

MINNESOTA STATUTES 1953 ANNOTATIONS

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PLATS; COORDINATES 505.01

504.05 RENT LIABILITY; DESTROYED UNTENANTABLE TENEMENTS

Federal government orders and regulations affecting tenant's liability for rent. 32 MLR 837.

504.06 ESTATE AT WILL, HOW DETERMINED; NOTICE

Effect of a sublease by tenant at will. 31 MLR 620.

Government orders and regulations affecting tenant's liability for rent; application of the doctrine of frustration as applied to leases. 32 MLR 837.

Leases; express for occupancy for adults only; child born during term. 32 MLR 840.

The notice to terminate a month-to-month tenancy, although technical as to the amount of time required, may be informal as to its contents. In the instant case, the statement of the landlord that the tenants had "until June 30" to vacate, must be construed together with the statement that he "expected to occupy the premises by July," and evinced an intent that the tenants had until midnight of the 30th to vacate. *Heinsch v Kirby*, 223 M 302, 26 NW(2d) 263.

An arrangement based upon a conference between the lessors and lessees permitting the lessees to have the land for 1947 by requiring them to surrender possession not later than December 1, 1947, completely superseded the original lease in which there was provision for an automatic annual renewal on January 1, of each year unless six months notice to terminate was given. *Northwest Tractor v Wadsworth*, 229 M 213, 38 NW(2d) 841.

504.09 NOTICE TO BE GIVEN OF VACATION OF BUILDING

Provision in lease to effect that during extended term thereof lessor "shall have the right to sell said (leased) property at any time in said term to any one, but shall give said second party (lessee) 60 days notice in writing of said sale" is not ambiguous so as to permit parol evidence to arrive at intent of parties in connection therewith, nor to constitute an option from lessors to lessee granting latter the right to purchase leased property during extended term of lease. *Bergland Oil Co. v Grommesh*, 226 M 19, 31 NW(2d) 644.

504.10-504.17 Obsolete.

CHAPTER 505

PLATS; COORDINATES

PLATS

505.01 PLATS AUTHORIZED; DONATIONS EFFECTIVE

A dedication of a public square for public use is one for specially qualified and limited purposes. A "statutory dedication" is by plat executed and recorded as required by statute; and a "common law dedication" is one otherwise made, as by dedication in fact or by defective statutory dedication; and where an owner made a plat of his land dedicating a part thereof as a public square for public use, the dedication, regardless of whether it was a statutory or a common law dedication, passed to the public in trust only such an estate or interest in land as the trust required and it reserved to the dedicator the fee to the property. *Headley v City of Northfield*, 227 M 458, 35 NW(2d) 606.

The city council cannot by ordinance authorize a public square to be used for purposes other than those for which it was dedicated; and abutting property owners

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have the right to maintain an action in their own name to enjoin diversion of its use; and if persons other than those lacking the right join in the proceeding, there is no misjoinder of parties as to those authorized. *Headley v City of Northfield*, 227 M 458, 35 NW(2d) 606.

In construing a plat the same legal principles apply whether the dedication of a road thereunder is to the use of the public or to the use of a more restricted group of beneficiaries. The word "person" includes persons. The plat must be considered as a whole and no part thereof is to be ignored as meaningless. All ambiguities are to be resolved against the dedicator and to the reasonable advantage of the grantees of the dedicated use. *Bryant v Gustafson*, 230 M 1, 40 NW(2d) 429.

He who purchases a lot with reference to a plat is deemed to have thereby purchased as appurtenant to the lot all advantages, privileges, rights, and easements which the plat represents as belonging to the lot and as belonging to the owner thereof as a resident of the platted area and this principle is applicable not merely to roads and streets on which the purchased lot abuts, but to all roads and streets of advantage or utility to the platted area as a whole. *Bryant v Gustafson*, 230 M 1, 40 NW(2d) 429.

Laws 1947, Chapter 494, authorizing the county auditor to plat irregular tracts of real estate does not authorize the auditor to designate streets, alleys, or to show a street dedicated by common law usage; but the existence of the auditor's plats does not foreclose the making of a plat by the county board or by other persons under the provisions of MSA, Chapter 505, in which may be shown dedication of streets, alleys, and public grounds. OAG May 2, 1949 (18-D).

A village council is without authority to adopt an ordinance requiring the platting of unplatted land within the village as a prerequisite to a sale thereof. OAG Oct. 31, 1952 (18-D).

A municipality may not authorize the use of a public square as a parking lot. OAG Dec. 18, 1951 (59-A-10).

The proprietors of the townsite of the town, (now city) of Litchfield, in 1869 dedicated block 17, 33 and 53 to public use. Such dedication prevents the city from conveying any part of the fee title to the state for armory purposes. The fact that block 53 was used as a park, does not prevent its use for other public purposes. OAG Jan. 23, 1948 (59-A-40).

The city of Red Wing owning 14 lots adjacent to the city water works which are no longer needed for municipal purposes, may plat the land into lots and blocks, dedicate streets and alleys for public use, and sell the lots. The receipts from the sale of the lots must be deposited in the water works fund. OAG Sept. 24, 1953 (59-A-40).

Land donated by a plat for park purposes may not be sold by the village. OAG Jan. 23, 1953 (469-A-15).

505.03 DEDICATION; CERTIFICATION, APPROVAL; VERIFICATION

HISTORY. Amended, 1953 c 165 s 1.

When a street is dedicated by plat, city may choose its own time to occupy and open same and, until it does so, possession of abutting owner is not regarded as hostile; and if the land dedicated for highway purposes is abandoned by city, city is thereafter estopped from asserting rights under the original dedication against persons or parties relying upon evidence of such abandonment. *State v Marcks*, 228 M 129, 36 NW(2d) 594.

