

Robbing Houses

By Reg P. Wydeven
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My junior year of college, six buddies and I moved into a house off campus. We had an awesome house in a horrible neighborhood. Several shady characters inhabited our block, such as the man we nicknamed 'Fernando the Pimp' due to his outrageous wardrobe.

One day, the next door neighbor decided he needed to move the fence between our yards a little further onto our lawn to make room for his broken-down car. Because the police came to his house at least once a week and since we were pretty sure he had a gun, we didn't protest. Plus, we just had that much less grass to cut.

We didn't own the house, so we really didn't care about the encroachment. If the scary neighbor kept the fence there for 20 years, he could make a claim that the lawn he "stole" should actually belong to him. The legal principle of "adverse possession" allows people to obtain land that legally doesn't belong to them provided they occupy and maintain the land for the requisite period of time.

Adverse possession originated in British common law in the 1800s and was intended to be a tool to determine lot lines between neighboring farms. The law encouraged pioneers to cultivate and use their land, not to let it lie fallow. The government prefers to reward "squatting" rather than allowing our natural resources go to waste.

In Wisconsin, a squatter can adversely possess land by openly and notoriously occupying it and either protecting it with an enclosure or cultivating or improving it for 20 years. To help reach the 20 year limit, a person can "tack on" any years a predecessor in interest adversely possessed the land as well. If a person obtained an incorrect deed or judgment to the adversely possessed land and that document was recorded within 30 days of being executed, the time limit to claim title is reduced to 10 years. If the person pays real estate taxes for the property, the time limit to bring an adverse possession claim is reduced to 7 years.

Adverse possession is not used very often, but when it is, it's usually in rural areas involving farms or hunting land. But with all of the problems in the real estate market resulting from the recent economic downturn, adverse possession certainly wasn't expected to be one of them.

That's thanks to people like Kenneth Robinson, a Texas man who last month moved into a foreclosed home in Dallas worth \$330,000 after he paid a \$16 filing fee at the local courthouse. Under Texas law, if Robinson stays in the house for three years, he can obtain the title and become the legal owner. Robinson told the local news that to remove him from the home, the original owner would have to pay off a huge mortgage or the lender would have to bring a complicated lawsuit against him, so he's rolling the dice neither event will occur. Neighbors are obviously upset, however, the police are powerless to intervene because Robinson's action is a civil matter, not a criminal one.

Real estate experts believe Robinson may be a trendsetter, especially because of rampant foreclosures across the county. Cities like Detroit, which experienced a mass exodus after jobs vanished, have hundreds of vacant homes ripe for adverse possessors. In response, the National Conference of State Legislatures reported that 11 states, including Texas, have considered bills to clarify, amend, or abolish adverse possession to deter people like Robinson.

In 2013, it will have been 20 years since we lived in that first off-campus house. If Fernando is still sleeping on the back porch, he may now be able to claim it as his own.

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