

FOR IMMEDIATE RELEASE

For more information,
contact: James Coover
Crop Production Agent, Wildcat and Southwind Extension District
jcoover@ksu.edu, (620) 724-8233

Fences Moving Property Lines: Squatter's Rights

K-State Research and Extension will be hosting a Land leasing and Law Meeting on January 23rd virtually as well as in person at the Southeast Research and Extension Center in Parsons, KS. We will cover how to create simple, but well-defined written leases, laws when it comes to leasing, and the results of a recent leasing survey in the Wildcat District. Please call a K-State Research and Extension Wildcat or Southwind District office to register (Altamont, 620-784-5337).

Fences, property lines, and adverse possession of land can be one of the most contentious issues in agricultural law. The laws, no matter which state you are in, are complex, usually very old, and not always well-defined. This article is to state what my understanding of the property boundaries laws are based on various state extension publications and is not meant to be substitute for an attorney's advice.

The Partition Fence

A partition fence is the fence that is between two property lines and the majority of property lines have them. The issue is that not all fences are on the original property line. As hedge rows were planted, old fences were abandoned, and new fences were built, the original lines recorded in the county courthouse might not be where expected. Unfortunately, that nearly always means that someone has gained ground and someone has lost ground, which is where the issues arise.

Adverse Possession

Under adverse possession, a landowner may acquire title to a property by making open and notorious use of that property for 15 years in Kansas and 10 years in Missouri. Notorious in this sense means the usage is not in secret and the usage is obvious (such as grazing livestock and fertilization). The use of the land must be "hostile" which means the land isn't being rented or contractually granted. Usually the instances of adverse possession is that the adverse possessor does not know they are on another's person land (adverse meaning unknown). The usage of the land needs to be exclusive, as in it can't be a driveway that are used by two land owners. The

usage also needs to be continuous, so not divided into separate periods and possessed by a single party during that period.

Usually these property/fence lines go uncontested for decades. However, problems arise when a land survey or some type of record inspection reveals the original lines. In both Kansas and Missouri, a land survey can't move a property line, only a court order can do that. The payment of property taxes also doesn't affect the laws of adverse possession. One way to officially move a property line and make it "marketable of record," is a quitclaim deed. This is a signed, notarized, and courthouse recorded agreement between adjacent landowners that should be done with an attorney's advice that is intended to keep a settlement out of the court system.

These laws of adverse possession make it important for landowners to protect themselves, or more likely, future inheritors or the land. If a fence is moved off a tree line, first it would be good to know if the tree line really was the original property line. A boundary agreement affidavit of sorts can be made and filed between landowners declaring the property line, removing the "adverse" part of adverse possession. I would assume that permanent markers upon the actual property line would help with future issues. Looking at the Open Records for Kansas Appraisers maps could be an easy first step, but they are meant for land valuations and taxes and aren't necessary accurate enough for property line disputes.

This article was written using publications from Roger McEowen, Washburn Professor Ag Law, and Joe Koenen, Missouri Extension Specialist. If you have any questions about finding agricultural law publications, please contact your local extension office. However, any legal dispute over property line is an issue for an attorney and the court system. The Kansas Agricultural Mediation Services (KAMS) is a part of K-State Extension that can help mediation and legal assistance.

For more information, please contact James Coover, Crop Production Agent, jcoover@ksu.edu or (620) 724-8233.

###

K - State Research and Extension is an equal opportunity provider and employer