

STATUS:**S7915-C LITTLE** Same as [A 11574-A](#) Rules (Gordon T)

Real Property Actions and Proceedings Law

TITLE....Clarifies the circumstances under which adverse possession occurs

04/28/08 REFERRED TO JUDICIARY

06/13/08 AMEND AND RECOMMIT TO JUDICIARY

06/13/08 PRINT NUMBER 7915A

06/16/08 COMMITTEE DISCHARGED AND COMMITTED TO RULES

06/16/08 ORDERED TO THIRD READING CAL.1819

06/18/08 AMENDED ON THIRD READING 7915B

06/19/08 AMENDED ON THIRD READING 7915C

06/23/08 PASSED SENATE

06/23/08 DELIVERED TO ASSEMBLY

06/23/08 referred to judiciary

06/23/08 substituted for a11574a

06/23/08 ordered to third reading rules cal.638

06/23/08 passed assembly

06/23/08 returned to senate

06/27/08 DELIVERED TO GOVERNOR

07/07/08 SIGNED CHAP.269

07/07/08 APPROVAL MEMO.13

BILL TEXT:**STATE OF NEW YORK**

7915--C

Cal. No. 1819

IN SENATE

April 28, 2008

Introduced by Sens. LITTLE, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the real property actions and proceedings law, in relation to adverse possession

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 501 of the real property actions and proceedings
2 law, as added by chapter 312 of the laws of 1962, is amended to read as
3 follows:

4 § 501. [~~Action after entry. An entry upon real property is not suffi-~~
5 ~~cient or valid as a claim unless an action is commenced thereupon within~~
6 ~~one year after the making thereof and within ten years after the time~~

7 ~~when the right to make it descended or accrued.]~~ Adverse possession;
8 defined. For the purposes of this article:
9 1. Adverse possessor. A person or entity is an "adverse possessor" of
10 real property when the person or entity occupies real property of another
11 person or entity with or without knowledge of the other's superior
12 ownership rights, in a manner that would give the owner a cause of
13 action for ejectment.
14 2. Acquisition of title. An adverse possessor gains title to the occu-
15 pied real property upon the expiration of the statute of limitations for
16 an action to recover real property pursuant to subdivision (a) of
17 section two hundred twelve of the civil practice law and rules, provided
18 that the occupancy, as described in sections five hundred twelve and
19 five hundred twenty-two of this article, has been adverse, under claim
20 of right, open and notorious, continuous, exclusive, and actual.
21 3. Claim of right. A claim of right means a reasonable basis for the
22 belief that the property belongs to the adverse possessor or property

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 owner, as the case may be. Notwithstanding any other provision of this
2 article, claim of right shall not be required if the owner or owners of
3 the real property throughout the statutory period cannot be ascertained
4 in the records of the county clerk, or the register of the county, of
5 the county where such real property is situated, and located by reason-
6 able means.

7 § 2. Section 511 of the real property actions and proceedings law, as
8 added by chapter 312 of the laws of 1962, is amended to read as follows:

9 § 511. Adverse possession under written instrument or judgment. Where
10 the occupant or those under whom [~~he~~] the occupant claims entered into
11 the possession of the premises under claim of [~~title~~] right, exclusive
12 of any other right, founding the claim upon a written instrument, as
13 being a conveyance of the premises in question, or upon the decree or
14 judgment of a competent court, and there has been a continued occupation
15 and possession of the premises included in the instrument, decree or
16 judgment, or of some part thereof, for ten years, under the same claim,
17 the premises so included are deemed to have been held adversely; except
18 that when they consist of a tract divided into lots, the possession of
19 one lot is not deemed a possession of any other lot.

20 § 3. Section 512 of the real property actions and proceedings law, as
21 added by chapter 312 of the laws of 1962, is amended to read as follows:

22 § 512. Essentials of adverse possession under written instrument or
23 judgment. For the purpose of constituting an adverse possession [~~by a~~
24 ~~person claiming a title~~], founded upon a written instrument or a judg-
25 ment or decree, land is deemed to have been possessed and occupied in
26 [~~either~~] any of the following cases:

27 1. Where [~~it has been usually cultivated or improved~~] there has been
28 acts sufficiently open to put a reasonably diligent owner on notice.

