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Worthwhile Legal News and Commentary

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Client Alert: Watts-Dowd v. SJH Property Management, LLC

16 Jul 2021

The Court of Special Appeals of Maryland has affirmed a trial court's denial of an adverse possession claim in which the plaintiff submitted evidence as to each of the traditional necessary elements but failed to establish the location of the actual property at issue. In *Watts-Dowd v. SJH Property Management LLC*, the Court was presented with an all too familiar neighbor dispute where one party removes an existing encroaching fence and erects a new fence at the supposed actual property line.

At trial, plaintiff introduced evidence from an individual familiar with the properties for the statutory twenty (20) year period who testified as to his general familiarity with the original fence. The predecessor-in-interest to defendant's property testified that there was no fence when he purchased the property in 1998 and that he had subsequently erected one without the benefit of a survey at what "seemed like it was a natural spot."

Bizarrely, while there was testimony from which the trial court could have concluded the existence of various fences erected by the parties or their predecessors-in-interest, there was no testimony as to where any fence was actually located. Even if plaintiff has succeeded in establishing that she actually, openly and notoriously, exclusively, continuously and hostilely occupied the property, she had failed to demonstrate what property she claimed to possess.

Adding to its reasoning, the Court of Special Appeals further noted that plaintiff had offered to purchase the disputed property prior to filing suit. The Court seized upon this offer to purchase to conclude that her "admission constituted an acknowledgement that appellee was the true owner, and therefore, it negated her hostile claim." In affirming the trial court's decision, the Court sends a very strong message to counsel to not forget the basics.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

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CLIENT ALERT: WATTS-DOWD V. SJH PROPERTY MANAGEMENT, LLC

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TAGGED: Court of Special Appeals of Maryland, Watts-Dowd v. SJH Property Management LLC, adverse possession