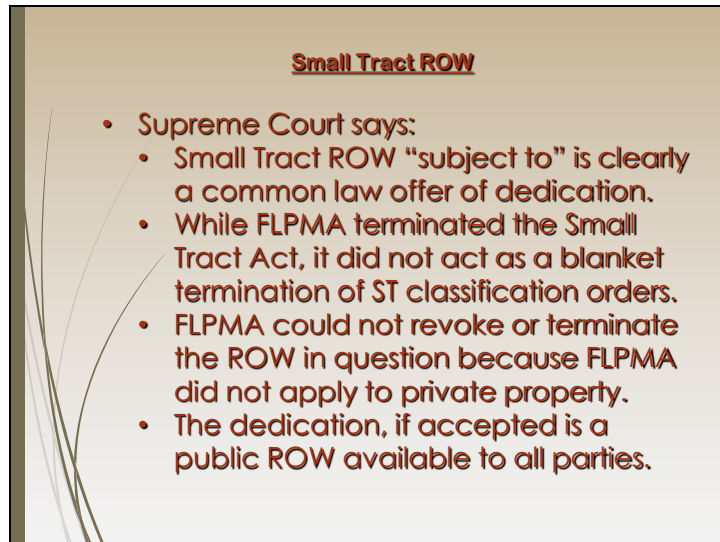


Slide 22

- Small Tract ROW**
- Supreme Court – *McCarrey v. Kaylor*
 - Case requires interpretation of deed
 - McCarreys argue:
 - Small Tract ROW is a common law dedication (BLM IM 91-196)
 - If valid (accepted), it is only for the use of other Small Tract owners
 - Small Tract ROW authority repealed by FLPMA – ROW no longer valid.
 - IM 91-196 says offer to dedicate only available as long as Small Tract Classification Order in effect.

BLM Instructional Memo 91-196: “It is generally accepted that small tract rights-of-way are common law dedications to the public...” “...unless the common law rights-of-way were actually used for a road or public utilities to serve a small tract, the dedication disappeared with the termination of the classification.”

Slide 23

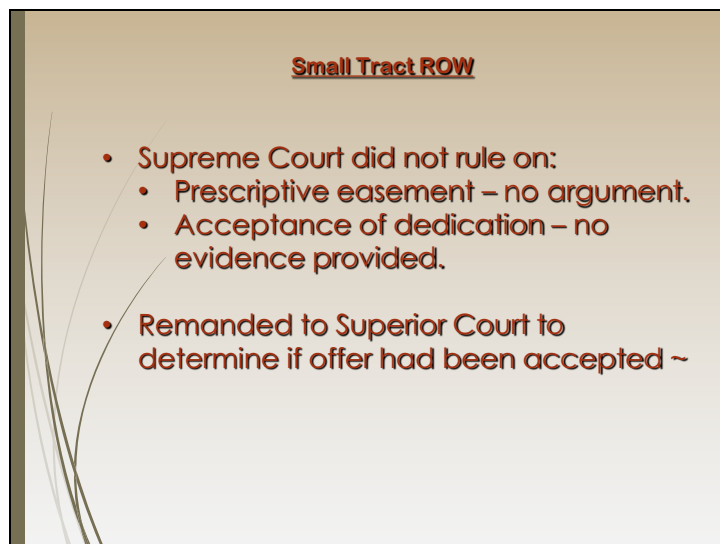


Small Tract ROW

- Supreme Court says:
 - Small Tract ROW “subject to” is clearly a common law offer of dedication.
 - While FLPMA terminated the Small Tract Act, it did not act as a blanket termination of ST classification orders.
 - FLPMA could not revoke or terminate the ROW in question because FLPMA did not apply to private property.
 - The dedication, if accepted is a public ROW available to all parties.

When FLPMA ended the Small Tract Act, ST ROW validly accepted by use were not automatically vacated.

