

When One Property Is Next to the Other: Make Sure Lines Are Drawn!

by Isaac Benmergui, Esq on April 7, 2014



You'd be surprised at just how irate people can get over a few feet stepping into their property. The law is the law, though, and when it comes to adjacent properties under real estate law, the lines are drawn. Stay within them. It's almost like when kids color with the crayons. Going outside those lines is almost like a cardinal sin!

This is the case with *Miner vs. Jessie & Grace, LLC*, a case about a vacant property that had been purchased by appellants next to an apartment building. The problem arose when it was noticed that five feet of the apartment actually "encroached" onto the appellants' newly purchased property. That would be a problem – for both sides, actually. Legally, that five feet of space would then belong to the appellants. Respondents in the matter, though, would have to figure out what they can do about eliminating that five feet of encroachment space to ensure that there's no overlap between the lines.

Of course, the appellants went ahead and filed a suit to address the issue. They required some sort of declaration and apparent injunction as well, asking for a partition and a portion of the rental income. Additionally, the appellants even wanted the owners to be "ejected." That's right – *ejected*. This got pretty heavy and serious, and the appellees understood the ramifications, so they countersued, stating that they had what was called an "implied easement." Under law, they were essentially *allowed* to have that five feet jutting out, which is sometimes the case between properties due to unforeseen circumstances and issues. The arguments were lined up, and it seemed to be anyone's game....

However, the district court ruled in favor of the appellees, the owners of the apartment building. In addition, even after the appellants took it to the Supreme Court, the result didn't change. In a way, you can say the appellants asked for "too much," not having any specific "ownership interest" in the apartment building. The five feet of property, apparently didn't constitute enough reason to claim such ownership or rental injunction. Fair is fair, I guess.

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