



## Vacation Ordinances of streets, roads, alleys and your seller

An ordinance is a legislative act by either City Council or by the Board of County Commissioners depending on whether the subject property is within a city or in an unincorporated area of the county. Vacation is the act of putting an end to government ownership of a street or alley-way or road. Therefore, a vacation ordinance of a public street or alley way is the relinquishment by government of ownership and the surrendering of the public way to adjacent property owners.

If a vacation occurs where private property is adjacent on both sides to the vacated parcel, each property owner will share one-half of the vacated street or alley. If the vacation occurs on the exterior of a subdivision plat, then the vacated parcel attaches to the nearest property owner within the subdivision.

In the past, when the public record revealed the vacation of all or part of a roadway which was not originally a portion of a lot or lots included in a platted subdivision, and when the abutting lot owner conveyed the lot and omitted the description of the vacated strip, the deed would not convey any portion of the property which was acquired as a result of the vacation as stated in the Title Standard 8.3.1.



During the last legislative session, the legislature passed a bill that was signed by the governor facilitating the conveyance of an “omitted vacated parcel” from the conveyance deed. House Bill 05-1195 states:

***Every deed in substance in the above form, when properly executed, shall be a conveyance of the grantor’s interest, if any, in any vacated street, alley or other right of way that adjoins the real property unless the transfer of such interest is expressly excluded in the deed.***

This new law will permit a cure of an omitted vacated parcel in the past chain of title when a current owner conveys to a new purchaser. The logic of this law is similar to an appurtenant right that by operation of law runs with the fee land.

From another perspective, the title standards do permit the conveyance of an entire block without mentioning the vacated alley as still conveying the alley and the conveyance of a fractional portion of a block conveying that portion of the vacated alley within the portion of the block so designated as still conveying that portion of the alley (Standard 8.3.2).