

From: [Hank Brinker](#)
To: [Karen Tilton](#); [John Bennett](#)
Subject: RE: ROW, or not
Date: Saturday, April 27, 2019 11:27:01 AM

I was pretty sure it would entertain you both.

Unfortunately, this stuff stops me dead in my tracks. I hammered (wheedled) on Cohen, and I've hammered on Preston to put more hours in for research, but it doesn't get put in. Ketchikan is brutal. The estimate for this area is 8 hours of research. I spent at least 4 hours just on this little sliver going back through the historical records. And I had a great clue. R.W. Edmonds filed the plat, so I was able to go right to the 1920's deed indexes for the "E's". Anything else, you have to start with the Ketchikan GIS latest deed, and then work it all the way back grantor – grantee. Yeesh. I've spent 3 days on research so far. I've got houses that stick out into the ROW, deeds that don't match plat configurations, lost plats, unrecorded plats.

By the way, attached is another plat that is useful. It is the "compiled" map of Ketchikan. As far as I can tell, it's someone's 1964 effort to document all the land trades made by deed up to this point. Whatever changes you see between this map and the 1910 townsite survey can be traced back to earlier deed transfers and earlier plats.

Anyway, yes the deed calls out the platted lots. I've got two plats that show the 10' "street". The deeds ignore the street. Maybe there is a vacation, but I don't have time to look further than I have. I'm building ROW, but I'm not tasked with ROW mapping. Double yeesh. I'll put it into a report that no one will read.

H

From: Karen Tilton
Sent: Saturday, April 27, 2019 10:59 AM
To: Hank Brinker <hbrinker@rmconsult.com>; John Bennett <JBennett@rmconsult.com>
Subject: Re: ROW, or not

This is a strange one because it appears that the modern deed is recognizing this plat (Lots 2-C and 2-B Block 2?) If that is so, one could argue that the plat hasn't really been vacated regardless of how the original subdivider conveyed the property. I can't help but think there may be some type of quiet title action or QC deed from the City in the chain of title somewhere for this 10' strip. This is a pretty glaring title problem that would not generally be missed by the title company, especially if bank financing is involved, yet this modern conveyance is a Warranty Deed. Would you warrant title to the 10' strip? I wouldn't unless there was something to back it up. It might be worth checking with the tax assessor's office in Ketchikan to see what notes they have on this 10' strip - that may lead you somewhere...keep us posted because it is an interesting situation.

Karen F. Tilton, PLS - Group Manager – Right of Way Services
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From: Hank Brinker
Sent: Saturday, April 27, 2019 9:53 AM
To: John Bennett; Karen Tilton

Subject: RE: ROW, or not

Thank you both. I'll show it as part of the lot.

A curious Ketchikan note: many of the streets are boardwalks and stairways. They can rot into non-existence in a very short time. There may (probably) was one here at one time. I found no evidence of one, but in Ketchikan, there could have been one here 20 years ago.

Rena and my in-laws are from Ketchikan. There is a thriving trade in wood deck and stairway rebuilding. It is the opposite of Nome where hundred year old fir post monuments still stick out of the ground. A fir post would last in Ketchikan for about 10 years before all trace was lost.

H

From: John Bennett

Sent: Saturday, April 27, 2019 9:35 AM

To: Hank Brinker <hbrinker@rmconsult.com>; Karen Tilton <ktilton@rmconsult.com>

Subject: RE: ROW, or not

The 1920 plat appears to be an implied common law offer of dedication. The acceptance would be by official act or public use. If a lot was sold that required the street to be dedicated for access there would be an estoppel argument. This seems to be close to [State v. Fairbanks Lodge No. 1392, Loyal Order of Moose](#). My understanding there was that there was no platting authority and so no official act to accept the dedication. The subdivider said the intent to dedicate the streets conditioned on obtaining financing. This didn't happen and as no lots were sold, the subdivider could withdraw the plat of subdivision and develop it in an alternative manner. That may have happened with the Ketchikan plat in that while it was platted in 1923, the subdivider sold it in 1926 without reference to the plat and described the lots according to the Townsite plat. I see what Karen is saying. If the 10 foot strip was used as a street between the 1923 platting and the 1926 conveyance, it might be considered a common law acceptance. But I think this is unlikely. I'm leaning toward no dedication, just a 10 foot wide parcel. JohnB

John F. Bennett, PLS, SR/WA Senior Land Surveyor – Right of Way Services

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Innovating Today for Alaska's Tomorrow

From: Hank Brinker

Sent: Friday, April 26, 2019 5:58 PM

To: Karen Tilton <ktilton@rmconsult.com>; John Bennett <JBennett@rmconsult.com>

Subject: ROW, or not

K & J,

Outline:

1917, R.W. Edmonds acquires title to Lot 1, Lot 2, N. 10' of Lot 5, Block 2, U.S.S. 437 (townsite),

Ketchikan

1923, Edmonds subdivides the same parcels, segregates out the 10' of lot 5 and calls it a "Street".

1925, Edmonds sells Parcel 2C (et.al) and includes the 10' strip in the conveyance.

This land passed down for the next 95 years the same way, each deed reiterating the 1925 deed.

Do we portray the 10' strip as ROW (street), or is it privately owned by the land owner?

Merry Christmas,

H