

☐ Looks Like a Road, Drives Like a Road. I'm Not Convinced

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- 1 ☐ **This happens all the time ...**
 - ▶ Start from the beginning – How was the road created?
 - ▶ Then, was it lost in any way?
 - ▶ How do we know? What do we look for?
- 2 ☐ **Formal Establishment Minn. Stat. 164.07**
 - ▶ Starts by Petition or Annual Meeting; Notice; Hearing; Creation
 - ▶ How do We Know?
 - ▶ Find a Road Order
 - ▶ County Recorder (Best); County Auditor (Good); Town Records (its something)
 - ▶ Other records can indicate a formal creation – minutes, resolutions, payments to surveyors, damage award payments.
- 3 ☐ **They Changed the Rules in the Middle of the Game**
 - ▶ Pre-1973 – Road Orders recorded with Clerk and County Auditor
 - ▶ Post-1973 – Road Orders recorded with County Recorder
 - ▶ In 1976, *Sterling Twp. v. Griffin* –
 - ▶ MN Sup Ct decides filing in Auditor does not satisfy Marketable Title Act (40 Year Law)
- 4 ☐ **Prescriptive Easement Minn. Stat. 160.05**
 - ▶ Use & Maintenance Roads
 - ▶ 6 Consecutive Years of Maintenance & Open to public use
 - ▶ Look for records of maintenance in minutes; road tour notes; purchase orders; oral history from road operators; bank records; satellite maps (they go back in time!)
- 5 ☐ **Owner Dedication Minn. Stat. 164.15, subd. 1**
 - ▶ Owner follows statute to offer road to town
 - ▶ Find: owner's application; board resolution; discussion in minutes; road orders filed with county;
- 6 ☐ **County Turnback Minn. Stat. 163.11, subd. 5**
 - ▶ Process begins in the County Board
 - ▶ Look for: Town & County Resolutions; notes of hearing/minutes; Road Orders;
- 7 ☐ **Common Law Dedication**
 - ▶ Express or Implied Dedication to Public
 - ▶ Road could be created instantly
 - ▶ NOT a town road until accepted by Board

NOTES

- ▶Find: expressions of dedication by the owner; Town board minutes or resolutions;
- 8 Platted Road Minn. Stat. 505.02**
 - ▶Dedication by Plat – requires dedication of roads.
 - ▶NOT town roads until accepted by Board
 - ▶Find: Recorded Plat at County Recorder;
- 9 Not Your Problem?**
 - ▶If the answer to these questions is no, then it is not a town road
 - ▶Not your problem!
 - ▶If yes, then we decide if the easement was lost or never accepted
- 10 Once We Say “yes” – Did we kill it later?**
 - ▶Even if easement was created, we need to know if the easement was lost in any way.
 - ▶Separate tracks for Platted Roads and other roads in Loss of Easement analysis
- 11 Formal Vacation Minn. Stat. 164.07**
 - ▶Reverse of formal creation
 - ▶Find: Road Order / Vacation Order at county recorder; minutes or resolutions; damage award payments;
- 12 Statutory Abandonment / Extinguishment Minn. Stat. 164.06, subd. 2**
 - ▶Quick vacation process, requires:
 - (1) Public Interest; (2) not a fee interest; (3) established 25+ years ago; (4) not recorded w/ Recorder; (5) no improvement for 25 years.
 - ▶Find: Board Resolution ordering extinguishment
- 13 Common Law Abandonment**
 - ▶Requires: (1) long period of non-use; and (2) express intent to abandon
 - ▶Find: Expressions of intent to abandon; road tour notes; minutes & resolutions;
- 14 Marketable Title Act / 40 Yr Law Minn. Stat. 541.023**
 - ▶Unrecorded interests in land are void after 40 years of non-use or lack of possession
 - ▶Look for: evidence of maintenance or inspection; Minutes & resolutions; oral history from road maintenance crew or residents;
- 15 25 Year Law Minn. Stat. 3654.10, subd. 11.**
 - ▶Town cannot spend anything on a road without voter permission unless the voters approve “reopening” the road.

NOTES

- ▶ Find: maintenance records; minutes & resolutions; history from maintenance staff; road tour notes;

16 Accepted for Maintenance

- ▶ Platted Roads & Common Law Dedications Only
- ▶ Without acceptance, no town maintenance even if not lost.

17 Cartways ... treat em like recorded roads

- ▶ Public Road, Privately Maintained
- ▶ Cartway establishment requires filing or a road order or plat, so its like a formally created road.

18 Town Line Roads Minn. Stat. 164.12

Let's Share

- ▶ "Shall proceed" ... according to the statute
- ▶ Divide as equally as possible by expected cost ... not length
- ▶ "Shall enter into an agreement"
- ▶ Failure to Agree – county board decides.
 - ▶ Don't let it come to this
- ▶ Sample Contract – TR 11000

NOTES