

STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

Capitol Complex  
Carson City, Nevada 89710

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May 15, 1991

FRANKIE SUE DEL PAPA  
Attorney General

BROOKE A. NIELSEN  
Assistant Attorney General

Honorable Virgil A. Bucchianeri  
Storey County District Attorney  
Storey County Courthouse  
Virginia City, Nevada 89440

Dear Mr. Bucchianeri:

This is in response to your request for opinion regarding jurisdiction of the Storey County Sheriff's Department to enforce traffic laws on private roads which have been offered for dedication to the County but never accepted.

BACKGROUND

In 1990, an individual was cited under a Storey County Ordinance for failure to use due care and excessive speed. That citation was issued as a result of a collision on roads within the private residential area known as Virginia City Highlands ("Highlands"). The roads delineated in a plat filed February 17, 1971 were dedicated by the Highlands as public streets and restated dedication was filed July 25, 1972. Storey County, however, has never accepted the Highlands' offers of dedication. Upon submission of this matter for decision, the Justice Court of Virginia Township, Storey County, State of Nevada, ruled that Storey County had failed to meet its burden of proof and found the defendant not guilty.

QUESTION ONE

Does Storey County have authority to enforce traffic laws on private roads which are offered for dedication but not accepted?

ANALYSIS

The definition of "highway" in section 484.065 of the Nevada Revised Statutes was amended in Assembly Bill 571 in 1981 as follows:

"Highway" means the entire width between

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the boundary lines of every way  
[maintained by] dedicated to a  
public authority when any part of  
[such] the way is open to the use  
of the public for purposes of  
vehicular traffic [.] whether or  
not the public authority is  
maintaining the way.

1981 Nev. Stats. ch. 595, at 1690 (bracketed material is being deleted; underlined material is being added).

Section 484.777 of the Nevada Revised Statutes limits the applicability of traffic laws to "highways" as defined above. Therefore, law enforcement officials may enforce traffic laws only on highways properly dedicated to a public authority.

A review of the legislative explanation of Assembly Bill 571 reveals that Section 484.065 of the Nevada Revised Statutes was amended at the request of Churchill and Douglas County officials. Such request was made so that the two counties could enforce traffic laws on highways that have been dedicated to public entities but maintained by the private sector. The intent of such bill was to redefine "highway" to include roadways which are dedicated with or without maintenance obligations by the public authority. See Hearings on AB 571, Assembly Commission on Transportation, (1981).

Generally, an acceptance in some form is essential for a valid and complete dedication. Absent acceptance, a dedication is in law merely an offer to dedicate and such offer to dedicate does not become binding until accepted. McKernon v. City of Reno, 76 Nev. 452, 459, 357 P.2d 597, 601 (1960). An intent to offer is the foundation and life of all dedications and must be clearly and unequivocally manifested. Similarly, an acceptance of an offer of dedication must be clear and unequivocal. See Flavio v. McKenzie, 218 Cal. App.2d 559, 32 Cal. Rptr. 535 (1963).

Where a statute provides that title vests immediately in the public authority upon filing of the plat, no acceptance is required. McKernon, 76 Nev. at 459. However, absent such a statute, clear and unequivocal acceptance is mandatory. Ginsberg v. Stanley Aviation Corp., 551 P.2d 1086, 1088 (Colo. App. 1976). In the State of Nevada, a public authority must either accept or reject an offer of dedication. See Nev. Rev. Stat. §278.380(2) (1989). This statute requires Storey County consider an offer of dedication and, absent acceptance of such, the private roads are not "dedicated" within the meaning of section 484.065 of the Nevada Revised Statutes.

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CONCLUSION TO QUESTION ONE

Storey County law enforcement officials may enforce traffic laws only upon properly dedicated highways. Since Storey County rejected the Highlands' offer of dedication, such dedication is incomplete and as a consequence, law enforcement authorities have no jurisdiction to enforce traffic laws within the Highlands.

QUESTION TWO

May Storey County accept a partial dedication or enter into an agreement with the Highlands for the sole purpose of enforcing traffic laws in that area?