Slide 24



Small Tract ROW

- Supreme Court did not rule on:
 - Prescriptive easement – no argument.
 - Acceptance of dedication – no evidence provided.
- Remanded to Superior Court to determine if offer had been accepted ~

Small Tract ROW

- Superior Court – Sept. 2013 - Round 2
 - McCarrey argues against acceptance by either formal official action or public use.
 - McCarrey then argues if it was accepted the dedication is limited to the physical footprint (30') which leaves a gap between the dedication and the common lot line.

McCarrey argues that there exists a strip of his land between the 30' road footprint and the north lot line.

Small Tract ROW

- Kaylor argues:
 - Use of E136th for more than 15 years
 - Municipal code recognition of "double fronted" lots constitutes an official acceptance of dedication.

Slide 27

Small Tract ROW

- The Rest of the Story:
 - September 11, 2013 - Superior Court issues *Stipulation for Dismissal with Prejudice*
 - The Court issued no judgment regarding common law acceptance of E 136th Avenue.

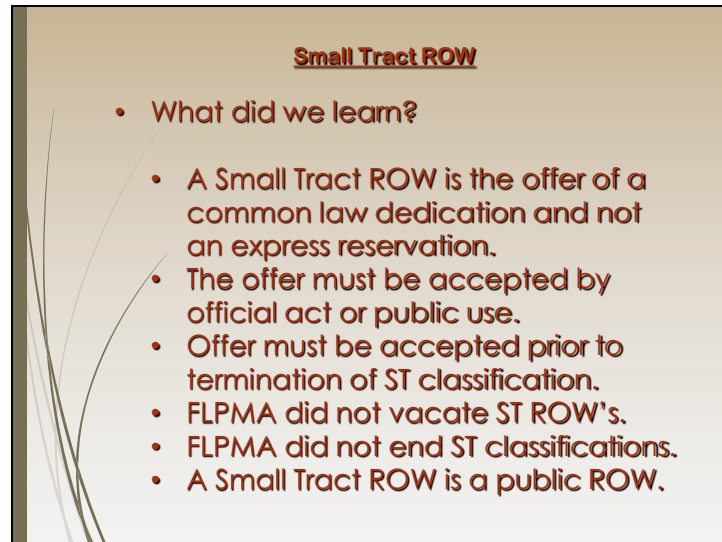
Court View ends with “stipulation” and no explanation.

Slide 28

Small Tract ROW

- McCarrey contact - May 2018
 - Dismissal was result of a settlement.
 - Agreed to a 30-foot ROW.
 - Was to be recorded but was not.
 - Acceptance of common law dedication never determined.
 - Parties continued to disagree over the terms of the settlement.
 - McCarrey agreed the issue was never resolved.
 - Kaylor passed in 2017 at age 75

McCarrey said both the courts and attorneys failed to recognize that all he wanted was a fence. By this point everyone was tired of arguing.



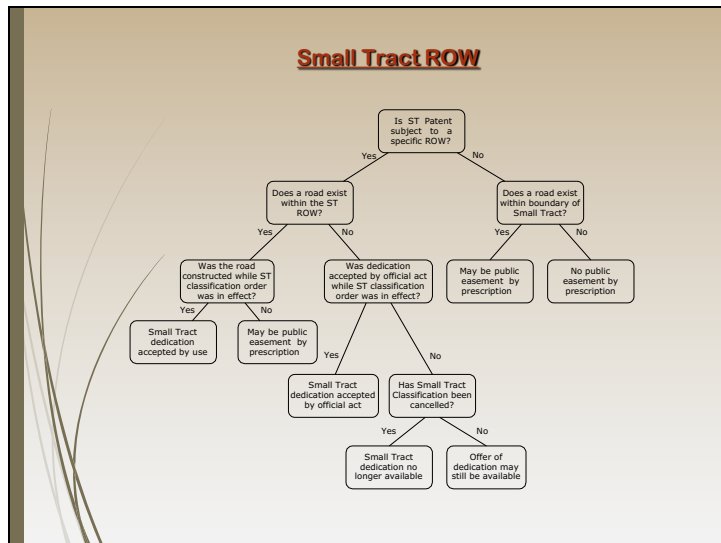
“Everything we know is wrong...”



