



“Easements”

A deed is a legal document which transfers property ownership from one party to another party. Specifically, they are generally referred to as a Seller/Grantor, the party selling the Property, and the Buyer/Grantee, the party purchasing the Property.

A major component of any deed is an Easement. We see lots of questions on Easements and what they are, how do they work, what to look out for, etc. Hopefully this helps answer those questions!

What is it?

Definition: “Easement”- An Easement gives a party the right to use real estate for a specific purpose, such as access to a road or path. Easements run with the land, so they can be transferred from owner to owner by law if a deed is drafted correctly. The dominant estate is the party which gets access to another property. The servient estate is the party which allows access. Easements do not transfer property rights, so you don’t sell your property via an Easement.

Layman’s Terms: Easements give a person the right to access a different person’s property without trespassing.

Example- I grant my neighbor an easement to use my driveway to access the main road in our neighborhood.

How does it work?

Example 1 (Appurtenant or Neighboring Properties)- Grand Canyon neighborhood is a new development built on the Grand Canyon. Half of the houses have access to the Grand Canyon walking trail, the other half do not. To give everyone equal access, the developer records an easement to grant all the homes the right to the walking trail. That way, half of the homes are not worth less since they cannot access the walking trail.

Example 2 (Necessity)- A owns Blackacre which has a public road abutting the front of the property. A subdivides his parcel into a front parcel and back parcel. Neighbor A sells the front parcel to his friend, B. A reserves an easement for the back parcel, so that A can still traverse B’s front parcel property to reach the public road. This is an easement by “necessity” since if not, A could not actually access his property.

Example 3 (Gross)- The utility provider needs to dig through your property to install an underground utility power line. You grant them an easement to perform those services. Gross easements tend to be the most common as properties need access to utilities.



Common Mistake (Property Description): Neighbor A has multiple trees which present an issue to Neighbor B on the back of Neighbor A's property. Neighbor B offers to cut them down for Neighbor A. Neighbor A and Neighbor B draft and record an easement accordingly. However, the Easement does not specify the location on Neighbor A's property where Neighbor B can cut trees. The Parties executed a "blanket" easement, meaning it references the entire parcel owned by Neighbor A. Neighbor B then decides to cut down all of the trees on Neighbor A's property. Neighbor A gave an easement to Neighbor B to do this, despite only intending to allow Neighbor B to cut trees on the back of his property.

Remedy: Make sure you get the description right. If you only intend to allow an easement on certain parts of the property, have that in the easement.

Further Reading:

I once heard the analogy that drafting easements is like planting a crop. You might plant it correctly, but you won't know if it works out until the next year. Easements are the same in the sense that you may draft an easement and all the Parties are satisfied. However, many years later, the use of the Property changes, and now the easement's intended effect has changed.

If you want to draft an easement, I always recommend consulting with an attorney. If you are purchasing a property and you see easements as being excepted out of title, consult with counsel ASAP. You may buy something with an easement which may limit your ability to use the property for your intended use at a future date.

If you need a closing/title/settlement or escrow transaction handled in Pennsylvania, we would love to help! Our information is below:

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