



# **Vacation of an Unimproved Right-of-Way Application Process**

## **Board of Vacations**

### **Lake County Planning, Building and Development Department**

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## **Introduction**

The information contained in this package is provided to help you become familiar with the various requirements that must be met before your Right-of-Way (ROW) Vacation Application can be accepted. This information will also prepare you to provide testimony and address any questions that might be raised at the Board of Vacations (BOV) public hearing.

Illinois Compiled Statutes, Chapter 55, Section 5/5-1036 contains statutory provisions relating to vacation of town plats. Chapter 151: Unified Development Ordinance of the Lake County Code (UDO) has been adopted pursuant to these provisions.

Once your application is accepted, the entire vacation process generally takes about three to four months to complete. Careful and proper preparation of your application is essential to receiving approval of a vacation and, in the long run, you will save considerable time and expense for both yourself and the County.

If you should have any questions, please feel free to call the Lake County Department of Planning, Building and Development at (847) 377-2600. If you wish to visit the office to discuss your application, please call ahead for an appointment.

## **Before Filing the Application**

You are required to meet with the staff of the Planning, Building and Development Department for an Early Assistance (EA) Meeting before preparing your vacation application. EA meetings are an opportunity for you and any other concerned parties to meet with Lake County Staff to discuss details of your project, identify any potential issues or limitations, and assist you with understanding the UDO requirements that will need to be met specific to the proposal. The meeting will be coordinated by a project manager who will ensure all applicable Lake County departments are present to evaluate your proposal, as it relates to county regulations.

Prior to scheduling the EA meeting, you will need to submit a concept sketch or diagram that shows the area of the proposed vacation and an EA meeting fee which will be credited towards future application fees. Meeting notes will be provided to you. Request an EA Meeting by contacting a project manager at 847-377-2600.

Also, please note the staff of the Planning, Building and Development Department will notify surrounding property owners and property owners in the vicinity that may be affected by the vacation of the public hearing.

## Filing the Application

The following documents, information, and the correct filing fee must be submitted in proper form before your application will be accepted for processing.

- **The Application:** The application must be prepared in essentially the same format as the attached sample petition. In the event that the petition is for vacation of a subdivision or a portion of a subdivision, the language throughout this petition should be changed to conform to your specific request. Choose whichever term applies to your particular situation (i.e. street, alley, subdivision, or portion of a subdivision). Submittal of the original petition and 15 copies is required.
- **The Applicants:** All the fee owners of property abutting the portion of the right-of-way to be vacated and located within the same subdivision must be the applicants.
- **Disclosure:** *Whenever applicable, the following disclosures must be made:*

*When the applicant is a land trust or trustee of a land trust, the application shall identify each beneficiary of such land trust by name and address and define each beneficiary's interest therein. All applications shall be verified by the applicant in his or her capacity as trustee.*

*When the applicant is a corporation, the applicant shall include the correct names, addresses and percent interest of all officers, directors and shareholders owning more than 20 percent of all outstanding stock of such corporation. If the corporation has no shareholders, a statement to that effect shall be submitted.*

*When the applicant is a business entity doing business under an assumed name, the application shall include the names and addresses of all true and actual owners of such business or entity.*

*When the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the application shall include the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.*

- **Liability:** As part of a vacation application, the applicants shall indemnify and hold the County harmless for damages resulting to any person as a result of the vacation.
- **Deeds:** The following deeds are required:

A copy of the current deed (available from the office of the Lake County Recorder of Deeds) from each applicant is required in all cases. The deed must verify their ownership of abutting property and their eligibility to participate in the vacation process.

A Conveyance Deed for each applicant which represents the conveyance of a portion of the right-of-way from the County to each applicant. (Please refer to the sample conveyance deed in packet).

- **Authorized Representative:** If the applicant(s) cannot attend the hearing, an authorized representative must be designated to act on behalf of the applicant(s).
- **County Clerk Certificate:** Each petitioner must provide a certificate from the County Clerk indicating that there are no unpaid back taxes for the lots involved in the vacation process.
- **Plat of Vacation:** The petition shall include a Plat of Vacation (survey drawing) prepared by an Illinois Registered Land Surveyor. If the plat to be submitted is in color or measures larger than 11" x 17", fifteen copies of such plat must be submitted. The plat must include a County Clerk's Certificate for each parcel adjacent to the right-of-way being vacated. The certificate is used to certify that there are no outstanding property tax payments (Please refer to the sample certificate in packet).
- **Fees:** The application fee is to be paid at the time of filing the application. Checks must be payable to the "Treasurer of Lake County". Refer to the Zoning [Fee Schedule](#) for the proper amount. No portion of this fee may be refunded once a public meeting or hearing has been held. In addition to the application fee, you will be billed separately for the actual cost of publishing a legal notice of the hearing in a newspaper. Additionally, applicants are responsible for any costs associated with obtaining a plat of vacation (independent fee assessed by Surveyor) and a document recording fee (assessed by the Lake County Recorder).

