

Paper Street Project Report

Section 4. Options for Preventing the Automatic Vacation of Paper Streets

The automatic vacation of a paper street (or way) in almost all cases is bad for subdivision parcel owners and also bad for the town. Here are the reasons:

1. After the automatic vacation of a paper street its status is difficult to determine. Automatic vacation does not result in a document being recorded at the registry of deeds. Years after the vacation a search of the registry of deeds to confirm its status can be time consuming and expensive.
2. Vacation results in the extinction of subdivision parcel owners' right to use the vacated way as a private right of way. In some cases this can "land lock" parcels, i.e. prevent parcel owners from legally accessing their property.
3. Subdivision paper streets in some cases provide the only access to resources of importance to the public such as beaches or ocean views.
4. The town may have an interest in preserving utility rights in paper streets for future use. These rights are lost if a paper street is vacated.

The options a town has for preventing the automatic vacation of a paper street are as follows:

1. Exercise the tow's incipient right to accept it as a public way. This is not a viable option for Long Island as it would mean the subdivision parcels owners would have to bring the way up to town road standards and the town would then have to accept responsibility for maintaining it.
2. Formally vacate the way. This is a good option for ways or portions thereof that lie entirely in a subdivision parcel.
3. Accept a pedestrian and utility easement in the way. As noted in MSRA Title 23 Section 3032 this has the effect of converting the way to a private right of way for subdivision parcel owners and extinguishing the town's incipient right to accept it as a public way.