Warning: "Park, Square, Reserved, Public Lots," or Similar Wording Used on a Subdivision Plat

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ABSTRACT. *By a common-law dedication, an owner appropriates the use of land to a specific public use. To affect the dedication, no written dedicatory statement is required, nor is a formal acceptance a necessity. Simply surveying and platting land into lots, followed by sales with respect to the plat and public use of the streets, will usually constitute a dedication of all streets shown on the plat. But what of tracts with special words such as "park" or "reserved" written on them? This paper presents the results of a study of court decisions where the central question was the effect of special wording on an ancient plat. Recommendations and caveats for surveying such parcels are given.*

Introduction

Common-law dedication is the intentional appropriation, or setting aside, of one's land for some public use. To constitute dedication, no formal oral or written offer to dedicate is required, and no express or formal acceptance of the offer is required, either by or for the public. Barring unusual circumstances, merely surveying and platting land into lots, blocks, streets, and alleys; selling the lots with respect to the plat; followed by use of the streets and alleys will constitute an irrevocable dedication to the public of all the streets and alleys shown on the plat. But what of parcels shown on the plat that are designated with words such as "park," "square," "common," "courthouse square," or "reserved?" Are they likewise dedicated to public use? The answer is more complex because the appropriation intent and proper use of the parcel may be more open to question than the usual street/alley situation.

As with all common-law rules concerning boundary location, the principles may vary slightly from state to state. However, concerning common-law dedication and, more specifically, special wording on platted parcels, there is broad unanimity. Except where modified by state statute, the common-law principles presented herein are widely applicable. Still, slight variations and additional rules may exist for each jurisdiction. There is no substitute for competent legal research into each boundary location topic of interest to the surveyor for his or her jurisdiction.

This paper specifically does not cover or concern parcels marked "cemetery." Establishment, title to, and abandonment of cemeteries have been greatly adjudicated, and more properly should be the subject of a separate study.

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Summary of Common-Law Dedication

General

Dedication is the intentional appropriation of land by the owner to some public use. The term originally was used to refer to streets, highways, and alleys, but its meaning has been expanded to include other public use areas, such as parks, squares, schools, and public buildings.

The owner usually dedicates to the public only an easement in the land for the use intended by the dedication. The fee in the lands remains in the dedicator. The fee may later be conveyed by the dedicator, but of course the easement to use the land remains in the public. The dedicator may impose reasonable restrictions on the land that is given. For example, land may be dedicated for only a specific purpose, and must revert to the dedicator if not used for that purpose, or in some instances the use of dedicated land can be limited to only certain persons (such as adjoiners to an alley).

Generally, a dedication may be made by anyone capable of conveying land by deed. A "grantee" need not be in existence at the time of the dedication. Usually there exists some level of government capable of accepting a dedication, but this is not a requirement. Valid dedications of land "for school and church purposes" have been made where the land had been accepted and used by the "public and community."

By common law, a dedication may be affected by any conduct of the owner that shows his or her intent to appropriate the land to public use. A valid appropriation of land has been made where a clear intent to appropriate can be inferred from the owner's acts or course of action. If the intent to dedicate is absent, then there is no valid dedication.

No particular formality is necessary to affect a ded-

ication. It may have been brought about by a written instrument, but the dedication of land to the public use, not being within the statute of frauds, need not be in writing. The dedication may be oral, but even an oral dedication is not necessary if the owner's intent to dedicate can be shown. Any act or course of action by the owner that demonstrates intent to dedicate land, or from which intent to dedicate can be inferred, would be sufficient to show a valid dedication.

Surveying a tract into streets, lots, and blocks; making a plat of the tract; having it recorded; and selling lots with reference to the plat is one example where the courts probably would rule that the owner intended to make a common-law dedication of the streets and alleys designated on the plat.