**THE FOLLOWING DOCUMENTS MUST BE SUBMITTED WITH THE PETITION:**

- ✓ COPIES OF OWNERSHIP DEEDS
- ✓ CONVEYANCE DEEDS
- ✓ DISCLOSURE STATEMENT (if applicable)
- ✓ PLAT OF VACATION
- ✓ COUNTY CLERK CERTIFICATE FOR EACH APPLICANT
- ✓ APPLICATION FEE
  - ✓ Cost of publishing a legal notice will be paid by applicant at a later date in addition to the application fee.

## **The Legal Notice**

*Notice of the hearing shall be published in a newspaper of general circulation in the township in which the subject property is located at least ten days prior to the date of the hearing. The Lake County, Illinois, Code of Ordinances requires the newspaper notice contain, at a minimum, the following information:*

- 1) The date, time, and place of the public hearing or date of action that is the subject of the notice;*
- 2) A description of the property involved in the application by street address and, if required, by legal description or Property Index Number (PIN);*
- 3) A description of the nature, scope, and purpose of the application; and*
- 4) Contact information on where additional information on the matter can be obtained.*

*Additionally, Illinois state statute requires the following information also be included in the legal notice:*

- 1) whether or not the petitioner/applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal*
- 2) whether the petitioner/applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of 20% of all outstanding stock of such corporation;*
- 3) whether the petitioner/applicant, or his principal if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity;*
- 4) whether the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association; and (6) a brief statement of what the proposed variation consists.*

## **The Public Hearing**

The public hearing is generally held approximately six weeks after an application is filed. The time and place of the hearing is scheduled by the BOV. In general, the public hearing is typically held at the Lake County Central Permit Facility, 500 W. Winchester Road, Libertyville, IL on a weekday afternoon.

The monthly hearing calendar is finalized no later than the 25<sup>th</sup> of each month. Applications received after this date cannot be heard the following month.

It is the sole responsibility of the applicant to prepare and present the case to the BOV and to answer any questions that may be asked by the Board or other attendees at the hearing. The hearing is conducted in an adversarial format and the "Procedure of Public Hearing" document below outlines the procedure followed by the BOV.

## **LAKE COUNTY BOARD OF VACATIONS (BOV) PROCEDURE OF PUBLIC HEARING**

Any individual may appear in person, by agent, or attorney to provide testimony at any public hearing. The Vacation Officer shall see that the proceedings of a public hearing are conducted in an orderly manner and may disallow repetitious or irrelevant questions from participants. Each member of the BOV, prior to speaking, shall be recognized by the Vacation Officer. A BOV member, after being recognized by the Vacation Officer, should only ask questions and refrain from making comments or statements. The Vacation Officer and/or the BOV may terminate and continue any meeting or hearing which appears likely to extend beyond 12 p.m. for a morning meeting or hearing, or 5 p.m. for an afternoon meeting or hearing.

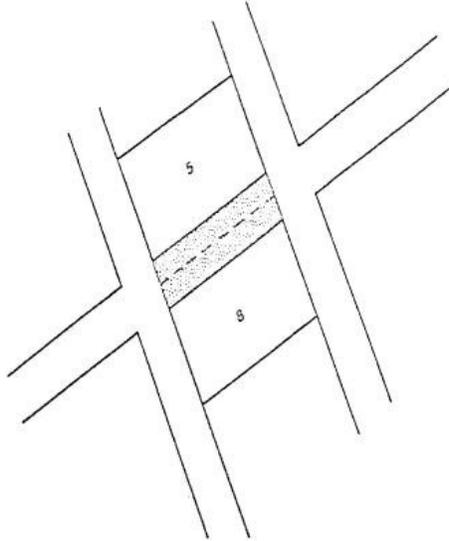
The order of proceedings at a BOV public hearing shall be as follows:

1. CALL MEETING TO ORDER
2. PLEDGE OF ALLEGIANCE (if flag is present).
3. INTRODUCTION OF BOARD MEMBERS AND DETERMINATION OF QUORUM
4. PRELIMINARIES BY VACATION OFFICER.
  - A. State the purpose of the hearing.
  - B. Acknowledge legal publication of hearing
  - C. Provide oath for those interested in testifying
  - D. Explain hearing procedure and guidelines
5. READING OF CORRESPONDENCE
6. PRESENTATION OF APPLICATION BY THE PETITIONER OR HIS/HER REPRESENTATIVES
7. QUESTIONING OF PETITIONER OR REPRESENTATIVE BY BOARD
8. QUESTIONING OF PETITIONER OR REPRESENTATIVE BY PUBLIC
9. PUBLIC STATEMENTS IN FAVOR OF OR IN OPPOSITION TO PETITION
10. CLOSING STATEMENT BY PETITIONER OR HIS/HER REPRESENTATIVE
11. CLOSING OF TESTIMONY
12. VACATION BOARD RECOMMENDATION
13. SUMMARY AND REVIEW OF REMAINING VACATION PROCEDURE
14. ADJOURNMENT

