

Court of Appeals of Virginia holds private easement not a public dedication.

31 Aug 2023

Christopher A. Glaser

The Court of Appeals of Virginia affirmed a summary judgment grant finding that language included in a subdivision plat did not create a public easement. In *Salunkhe v. Christopher Customs, LLC*, the Court held that language stating, “24’ Ingress-Egress Esm’t” and “35’ Rad. Turnaround Esm’t” failed to satisfy the Virginia Code requirements to create public rights.

Lots 28 and 29 each owned separate adjacent strips of land which, together, formed a partially paved access to a public road. Salunkhe contended that the subdivision plat created a public easement allowing her to make improvements and to pave the entire 24-foot pipestem and 35-foot turnaround area. After Salunkhe filed suit seeking a declaratory judgment, the parties cross-moved for summary judgment. The trial court held that the subdivision plat language failed to create a public easement.

The Court of Appeals of Virginia affirmed the trial court and held that Salunkhe’s interpretation of the public easement statute was unsupported. Creating a public easement in Virginia requires both a dedication and an acceptance. Here, there was nothing for the public authority to accept as the subdivision plat merely referenced an easement and not a public easement. Recognizing the fallacy in Salunkhe’s argument, the Court stated, “if simply noting the existence of an ingress/egress easement on an approved subdivision plat created a public easement, *all* easements so reflected would immediately become public easements and be transferred to the locality upon recordation.” Creation of a public easement in Virginia, as in other jurisdictions, requires an explicit notation of a dedication to the public which was not present here.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no-cost in-house updates of the nation’s most noteworthy cases and national trends following the spring and fall American Land Title Association’s Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our [Real Estate Litigation and Transactions](#) Practice Group is ready to assist.

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