To be valid, a dedication must be accepted. The acceptance of an owner's appropriation of land can be made either by or for the public. The public's representatives may, by an expressed act, accept the dedication, or, through use of the appropriated land by the public, an acceptance can be inferred. In the latter case, this public use usually need not continue for the period of time necessary to establish a prescriptive right.

There may be some confusion regarding the term "dedication." The term "dedication" is most properly used to describe the complete transaction of "offer to dedicate," or appropriation of land, and the acceptance of the offer by or for the public. Occasionally, incorrectly, the word "dedication" has been used to describe only the owner's appropriation of land, when no acceptance has been made.

A proper dedication is irrevocable. Once properly made, the owner or his or her successors in title cannot resume control of the property and convey it free of the public's easement. An owner cannot merely take back or void a dedication. Under some circumstances an offer to dedicate may expire (e.g., by the lapse of time or death of the dedicator before acceptance). Under some circumstances a valid dedication may become void (e.g., failure of the development scheme and proper street vacations).

The Two Essentials: Owner's Intentional Appropriation and Acceptance by the Public

For a dedication of land to be valid, two elements are required: The landowner must affect an offer to dedicate by intentionally appropriating land for some public use, and the offer must be accepted by or for the public. Since common-law dedication is not within the statute of frauds, a written offer to dedicate is not required, nor is a formal oral statement. Dedicatory phrases written on a plat are not required. (A jurisdiction's statutory dedication may require some of the preceding, or a statutory provision may have modified these statements.)

An offer to dedicate must have been intended by the dedicator. One's unwritten intention to dedicate would seem a difficult thing to define, show, and prove, but the Arkansas Supreme Court said in *Holly Grove v. Smith* (37 SW 956, 1896):

> The intent to dedicate may be shown by the open and visible acts of the owner. If they be such as fairly and reasonable lead an ordinary prudent man to infer an intent to dedicate, and the public and individuals so construe and act upon them, and in good faith accept and use the land so held out as appropriated to public use, the owner will not be permitted to retake the land, and prevent the public from using it, by asserting there was no actual intent to dedicate, although there might have been a secret intent to prevent a dedication always present in his mind. He is estopped by his own conduct.

Barring some special circumstance, surveying a parcel into blocks, lots, streets and alleys; platting the addition; and conveying lots with reference to the plat, would usually demonstrate the owner's intent to dedicate the streets and alleys to the public, and would constitute an offer to dedicate.

To complete the dedication, the public must accept the owner's offer to dedicate. Acceptance may be express, implied, formal, or informal, or it may be manifested by the public's use of the lands offered. The courts' views differ on the time for acceptance, but, in general, acceptance must be accomplished within a "reasonable time" and before the offer to dedicate is withdrawn. Usually, acceptance (use) of only a few of the streets and alleys indicated on the plat will constitute the proper acceptance of all the streets and alleys. Use of part constitutes acceptance of the whole. Some jurisdictions have taken the less stringent view that partial acceptance does not constitute total acceptance; or that partial acceptance may imply total acceptance.

Special Wording

General

The principles of common-law dedication of streets and alleys shown on subdivision plats are fairly explicit. But what of special wording such as park, square, reserved, etc., on a plat? Are these parcels also dedicated to the public along with the streets and alleys after a few lots within the subdivision are sold? Must the public make proper use of these parcels to constitute dedication? To answer these and other

questions, all the decisions concerning special plat conditions for the states of Arkansas and Missouri were discovered and studied. Summaries of the leading decisions are given, followed by legal principles discerned and recommendations for the surveyor.

