

PROPERTY ENCROACHMENT



Property encroachment is a situation which occurs when someone on one lot builds something which protrudes into the neighboring lot. One of the classic cases is structural encroachment, in which part of a building spills over the lot line, but building fences, gardening beds, and other features which overstep the property line could also be termed property encroachment. Some interesting legal situations can occur in cases of property encroachment, and as a general rule, the sooner it is dealt with, the better.

Sometimes, property encroachment is an honest mistake. Bad surveys are a common cause, as are unclear communications between homeowners and contractors, neighbors, or tenants. Often, property owners are not fully aware of where their property lines begin and end, and they may encroach without being aware of it. On other occasions, the encroachment may be deliberate and malicious, as in the case of neighbors who have a contentious relationship and start building fences where they are legally not allowed to do so.

Once a property encroachment occurs, there are several actions which can be taken. A property owner may politely request that the encroachment be addressed by being removed, or ask that the encroaching landowner pay rent for the land they are encroaching

on. It is also possible to go to court and request a court order for removal, and sometimes land owners can sell the encroached land to the encroaching landowner, thereby making it theirs to use in perpetuity.

In many regions of the world, property encroachment is covered under adverse possession laws. Under these laws, if someone openly uses and improves land and pays property taxes, he or she can take possession of it after a certain period of time. For example, a neighbor might use part of someone else's lot as a driveway, constituting open use and improvement if he or she paves or gravels the drive. After several years, they can file for the deed to the land, arguing that they took possession openly and no one complained, and they paid property taxes and upgraded the land. People may also be entitled to a permanent easement, even if they cannot take possession of the land, and this can cause a decline in the value of the property.

As a general rule, people do not want to lose parts of their property due to adverse possession. For this reason, it is important to take action on suspected cases of property encroachment, to work out a deal which satisfies everyone. It is also important to have property surveyed when it is purchased so that any areas of encroachment can be identified and addressed.

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Protecting Your Property Rights