While McCarrey is an important decision regarding Small Tract ROW, it will fly right by most property owners and title reports. Most will continue to believe that if it is stated in the patent, it is real.

Small Tract ROW

- **Research Methods**
 - You are assigned to survey & map GL-11 Section 17, T1S, R1W, F.M. located to the north of Davis Road in Fairbanks.
 - Given the results of McCarrey v. Kaylor, how do you determine whether a common law dedication has been accepted or whether the offer to dedicate is still available for acceptance?



Decision Flow-chart. Can a ST patent be issued with no reference to “subject to” ROW? Yes, see GL-6, Section 17, Davis Road.

Small Tract ROW

BUREAU OF LAND MANAGEMENT

SDMS ALASKA

- HOME
- ACRES
- MAP INTERFACE
- CONVEYANCE DOCUMENTS
- MASTER TITLE PLATS
- SUBREY PLATS
- ANCSA 17(b) EASEMENTS
- ALASKA PUBLIC LAWS
- DOWNLOAD DATA
- TOOLS AND UTILITIES
- WWW

SPATIAL DATA MANAGEMENT SYSTEM

Welcome to the Bureau of Land Management's Spatial Data Management System (SDMS). The SDMS website provides access to online BLM Alaska land record documents, reports and GIS data.

Alaska Case Reporting Enterprise System
The ACRES reports contain BLM Alaska case information. Reports include native, state and private land conveyance cases, as well as leases, permits, Federal mining claims, easements and more.

SDMS Land & Resources Map Interface
Interactive map interface, porting lands and natural resources information at Alaska. Provides data download services, access to land parcel data, documents and case reports. Data streaming service available.

Conveyance Documents
Scanned images of BLM Alaska land conveyance documents including: Patents, Tentative Agreements and Interim Conveyances issued since 1965.

Master Title Plats
Scanned images of BLM Alaska MTPs. These maps portray the Bureau's record of current federal land ownership and land status.

Survey Plats
Scanned images of Cadastral land survey plats and field notes.

ANCSA 17(b) Easement Maps
Scanned images of federal easements across native lands, presented on USGS quadrangles.

Alaska Public Laws, Orders and Directives Online
Scanned images of federal Alaska Public Laws, Orders and Directives.

Obtain MTP from sdms.ak.blm.gov/sdms/

Slide 34

Small Tract ROW

Locate Lot & patent No. from MTP

The grid displays patent numbers in a regular pattern. A central section, spanning from row 31 to row 37 and column 31 to column 37, is highlighted with a red border. A large number '17' is printed in the center of this highlighted area.

