

D-0235 - Anna McLean offers dedication of McLean Court NW located N of 21st Street & W of McLean

# ACTION

COMMITTEE \_\_\_\_\_ DATE \_\_\_\_\_  
M.A.P.C. \_\_\_\_\_  
B.C.C./B. CO. C. \_\_\_\_\_

*Closed*  
*No action taken*  
*app. returned to Mrs. McLean 4/22/63*

DEDICATION REPORT AND PROGRESS

MAP No. \_\_\_\_\_  
SEC. No. \_\_\_\_\_  
TWP. No. \_\_\_\_\_  
RANGE \_\_\_\_\_

CASE No. D - 0235

I. OFFER TO DEDICATE: McLean Court  
GENERALLY LOCATED: N of 21st Street & W of McLean

LEGALLY DESCRIBED AS:

Lot 11, Survey of Block K, Benjamin Hills Estates

DEDICATED BY: Anna McLean  
AGENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE \_\_\_\_\_  
PURPOSE OF DEDICATION: \_\_\_\_\_

Street purposes.

II. SKETCH.

III. OFFER RECEIVED 3-14-63 \*B.C.C. ACTION \_\_\_\_\_  
POSTED TO ATLAS \_\_\_\_\_  
\*S/D COMM. ACTION No action taken PLACED ON RECORD \_\_\_\_\_  
\*M.A.P.C. ACTION \_\_\_\_\_ CITY CLERKS No. \_\_\_\_\_

ICHITA-SEDGWICK COUNTY

DATE

March 15, 1963

METROPOLITAN AREA PLANNING DEPARTMENT

TO Fred W. Aley, City Attorney  
FROM Robert A. Lakin, Senior Planner  
SUBJECT D-0235 - Proposed Dedication of  
Street Right of Way

Anna McLean has submitted to the City Engineer's Office a proposed dedication for Lot 11, Survey of Block K, Benjamin Hills Estates. This dedication was unsolicited by any of the city agencies. The dedication is supposed to be for a court coming off of McLean Boulevard in an area north of 21st Street.

It appears that some years ago Mrs. McLean had K. O. Taylor prepare what is known as a "Survey of Block K, Benjamin Hills Estates" which broke into several residential lots the original one lot Block K of the recorded plat of Benjamin Hills Estates. This "survey" was never approved by the Planning Commission or City Commission as a replat of a subdivision. She did, however, have it recorded with the office of the Register of Deeds.

Is the description on the attached copy of the dedication a proper one? Epperson has always felt that this area should not be considered as a block divided into residential lots. Central Inspection has been notified of the existence of the "survey" and it is our understanding that they will not issue building permits for these "lots" until a formally approved plat has been submitted and recorded. Epperson has also raised the question (and I would also like to know) if there is any way to expunge the "survey" from Register of Deeds records in that it is used to leave the impression with purchasers and others that the area has been subdivided into lots.

We will withhold processing of this dedication until we have heard from you.

*Robert A. Lakin*  
Robert A. Lakin  
Senior Planner

RAL:mm

Attachments

cc: Lawrence Curfman, Assistant City Attorney  
John Epperson, Assistant City Engineer  
Robert Lister, Planner II  
G. Lynn Shirkey, Planner I

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Anna McLean

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:


Lot 11, Survey of Block E, Benjamin Hills Estates;

do ss hereby dedicate the above described real estate to the public for street purposes.

Executed this 14th day of March, 19 63.

\_\_\_\_\_  
Anna McLean  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF KANSAS)  
SEDGWICK COUNTY) SS

 I HEREBY REMEMBERED, that on this 14th day of March 19 63, before me a Notary Public in and for the said County and State of the name Anna McLean

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public  
I am entitled to practice in Wichita, Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas.