Arkansas

The case of *Davies v. Epstein* (92 SW 19, 1905) concerns a parcel left blank on a plat. The town of Lake Village was laid out and platted in 1856. The plat was recorded and lots sold with reference to it. The plat shows Front Street to be 50 feet wide running north-south, parallel with a lake front, and abutting thereon. Lots, blocks, and streets running west from Front Street are shown on the west side of the street. The east boundary line of Front Street was indicated on the plat, and east of the street boundary line are the words "Old River Lake." Plaintiff Epstein, owner of lots in Lake Village, brought the action to restrain Davies from building between Front Street and Old River Lake. Defendant Davies claimed title by a series of conveyances from the original town subdivider. The conveyances described "all of the original tract of land except that part covered by the town of Lake Village." Plaintiff Epstein argued that all lands east of the platted lots and blocks had been dedicated to the public. The case was brought in 1905, 49 years after the town was platted. The judgment does not discuss the use of the parcel in litigation during this period, except to say that the original town owner took no actions to overcome a presumption of an intention to dedicate. The court said:

> We think it is clear from an examination of the plat filed by Summers that he intended to dedicate to the public use all the land between the front tier of lots and the bank of the lake. The plat shows no intervening space between Front Street and the lake. The lake was then and is now a navigable body of water, and, manifestly, he did not intend to cut the town off from access to the water. Yes, unless the conclusion is reached that he dedicated this strip, the effect will be to entirely cut off access to the water, as there are no streets or ways laid off on the plat from Front Street to the water's edge. It is inconceivable that the owner intended to lay out a town on the banks of navigable water, and parallel the bank with a street, and at the same time entirely cut it off from access by the public. This is contrary to reason, and to the obvious intention of the owner in selecting the site for the town. Under such circumstances a presumption necessarily arises of a dedication that will give the public access to the water.

In *Fort Smith and Van Buren Bridge District v. Scott* (163 SW 1137, 1914), the question was whether a platted irregular parcel noted with the word "reserve" on it was or was not dedicated to the public. On the plat of Van Buren, Arkansas, there was an irregular strip of ground lying south of Water Street, between the south line of Water Street and the meander line of the Arkansas River. This strip of ground varied in width and ran the whole length of Water Street. Water Street was clearly defined on the plat to have a uniform width of 60 feet. This irregular strip marked "reserve" was the subject of litigation in this case. The lands marked "reserve" had always been claimed by appellees and all their predecessors in title. They had "exercised such acts of ownership over it as the necessities of the occasion required." The court said:

> The south line of Water Street, as marked on the map, was plainly intended to mark the south boundary line of that street. The irregular strip of ground between it and the banks of the river, as indicated, has well-defined boundaries marked on the map, and, in addition thereto, it is marked "reserve," thereby indicating an intent on the part of the dedicator not to dedicate it to the public. When all these facts, as shown by the map itself, are considered there can be no doubt that the owner intended that the strip of ground marked "reserve" should be excepted from the dedication, and that it was to be reserved or withheld from public purposes, and that it should be and remain the property of the dedicator.

In *Frauenthal v. Slaten* (121 SW 395, 1909), the question was whether defendant Frauenthal had irrevocably dedicated to public use as a park or square a parcel marked "Spring Square." In the 1880s, Max Frauenthal platted a town site known as Sugar Loaf. The town site contained streets and alleys, and a parcel marked "Spring Square," which was about four times the size of the usual city blocks shown on the plat. There were six springs in the park known as Spring Square. The park was a popular resort, visited by many people for the water's "curative properties." The public generally always had free use of the park and free use of the waters contained therein. Although the public had enjoyed the free use of the park, Frauenthal, according to the evidence, maintained some supervision over it. Concerning this the court said:

> It appears clearly that the character of this supervision was for the protection of the public and for the public benefit. There is no evidence that he manifested any intention of using the property for private purposes.

The court said that by its decision, the law on dedication of public property was well settled:

> An owner of land, by laying out a town upon it, platting it into blocks and lots, intersected by streets and alleys, and selling lots by references to the plat, dedicates the streets and alleys to the public use, and such dedication is irrevocable. He will also be held to have thereby dedicated to the public use *squares, parks and other public places marked as such on the plat* [emphasis added].