ANALYSIS

A dedication may be made for any purpose which is for the use and enjoyment of the public at large. Such dedication may be for a specific, limited purpose or use and may impose reasonable restrictions on the accepting public authority. City of Sierra Vista v. Cochise Enterprises, 697 P.2d 1125, 1129 (Ariz. 1984). In fact, "there is no reason why a dedicator may not qualify his dedication, and if the dedication is accepted the public takes it subject to the qualifications". Sunset Water Service v. Remington, 609 P.2d 896, 899 (Ore. App. 1980). Any such dedication is permissible provided it is not repugnant to or inconsistent with the uses and purposes for which the property was dedicated nor may it violate public policy. City of Sierra Vista, 697 P.2d at 1129.

CONCLUSION TO QUESTION TWO

The Highlands may offer a partial dedication of the roads within the Highlands for the sole and limited purpose of enforcement of Chapter 484 of the Nevada Revised Statutes.

Cordially,

FRANKIE SUE DEL PAPA  
ATTORNEY GENERAL

By

  
Mark A. Bequelin  
Deputy Attorney General

MAB:cjw

When recorded mail to:  
V.C. Property Owners  
P.O. Box 686  
Virginia City, Nv. 89440

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VIRGINIA CITY HIGHLANDS  
UNIT NO. 1

Dedication of Streets to  
Storey County for Law Enforcement  
Purposes

The undersigned Board of Directors of the Virginia City  
Highlands Unit #1 Homeowners Association hereby dedicates, for  
law enforcement purposes only, all streets and roads within  
VIRGINIA CITY HIGHLANDS UNIT #1, to Storey County.

This dedication is for the purpose of permitting Storey  
County, by itself or through its duly authorized agents, to  
enforce traffic and other applicable laws on the streets and  
roads of VIRGINIA CITY HIGHLANDS UNIT #1.

DATED this 21 day of July, 1991.

William S. Sorensen  
Ray W. Smith  
John A. L. Bass  
Robert B. Brown  
Ken B...  
VIRGINIA CITY HIGHLANDS, Unit  
#1 Board of Directors

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ACCEPTANCE BY STOREY COUNTY

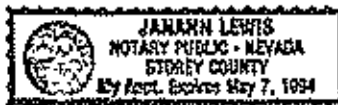
The foregoing dedication of streets and roads within VIRGINIA CITY HIGHLANDS UNIT #1 to Storey County for law enforcement purposes only is hereby accepted by Storey County through its duly elected County Commissioners.

DATED this 6<sup>th</sup> day of August, 1991.

*[Signature]*  
*[Signature]*  
*[Signature]*  
STOREY COUNTY COMMISSIONERS

SUBSCRIBED and SWORN before me this 6 day of Aug 1991.

*Johann Lewis*  
NOTARY PUBLIC



FILED FOR RECORDING  
AT THE REQUEST OF  
V.C. Highlands Unit #1  
Board of Directors  
91 AUG - 6 PM 1:14  
FILE NO. 067985  
NOTARY PUBLIC  
STOREY COUNTY  
N.C. [Signature]

When recorded mail to:  
V.C. Property Owners  
P.O. Box 686  
Virginia City, Nv. 89440


VIRGINIA CITY HIGHLANDS  
UNIT NO. II

Dedication of Streets to  
Storey County for Law Enforcement  
Purposes

The undersigned Board of Directors of the Virginia City  
Highlands Unit II Homeowners Association hereby dedicates, for  
law enforcement purposes only, all streets and roads within  
VIRGINIA CITY HIGHLANDS UNIT II to Storey County,

This dedication is for the purpose of permitting Storey  
County, by itself or through its duly authorized agents, to  
enforce traffic and other applicable laws on the streets and  
roads of VIRGINIA CITY HIGHLANDS UNIT II.

DATED this 24th day of July, 1991.

  
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II Board of Directors

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ACCEPTANCE BY STOREY COUNTY

The foregoing dedication of streets and roads within VIRGINIA CITY HIGHLANDS UNIT #II to Storey County for law enforcement purposes only is hereby accepted by Storey County through its duly elected County Commissioners.

DATED this 6<sup>th</sup> day of August, 1991.

[Signature]  
[Signature]  
[Signature]  
STOREY COUNTY COMMISSIONERS

SUBSCRIBED and SWORN before me this 6<sup>th</sup> day of Aug 1991.

[Signature]  
NOTARY PUBLIC



FILED FOR RECORDING  
AT THE REQUEST OF  
V.C. Highlands Unit II  
Board of Owners  
91 AUG - 8 PM 1:16  
FILE: 067984  
RECORDED  
BY: B. Cole