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# Today's Business: Taking ownership of property that you don't own

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Picture this: You find out that a portion of your yard that you've been using for years is actually owned by your neighbor. You thought you knew where the property line was, but your neighbor had a survey done and it turns out the land you have been using is technically not yours. Maybe you even built a fence or a shed or paved a driveway in this area. Your neighbor tells you to stop using it and to tear down anything you built there.

What are your rights? Can your neighbor really force you to stay out of the area and tear down whatever you placed there? Or can you keep using the property as your own?

In Connecticut, people who use another person's property in this way can acquire legal rights to the land through the doctrines of "adverse possession" and "prescriptive easement."

Adverse possession is a method of taking title or ownership to real estate through extended use of the property. But acquiring ownership this way is not as easy as it may sound. It takes a long time and the person making this claim must clear several legal hurdles.

First, the person must take exclusive possession of the property with the intent to use it as his own. While it is not necessary to physically evict the true owner, the person must use the property as his own without regard to the true owner's legal rights. The type of actions necessary vary depending on the nature of the property, but the uses must be consistent with the nature of the property. For example, in a residential neighborhood, the adverse user would be mowing the grass, planting trees or hedges, erecting fences, installing lighting, or maintaining a driveway. Near the shore, the adverse user might be constructing a dock.

Second, the use of the property must be without consent of the owner. If the person using the property has permission from the owner to use it, he cannot gain title by adverse possession.

Third, gaining title by adverse possession cannot be done in secret — the use of the property must be open and visible to others. The purpose of this requirement is to provide the true owner with notice that someone else is using their property and their rights are in jeopardy. This means that the use cannot be hidden from view or intentionally concealed from the true owner. Generally, actions on top of the land (such as planting trees, erecting fences or buildings, etc.) are considered open and visible, while those happening underground (using a sewer pipe or septic tank) are much more likely to be considered a concealed use.

Last, the person must use the property continuously for an uninterrupted period of 15 years. But the use need not be constant — it just needs to be consistent with the type of use at issue. In some circumstances, even seasonal use can be enough.

If all those requirements are met, the person will have gained title to the area in dispute and will be the true owner of the land going forward; however, they likely will need to file a lawsuit and have a court confirm this.

## Prescriptive Easement

Acquiring a prescriptive easement requires many of the same legal requirements but is significantly easier to establish. An easement is simply the legal right to enter, cross or use someone else's land in a specific way. It does not transfer ownership of the land; it simply gives one the right to share the property with the true owner.

A common example is a written agreement giving someone the right to place their driveway over a portion of their neighbor's land. If no prior agreement exists, an easement can be acquired by using the land without permission in an open, visible and continuous manner for 15 years.

Activities such as having your kids occasionally play soccer in the neighbor's yard are unlikely to qualify for adverse possession or prescriptive easement. Crossing your neighbor's property to access your own may be enough for a prescriptive easement. Fencing off a portion of another's land or constructing a building on it may be enough for adverse possession of that portion.

This is a complicated area of the law. A property dispute is going to depend on specifics of each case. But under the right circumstances, Connecticut law does allow people to gain

property rights this way, which can be vitally important when a property dispute arises between neighbors.

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