



Easements Can Make or Break a Deal

By Frank S. Ferrantello

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Easements can benefit or burden a number of parties on or around certain tracts of land. Easements are common on most parcels of land. An easement can give one the right to use another person's land for a stated purpose. It can involve a general or specific portion of the property for various different uses. Many surveyors today do not thoroughly research properties and do not always show easements on their work that may be crucial to the rights associated with a parcel of land.

An Example of an Easement

Mr. Smith purchased a piece of property from Mr. Baxter who also owns and lives on the adjoining estate. Mr. Smith buys this property and does not get a survey. The property is actually burdened with an apple orchard until the year 2050. The apple orchard on Mr. Smith's property cannot be picked or harvested by him or his children nor can they play in this area. Mr. Smith has to carry liability insurance as well as mow and maintain this area which is a burden. This all for the sole benefit of Mr. Baxter, who was already paid for the land, enjoys the fruit of his labor all without any cost of liability or maintenance. Sounds crazy but this purchase was in Muttontown, New York, and based on a true event.

Before purchasing or even signing the contract, the survey is a critical aid to the buyer. Research performed by a professional surveyor specializing in due diligence consulting would have uncovered the land usage details prior to purchase in the above situation. Counties, towns and villages should be methodically searched for recorded documents, such as deeds and maps that include easements, as well as individual recorded easements associated with the land. Additional resources including a title report will also reveal covenants and restrictions, easements, and any other items that may run with the land.

Different Types of Easements

- **Utility Easements** (electric, gas, water, etc.) allow utility companies access/rights to land to erect power lines or bury a water or gas pipeline across a tract of land.
- **Right of Way Easements** give a non-owner the right to travel across property. For exam-

ple, land locked parcels that allow passage for access to a public highway.

- **Ingress and Egress Easements** allow for access to a public beach, lake, pool, walkway or parking lot going to a public road.
- **Conservation Easements** prevent damage or destruction to the natural habitat.
- **Vista Easements** prevent hampering the scenic and water (pond, lake, ocean) view.
- **Pedestrian Easements** allow for bicycle paths, bridle paths and pedestrian paths, etc.
- **Slope Easements** restrict access to the highways.
- **Unconventional Easements**, such as apple orchard, aerial, cemetery, drainage, fire escape, footing, planting, prescriptive and temporary construction easements, restrict the use of land for one party and allows the use by another party.

Can Easements Affect Property Values?

Definitely in both directions – up or down. Several easements on a tract of land might seriously limit the choice of building sites. High tension power lines running through an easement near an otherwise great building site can be unsightly. Resale values may be affected since many people feel that living or working too close to power lines is a health risk. Also buyers may simply not like the idea that others have a right to use the land in some way.

Don't assume that because an easement is not currently being used it will never be used. As long as an easement is part of your deed there is always a possibility that the individual who benefits from it will decide to enforce it.

It is crucial to know where the easements lie and whether their limitations affect you.