## DIVISION OF UNIMPROVED RIGHT-OF-WAY (STREET OR ALLEY) EXAMPLES

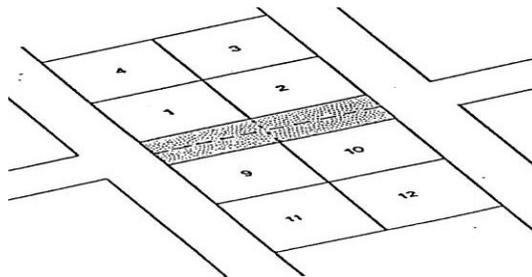
### EXAMPLE #1:

If a 30' x 200' (alley/street) were vacated and there were two adjoining property owners, then each owner would receive a 15' x 200' strip in separate deeds. Each of the vacated alley segments will be consolidated into the adjacent parcel for each petitioner.



### EXAMPLE #2:

If more than two owners are adjacent to the vacated area, each owner will receive his/her proportional share of the vacated (alley/street) adjoining their property and is responsible for the purchase cost of the right-of-way. Each of the vacated right-of-way segments will be consolidated into the adjacent parcel for each petitioner.



# **Unimproved Right-of-Way Vacation Document Examples**

**PETITION FOR VACATION  
TO THE CHAIR AND MEMBERS OF THE COUNTY BOARD:  
LAKE COUNTY, WAUKEGAN, ILLINOIS.**

Your petitioners, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

being the owners of certain land in

**(INSERT NAME OF SUBDIVISION)**

and, your petitioner(s) further represent(s) that they are the sole legal owner(s) of:

**(INSERT LEGAL DESCRIPTION OF PROPERTY)**

and do hereby petition your Honorable Board to approve the attached Deeds of Vacation and to revoke, annul, vacate, and set aside that part of said plat of subdivision as follows:

**(INSERT LEGAL DESCRIPTION OF STREET, ALLEY, OR PORTION OF SUBDIVISION TO BE VACATED.) Include this sentence at the end of the description: "and as more fully set forth on the plat attached."**

Your petitioner(s) further represent(s) that there are no conflicting interests; that they are the sole owner(s) of all lots adjacent to said (**street**), (**alley**), (**subdivision**), or (**portion of a subdivision**) to be vacated.

Your petitioner(s) indemnify and hold harmless the Lake County for damages resulting to any person or persons, which may be incurred due to such vacation.

Your petitioner(s) further represent that the (**street**), (**alley**), (**subdivision**), or (**portion of a subdivision**) is not needed for public use and that there is no public need, necessity, or interest in said (**street**), (**alley**), (**subdivision**), or (**portion of a subdivision**). **NOTE: The petitioners must state in this paragraph whether the subject property has been improved or used in any manner.**

Respectfully submitted,

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Petitioner

I/we hereby attest that all information given above is true and complete to the best of my/our knowledge.

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Signature(s) of owner(s)

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Signature(s) of owner(s)

I, \_\_\_\_\_ a Notary Public aforesaid, do hereby certify that

\_\_\_\_\_ personally known to me is (are) the person(s) who executed the foregoing instrument bearing the date of \_\_\_\_\_ and appeared before me this day in person and acknowledged that he/she/they signed, sealed and delivered the same instrument for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

My Commission expires \_\_\_\_\_.

NOTE: Each adjoining owner of land within the area to be vacated shall have a separate deed of vacation drawn with a legal description for their portion of the vacation.

**DEED OF VACATION**

THE GRANTOR, LAKE COUNTY, of Lake County and State of Illinois, given under the hand of the Plats Officer, CONVEYS and QUIT CLAIMS to

\_\_\_\_\_ OF THE (City or Village) of Lake County and State of Illinois, all interest in the following described Real Estate situated in Lake County and in the State of Illinois, to-wit:

***(Provide legal description of the portion of the street, alley, or portion of subdivision to be vacated and conveyed to you.)***

to the same effect as if same had never been shown on the original plat of said subdivision, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

DATED the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Lake County Plats Officer

STATE OF ILLINOIS     )  
                                          ) SS  
LAKE COUNTY            )

I, \_\_\_\_\_ a Notary Public aforesaid, do hereby certify that

\_\_\_\_\_ personally known to me is (are) the person(s) who executed the foregoing instrument bearing the date of \_\_\_\_\_ and appeared before me this day in person and acknowledged that he/she/they signed, sealed and delivered the same instrument for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)                                   My Commission expires \_\_\_\_\_.

MAIL TO:

\_\_\_\_\_  
\_\_\_\_\_