My Commission Expires: \_\_\_\_\_

this \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
City Clerk

No. 190800

RECEIPT FOR CERTIFIED MAIL—20¢	
SENT TO Mrs. Anna McLean	POSTMARK OR DATE
STREET AND NO. 2359 McLean Blvd.	
CITY AND STATE Wichita, Kansas	
If you want a return receipt, check which 10¢ shows to whom and when delivered <input type="checkbox"/> 50¢ shows to whom, when, and address where delivered <input type="checkbox"/> If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee	
FEE ADDITIONAL TO 20¢ FEE	
FD Form 3800 Apr 1960	
SEE OTHER SIDE	

April 22, 1963

Mrs. Anna McLean  
2359 McLean Blvd.  
Wichita, Kansas

Subject: D-0235

Dear Mrs. McLean:

Your offer of dedication of Lot 11, Survey of Block K, Benjamin Hills Estates, for street purposes, has been received in our office.

It is the opinion of our Legal Department that we would be unable, according to law, to accept this dedication in its present form. See the attached sheet for excerpts of the State law pertaining to this matter. It is also their opinion that the document known as Survey of Block K, Benjamin Hills Estates filed on record June 2, 1955, is not a proper plat as defined and determined under the State Statutes.

In view of the foregoing legal opinion, the submission of this dedication to the Subdivision Committee of the Metropolitan Area Planning Commission is returned to you. If you want to pursue this matter, it would be our suggestion that the "replat of Block K" be platted in accordance with State law. Not only would this allow our consideration of the street dedication, but would enable you to obtain additional building permits (which could not be obtained under law).

Mrs. Anna McLean  
April 22, 1963

If you have any questions concerning this matter, please do not hesitate to call.

Sincerely yours,

Robert A. Lakin  
Senior Planner

RAL:an  
Attachments

cc: Fred W. Aley, City Attorney  
Lawrence Curfman, Assistant City Attorney  
Larry Kirby, Assistant City Attorney  
John Epperson, Assistant City Engineer

EXCERPTS FROM THE STATE LAW

Section 13-1111 of Kansas, G.S. 1949 provides in part:

Whenever a planning commission shall have adopted a major street plan and shall have filed a certified copy of such plan with the governing bodies, then no plat of a subdivision of land lying within the city for which such major street plan has been prepared, or within three miles of the corporate limits thereof, shall be filed or recorded until it shall have been approved by such planning commission and governing body and such approval entered in writing upon the plat by the chairman and secretary of the commission and the mayor and city clerk of said city;

G.S., 1961 Supp., 13-1112 provides in part:

No building permit shall be issued for any structure that is located upon a lot in a subdivision that has been subdivided after the date of the adoption of the rules and regulations by the planning commission and governing body, but not approved in the manner provided for in this act. And no such plat or replat or dedication or deed of street or public way shall be filed with the register of deeds as provided by law until such plat or replat or dedication or deed shall have endorsed on it the fact that it has been submitted first to the city planning commission and by the city planning commission to the governing body of such city and by such governing body duly approved;

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Anna M. Klean

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

Lot 21, Survey of Block 2, Majestic Hills Estates,

do hereby dedicate the above described real estate to the public for street purposes.

Executed this 14th day of March, 19 63.

\_\_\_\_\_  
Anna M. Klean  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF KANSAS )  
SEDGWICK COUNTY ) SS

AS IT IS REMEMBERED, that on this 14th day of March, 19 63, before me a Notary Public in and for the said County and State came Anna M. Klean

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public  
John H. Epperson

My Commission Expires: \_\_\_\_\_

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE  
March 15, 1963

TO Fred W. Aley, City Attorney  
FROM Robert A. Lakin, Senior Planner  
SUBJECT D-0235 - Proposed Dedication of  
Street Right of Way

Anna McLean has submitted to the City Engineer's Office a proposed dedication for Lot 11, Survey of Block K, Benjamin Hills Estates. This dedication was unsolicited by any of the city agencies. The dedication is supposed to be for a court coming off of McLean Boulevard in an area north of 21st Street.

