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STATE OF FLORIDA

JAMES UTHMEIER
ATTORNEY GENERAL

December 1, 2025

Honorable David Allbritton
Clearwater City Council
600 Cleveland Street, Suite 600
Clearwater, Florida 33755

Councilmember Allbritton:

I received your letter, dated November 14, 2025, requesting a legal opinion on two questions of Florida law.¹ You ask substantially the following questions: (1) whether the City of Clearwater ("the City") or the Church of Scientology ("the Church") owns the land underlying a certain section of Garden Avenue in Clearwater, Florida; and (2) whether the Church can petition to vacate that same section of Garden Avenue without paying fair market value for it.

In short, my answer to the first question is the Church most likely owns the land under the section of Garden Avenue at issue. Because the section of Garden Avenue in question was dedicated to the City through a common law dedication, the Church, as the abutting landowner, likely retained the title to the land under Garden Avenue subject to the City's public easement. As for the second question, assuming the Church owns this section of Garden Avenue subject to the City's easement, the Church can petition to vacate it without paying fair market value.

ANALYSIS

In order to determine ownership of the land underlying the section of Garden Avenue in question, we must determine whether the public dedication in a 1922 plat was a common law or a statutory dedication.² "The difference between common law and statutory

¹ See Letter from David Allbritton, City of Clearwater City Councilmember, to James Uthmeier, Att'y Gen. of Fla., (Nov. 14, 2025) (on file with the Office of the Attorney General).

² "A plat map is '[a] document showing the legal divisions of land by lot, street, and block number' that may be referred to for purposes of describing the property depicted on the map in conveyances and the like." *Lehmann v. Coconut Bayou Ass'n, Inc.*, 269 So. 3d 599, 608 (Fla. 2d DCA 2019) (quoting *Plat map*, Black's Law Dictionary (10th ed. 2014)).

dedications is significant for purposes of determining who owns the underlying land.”³ “In the absence of a clear intention to the contrary, a common law dedication ‘does not divest the owner of the title to the land, but only subjects the land and the title to the public easement for street purposes,’ with title remaining in the dedicator or his or her successors in title.”⁴ By contrast, a statutory dedication divests the owner of title to the land and can occur either: when the government constructs and maintains a road continuously for four years; or when the government maintains a road, though created by a private entity, for seven years.⁵

“It is well settled that to constitute a [common law] dedication there must be an intention by the owner clearly indicated by his words or acts to dedicate the land to public use and an acceptance by the public of the dedication, and proof of these facts must be clear, satisfactory and unequivocal.”⁶ “The act of [a common law] dedication is affirmative in character, [but] need not be by formal act or dedication, [it] may be by parol, may result from the conduct of the owner of the lands dedicated, and may be manifested by a written grant, affirmative acts, or permissive conduct of the dedicator.”⁷ Under the common law, when a plat map shows spaces for streets, “the owner thereby evinces an intention to dedicate an easement in the streets ... to the public use as such, the title to the land under the street remaining in the owner or his grantees.”⁸ And “[w]hen the owner of a tract of land makes a subdivision and includes on the plat a dedication of roads ..., the conveyance of the lots abutting the roads ... includes title to the property subject to the easement, unless expressly reserved by the dedicator.”⁹

Here, the 1922 plat shows the section of Garden Avenue at issue and the abutting properties. The plat shows that the property owners abutting Garden Avenue designated this section of Garden Avenue as a public street. The plat contains no indication that by putting Garden Avenue on the 1922 plat map, the property owners intended anything other than a public easement. Furthermore, since the 1922 plat was recorded before the enactment of the original statutory dedication statute (1935), a statutory dedication was not possible in 1922 and thus a common law dedication was the only option.¹⁰ Thus, the section of Garden Avenue at issue was dedicated by a common law dedication, and, as such, title to the underlying property remained with the original owners subject only to the public easement. Finally, assuming that the conveyances of the abutting land to the Church conveyed full title

³ *Id.*

⁴ *Id.* (quoting *Robbins v. White*, 42 So. 841, 841–44 (1907)).

⁵ See § 95.361(1)–(2), Fla. Stat.

⁶ *Roe v. Kendrick*, 200 So. 394, 395 (Fla. 1941) (citing *City of Palmetto v. Katsch*, 98 So. 352 (Fla. 1923)).

⁷ *Katsch*, 98 So. at 353.

⁸ *Smith v. Horn*, 70 So. 435, 436 (1915); see also *Katsch*, 98 So. at 353 (explaining that a dedication can be shown by “filing a plat or map of one’s property designating thereon streets”); *Robbins*, 42 So. at 843–44 (same).