After citing the decisions of many courts of other jurisdictions, the court said:

> The word "square," as used on a plat to designate a certain portion of ground within the limits of a city or town, indicates a public use. This is said to be the proper and settled meaning of the term in its ordinary and usual signification . . . . There is little if any distinction between the words "park" and "square," and when used in this way they mean substantially the same thing.

Defendant Frauenthal argued he had exercised ownership of the square and that on the plat he did dedicate the streets, but did not dedicate any other areas designated on the plat. Concerning these points the court said:

> The defendants in this case are not aided by the extrinsic evidence as to the intention of the dedicator, for, as before stated, though it shows that he intended to reserve some measure of supervision over the property, it was yet altogether for the public use. And it does not appear that any private rights therein were intended to be reserved. Nor is he aided by the fact that in the certificate of dedication it is shown that certain streets were dedicated to the public use, as the evidence shows the area in controversy was also intended to be used by the public, and was set apart for that use.

In *Goodman v. Powell* (198 SW2d 199, 1946), the question was whether or not a parcel designated as "public square" had ceased to be used by the public as a public square, for which it had been dedicated, and had been abandoned. Plaintiff County Judge Powell was attempting to affirm the public's rights and to cancel any rights Goodman and others might have had under a tax deed. From 1836 until 1868 a survey was made of the town of Carrollton, and a plat showing lots, blocks, streets, and alleys was filed for record. The courthouse stood on Block 8, designated as "public square." In 1868, the courthouse was destroyed by fire, and no courthouse has stood on the square since. Since 1868 all conveyances in the town have been by lot and block and have been made with reference to the plat on record. Beginning in 1909, Block 8 appeared on the tax books in the name of Crockett. Crockett and his grantees had continuously paid taxes on the property from 1909 up to this litigation. The tax records reflected that Crockett purchased Block 8 from the state of Arkansas after it was sold for taxes. Concerning defendant Goodman's claim that the public had abandoned its rights to the square, the court said:

> Since the filing of the plat, dedication order and since the last courthouse was destroyed by fire in 1868, the town of Carrollton has had possession of the public square, exercised control over it as public property, used it exclusively for public and school purposes, for a public parking ground, public athletic ground, for a place of public religious worship, for public shows, and in connection with the school grounds of School District No. 15, as an athletic ground for the school, and no individual has ever since 1836 exerted any ownership or claimed any ownership or possession of said lands.

The court found that the property was never subject to taxation, that the property should never have been placed on the tax books as taxable property, that the tax sale and deed was void, and the Crockett heirs (Goodman) acquired no title to the land in litigation.

In *Incorporated Town of Mountain View v. Lackey* (278 SW2d 653, 1955), the question was whether a 10-acre tract was dedicated to the public as a park. In 1921, a 186-acre parcel was platted into lots, blocks, streets, and alleys. The plat showing the "White Water Addition to the Town of Mountain View" included a 10-acre parcel labeled: "Laid out for City Park—10 acres." This park contained two "springs of great notoriety in the community." At the time of the litigation, all the property in the addition had been sold with reference to the plat, except the park. The city contended that a proper dedication and acceptance of the public park had been made. The court found that a proper dedication had been made:

> . . . by laying out a town upon it, platting it into blocks and lots, intersected by streets and alleys, and selling lots by reference to the plat, dedicates the streets and alleys to the public use, and such dedication is irrevocable. He will also be held to have thereby dedicated to the public use *squares, parks and other public places marked as such on the plat* [emphasis added].

Concerning appellee Lackey's contention that the dedication was not accepted by the town, the court said:

> In the case at bar the 10-acre park was used by the public over the years, the springs are still being used, and the cleaning up and improve-

ment of the park was done "at the behest of the Town" . . . . A formal acceptance of dedication is not necessary; it is sufficient if there be in fact an acceptance of such dedication. The facts in this case clearly show actual acceptance of the dedication.

