

# Reata Estates

## Analysis of the Road Easement on the South Side of Reata Estates Parker County, Texas

**Prepared by: Jim Dooley, former Reata Estates property owner and real estate broker.**

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**DISCLAIMER: I am not an attorney and this is just my opinion based on my experience as a real estate broker. Should a more in depth legal opinion be warranted please consult the attorney of choice who has experience in real estate law.**

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I analyzed the information concerning the road easement along the back of lots 17, 18, 19, and 20 of Block-1, which are the lots on the south side of Lariat Court in Reata Estates, Parker County, Texas.

The "Dedication of Roadway Easement" specifically states the easement is dedicated to THE PUBLIC forever for use as a roadway easement. The dedication was created April, 9 1982. I have not spoken to any of those involved with the dedications; therefore, I do not know the reason for the creation of the easement. I can only surmise that the easement was created to grant access to lots that are land-locked east of Reata Drive, south of lots 17, 18, 19 and 20 in Reata and north of the properties on Buckhorn Lane.

Apparently, there are four small lots that back-up to the south edge of lots 17, 18, and 19. I did not research the ownership of these four parcels. Jewel Reese owned the land that now is Reata property, and created the easements in 1982 probably when those parcels were either created or bequeathed to the current owners. The easement extends west into Reata Drive and then it turns south down Reata Drive and goes into Buckhorn Lane. On the east end there is a long tract of land that is sandwiched between the eastern edge of Reata and the Boling Ranch property. The easement does not extend into that tract or the Boling Ranch, so I assume the easement ends at this tract and the eastern edge of Reata as shown on the Reata Plat.

Should those land-locked owners ever want to have a roadway to their property, they could, in theory, build a road on the easement. One problem does exist for those wishing to access land south of Reata property. Since the easement extends into Reata Drive (which is now a private road maintained by the owners of Reata) and then south down Reata Drive to Buckhorn Lane, the easement would allow the creation of an additional private road, on top of Reata Drive, from Buckhorn Lane up Reata Drive and then east across the back of lots 17-20. This is the problem with these types of easements. Reata Estates Association could then be maintaining a private roadway that belongs to someone who is not a Reata property owner. Of course, who ever elects to build a road on that easement would have to do so at their sole cost and be responsible for the maintenance of it. A problem can arise if a person wants to develop the easement. He or she can demand access through Reata's front gate because that is where the easement runs.

If any question or actions arise concerning access by this easement, there is a possible solution.

An "easement by necessity" extending from the public road and through the parcels fronting on Buckhorn Lane could be created. The "easement by necessity" could be argued because 1) the roads would be more direct to the parcels in question, and 2) the easements would come off a public road rather than a private road. Unfortunately, there is an easement in place, and a judge may loathe the idea of creating another "easement by necessity" just because the Reata property owners don't want it.

The easement was correctly created, dedicated, and recorded to THE PUBLIC forever there is no way to undo the easement, without court intervention, since there is no one who can deed it back. It just is,

forever. The chance of a road being developed is anyone's guess, though probably slim. None the less, it could happen and the easement will run with the land forever.

If a structure is built on the 50' road easement, there will be no insurability of it other than a fence. If a road is built on the easement, any structure can be removed with no compensation to the structure owner. Furthermore, if a mortgage is placed on the property the lender will probably not lend funds on any permanent structure, other than fencing, built in the easement. Also, as the Reata owners have found out, the title company probably exempts that strip of property in their title policy.

Here is an additional concern: Since the easement belongs to the public, one of the Reata owners of lot 17, 18, 19, or 20 could build a road, at their expense, across the back of the other lots without the consent of the other owners. Whoever installs the road would be responsible for the construction cost and maintenance of it. The owners of those lots could agree in writing and declare that they would not build on that easement and file that declaration with the county. The easement will always exist regardless of any declarations made. Furthermore, the property owners outside of Reata for which the easement was probably intended will always be able to build on the easement.

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