It appears that some years ago Mrs. McLean had K. O. Taylor prepare what is known as a "Survey of Block K, Benjamin Hills Estates" which broke into several residential lots the original one lot Block K of the recorded plat of Benjamin Hills Estates. This "survey" was never approved by the Planning Commission or City Commission as a replat of a subdivision. She did, however, have it recorded with the office of the Register of Deeds.

COPY

Is the description on the attached copy of the dedication a proper one? Epperson has always felt that this area should not be considered as a block divided into residential lots. Central Inspection has been notified of the existence of the "survey" and it is our understanding that they will not issue building permits for these "lots" until a formally approved plat has been submitted and recorded. Epperson has also raised the question (and I would also like to know) if there is any way to expunge the "survey" from Register of Deeds records in that it is used to leave the impression with purchasers and others that the area has been subdivided into lots.

We will withhold processing of this dedication until we have heard from you.

*Robert A. Lakin*  
Robert A. Lakin  
Senior Planner

RAL:mm

Attachments

cc: Lawrence Curfman, Assistant City Attorney  
John Epperson, Assistant City Engineer  
Robert Lister, Planner II  
G. Lynn Shirkey, Planner I

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Anna McLean

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

Lot 11, Survey of Block K, Benjamin Hills Estates;

do she hereby dedicate the above described real estate to the public for street purposes.

Executed this 14th day of March, 19 53.

Anna McLean

STATE OF KANSAS }  
SEDGWICK COUNTY } SS

I HEREBY REMEMBERED, that on this 14th day of March, 19 53, before me a Notary Public in and for the said County and State

came Anna McLean

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal, the day and year last above written.

