

Henley v. Cablevision

- 1922: Subdivision trustees granted easements over subdivision lots
 - To SW Bell to “construct, ... operate and maintain its lines for telephone and electric light purposes”
 - To Union Electric to “keep, operate and maintain its lines consisting of cables, manholes, wires, fixtures and appurtenances thereto”
- 1982: Cablevision wants to install CATV lines
 - It obtains licenses from SWB, UE to install CATV lines under SWB/UE’s easement rights
 - Trustees seek injunction against Cablevision



Questions about Henley Dispute

- (1) Could SW Bell have installed CATV lines over the easement area, under the language used in its easement deed (p. 589)?
- (2) Is SW Bell’s easement divisible (*i.e.*, can SW Bell use its easement for phone lines and, at the same time, license Cablevision to use the easement for CATV lines)?
- (3) Is SW Bell’s easement “exclusive”?



Scope of Henley Easement

- Held: Providing CATV service is permissible use, not an “excessive use”
 - Original easement was intended to bring power and communication into neighborhood homes, so it should be interpreted broadly in that light
 - Even if CATV was not foreseeable in 1922, nature of use is similar (communications), and use doesn’t actually increase burden on servient land

- Suppose Trustees in 1982 voted to buy a satellite dish and provide satellite TV service to all residents
 - Residents will pay for service as part of their subdivision dues
- Trustees plan to run lines for service on same 5’ strip subject to SWB easement
- Can they do so?



A. Yes; they own the land
B. No; SWB can prevent this

Henley and “Exclusiveness”

- If SW Bell’s easement is “exclusive,” the Trustees can’t make any use of that 5’ strip to provide communication-related utilities
 - If easement is “exclusive,” it can be divided, *e.g.*, SW Bell could use the easement **and** license others (Cablevision) to use it too
- If SW Bell’s easement is “nonexclusive,” it can’t be divided by SW Bell
 - Division of easement to Cablevision would be invalid
 - Trustees could then provide CATV service



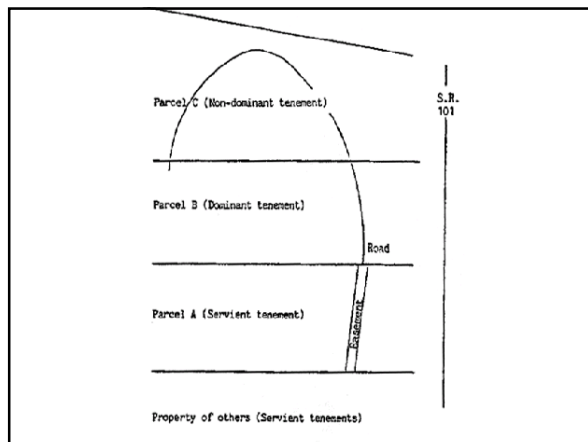
Henley

- Court: easement was “exclusive” b/c trustees retained no interest/power to use 5’ strip to provide utility service (and never did) [p. 590]
- Is this a sensible result?
 - Con: Declaration (p. 589) gave trustees right to provide services **and** grant easements (not “or”)
 - Can you explain why the Trustees would reasonably have granted exclusive easements?



Henley: Good Result?

- Likely, utility company would have insisted upon being granted an exclusive easement
 - SW Bell will be spending \$\$\$ to build utility infrastructure; why would they do this if Trustees could grant easement to competitors?
- Contrary result would force Cablevision to incur cost of creating new infrastructure from scratch
 - Higher cost would be passed on to consumers
 - Public benefit (lower utility costs) >>> nominal private burden on servient landowners



Brown v. Voss

- Brown held an easement over Lot A, appurtenant to adjacent Lot B
 - Brown later acquired adjacent Lot C and began building a home straddling Lots B and C
 - Voss sued Brown to enjoin use of the driveway, arguing that the easement is appurtenant to Lot B and can't be used to benefit Lot C
- Should injunction be granted to Voss?



Brown v. Voss

- Brown's argument: "no harm, no foul;" no extra burden, so my use is reasonable (rule of reason analysis)
- Trial court accepts this argument
 - Brown's use of driveway for access is w/in scope of easement, even if home is built on part of Parcel C
 - Thus, no injunction should be granted to Voss



Brown v. Voss

- Court of appeals: use of appurtenant easement to benefit nondominant land is excessive, can be enjoined
 - Rationale: Voss has "property right" to exclude that use, injunction should be automatic (not discretionary)
 - Brown should have acquired an easement to benefit Lot C first (before he bought it)



Brown: Possible Rationales

- No increased practical burden, thus no "irreparable harm" (trial court)
 - Wrong; property right carries presumption of injunctive relief
 - Cf. *Jacque* case (no balancing of harms)
- Estoppel (Voss didn't object until after Brown had incurred significant expenses in reliance) (**should** be viewed this way)