1122543							1126519																																																																																					
8-2.50 1149774 R/W 66 Min.	9-2.50 1149774 R/W 66 Min.	10-2.50 1149774 R/W 66 Min.	11-2.50 1149774 R/W 66 Min.	12-2.50 1149774 R/W 66 Min.	13-2.50 1149774 R/W 66 Min.	14-2.50 1149774 R/W 66 Min.	15-2.50 1149774 R/W 66 Min.	16-2.50 1149774 R/W 66 Min.	17-2.50 1149774 R/W 66 Min.	18-2.50 1149774 R/W 66 Min.	19-2.50 1149774 R/W 66 Min.	20-2.50 1149774 R/W 66 Min.	21-2.50 1149774 R/W 66 Min.	22-2.50 1149774 R/W 66 Min.	23-2.50 1149774 R/W 66 Min.	24-2.50 1149774 R/W 66 Min.	25-2.50 1149774 R/W 66 Min.	26-2.50 1149774 R/W 66 Min.	27-2.50 1149774 R/W 66 Min.	28-2.50 1149774 R/W 66 Min.	29-2.50 1149774 R/W 66 Min.	30-2.50 1149774 R/W 66 Min.	31-2.50 1149774 R/W 66 Min.	32-2.50 1149774 R/W 66 Min.	33-2.50 1149774 R/W 66 Min.	34-2.50 1149774 R/W 66 Min.	35-2.50 1149774 R/W 66 Min.	36-2.50 1149774 R/W 66 Min.	37-2.50 1149774 R/W 66 Min.	38-2.50 1149774 R/W 66 Min.	39-2.50 1149774 R/W 66 Min.	40-2.50 1149774 R/W 66 Min.	41-2.50 1149774 R/W 66 Min.	42-2.50 1149774 R/W 66 Min.	43-2.50 1149774 R/W 66 Min.	44-2.50 1149774 R/W 66 Min.	45-2.50 1149774 R/W 66 Min.	46-2.50 1149774 R/W 66 Min.	47-2.50 1149774 R/W 66 Min.	48-2.50 1149774 R/W 66 Min.	49-2.50 1149774 R/W 66 Min.	50-2.50 1149774 R/W 66 Min.	51-2.50 1149774 R/W 66 Min.	52-2.50 1149774 R/W 66 Min.	53-2.50 1149774 R/W 66 Min.	54-2.50 1149774 R/W 66 Min.	55-2.50 1149774 R/W 66 Min.	56-2.50 1149774 R/W 66 Min.	57-2.50 1149774 R/W 66 Min.	58-2.50 1149774 R/W 66 Min.	59-2.50 1149774 R/W 66 Min.	60-2.50 1149774 R/W 66 Min.	61-2.50 1149774 R/W 66 Min.	62-2.50 1149774 R/W 66 Min.	63-2.50 1149774 R/W 66 Min.	64-2.50 1149774 R/W 66 Min.	65-2.50 1149774 R/W 66 Min.	66-2.50 1149774 R/W 66 Min.	67-2.50 1149774 R/W 66 Min.	68-2.50 1149774 R/W 66 Min.	69-2.50 1149774 R/W 66 Min.	70-2.50 1149774 R/W 66 Min.	71-2.50 1149774 R/W 66 Min.	72-2.50 1149774 R/W 66 Min.	73-2.50 1149774 R/W 66 Min.	74-2.50 1149774 R/W 66 Min.	75-2.50 1149774 R/W 66 Min.	76-2.50 1149774 R/W 66 Min.	77-2.50 1149774 R/W 66 Min.	78-2.50 1149774 R/W 66 Min.	79-2.50 1149774 R/W 66 Min.	80-2.50 1149774 R/W 66 Min.	81-2.50 1149774 R/W 66 Min.	82-2.50 1149774 R/W 66 Min.	83-2.50 1149774 R/W 66 Min.	84-2.50 1149774 R/W 66 Min.	85-2.50 1149774 R/W 66 Min.	86-2.50 1149774 R/W 66 Min.	87-2.50 1149774 R/W 66 Min.	88-2.50 1149774 R/W 66 Min.	89-2.50 1149774 R/W 66 Min.	90-2.50 1149774 R/W 66 Min.	91-2.50 1149774 R/W 66 Min.	92-2.50 1149774 R/W 66 Min.	93-2.50 1149774 R/W 66 Min.	94-2.50 1149774 R/W 66 Min.	95-2.50 1149774 R/W 66 Min.	96-2.50 1149774 R/W 66 Min.	97-2.50 1149774 R/W 66 Min.	98-2.50 1149774 R/W 66 Min.	99-2.50 1149774 R/W 66 Min.	100-2.50 1149774 R/W 66 Min.

