

Does My Property Have an Easement?

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In reviewing a title opinion with one of my borrowers this week, it occurred to me that most folks don't have knowledge of easements or what effect they have on your real estate holdings. If you own a rural tract of land, you're probably more familiar with easements than someone who lives in a subdivision in your community. And yet, almost every parcel of property has some form of easement for a variety of purposes, and these should show up in an attorney's title opinion.

Easements are granted by property owners to a specific party for specific access to the real property. They can be for a one-time access to the property, but they are more often for a long-term or even a perpetual easement, since they provide access to someone other than the owner to use a specific portion of the property.

We generally see easements granted to the utility companies along an edge of the property. If there is a water or sewer line on the edge of the property, or a telephone line, electric or natural gas line for service to the home, or even an underground cable television line, someone in the chain of ownership of the property granted access for those utility companies to install the lines and to be able to continually maintain those lines. Generally, if a subdivision or addition is platted, those lines are anticipated, and utility easements are built into the plan of the neighborhood.

However, in a rural area, we also see easements granted for access to a property for driveway purposes, for overhead power transmission lines, and roadways. In recent years, there have been lots of easements granted for access to the energy business for oil and gas pipelines as well. In some areas, rail-road right-of-way easements are also a common and long-standing part of the property history if you own adjacent to a railway line.

If you are purchasing a property with the intention of building a home or business on the property, you'll definitely need to research the easement history of the property and probably have a surveyor plot those easements for you to ensure that they don't interfere with your intended use of the property. For instance, if there is a major sewer line easement on the property, you probably don't want to construct a building on top of that line. Should the line require maintenance work to keep the sewer waste flowing properly, you wouldn't want the contractors to do that work beneath your building.

It's also helpful when erecting fences, planting landscape borders, trees, and shrubs, and paving a driveway to know where, if any, the easements are on your property. A number of states, including Oklahoma, have a service to contact before you dig a hole so that you lessen the danger of hitting an underground line. Most contractors are aware of this service. And while that's a vitally important part of that process, you might also need to revise your plans before expending a great deal of money on a project rather than have it destroyed because an underground line requires emergent maintenance by a company who has the legitimate access to that space.

To better protect your investment and plan around all of the possible obstacles when looking at a piece of property, be sure to question whether there are easements on the property, and take the time to physically locate them and satisfy yourself that they won't prevent you from enjoying the property as intended. A good attorney will reference them, but it also doesn't hurt to ask the question, "Does My Property Have Easements?"