29 2. Where it has been protected by a substantial [~~inclosure~~] enclosure,
30 except as provided in subdivision one of section five hundred forty-
31 three of this article.

32 3. Where, although not [~~inclosed~~] enclosed, it has been used for the
33 supply of fuel or of fencing timber, either for the purposes of husban-
34 dry or for the ordinary use of the occupant.

35 Where a known farm or a single lot has been partly improved, the
36 portion of the farm or lot that has been left not cleared or not
37 [~~inclosed~~] enclosed, according to the usual course and custom of the
38 adjoining country, is deemed to have been occupied for the same length
39 of time as the part improved and cultivated.

40 § 4. Section 521 of the real property actions and proceedings law, as
41 amended by chapter 116 of the laws of 1965, is amended to read as
42 follows:

43 § 521. Adverse possession [~~under claim of title not written~~] not under
44 written instrument or judgment. Where there has been an actual continued
45 occupation of premises under a claim of [~~title~~] right, exclusive of any
46 other right, but not founded upon a written instrument or a judgment or
47 decree, the premises so actually occupied, and no others, are deemed to
48 have been held adversely.

49 § 5. Section 522 of the real property actions and proceedings law, as
50 added by chapter 312 of the laws of 1962, is amended to read as follows:

51 § 522. Essentials of adverse possession [~~under claim of title not~~
52 ~~written~~] not under written instrument or judgment. For the purpose of
53 constituting an adverse possession [~~by a person claiming title~~] not
54 founded upon a written instrument or a judgment or decree, land is
55 deemed to have been possessed and occupied in either of the following
56 cases, and no others:

1 1. Where [~~it has been usually cultivated or improved~~] there have been
2 acts sufficiently open to put a reasonably diligent owner on notice.

3 2. Where it has been protected by a substantial [~~inclosure~~] enclosure,
4 except as provided in subdivision one of section five hundred forty-
5 three of this article.

6 § 6. Section 531 of the real property actions and proceedings law, as
7 amended by chapter 375 of the laws of 1975, is amended to read as
8 follows:

9 § 531. Adverse possession, how affected by relation of landlord and
10 tenant. Where the relation of landlord and tenant has existed [~~between~~
11 ~~any persons~~], the possession of the tenant is deemed the possession of
12 the landlord until the expiration of ten years after the termination of
13 the tenancy; or, where there has been no written lease, until the expi-
14 ration of ten years after the last payment of rent; notwithstanding that
15 the tenant has acquired another title or has claimed to hold adversely
16 to his landlord. But this presumption shall cease after the periods
17 prescribed in this section and such tenant may then commence to hold
18 adversely to his landlord.

19 § 7. Section 541 of the real property actions and proceedings law, as
20 amended by chapter 375 of the laws of 1975, is amended to read as
21 follows:

22 § 541. Adverse possession, how affected by relation of tenants in
23 common. Where the relation of tenants in common has existed [~~between~~
24 ~~any persons~~], the occupancy of one tenant, personally or by his servant
25 or by his tenant, is deemed to have been the possession of the other,
26 notwithstanding that the tenant so occupying the premises has acquired
27 another title or has claimed to hold adversely to the other. But this
28 presumption shall cease after the expiration of ten years of continuous
29 exclusive occupancy by such tenant, personally or by his servant or by
30 his tenant, or immediately upon an ouster by one tenant of the other and
31 such occupying tenant may then commence to hold adversely to his coten-
32 ant.

33 § 8. The real property actions and proceedings law is amended by
34 adding a new section 543 to read as follows:

35 § 543. Adverse possession; how affected by acts across a boundary
36 line. 1. Notwithstanding any other provision of this article, the exist-
37 ence of de minimus non-structural encroachments including, but not
38 limited to, fences, hedges, shrubbery, plantings, sheds and non-struc-
39 tural walls, shall be deemed to be permissive and non-adverse.

40 2. Notwithstanding any other provision of this article, the acts of
41 lawn mowing or similar maintenance across the boundary line of an
42 adjoining landowner's property shall be deemed permissive and non-ad-
43 verse.

44 § 9. This act shall take effect immediately, and shall apply to claims
45 filed on or after such effective date.