Slide 35

Small Tract ROW

Obtain patent from GLORecords.blm.gov

Slide 36

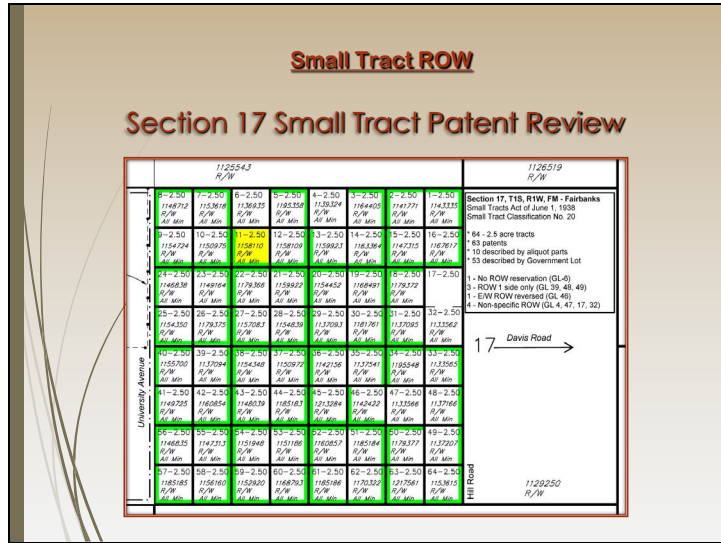
Small Tract ROW

Select "Patent Image" tab and download

This patent is subject to a right-of-way not exceeding 33 feet in width, for road-way and public utilities purposes, to be located along the west and south boundaries of said land.

This provides an image of the original patent.

Slide 37



Note Small Tract ROW issues noted in right column.

Slide 38

Small Tract ROW

The hard part: Finding the Classification Order

Locate Historical Index at BLM SDMS

Action Date	Section	Aliq Part	Lots	Other Desc	Acres Qty	Document ID	Kind Entry	Remarks
26-Jan-50	17	S2NW, N2SW				20	BLM O	
26-Jan-50	19	E2SW	4			20	BLM O	
26-Jan-50	30		2		287.5	20	BLM O	ST CL, PART REV DO 4/26/1969, CANC 2/12/1964

Small Tract Classification Order No. 20 applied to Sections 17, 19 & 30 – Note cancellation dated 2/12/1964

Cut & past SDMS HI to Excel spreadsheet and sort by Section.

Slide 39

Small Tract ROW

- BLM SDMS "Alaska Public Laws, Orders and Directives" – Document Type: Small Tract Orders – Search for Order No. 20

ALASKA

SMALL TRACT CLASSIFICATION NO. 20
JANUARY 20, 1960

By virtue of the authority contained in the act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, and Departmental Order No. 2323 of May 24, 1947 (43 CFR 4.215 (b) (3), 12 P. R. 3669), and pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 318, dated July 19, 1948 (43 CFR 40.45) (b) (3), 13 P. R. 4278; it is ordered as follows:

Subject to valid existing rights, the following described lands in the Fairbanks, Alaska, land district, embracing 287.49 acres, are hereby classified as chiefly valuable for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, for home and cabin sites:

T 1 S. R. 1 W. Fairbanks Meridian,
Sec. 17, S¹/4NW¹ and N¹/4SW¹;
Sec. 19, Lot 4 and 2¹/₂W¹;
Sec. 20, Lot 2.

ALASKA

Small Tract Classification Order Cancellations; Corrected Date

F.R. Doc. 64-1824 appears in the issue for February 19, 1964, is hereby corrected as follows:

Paragraph 4 containing description of Small Tract Classification Order No. 20 is hereby corrected so that portion reading:

"Small Tract Classification Order No. 20 of January 20, 1960 (P.R. Doc. 60-2842) . . ."

will read:

Small Tract Classification Order No. 20 of January 20, 1960 (P.R. Doc. 60-2842) . . ."

ROSS A. YORWALOOK,
District Manager.

(P.R. Doc. 64-3007; Filed, Mar. 2, 1964; 8:48 a.m.)

- Or search GPO Federal Register

But the two STC_20 orders on SDMS did not include the cancellation order dated 2/12/64.

