

**Release and/or Occupation of County Easement**  
**By Paul Payette, Senior Division Manager    April 3, 2009**

According to Webster's dictionary, an *easement* is defined as *an interest in land owned by another that entitles its holder to a specific limited use or enjoyment*. A large portion of Charlotte County was developed in the 1950's and 1960's. During that time, the original developer platted over 200,000 building lots which were encumbered by various types of easement interests. These easements, both public and private, were primarily designated for utility, drainage and maintenance purposes. The easements, which encumber most platted residential and commercial building lots in Charlotte County, were necessary to ensure that these lots would have the future capability of being developed with public utilities and adequate drainage, as well as the maintenance associated with these functions. Easement interests dedicated to the public are either part of the original plat or dedicated for specific purposes, and are typically recorded in public records. This article will cover only the easement interests that have been dedicated to the public, otherwise known as County easements.

Charlotte County lot owners who plan to build on their respective lots may be required to go through a process called *release and/or occupation of County easement*. The *release* of County easement process is necessary when a property owner wishes to place a permanent object or structure into a County easement area. Examples of permanent objects or structures are pool decks, pool cages and roof overhangs. If approved, the release of County easement permanently removes a portion of the easement area to allow the permanent object to be placed in a predetermined area.

The *occupation* of County easement is the more common of the two processes. This process is necessary when a property owner plans to place a movable object into a County easement area. Some examples of movable objects are fences, boat docks, concrete A/C pads and landscaping. If approved, the occupation of County easement permits the property owner to place the movable object(s) in the easement area with certain restrictions. In these instances, the County retains its rights to the easement area, however the property owner must agree to remove the object(s) at their expense if it is deemed necessary to allow for access to and maintenance of a given easement area.

Depending on the circumstances, the *release and/or occupation of County easement* process may be necessary to obtain clear title when a property is sold. If a survey is completed, which is common for lender financed transactions, it may reveal encroachments into a platted or recorded easement area. If encroachments have been placed in an easement area without the prior consent of the easement holder, this may cause a title defect. In order to ensure clear transfer of title, the title insurance company may require a release or occupation of easement to cure the defect. The County recommends that all release and occupation of County easement agreements be recorded in public records to ensure that a permanent record is on file.

Charlotte County's Real Estate Services Division processes the release and occupation of County easements. In order to be considered for a release or occupation of County easement, a completed application is required. If you have any questions regarding the process and how it works, please feel free to contact us at 941-206-3740.