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ADVERSE POSSESSION

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How Adverse Possession Works in Pennsylvania

> *Yes, a trespasser can take your land by occupying it — but Pennsylvania calls that an extraordinary remedy, and the proof bar is high for a reason.*

The Question

Most owners assume a deed is forever. It is not. Pennsylvania law allows a non-owner who occupies land long enough, and in the right way, to take legal title from the record owner. The question is what "long enough" and "the right way" actually mean — and the answers reward owners who pay attention and punish those who do not. The doctrine is old, it is narrow, and it is unforgiving of sloppy proof. Understanding it protects owners from quietly losing a strip of yard, and it tells long-time occupiers whether they have a real claim or merely a long habit.

The Short Answer

A trespasser can win title by adverse possession, but the doctrine is deliberately stingy. As Flannery v. Stump explains, "Adverse possession is an extraordinary doctrine which permits one to achieve ownership of another's property by operation of law." Because it strips a record owner of property, the claimant carries a heavy burden and must satisfy every element. Miss one, and the claim fails.

The Twenty-One-Year Default

The starting point is the statute of limitations. Under 42 Pa.C.S. § 5530(a)(1), certain actions "must be commenced within 21 years: (1) Except as provided in section 5527.1 ... an action for the possession of real property." The logic is straightforward. Once the owner's window to sue for possession closes, the law will recognize the long-time possessor's claim of right. Twenty-one years is the headline number, and for most disputed land it remains the governing period. A claimant should not assume the shorter ten-year rule applies. That exception is narrow, and the burden of fitting within it rests on the person asserting it. For everyone else, two full decades of qualifying use is the price of admission, and the clock does not start until the use becomes genuinely adverse.

The Seven Elements

Pennsylvania does not let a claimant cobble together a few sympathetic facts and call it ownership. A claimant "must prove actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the land for twenty-one years." That is seven distinct requirements, each carrying its own weight: actual physical use; uninterrupted use across the full term; possession to the exclusion of others; use open to the eye; use the community would notice; possession marked off as the claimant's own; and use that contradicts the owner's title. Each

word carries litigated meaning. "Notorious," for example, does not require fame — it requires use open and obvious enough that a diligent owner would have noticed it.

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It is tempting to read that list as a loose standard where substantial compliance suffices — and it should not be read that way. The court is emphatic. "Each of these elements must exist; otherwise, the possession will not confer title." A claimant who occupies openly for decades, yet shares the land with the true owner, fails the exclusivity element and loses. The all-or-nothing structure is the doctrine's chief safeguard against casual land grabs.

Hostile Does Not Mean Hostility

The most misunderstood element is "hostile." It carries no requirement of anger or confrontation. It means only that the possession is adverse to the owner's title rather than enjoyed by the owner's leave. This distinction decides many cases. A claim built on permission collapses, because "If the use is the result of some lease, license, indulgence, or special contract given by the owner, it is not adverse."

The practical consequence is significant. A neighbor who crosses your yard because you allowed it, a friend you let park on your lot, a tenant under a lease — none of them can convert

that courtesy into title, no matter how many years pass. A tenant, in particular, cannot adversely possess against the landlord, because the tenancy itself is permissive. This is where many would-be claims quietly die. The occupier remembers decades of use; the owner produces a single email granting permission, and the years of use count for nothing.

> **The permission trap.** If you let a neighbor use part of your land, put the permission in writing — a permissive use can never ripen into adverse possession, but only if you can prove it was permissive.

The Narrow 2018 Ten-Year Exception

In 2018, the General Assembly carved out a shorter path for one mundane category of land. A 2018 amendment — Act 34 of 2018 — added 42 Pa.C.S. § 5527.1, which provides that "Title to real property may be acquired after no less than 10 years of actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the real property." Note that the seven elements survive; only the clock changes, from 21 years to 10.

The exception is deliberately small. It reaches only "Real estate not exceeding one-half acre in area that is: (1) Improved by a single-family dwelling that is and has been occupied by a possessor ... for the full 10 years." A larger parcel, vacant ground, or a commercial building stays on the 21-year track. The Legislature aimed the rule at small residential lots and boundary strips, not at sprawling acreage.

How the Ten-Year Claim Works

Section 5527.1 also builds in a structured contest. The possessor obtains title through a quiet-title action, and the record owner gets a defined chance to fight back. The statute provides that "The record owners or their heirs, successors and assigns shall have one year in which to respond by commencing an action in ejectment against the possessor." An owner who sleeps

through that one-year window may lose the land for good. The structure rewards attention and punishes neglect, which is the recurring theme of the entire doctrine.

The exception also has hard exclusions. It does not apply to condominium, cooperative, or planned-community property, and it does not apply to land owned by the United States, the Commonwealth, or a local government, authority, or school district. Those carve-outs keep the faster rule confined to ordinary private homes. The Legislature plainly intended a modest fix for small residential disputes, not a shortcut for acquiring meaningful tracts of land, and courts will read the exception accordingly.

What About Government Land?

Federal and Commonwealth land is immune from adverse possession. Land owned by a political subdivision is generally subject to the doctrine, unless the property is devoted to a public use — the distinction drawn in *City of Philadelphia v. Galdo*, 217 A.3d 811 (Pa. 2019).

Practical Takeaways

For owners, the lesson is vigilance. Walk your boundaries, document permissions in writing, and challenge encroachments long before any limitation period can run. For occupiers who believe they have a claim, the lesson is proof. Every element must be documented across the entire statutory term, whether that term is 21 years or the narrow 10-year residential exception. Either way, this is not self-help. It is litigation, and competent counsel should be involved before the relevant clock runs out. The doctrine rewards diligence on both sides — the owner who watches the boundary, and the occupier who keeps records — and it offers nothing to the party who assumed time alone would decide the matter.

Authorities Cited

1. Flannery v. Stump (extraordinary doctrine) — https://law.justia.com/cases/pennsylvania/superior-court/2001/s51018-01.html
2. 42 Pa.C.S. § 5530(a)(1) — https://codes.findlaw.com/pa/title-42-pacsa-judiciary-and-judicial-procedure/pa-csa-sect-42-5530/
3. 42 Pa.C.S. § 5527.1(a) — https://law.justia.com/codes/pennsylvania/2019/title-42/chapter-55/section-5527-1/

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