Slide 40

Small Tract ROW

- Federal Register search for February 19, 1964 and "Small Tracts" returned:

ALASKA

Cancelling Certain Small Tract Classification Orders
FEBRUARY 19, 1964

1. Pursuant to the authority redelegated to me from Bureau Order 694, dated August 28, 1951 (38 P.R. 6210) as amended by the Alaska State Director in section 3, Delegation of Authority (38 P.R. 2949) dated January 9, 1963, the following Small Tract Classification Orders are hereby cancelled as to the lands embraced thereby:

Small Tract Classification Order No. 20, as amended; 4. Small Tract Classification Order No. 20 of March 20, 1959 (P.R. Doc. 3042), as amended by the general management of February 19, 1964, and as modified by the partial cancellation order of April 28, 1960 (P.R. Doc. 60-4912), which classified the following lands for lease and sale for home and cabin sites under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:

FAIRBANKS MERIDIAN
T 1 S. R. 1 W.
Sec. 17, S¹/₄NW¹ and N¹/₄SW¹;
Sec. 19, Lot 4 and 2¹/₂W¹;
Containing 287.33 acres.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management
ALASKA

Small Tract Classification Order No. 20; Cancellation (Partial)

APRIL 28, 1960

Effective April 28, 1960, Small Tract Classification Order Number 20, dated January 20, 1960, as pertaining to the following described public land, is cancelled:

FAIRBANKS MERIDIAN
Section 20, Lot 2
Containing 18.16 acres.

RICHARD L. QUIRTUS,
Operations Supervisor,
Fairbanks.

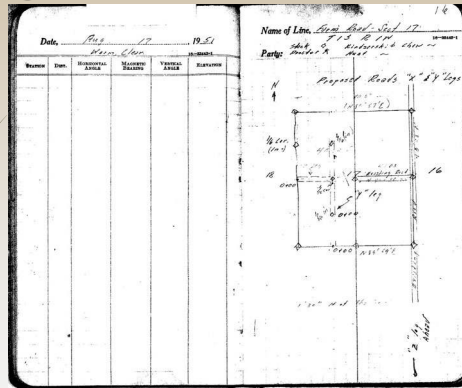
(P.R. Doc. 60-4912; Filed, May 3, 1960; 8:48 a.m.)

A bit more tedious to search Federal Register but it is possible.

Slide 41

Small Tract ROW

- Alaska Road Commission field book August 17, 1951 – Davis & Alston Roads

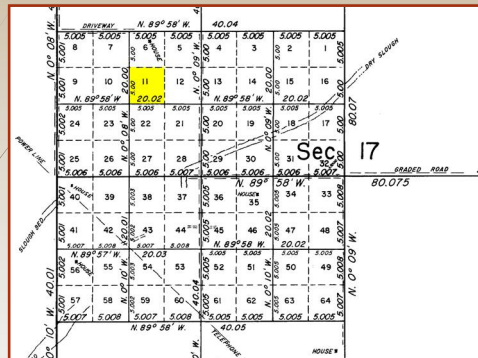


ARC Field notes for Davis/Alston roads – Used to support PLO over ST ROW assertion.

