

CONFEDERATE STREET NAMES AND REAL ESTATE DISCLOSURE

– Ed Sebesta 4/26/2018

Introduction

In the offering for sale of a house or building a question could be raised whether disclosure requirements to potential buyers require that the information that the street is named after a Confederate leader, soldier, officer, diplomat, agent, employee, or other position with a relation to the Confederacy needs be disclosed. For purposes of discussion this paper will refer to streets named after persons with connections to the Confederacy as Confederate named streets.

If there was the requirement to disclose that a property was on a Confederate named street was required, what is the possible impact of a Confederate named street three, five, ten or twenty years from 2018 on the ability to sell the property and realize the best price in the sale?

Disclaimer

The author of this paper is **not** a lawyer and is **not** offering legal advice of any kind. If in the reading of this paper there results in you having a legal question of any sort it is strongly recommended that you consult a lawyer with the appropriate qualifications for any legal questions that you might have resulting from reading this paper.

The perspective of this paper is that of a historian and cultural geographer wondering if and how Confederate named streets might impact a city, specifically in the mechanisms of offering for sale and the purchase of real estate property. **It absolutely should not be seen as legal advice of any kind.**

Further there might be laws, court decisions, and other legal aspects which invalidate the rational, analysis, or conclusions of this paper.

This paper is a speculative inquiry to raise questions to start further inquiry into the questions raised.

Ghosts and Disclosure

At some time in the past the author purchased a house of the type where sometimes imaginative people think of ghosts. The first question the author had was whether a ghost sighting would increase or decrease the price of a property. The question was made as a joke about ghost stories and real estate self-promotion. The answer was quite surprising and the humor of the situation evaporated quickly.

I was told that if a property was reported to have had ghost sightings it needed to be disclosed to prospective buyers. Being a person not given to believing in the supernatural I asked how could the court rule on ghosts which the author doesn't believe exists. The reply was that the court doesn't rule on the existence of ghosts, but whether people reported that they saw ghosts. That people claimed to have seen ghosts, the claims or reports of sightings themselves are real.

The impact on sale price of a property was made clear when another person present said, "I don't think my wife would like a house that had ghosts." It was explained to me that ghosts are bad for selling a house.

Not knowing the case law behind this and only relying on a verbal report from a real estate agent, there might be additional factors. Perhaps there has to be established that something has a known history of impacting real estate values, in this case ghost sightings, or perhaps it has to be something of which the seller would reasonably be expected to know. Perhaps it is contingent on something else. The author has no idea.

Whether whatever the legal basis of requiring the disclosing of ghost sightings is applicable or could be applicable, or might be applicable in a modified way to a street being named after a Confederate is not known by the author.

What seems to the author that it is possible is that a purchaser of a property, if they feel they have been wronged by a failure to disclose that the property was on a Confederate named street, might be angry and might sue or consider possibly suing. Whether the lawsuit would use the same, or similar or a completely different legal basis than that in suing over the non-disclosure of ghosts to a prospective buyer is not very relevant to the issue to be discussed here. Whether such a lawsuit would be in local, state or federal courts the author doesn't know.

It just needs to be noted that people who feel they are wronged sometimes consider what remedy they might have under the law.

This account of ghosts is related to give the origin of the author's speculative idea about Confederate named streets and disclosure. It is the source of the speculative idea, but could very well not be relevant to Confederate named streets. Again consult a lawyer for all legal questions.

THE MULTIPLE IDENTITY OF STREETS

Some streets will have multiple identities. The individual street was named after might have later been an active white supremacist or prior had been a prominent pro-slavery advocate in addition to a role in the Confederacy. The person might have individually done odious things. Many streets in Dallas have individuals who had minor roles in the

Confederate army but were very prominent in the overthrow of Reconstruction and active in fighting for white supremacy. Some were Ku Klux Klan members like Junius Peak.

The Confederacy was four short years and the white supremacist careers of the individuals for whom Confederate named streets are named can have many years before and after the Civil War where they fought for white supremacy. The entire life of these individuals needs to be examined.

DEVELOPING TRENDS RELEVANT TO STREET NAMES

At this present time only streets named after very prominent Confederate leaders are recognized as streets named after Confederates. If a street is named Jefferson Davis or Robert E. Lee or Stonewall Jackson or perhaps some person prominent in one of the former Confederate states where the street is located, the public recognizes it as a street named after a Confederate. However, many streets are named after Confederates and it isn't generally known or even known to just a few.

For example in Dallas, Texas people only learned of Junius Street being named after a Confederate with it being listed as a Confederate named street by the Mayor's Task Force on Confederate monuments.

There are about 12 and more possible streets named after Confederates that weren't listed by the Mayor's task force and are largely unknown to be Confederate streets except by neo-Confederates, possibly descendants, and historical societies. For example, very few people besides the author know that Bowser Avenue is named after O.P. Bowser who was a Colonel in the Confederate army.¹

Confederate street names will become more visible. As persons do research the Confederate identities of street names will be discovered. Activism against the names might be initiated. This will incite curiosity about other street names.

However, what will likely have more impact will be maps of Confederate street names in a city. The first revision map of Confederate street names in Dallas has already been done, and another map will be done when the discovery of all the other Confederate named streets is completed. Maps are very effective in communicating information. A paper on the Confederate streets of Dallas might be written also and placed online.

