

Neighbor, know thy law

How to handle common neighbor-versus-neighbor disputes

One of the most common criticisms of lawyers is that they don't give straight answers. They tend to use a lot of "ifs" and "buts," describing alternative arguments they might make to reach different conclusions about seemingly simple matters. Some even make flippant comments, such as, "the law on a given day depends upon what a judge had for breakfast," as if to suggest that it's naïve to expect a reliable answer.

But William J. Maffucci, an attorney with Semanoff Ormsby Greenberg & Torchia, LLC, explains that there is at least one substantive area in which the rights of parties are relatively well defined: disputes among neighbors.

Smart Business spoke with Maffucci about some of the most common neighbor-versus-neighbor questions.

Do you agree that, in many fields of law, it's hard to get straight answers?

Yes. Lawyers in some practice areas often don't like to be pinned down to a position. That's not necessarily a criticism of the lawyers. More often it's a reflection of the complexity of the issues they must address and of the fact that the law in their practice areas is evolving so quickly. Intellectual property might be the best example, especially in recent years.

Why is it easier to get answers about neighbor-versus-neighbor disputes?

The law hasn't evolved quickly in this area. The principles are not complicated, and the disputes rarely make it into the courts because the amounts at issue are usually too small to warrant the expense of litigation. This is particularly true with residential property, but the same principles apply to commercial property.

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What are some examples?

Can an owner trim back branches of a neighbor's tree that extend over the boundary?
Yes, the owner can trim them back to the boundary line.

If a neighbor builds an expensive improvement, intending to locate it correctly but accidentally positioning it so that it encroaches by a fraction of an inch over the border, does the owner of the adjoining land have the right to demand that the encroachment be removed?

Yes, an owner has an absolute right to demand the removal of that portion of a newly constructed improvement that encroaches on the owner's land. This is true regardless of how small the encroachment is, regardless of whether the encroachment actually affects the way the owner uses the property, and regardless of the cost to the neighbor or relocating the encroachment.

Does the same rule apply below the surface?

Yes, title to land is said to extend vertically downward to the center of the earth. No matter how far down a neighbor digs to construct an improvement — such as a building support, an underground storage tank, or a well — it cannot extend past that vertical plane.

Can the owner of land object to the construction

of a building or other structure that ruins a beautiful view that the owner and the owners' predecessors-in-title had enjoyed for many decades or centuries?

No, not as a simple matter of common law. There is no time period beyond which the right to a particular view becomes vested. But there might be other bases to prevent the obstruction, such as a local zoning ordinance or the existence of a private development restriction previously agreed upon by the owners or by their predecessors in title.

Is it true that someone can acquire title to property just by using it long enough?

Believe it or not, the law does recognize a type of 'squatter's rights,' under the doctrine formally known as 'adverse possession.' In Pennsylvania, the use must continue for 21 years. But the rights don't arise just by using the property for that long. The claimant must also prove several other things. Some of them are that the possession must have been visible, adverse and hostile to the rights of the record owner, and continuous for the entire 21-year period. It's hard to do, particularly when the record owner of the land can produce evidence that he or she gave the claimant permission to use the land, because in that case the possession wasn't actually adverse at all. ●