In *Mebane v. City of Wynne* (192 SW 221, 1917), one question was whether there had been a dedication to the public of a parcel designated "Franklin Place," and whether the right of the public to use it still existed. In 1892, Morris Raphaelsky platted a tract into blocks and lots intersected by streets and alleys and recorded the plat. On the plat, one of the blocks, 210 feet square, was designated "Franklin Square." The undisputed evidence was that the square had never been put to any public use, and had never been accepted by the city council as a public place. There was some testimony that Raphaelsky (deceased at the time of the trial) intended to construct some public building on the square, but none was ever built. In accordance with Raphaelsky's duly probated will, his trustees sold and conveyed the block designated "Franklin Square." From the time of Raphaelsky's death in 1901 until the date of the litigation the parcel had been conveyed three times, each time under the description: "Franklin Square of the Raphaelsky Addition to the City of Wynne." No public use of the square was made during the period 1901-1917. Plaintiff city of Wynne argued that the platting and selling of lots according to it constituted an irrevocable dedication, and that the continuous use of the streets and alleys by the public was sufficient acceptance. Defendant Mebane, the owner of the square at the time, argued that there never was an intent to dedicate the square to the public; that the city did not occupy or use or make any claim to the square until the filing of this lawsuit 21 years after the land was platted; and that the city never accepted the dedication, if made. Speaking of the square, the court said:

> In the present case there has been no public acceptance . . . . The city has never formally accepted the dedication, nor has there been any use made of the property by the public. There having been no acceptance by or for the public, the dedication may become extinct either by an express withdrawal on the part of the original dedicator or by his death before acceptance, or by lapse of time. So according to that rule the present attempt on the part of the public authorities to accept the dedication and put the property in use, comes too late.

The streets and alleys were found to be properly dedicated, but not the square marked "Franklin Place." This decision is very significant, for it rather modifies the court's previous, often-quoted phrase that "by laying out a town . . . platting it into blocks and lots, intersected by streets . . . selling lots . . . dedicates the streets and alleys to public use . . . . He will also be held to have thereby dedicated to the public use squares, parks and other public places marked as such on the plat." In this decision, the court indicates this is true only if proper public use (acceptance) of these "public places marked on the plat" has occurred.

Missouri

Gaskins v. Williams (139 SW 117, 1911) is an interesting case concerning the dedication of Block 29 on a subdivision plat that contained the notation "Dedicated to Pemiscot County for Courthouse Purposes." In 1895, the town of Gayoso City was surveyed, platted, and recorded, and the owners dedicated Block 29 with the previous notation. At that time, the location of the county seat was being decided, and the dedicators hoped to attract the seat by platting the town and dedicating Block 29 to courthouse use. The county seat was not located in Gayoso City, so, in 1901 the county deeded to the heirs of the dedicator, defendant Williams, Block 29. Plaintiff Gaskin claimed that lots had been purchased in Gayoso City under the assumption that Block 29 had been dedicated to public use, and that the county could not deed to the heirs of the dedicator the county's rights in Block 29.

The court said that the county did not own Block 29 in fee absolute, but only held it in trust for the specific use of a courthouse, and therefore could not merely deed the disputed block to anyone. The court noted that the county could not divert use of Block 29 to any other purpose; it could only be used for courthouse purposes. Then it turned to question if land, once properly dedicated, can revert to the donor. The court said: "Property unconditionally dedicated to public use or to a particular use does not revert to the original owner except where the execution of the use becomes impossible." The court said that since the courthouse had been located elsewhere, the "possibility that the block may be used at some time in the future for courthouse purposes . . . has become impossible, and . . . the land reverts to the heirs of the original donors." (*Williams v. City of Hayti*, [184 SW 470, 1916] also concerns Block 29, but was declared *res judicata*. The conditions stated previously were not changed.)