Where city had abandoned use of property dedicated for highway purposes prior to time state attempted to take it over as part of highway system, state acquired no interest therein; where plat dedicating streets provided that, in event of vacation thereof, title thereto should revert to dedicator, upon vacation or abandonment by city of such property for highway purposes, assignee of dedicator acquired title thereto, though he was not an abutting owner. *State v Marcks*, 228 M 129, 36 NW(2d) 594.

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Approval of a plat submitted to the county board will not be compelled since approval is discretionary. Objection was made to a two-rod cartway. OAG Sept. 7, 1948 (18-D).

Those platting property in a village should present an abstract of title and a deed showing good title or other evidence to satisfy the council that they are the true owners. OAG Oct. 27, 1949 (18-D).

A deed effective April 5, 1902, conveyed land subject to the reservation of all coal, oil, and gas rights. The present owner wishes to plat the tract. The owner of the mineral rights does not claim to own the same rights as are granted by the owner of the surface, so section 541.023 was never intended to be used to defeat mineral rights. The owner of the mineral reservation has the same right as he had in 1902. There is nothing to prevent the owner of the surface rights from bringing an action against the owner of the mineral rights to determine adverse claims but the bringing of such an action would not answer any useful purpose. There is no reason why the owner of the surface rights cannot plat the surface but such platting or any subsequent need made by the proprietor of the surface would not defeat the right of the owner of the minerals reserved in the 1902 deed. OAG Nov. 2, 1949 (18-D.)

Where a plat has been duly filed, the streets shown thereon remain public streets, even though the plat has been tattered and torn or worn out, so long as the streets can be located by competent evidence. OAG Oct. 4, 1950 (18-D).

A plat may be certified by a county surveyor who is not a registered engineer. OAG June 22, 1948 (123-E).

When a plat is offered to the register of deeds for record, the dedication, the surveyor's certificate, and the approval by the municipality should appear on the same sheet of paper upon which the plat is drawn. OAG Dec. 14, 1948 (373-B-15).

Dedication in a plat does not establish a county road. Approval of a plat by the county board is discretionary. If a town road is established by dedication the town may choose its own time to occupy the street as a town road. OAG March 7, 1951 (379-A-2).

505.04 RECORDING, FEES, PENALTIES

Section 505.04 does not relate to reproduction of records that have become damaged because of excessive wear or deterioration. OAG July 26, 1948 (373-B-15).

In case the records in the office of register of deeds become damaged so as to render any portion of them liable to become illegible or destroyed or lost, the duty of the county board is to provide suitable books and cause the records to be transcribed. Under section 375.15 the fees for this work are fixed by the county board and section 505.04 relates to fees which the register of deeds is entitled to receive when a plan is originally filed in his office and not applicable in the case of damaged records. OAG July 26, 1948 (373-B-15).

505.09 COUNTY BOARD, CONTROL PLATTING

HISTORY. 1929 c 125 s 1; 1947 c 185 s 1; 1949 s 665 s 1.

505.14 VACATION

The phrase "the majority of owners of the property on the line of such streets" as used in section 129 of the St. Paul city charter, refers to a majority of individual owners and not to majority of estates or tracts, or to a major part of the property fronting on the line of the street. Beck v Council of the City of St. Paul, 234 M 56, 50 NW(2d) 81.

A city cannot condemn property dedicated for use as a public square and thereby acquire the right to use it as a high school athletic field. OAG April 27, 1949 (59-A-14).

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Alleys in a town are not "town roads" within the meaning of section 100.01, subdivision 5, and they cannot be vacated by the procedure defined in section 163.13 or 163.19 and it is necessary to proceed under section 505.14. OAG June 3, 1947 (396-F-3).

Section 505.14 is not applicable to a village cemetery plat which the village sought to vacate when the realty was no longer needed as a cemetery. OAG April 6, 1948 (870-J).

505.165 PLATS OF LANDS WITHIN ANY TOWN, VILLAGE, OR CITY EXECUTED OR FILED PRIOR TO JANUARY 1, 1915

HISTORY. 1947 c 48 s 1-3.

505.17 CERTAIN PLATS AND CERTIFICATES PRIMA FACIE EVIDENCE

In view of the fact that the symbolic references by which the real estate is described in the descriptions submitted are familiar to surveyors only and other persons dealing with the preparation of road maps, it follows that the land is not described with sufficient certainty to enable a man of ordinary intelligence but not skilled as a surveyor to identify the land described with reasonable certainty. The land is not described with sufficient definiteness to enable the auditor to use the description for the purpose of listing the property for assessments, taxation, delinquent real estate tax proceedings, and forfeiture. OAG Dec. 27, 1951 (474).

505.173 CORRECTION OF PLATS

HISTORY. 1949 c 557 s 1; 1951 c 597 s 1.

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505.27 Renumbered 505.173.

CHAPTER 507

CONVEYANCING, RECORDING

507.01 CONVEYANCE AND PURCHASER

Original Indian title, existence and extent of aboriginal ownership as a relevant issue in title examinations whenever a chain of title is traced back to a federal grant or patent. 32 MLR 28.

Indian clouds on land title grants. 32 MLR 28.

How we bought the United States from the Indians. 32 MLR 34.

The doctrinal origin of Indian title. 32 MLR 43.

Johnson v McIntosh and other Indian title cases. 32 MLR 47.

Restrictive covenants in conveyances; waiver by acquiescence; estoppel. 32 MLR 524.

Assignment of contract for security; assumption of contract duties by assignee. 32 MLR 822.

The law of the state of incorporation governs as to dissolution of a corporation and its right after dissolution to exercise its corporate functions elsewhere; and dissolution of a corporation and deprivation of the right to exercise its corporate powers by the law of the state of incorporation will be effective in another state.