

## Court of Special Appeals of Maryland affirms expansion of general easement to allow for emergency vehicle use

14 Feb 2022

**Christopher A. Glaser**

Following seven years of litigation, and two appeals, the Court of Special Appeals of Maryland affirmed a circuit court's widening of a general easement to effectuate the intent of long-dead parties. In *Garrett v. Holloway*, the Court added some measure of clarity to a 1903 conveyance which referenced a bisecting private road but did not expressly create an easement nor define the width of the entire private road.

In 1903, two separate landlocked parcels of a larger property were conveyed, surveys for which described an existing private road but were otherwise silent as to its usage. The owner of the servient parcel asserted that a 1904 survey showed the eastern portion of the private road as being 12-foot-wide and that this survey demonstrated the parties' intent to limit the width of the entire private road. However, the servient estate had historically permitted use of a width in excess of 12 feet, even removing a temporary fence if the landlocked farmers needed additional space. The landlocked parcels used the private road for farming purposes and contended that they needed more than 12 feet in order to properly utilize the easement.

Recognizing that the western portion of the private road was a general easement, the circuit court had the power to look at the surrounding circumstances and conduct of the parties to resolve any ambiguity regarding its location and width. The Court noted that sufficient evidence was submitted at trial to establish that the intent of the parties was to create a useable right-of-way. The landlocked parcels had demonstrated that a 12-foot-wide easement was inadequate and unsafe for emergency equipment and it could not be drained or maintained unless expanded. The Court expanded the 12-foot-wide easement such that the central 12 feet remained as a roadway but included an additional three feet on each side to be maintained to ensure use for emergency vehicles.

Proper drafting can aid in describing parties' intent at the time of creation—whether to allow for expansion of rights based on future usage or to limit the scope of an easement to a defined width—and to avoid, or at least narrow, future litigation.

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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## COURT OF SPECIAL APPEALS OF MARYLAND AFFIRMS EXPANSION OF GENERAL EASEMENT TO ALLOW FOR EMERGENCY VEHICLE USE

14 Feb 2022

**Christopher A. Glaser**

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**TAGGED:** Real Estate Law, Maryland Court of Special Appeals. MD Appeals, Washington DC Real Estate, garrett vs holloway