⁹ *Pelican Creek Homeowners, LLC v. Pulverenti*, 243 So. 3d 467, 471 (Fla. 5th DCA 2018) (citing *Smith*, 70 So. at 436); see also *Lehmann*, 269 So. 3d at 609 (explaining that “when property owners retain title to an area subject to a public use easement as a street, title to the land up to the centerline of the street is conveyed by any conveyance of the land abutting the street unless title is expressly reserved by the grantor”).

¹⁰ *Lehmann*, 269 So. 3d at 609 (holding that because the plat was recorded before the original statutory dedication statute was enacted, the dedication was a common law dedication).

to the land, the eventual conveyance to the Church of the abutting properties included title to the land underlying Garden Avenue subject to the public dedication.¹¹

Given that the Church possesses full title to the land underlying Garden Avenue, it necessarily follows that the Church may petition to vacate that same section of Garden Avenue without paying fair market value for it. As a previous Attorney General Opinion explained, "a municipality possesses neither statutory nor constitutional authority to exact payment for or otherwise interfere with the property rights of landowners whose property abuts a public street as conditions to or in exchange for the exercise of its power to vacate streets no longer required for public use."¹² Consequently, the Church may petition to vacate that section of Garden Avenue and need not pay fair market value for the land.

¹¹ See *Pelican Creek*, 243 So. 3d at 471 (holding that because the conveyances to the appellants and their predecessors did not contain a reservation of the land subject to the public dedication, the conveyances to the appellants of the abutting properties included title to the land subject to the public dedication).

¹² Op. Att'y Gen. Fla. 78-125 (1978).

CONCLUSION

These conclusions are subject to the Church's ownership of the land abutting the portion of Garden Avenue in question.¹³ It is my opinion that the Church likely owns the land underlying Garden Avenue because the 1922 dedication of Garden Avenue was a common law dedication. Further, considering the Church's likely ownership of the land underlying Garden Avenue, it is my opinion that the Church may petition to vacate that section of Garden Avenue without paying fair market value for the land.¹⁴

Sincerely,



James Uthmeier
Attorney General

¹³ The City does not appear to dispute the Church's ownership of the land abutting the portion of Garden Avenue at issue in this opinion.

¹⁴ Of note, section 16.01(3), Florida Statutes, gives the Attorney General discretion to provide an official legal opinion to an "officer of a ... municipality." You were therefore perfectly entitled to seek a legal opinion in writing—which you did—and I am perfectly entitled to provide it. I do so here for a variety of reasons. Recently, your mayor has made disparaging (and nonsensical) remarks at public meetings about the integrity of this office and its opinions practice. Your city attorney has similarly made disparaging remarks about the Attorney General's opinions and their effects on other municipal governments; he also suggested this Office lacks sufficient expertise when it comes to land use law. Other than displaying an alarming ignorance, these comments have impugned the integrity of the Office of Attorney General and the rigid research standards employed by the Opinions Division. I therefore respond with this opinion and add a few words of admonition. First, the Attorney General is the chief legal officer of the State and presides over the largest law firm in Florida—it specializes in everything. Second, Attorney General opinions carry great weight in Florida. Indeed, they constitute the final word on matters of state law unless or until a court of law disagrees. *See State v. Fam. Bank of Hallandale*, 623 So. 2d 474, 478 (Fla. 1993) ("Although an opinion of the Attorney General is not binding on a court, it is entitled to careful consideration and generally should be regarded as highly persuasive."); *see also Fla. Virtual Sch. v. K12, Inc.*, 735 F.3d 1271, 1274 (11th Cir. 2013) (recognizing that Florida Attorney General opinions are "highly persuasive"). Finally, the mayor's suggestion that "external pressures" would alter or influence a legal opinion rendered by this office would be offensive if it wasn't laughable. Councilmember Allbritton's opinion request, and the accompanying legal memorandum, seek to vindicate the mayor's position—i.e., it is a request from "his camp." The Office has received no other opinion request related to this issue. Once this year already, the mayor has been admonished by this Office for making public comments that suggest a discriminatory bias against the local religious group in question. *See Letter from James Uthmeier, Att'y Gen. of Fla., to Bruce Rector, Mayor of the City of Clearwater, (May 29, 2025)*. I mention that only to point out that the mayor has said questionable (and legally problematic) things before. Perhaps it's an unfortunate pattern. But he should take care not to allow his private prejudices to color the character of every other government actor with whom he disagrees.