The author is going to be very careful with maps to list sources and carefully use phrases like "according to," "as reported," or explain that this is your specific understanding based on your interpretation of relevant historical records. Street name historical research has its own issues.

¹ Based on the authors understanding of the historical records and an article from the *Dallas Morning News*.

More generally there is a developing interest in racialized landscapes and public attitudes towards them and Confederate named streets are an obvious item for that type of study.

The Confederate identity of streets is going to be known very much more in the future.

Another critical factor to consider is that the public's attitude towards the Confederacy is shifting over time to be more and more negative. It has to be considered what might be the attitude will be in 3 or 5 or 10 or 20 years. As many projections show the younger generation is less white and more progressive and less likely to hold a positive view of the Confederacy.

Further, as cities take down Confederate monuments and other obtrusive Confederate items on the landscape, the remaining Confederate items on the landscape become more anomalous. When a city keeps a Confederate monument it is a public statement of values which endorses the Confederacy and makes Confederate street names more acceptable. When the monument is removed, the city is sending a different message and the Confederate street name is less acceptable.

A fourth factor is that street name changes are not a phenomenon in the United States alone. The re-examination of street names is happening globally. In particular in South Africa apartheid street names are being changed. Persons with a global perspective, but thinking to act locally, will see Confederate street names as needing to go.

So how do all these factors come together?

People are going to become much more aware of Confederate named streets in their environment and will likely have a much more negative view of them and more likely to campaign for the elimination of a Confederate name. Interest in racialized landscapes will provide an expanded theoretical justification and overseas efforts will have some bandwagon effect and also provide examples how to make these name changes.

Finally this phenomenon will feed upon itself when there is the first case where a seller decides they need to disclose that the street is named after a Confederate, or if there is a lawsuit over the issue, or clients start making inquiries about a property and pass it over because they don't want to deal with the street name. Once it starts to become an issue it is likely that it will be an important issue as people become concerned about the potential impact now and in the future.

THE IMPACT OF AN ODIUS STREET NAME

At some point people will be asked, "Did you know that it was a Confederate named street when you bought it?" Then will follow the conversation that the person did, but they had to get it for proximity to a school or it was what they could afford, or something, and others hearing it, might think, "Whatever." Others might state that they avoided such places to make it clear their view on the matter. It is going to be a

recurring unpleasant conversation. It will be especially unpleasant to have it with children. More unpleasant will be children having to explain it to peers at school.

Persons running for office, persons who are charged with the non-discrimination policies at their work place, or are persons that have high visibility with the public, celebrity CEOs, judges, actors, etc., will not want this conversation.

I don't know for sure, but it is likely that some African Americans will not want a Confederate street address, which will be on all their mail, on their driver's license, check book, W-2, passport, etc.

Families have their own internal contests and struggles. The question might come up where to have everyone get together for Christmas. Will someone make a joking reference to a plantation Christmas if it is at a Confederate named street? Will a cousin decide to make it an issue because it is now a social justice topic?

Thanksgiving was first proclaimed by Abraham Lincoln and will someone make an issue of that? Nothing like the Confederacy to be an unwelcome presence at a family get together. If it is a barbecue on Memorial Day is it a Confederate Memorial day?

Let's say it is Junius Street in Dallas, Texas. According to the Texas State Historical Association Junius Peak was not only a Confederate soldier, but a Klansman. Someone is bound to refer to a Klan Christmas or that they "are dreaming of white Christmas" to be sarcastic.

When people subscribe to magazines, join organizations, make donations, there is correspondence or other type of exchange of address information. The owner has now the recognized Confederate name on their correspondence, when they fill out papers, when they join organizations, apply for credit, etc. The individual might join their church's interracial committee for harmony, and the first topic might be the conversation, "Did you know?" It isn't going to be pleasant to have a stigmatized name attached in many, many places to your identity.

Finally, many people who perhaps don't care at all, not in the slightest, about racial justice, or even have negative views, will be concerned that when they need to sell the property it might impact either the sale's price or the time it takes to sell the property.

Corporations which have concerns for brand identity might want to avoid Confederate named streets.

At the present time there isn't a real estate concern with Confederate street names, but these potential consequences can't be judged only in the current environment of 2018. It needs to be asked, "What will be attitudes in 2020, 2025, 2030, 2040?"

REALTORS

The question also will be raised whether a real estate agent wants to be involved. The argument of real estate agents will likely be that they aren't historians and are not going to judge all of the persons in a city's history, etc. However, would they sell a property on Hitler Street? Do you show these properties to African American clients? Would you show a Himmler Lane to Jewish clients, or anyone? Perhaps you would or would not.

There are likely to be some real estate agents will want to make a point that they will be interested in such properties. Likely a lot of real estate agents will want it to go away as an issue.

WHEN

This is an issue that once it starts it will accelerate itself. It just needs a precipitating event. Perhaps it will be a lawsuit, or a clause in a contract where the seller absolves themselves of the biography of a name, or a disclosure sheet is handed out for a street.

It could also be the leafletting at an open house to offer additional disclosure that the street is named after a Confederate and a hand out of a map of the Confederate streets in the city.