

Dedicated Roads and Road Easements

There have been various legal transfers of property or access and/or use rights that have created the road system that now serves the community of Tenaja. With each transfer of these access rights to the public, there is a corresponding responsibility of Tenaja Community Service District (TCSD) and a resultant right, or lack thereof, of the property owner/grantor.

Although there are many processes or instruments that dedicate road **Right of Way (ROW)** or access rights, we are only addressing the primary three that are common within TCSD.

1. Dedication as a '**lot**' that is given in fee to a public entity,
2. Dedication as a '**road easement**' to the general public, where the land owner retains the underlying fee ownership of the dedicated ROW
3. Creation of a private easement to grant access to one or a group of people.

1. Dedication as a '**lot**' that is given in fee to a public entity:

Often when the creation of a legal developable lot is made through the map process, as defined by the California Map Act, the property owner elects to create a series of lettered lots that allow for the transfer of ownership to the public agency, responsible for such ownership, development, and/or maintenance of public roads. This results in the original owner, once he has satisfied the conditions of the tentative map, having no responsibility for the road or liability associated with the public's use of that road. Often, the conditions of approval of the tentative map require the applicant to fully improve the roads prior to the transfer of ownership of any development lots created by the subdivision of the land.

This is the method by which most roads are legally created and developed today. It is also the method some of the roads in Tenaja were created with, such as, the 250 foot width ROW of Rancho California/Tenaja roads.

The easiest way to determine if the roads serving your property were created in this manner is to review your final map and see if it defines any ROW as a lettered lot, such as "Lot A".

The abutting lot owners to this ROW have no ownership rights in the ROW, but also enjoy **no direct liability for the public use of this road**. If this ROW were ever vacated by the public agency (something that rarely happens as ROWs generally provide legal access to other properties), the original sub divider is located and the property returned. Often this person or entity is either deceased or, in the case of a corporation, not in existence, therefore, the vacated property would be split evenly between both abutting properties.

Another way to create this ROW "lot" is to simply create a meets and bounds description and transfer the area to the public agency. When this method is used there is no "subdivision of land" as defined by the Map Act. Although this method transfers the same rights to the public agency, there is a significant difference, in that, if the ROW is vacated, it returns to the then current owner of the original parcels as if it had never been transferred to the public agency.

2. Dedication as a 'road easement' to the general public where the land Owner retains the underlying fee ownership of the dedicated ROW

Many of the roads in Tenaja were result of easements created by final maps that subdivided land into development lots. Roads created by this method are easily recognized by reviewing the map that created your lot and seeing if there is a delineation between 'net' and 'gross' areas defined. This refers to the "taxable" (read "usable") area for the area not encumbered by a road or public access easement.

The effect of this type of road creation is that the fee owner has no rights to this property other than that may be granted him as a member of the 'public' or granted by an encroachment permit, etc. This may be perceived by the property owner to be a negative. There are, however, many advantages to this underlying fee owner, such as: no liability for maintenance or liability associated for the public's use, (as these have been accepted by the County of Riverside (and subsequently transferred to TCSD); and, in the event of a public vacation of the property, the exclusive use and ownership of the property reverts to the fee owner.

3. Creation of a private easement to arrant access to one or a group of People.

Private easement roads are the instrument of choice when the sub divider elects to maintain control of access by those that benefit from the use of the road. With this, however, comes the responsibility for maintenance and the acceptance of all liability for the use over the easement. This type of road easement is easily recognized by a list in the property's Title Report of easements defining the use over your property by others and easements in favor of your property granting access rights over other properties. These easements are required to provide access to a publicly maintained road.

This method of defining legal access allows those that benefit the sole determination as to who has rights to use the road. This method of defining access is usually with the intent of gating the community. Of course the use by emergency vehicles is required and usually a general utility easement coincides with the described access easements.

Also, there are many related documents that often accompany these easement roads, such as reciprocal access and maintenance agreements, etc.