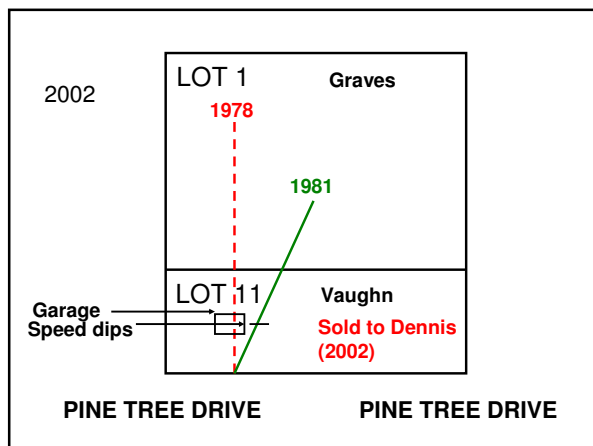
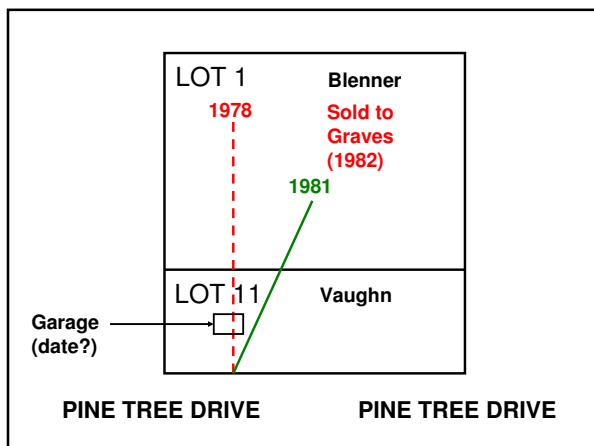
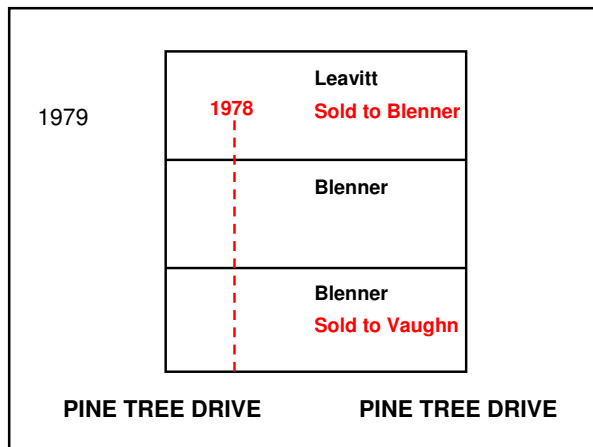
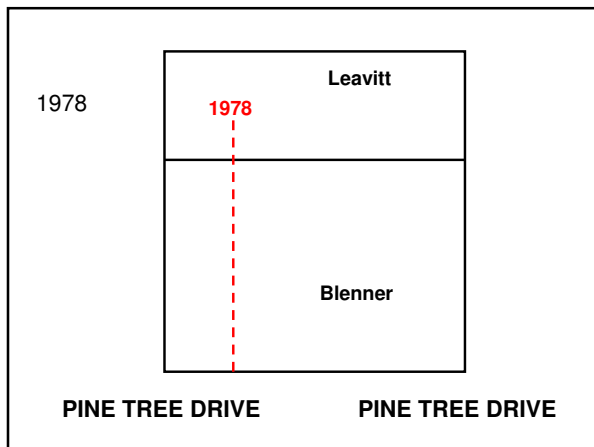
Brown: Possible Concern

- Court may be concerned that Voss now has Brown “over a barrel” — Brown can only get an easement from Voss, and Voss may demand an excessive price, but
 - Brown put himself there (he could’ve sought an easement before buying Lot C), and
 - Brown can condemn/pay for private easement under statute (addresses this “monopoly” risk)



Termination of Easements

- Easements can be terminated by
 - Release (reconveyance, by written instrument, to owner of servient land)
 - Merger of dominant and servient estates
 - Prescription (interference w/easement, w/out interruption, for statutory period)
 - Abandonment





Graves v. Dennis

- 1978: Blenners (owners of Lot 11 and southern part of Lot 1) grant easement to Leavitts (who own northern part of Lot 1) to cross Lot 11
 - Easement is not ever used
- Blenners sold Lot 11 to Vaughn
- Blenners then acquired the northern part of Lot 1
- 1981: Blenners obtain new easement from Vaughn to cross Lot 11



Graves v. Dennis

- 1982: Graves buy Lot 1 from Blenners
 - Graves use the 1981 easement, and didn't know about the 1978 easement
- Vaughn builds garage on Lot 11, in path of 1978 easement
- 2002: Vaughn sells Lot 11 to Dennis, who later puts speed dips on the road



Graves v. Dennis

- 2002: Graves sue Dennis for installing speed dips, arguing this is unreasonable interference w/1981 easement
 - After suing, Graves discover the 1978 easement, at which point they amend their complaint and seek to force Dennis to move the garage blocking the 1978 easement