John H. Epperson  
Notary Public

My Commission Expires: \_\_\_\_\_

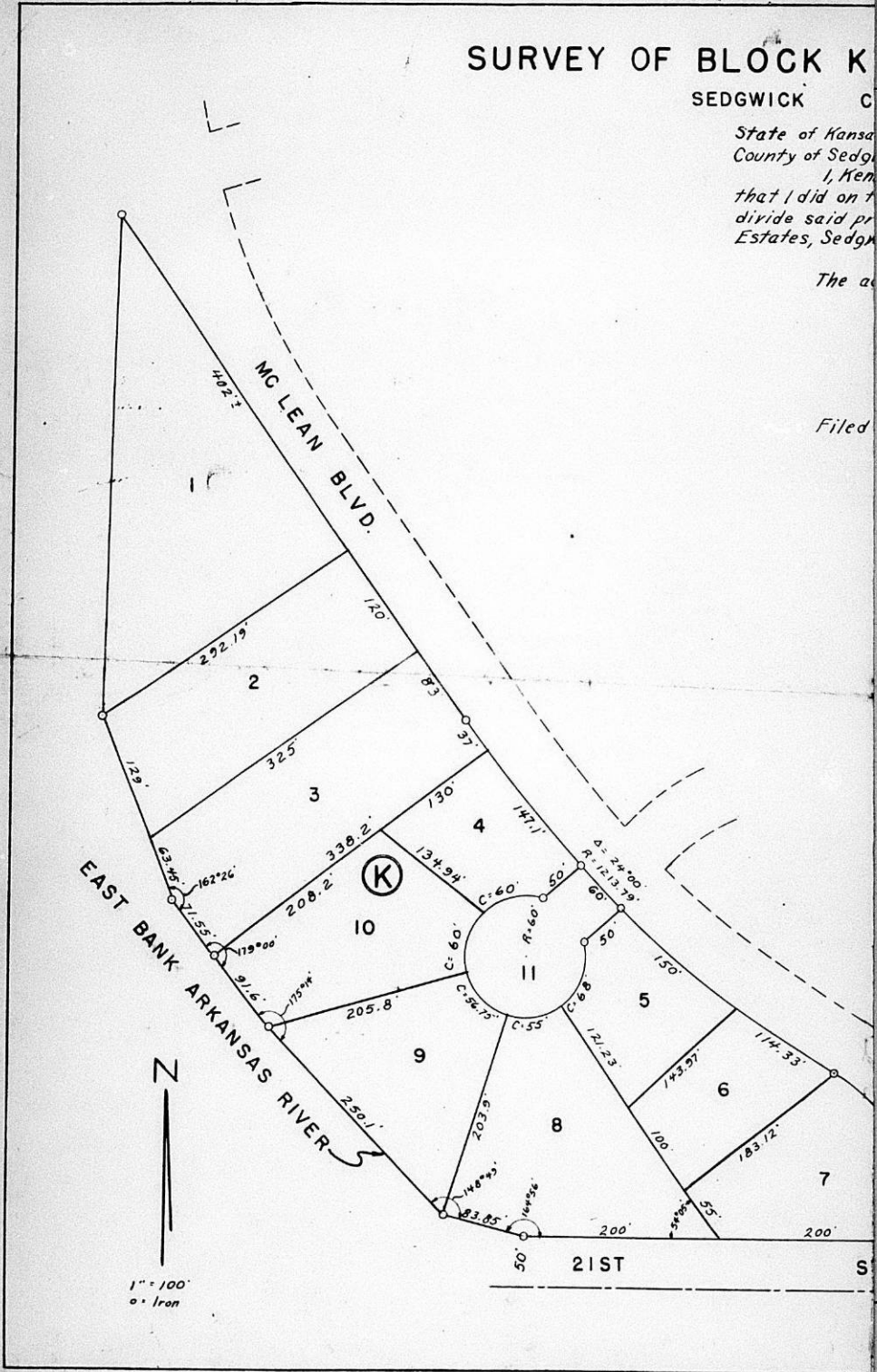
# SURVEY OF BLOCK K

SEDGWICK C

State of Kansas  
 County of Sedgwick  
 I, Kenneth  
 that I did on the  
 divide said property  
 Estates, Sedgwick

The ac

Filed



1" = 100'  
 o = Iron

Misc 345-211

# BENJAMIN HILLS ESTATES

WYCK COUNTY, KANSAS

Wick } ss

Kenneth O. Taylor, civil engineer in said state and county do hereby certify that on the 16th day of May, 1955, survey the following described property and divide it into tracts numbered 1 to 11 inclusive: Block "K", Benjamin Hills, Wick County, Kansas.

The accompanying plat is a true and correct exhibit of said survey.

Kenneth O. Taylor, Civil Engineer

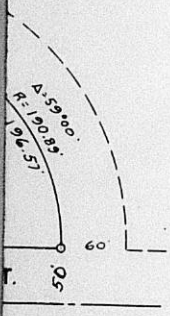
For record this 20th day of JUNE, 1955, at 3 o'clock P. M.

20302

Rufus E. Deering, Register of Deeds  
By W.R. Clark, Deputy

NOTE:

C denotes Chord Distance



RETURN KENNETH TAYLOR -

THE CITY OF WICHITA  
OFFICE OF CITY ATTORNEY

DATE April 12, 1963



TO ROBERT LAKIN - Senior Planner  
FROM LARRY KIRBY - Assistant City Attorney

SUBJECT Proposed Dedication of Street  
Right-of-Way.

Kansas, G.S. 1949, 79-405, provides:

Whenever any subdivision of land of forty acres or less, or any lot or subdivision is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof cannot be made sufficiently certain and accurate for the purpose of assessment and taxation without noting the metes and bounds of the same, the county clerk shall cause to be made and recorded, a plat of such tract or lot, with its several subdivisions, as hereinbefore provided.

From this definition it is obvious that a plat must show the separate lots by metes and bounds which it contains. Kansas, G.S. 1949, 12-401, in describing what a plat should contain in cities of the second and third class, provides as follows:

The plat shall accurately and particularly set forth and describe: First, all the parcels of ground within such city or town or addition reserved for public purposes, by their boundaries, course and extent whether they be intended for avenues, streets, lanes, alleys, commons, parks or other uses; and, second, all lots intended for sale, by numbers, and their present length and width.

