

Bond Case Briefs

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DEDICATION - ILLINOIS

J & A Cantore, LP v. Village of Villa Park

**Appellate Court of Illinois, Second District - May 31, 2017 - N.E.3d - 2017 IL App (2d)
160601 - 2017 WL 2351270**

Landowner brought action against city, seeking ejectment of city from a disputed strip of property and an injunction against city prohibiting it from using the property.

City moved to dismiss. The Circuit Court granted the motion. Landowner appealed.

The Appellate Court held that:

- Proprietor of the plat of addition effected a statutory dedication of disputed strip for public use; City demonstrated possession of disputed strip, and thus acceptance of dedication for public use; and
- Disputed property was for public use, and therefore, claim of adverse possession against the property would not lie.

Proprietor of the plat of addition effected a statutory dedication of disputed strip for public use, despite fact that plat did not use terms such as "public" or "hereby dedicated." Unmistakable intent of the proprietor, evidenced by layout of surrounding streets and naming of disputed strip, was to dedicate disputed strip to city as a public street, and plat fulfilled the technical requirements of sections of the Plat Act in effect at time of recording.

City demonstrated possession of disputed strip, and thus acceptance of dedication for public use. City eventually annexed the territory including the disputed strip, giving rise to a presumption of acceptance in light of acceptance of other platted streets, city expressly vacated other platted streets by ordinance but not the street located on disputed strip, fact that property remained unimproved did not rebut the possession, property had been leased to park district for over 30 years, and there was no evidence that dedicator or its successors withdrew or revoked the dedication prior to acceptance.

Disputed property owned by city was for public use, and therefore, claim of adverse possession against the property would not lie, despite fact that city had leased property to park district. Property was dedicated and accepted as a public street, lease provided city with right of reentry, and property, which was part of a pedestrian and bicycle trail running through 12 municipalities and extending some 30 miles in length, was open to all persons of the state.