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Twin Peaks Sheriff's Station

damage to easement

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From: nanomug

Sent: Wednesday, February 15, 2006 06:26 AM

We have an easement on the neighbors property that pre exists either of our ownerships of our properties. The easement includes a portion of our parking area and a portion of our driveway. The neighbor is taking up the asphalt in the easement which will render the easement useless due to the 4-5 inch drop where the pavement ends. This will also damage our driveway and remainder of parking area. Is this legal?

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From: Gina D. ~ Crestline (GinaD)

Sent: Wednesday, February 15, 2006 07:04 AM

Code enforcement is a better bet to ask than the Sheriff.

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From: Roncpp

Sent: Wednesday, February 15, 2006 09:08 AM

What is the easement for, specifically? This is a civil matter under real estate law, but easements are granted for all kinds of purposes, which are spelled out in the recorded document. Have you read it?

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From: mtndeputy

Sent: Wednesday, February 15, 2006 10:13 AM

To Nanomug, you can report it to the Building and Safety Department located in the same building as the Sheriff's Station. They may be able to advise you or may want to come out and inspect the work your neighbor is doing. His work may have to meet a County Code.

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From: nanomug

Sent: Wednesday, February 15, 2006 11:33 AM

Roncpp: The easement is on their property for our benefit for the purpose of ingress, egress and vehicular parking.

mtndeputy and GinaD: I didn't think of Building and Safety. Do I just go down there and explain that he has removed curbing/retaining wall and punched holes in asphalt? I just want to be clear what I need to do.

We really have no idea what the ultimate purpose is. We do know they damaged our driveway in the process of removing the curb on the easement and punching holes in the asphalt. Their bobcat got a flat tire or they would have completely removed the asphalt making the easement area useless. Even by their definition of the property line they punched holes in our side. One good rain and our driveway will have major problems.

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From: MisterZiffel

Sent: Wednesday, February 15, 2006 05:58 PM

Have you talked to your neighbor? Maybe they are repaving the area for your benefit as well as theirs.

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From: nanomug

Sent: Wednesday, February 15, 2006 08:16 PM

This portion of the easement is only used by us and adjoins our driveway and parking area. It does not connect to their driveway in any way. They are not doing anything to benefit us. Drilling one inch holes down to the dirt along what they say the property line is and removing a curb and a portion of the retaining wall is causing problems. They say that it is their property and they can do with it as they want despite the recorded easement.

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From: Roncpp

Sent: Thursday, February 16, 2006 08:32 AM

Ok: if they have done nothing to restrict or prevent your access to your own property but have damaged your property in the process of whatever they are doing, you have a civil matter for small claims court. The first step is to take pictures, talk to them and find if they even know about your easement and point out the damage they have done and tell them what you want to mitigate the situation. If they cooperate and agree with your requests, you're home free. If they balk, send them the same request in writing and give them a reasonable deadline to comply. If they fail to comply, file your complaint and go to court prepared to make a clear, undisputable case for the damages you've suffered and what it will require to make you whole.

If they have blocked your access, show them a copy of the easment and follow the same steps previously outlined. Building and Safety deals with code compliance, not arbitration of property disputes. They could be in compliance with code and still be wrong about your property rights.

DISCLAIMER: I AM NOT AN ATTORNEY AND THEREFORE AM NOT QUALIFIED TO PRACTICE LAW OR GIVE COMPETANT LEGAL ADVICE. THE OPINIONS OFFERED HERE ARE MY OWN AND ARE WORTH WHAT YOU PAID FOR THEM. ALWAYS CONSULT COMPETANT LEGAL COUNSEL ON MATTERS OF THE LAW. GOOD IUCK. 😊

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From: gabbygirl

Sent: Thursday, February 16, 2006 10:46 AM

I'm with MtnDeputy - EXPERIENCE has taught us that the County is very particular about what happens along the streets; even if someone thinks the property is "theirs". (With no curb, they were very particular about the layout of asphalt, etc.)

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From: Cedar

Sent: Thursday, February 16, 2006 12:09 PM

I second that. If they didn't install the curb but the county did the County probably considers that County territory and would take a dim view of someone removing it without all the proper permits and such. And how come you guys get curbs? So not fair.

Haven't you been having a problem with this neighbor over the easement for some time now? The site lawyers.com has a zoning and land use board. You might try asking the lawyers there about your rights:

<http://community.lawyers.com/messageboards/board.asp?chan...>

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From: nanomug

Sent: Friday, February 17, 2006 08:39 AM

To clarify: The curb was not installed by the county as it has nothing to do with the street. The curb is on my parking area adjacent to my driveway approximately 60 feet from the road. A small portion of the parking area is on an easment. When my property and they neighbor's property were built there were some encroachment issues for both properties. When my property sold in 1990 two easments were swapped to solve the problems and to prevent the need to dig up asphalt.

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From: JWurm

Sent: Friday, February 17, 2006 06:05 PM

Nanomug,

You have been given some good advice on this thread. Additionally, you should get a copy of the two easments. I assume that they were recorded. Then have the a surveyor plot both easements. Ask the surveyor to mark both of the easments' boundaries with stakes and/or paint. Have the surveyor "plot" the easements on on a survey map. With this done, you should be able to conclusively see who is parking what where. Then, try to work it out with your neighbor. If that doesn't work, you might ask your title company about the problem. If all else fails, go legal.

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From: JWurm

Sent: Friday, February 17, 2006 06:08 PM

nanomug,

It sounds like they want to put a fence along those one inch holes in the pavement. You may be in for a battle.

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From: Roncpp

Sent: Friday, February 17, 2006 07:45 PM

That's one reason to talk to them immediately. No sense assuming they are aware of the facts until you ask them. Save both of you some money if you make the effort to inform them before further damage is done.

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