In *Rutherford v. Taylor* (38 Mo. 315, 1866), Randolph County had been conveyed a tract of land for the purpose of laying out a county seat. The county court had the town of Huntsville platted. One of the town's subdivision blocks was noted "public lots." The courthouse was erected on this block. Subsequently, the county sold some of these "public lots," and the

purchasers began to erect buildings. The owners of lots facing the "public lots" sought to enjoin the erection of the buildings, contending that these lots were dedicated to public use, which precluded their sale by the county. The court held that the county, by making and platting the town, followed by proper public use of the block marked "public lots," had properly dedicated the land to public uses. These "acts as proprietor had the same effect as the acts of an individual." The county could not sell, and individuals could not construct improvements on the "public lots."

In *Price v. The Inhabitants of the Town of Breckenridge* (77 Mo. 447, 1883), although the original plat of the town had been destroyed when the courthouse burned, a block purportedly designated "public square" was decreed to have been properly dedicated to the public. The town was platted about 1856; the courthouse burned in 1860. The evidence was sufficient to show a proper common-law dedication. The original owner, Price, had led purchasers of town lots to believe that a block had been set aside for the public use; at public auction of some of the lots, the auctioneer announced that one block would not be sold because it was reserved for public use. Price contended the block would be dedicated to public use only if Breckenridge became the county seat. This contention was overcome.

In *Town of Montevallo v. Village School District of Montevallo* (186 SW 1078, 1916), the question concerned use of a parcel marked "public square" for school purposes. In 1881, the plat of Montevallo was filed, and it showed a block designated "public square." Not having made any use of the square, in 1886 the town trustees conveyed it to the school district "for school purposes." Apparently, the town trustees attempted to oust the school district from use of the square, and regain complete control. The court said there were two questions involved: (1) could use of the public square be ceded to the school district for school purposes, and (2) could the village retake control of the square? The answer to both of these questions was no. From the decision: "The grant for a public school use is decidedly more limited and restricted than the original dedication." Concerning retaking the square, the court said this was one of the "exceptional cases in which the doctrine of abandonment and estoppel should be applied as against a municipal corporation." The village was estopped from retaking the square. This case specifically overturned *Reid v. Board of Education of Edina* (73 Mo. 295, 1889).

Downend v. Kansas City (56 SW 902, 1900) concerns a strip 5 feet wide and 500 feet long that was left blank on a subdivision plat. The blank space was "not designated on the plat as an alley, nor as dedicated to public use in any manner or for any purpose." The blank strip was between the south line of the subdivision and one of the subdivision's blocks. The rear of the block's lots abutted the blank strip. At a later date, another subdivision was platted south of the blank strip. A properly dedicated street, 30 feet wide, ran along the north side of this subdivision, making the lot-line-to-lot-line distance 35 feet. According to the evidence, the blank strip had been regarded as an alley until the abutting street on the south was constructed, then the strip was regarded as part of the street. The court concluded the strip had been properly dedicated to the public by common-law dedication.

Buschmann v. City of St. Louis (26 SW 687, 1894) concerns the dedication of a parcel left blank on a plat. The case turns on a statutory provision in effect at the time, and a city ordinance. Nonetheless, the case is instructive concerning parcels left blank. The parcel was found to have been dedicated to the public.

City of California v. Howard (78 Mo. 88, 1883) concerns open or blank spaces on the 1854 plat of the city of California. The open spaces lie between a railroad track and the subdivision blocks. The spaces do not contain numbers, notes, nor street names. The court held that these spaces were properly dedicated as streets.

Legal Principles

General

From the preceding 14 leading decisions of Arkansas and Missouri courts, rules concerning the effect of special wording and conditions shown on subdivision plats can be stated. The following statements have been compared to the sections titled "Dedication" (23 Am. Jur. 2d) and "Parks, Squares, Etc." (59 Am. Jur. 2d) in *American Jurisprudence* (The Lawyers Cooperative Publishing Company, Rochester, New York). The statements given below are consistent with the commentary given in *American Jurisprudence*. In other words, the common-law principles gained from this study of Arkansas and Missouri decisions are widely applicable.

