

Rules and Evidence for large Ranch Surveys

Boundary issues are rather common in rural settings. Often boundary disputes arise because a survey doesn't match an existing fence line. In that situation, what controls? How is the actual legal property boundary determined? There are numerous legal rules and doctrines that can come into play.

Landowners generally consider existing fences to be the partition (boundary) between adjacent properties. But the law may view things differently. The actual boundary is an imaginary line that can be found by examining the deeds to the adjacent properties. An existing fence line is merely evidence of where the boundary line between the properties is located. It is immaterial whether the fence is a permanent fence or not.

In most situations a parcel of land will be identified described by mapping out survey lines. This can result in an existing fence not being on the precise surveyed boundary. The fence may have been constructed off of the true legal boundary as a matter of convenience. For example, if the true boundary crosses a stream or goes through thick brush, maintenance of the fence is made simpler if there is no stream crossing or brush to clear. This does not present any issues when the fence is *not* intended to be the boundary line. But, when a fence is an old fence that has been in its present location for quite some time and the adjacent owners treat the fence line as the boundary line irrespective of whether it actually is the true legal boundary, problems can arise. In that situation, the issue is whether the fence line can be substituted for the actual legal boundary and, if so, how it can become the true boundary.

The mere passage of time, by itself, does not cause a fence line to be substituted for the actual property boundary. But, the manner in which the adjacent owners have used the property over time may cause the fence line to become fixed as the boundary with the legal effect of changing the boundary as described in the deed to the property. Under the legal doctrine of adverse possession title can be acquired to property that one doesn't actually own via the usage of the property for a prescribed amount of time. The party attempting to acquire title via adverse possession must know that the property that they are using does not belong to them. In other words, the party asserting the doctrine knows that the existing fence line is not on the property boundary and uses the additional property between the true boundary and the fence line as their own, adverse to the true owner. A boundary that changes via adverse possession is formalized by a "quiet title" action in court.

One way in which the parties may settle the boundary dispute is by executing a written agreement followed by the issuing of corrective deeds. With this approach, the property descriptions of the adjoining tracts can be changed to reflect the fence line. This may require the execution of one or more deeds from one party to the other to transfer the area being adjusted.

Conclusion

Boundary disputes are not uncommon when farm and ranch land is involved. Numerous principles can come into play when determining the true boundary. In rural settings, usage of adjoining properties may more commonly determine the boundary between properties than does a survey. That last point can come as a surprise to many, including surveyors.