Slide 42

Small Tract ROW

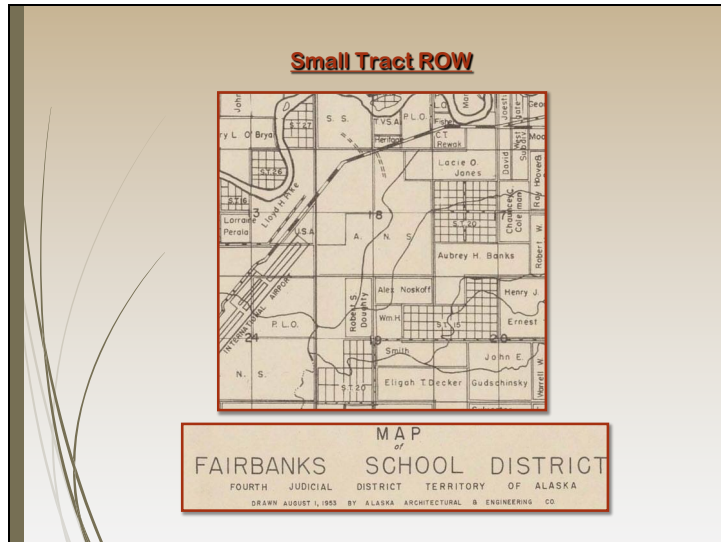
- Evidence of road construction & use



- Township Survey Plat approved 4/13/53

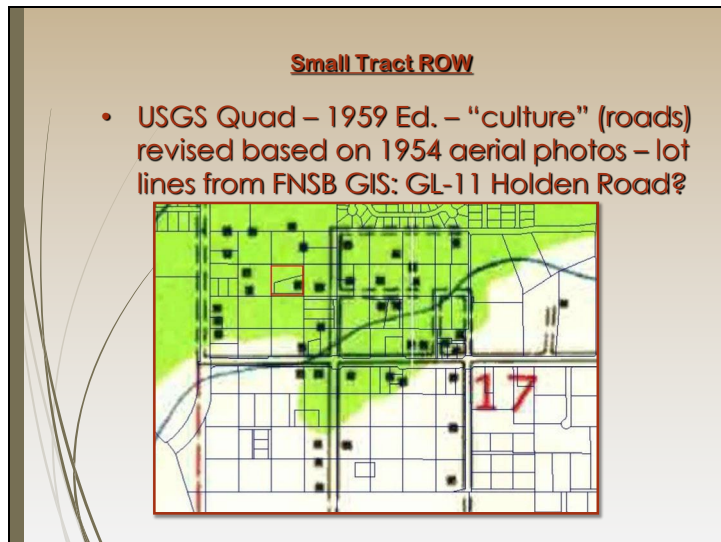
Note that patents prior to Approved Township Survey plat used aliquot part descriptions. Note existing graded road east-west (Davis) and improved road north/south (Alston). The GL-11 abstract indicates that the application to lease on 7/21/52, a field report on 11/15/54 and patent issued on 3/19/56. Evidence of access construction and use may be revealed with a review of the BLM case file from the National Archives.

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The School District acted as an early Platting Authority in Fairbanks. They developed this map showing homestead patents and Small Tract areas.

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The topo was based on 1949 photography and updated with 1954 photography. Davis & Alston are shown as existing but Holden is not clearly shown. But the home owner got there somehow.

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Small Tract ROW

- USGS Quad – 1965 Ed. – Holden Road now shown as light duty on S. boundary of GL-11. Lot lines from FNSB GIS



The 1965 edition of the USGS Quad shows Holden Road along south boundary of GL-11. The Classification Order was terminated by February of 1964. Public use before termination? Note GL-11 home location. Note GL-11 home location. FNSB Assessor records indicate GL-11 construction dated 1964 and GL-22 (south of GL-11) construction of 1960. Some form of access would have been in place.