"Public Square," "Park," "Public Lots"

If a recorded subdivision plat shows parcels with words such as "public square," "park," "commons," "market square," or "courthouse square" written on them, then there is little doubt that a valid offer to dedicate these parcels to public use has occurred. For the dedication to become complete, absent an express acceptance by or for the public, a proper use (acceptance) of the parcel must have occurred before the offer to

dedicate becomes extinct. Most decisions concerning these parcels turns on use (acceptance) of the land.

Acceptance by use would be strongest if the public used the parcel in the manner indicated on the plat before the death of the dedicator. There are other varying degrees of acceptance by use, probably one of the weakest being the argument that use of the subdivision streets and alleys would constitute acceptance of all public places noted on the plat. This contention was not successful in *Mebane v. Wynne supra.*

"Reserve"

The proper connotation of the word "reserve" written on a plat is that the dedicator did not intend to dedicate the parcel to public use. Absent this intent, of course, there can be no dedication. If the dedicator and his or her successors in title had always maintained control over the use of the parcel, then dedication probably would be difficult to show. However, if neither the dedicator, nor his or her successors had ever exercised any control over the parcel, and if they acquiesced in the public's use of the parcel, then a dedication claim would be more viable.

Blank Spaces

Ambiguities on the plat, such as blank spaces, will be construed most strongly against the dedicator and viewed liberally in favor of the public. Dedication of the parcel probably will be difficult to overcome, particularly if some public use has been made of the vacant land, or if by the vacant strip's shape, orientation, and size, some public use can be thought intended (an alley, for example) by the dedicator. There are no Arkansas or Missouri decisions where blank places were not found to be dedicated to the public.

Diversions to Other Uses

Although not directly a subject of this paper, it should be noted that the courts have disdainfully viewed the diversion of a parcel's intended use to some other use. For example, diverting a dedicated public park to a parking lot, using a public square as public school grounds, and using a narrow utility easement in a subdivision for a high-voltage power transmission line have been found to be a diversion, and not allowed by the courts.

Recommendations

Only the courts have the authority to decide if a tract has been properly dedicated to public use. It depends on many factors, some of which the surveyor cannot ascertain, such as period of control or noncontrol, proper or improper public use, the possibility of an extinct offer to dedicate by virtue of lapse of time, or express withdrawal. As with such topics as adverse possession, acquiescence, and parol agreement, the surveyor would be foolish to try to decide questions of ownership. He or she should not render an opinion on the validity of a common-law dedication.

As the finder, assimilator, and discloser of facts, the surveyor is in the best position to ascertain the probable status of a tract with respect to common-law dedication, as well as the other topics listed previously. Armed with the facts available from the record (plats, deeds, abstracts) and the facts evident from a proper field survey (parcel's use, testimony of landowners, evidence disclosed by a physical inspection of the parcel), combined with knowledge of the requirements of common-law dedication and special plat conditions, the surveyor is in the best position to raise a flag and indicate on the plat or report of survey that a problem may exist. This advice should be transmitted to the client or the attorney examining the tract's title. How this information is used is left to the person receiving it; the surveyor has properly performed his or her function and fulfilled his or her responsibility by completely and accurately disclosing the facts.

In subdivisions, but particularly in old subdivisions, indicate the status of street(s) abutting the parcel surveyed. Is the street open? Has it apparently never been open? Is it used as a junkyard? If the surveyed area contains lands other than those designated by the usual lot/block description, note how the land is designated on the subdivision plat, and the land's use. Be wary of descriptions that say "Block 8," where on the plat "Block 8" also has a designation such as park, square, etc. Disclose this fact. If a parcel is being used for a purpose completely foreign to that indicated on the plat, disclose this fact. In short, be knowledgeable, be inquisitive, be thorough, and disclose all the facts on the resulting plat of survey and its surveyor's notes.