Using the above two definitions as authority for what a plat is, Section 13-1111 of Kansas, G.S. 1949, provides in part:

Whenever a planning commission shall have adopted a major street plan and shall have filed a certified copy of such plan with the governing bodies, then no plat of a subdivision of land lying within the city for which such major street plan has been prepared, or within three miles of the corporate limits thereof, shall be filed or recorded until it shall have been approved by such planning commission and governing

- |   |   |
|---|---|
| <input type="checkbox"/> Purchasing             | <input type="checkbox"/> Engineering      |
| <input type="checkbox"/> Duplicating            | <input type="checkbox"/> Maintenance      |
| <input type="checkbox"/> City Attorney          | <input type="checkbox"/> Sanitation       |
| <input type="checkbox"/> Chief Asst. City Atty. | <input type="checkbox"/> Traffic Engr.    |
| <input type="checkbox"/> Civil Defense          | <input type="checkbox"/> Water Dept.      |
| <input type="checkbox"/> Fire Dept.             | <input type="checkbox"/> Operations       |
| <input type="checkbox"/> Forum Bldg.            | <input type="checkbox"/> Sewage Treatment |
| <input type="checkbox"/> Health Dept.           | <input type="checkbox"/>                  |
| <input type="checkbox"/> Engineering            | <input type="checkbox"/>                  |
| <input type="checkbox"/> Prev. Medicine         | <input type="checkbox"/>                  |

Remarks

attn: Robert Lakin

Date:

4-15-63

From:

L. Kirby

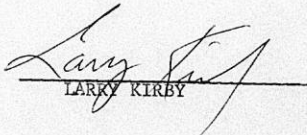
Mr. Robert Lakin  
4-12-63  
Page two

body and such approval entered in writing upon the plat by the chairman and secretary of the commission and the mayor and city clerk of said city: Provided, if the planning commission or governing body does not act within sixty days after the plat has been submitted to it for action, then such plat shall be deemed to have been approved by it and a certificate to that effect shall be issued upon demand.

Kansas, G.S., 1961 Supp, 13-1112 provides:

No building permit shall be issued for any structure that is located upon a lot in a subdivision that has been subdivided after the date of the adoption of the rules and regulations by the planning commission and governing body, but not approved in the manner provided for in this act. And no such plat or replat or dedication or deed of street or public way shall be filed with the register of deeds as provided by law until such plat or replat or dedication or deed shall have endorsed on it the fact that it has been submitted first to the city planning commission and by the city planning commission to the governing body of such city and by such governing body duly approved.

Using these authorities, it is the opinion of the undersigned that the survey in question should not have been recorded and that since it was improperly recorded under the statutes as stated above, the survey can be expunged from the records of the register of deeds and that there can be no dedication of this property under the circumstances now existing.

  
LARRY KIRBY

LK/rf

DEDICATION

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That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Anna McLean

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do ss hereby dedicate the above described real estate to the public for street purposes.

Executed this 14th day of March, 19 63.

Anna McLean

STATE OF KANSAS }  
SEDGWICK COUNTY } SS

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came

Anna McLean

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal, the day and year last above written.

Notary Public  
John H. Epperson

My Commission Expires: \_\_\_\_\_

March 15, 1963

Fred W. Aley, City Attorney  
Robert A. Lakin, Senior Planner

D-0235 - Proposed Dedication of  
Street Right of Way

Arna McLean has submitted to the City Engineer's Office a proposed dedication for Lot 11, Survey of Block K, Benjamin Hills Estates. This dedication was unsolicited by any of the city agencies. The dedication is supposed to be for a court coming off of McLean Boulevard in an area north of 21st Street.

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We will withhold processing of this dedication until we have heard from you.

Robert A. Lakin  
Senior Planner

RAL:mm

**Attachments**

cc: Lawrence Curfman, Assistant City Attorney  
John Epperson, Assistant City Engineer  
Robert Lister, Planner II  
G. Lynn Shirkey, Planner I