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Small Tract ROW

- FNSB GIS: 2003 Photography


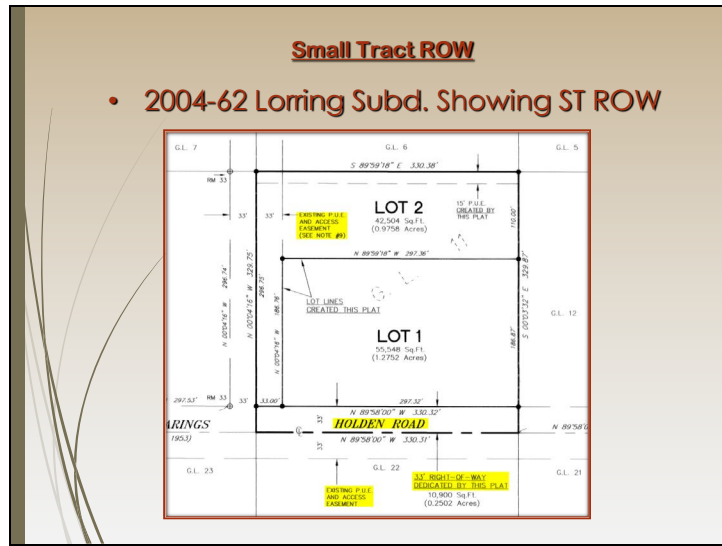


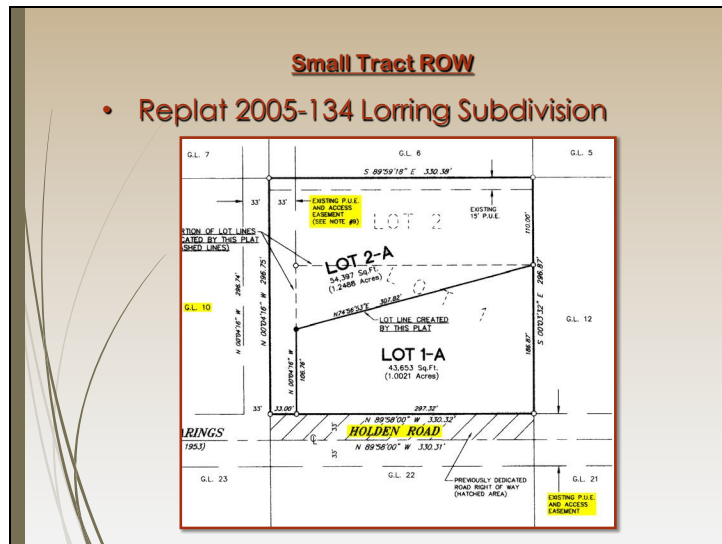
Photo prior to subdivision but imposed by GIS. No development along W boundary GL-11 or E boundary GL-10 where there are 33-foot ST ROW.

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Note: Holden Road STROW is dedicated by plat; W Boundary GL-11 STROW is shown as existing 33-foot ROW as is E boundary of GL-10. Access to Lot 2 is secured by flag lot. STROW not required.

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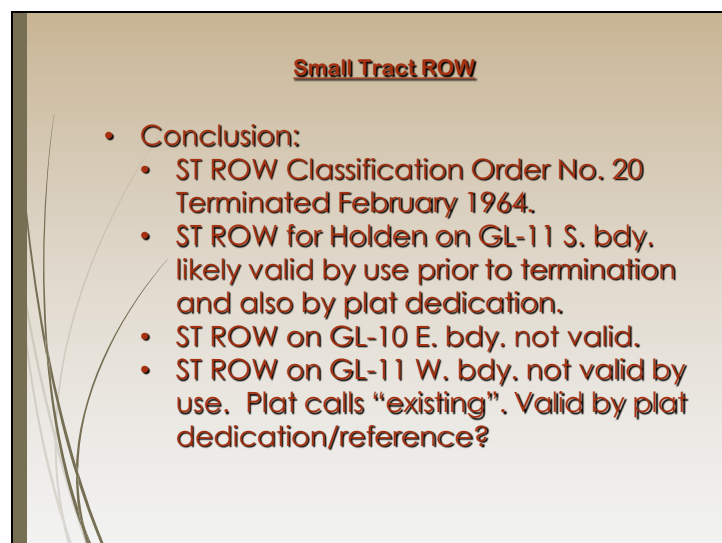
Replatted why? Encroaching well or septic system?

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Does owner of GL-10 know about encroachment – or did Lot 2A owner consider 33-foot STROW as available for parking? (But it wasn't accepted by use before STO termination so it doesn't exist.

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33-foot STROW may not be valid by plat dedication/reference as it was not necessary to provide access to Lot 2. The intent of the parties to the subdivision was to show the existing ROW, not create one where it did not exist.

Slide 51



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