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Gatekeepers

A common problem for landowners and developers concerns access easements and the rights thereto. A recent Court of Appeals case highlights a common problem and the general rule. Steury v. Johnson, 90 Wn.App. 401, 957 P.2d 772 (Div. III 1998).

Johnson owned a lot burdened by an access easement in favor of Steury and several other landowners. Johnson erected posts and a cable gate at the easement entrance to limit increased public traffic on the access road. Johnson gave keys to the gate to Steury and the other owners benefitted by the access road. Steury filed an action to quiet title to the access easement and to obtain a permanent injunction to prevent Johnson from gating the access road. The trial court granted summary judgment in favor of Steury and permanently enjoined Johnson from erecting any barriers to the entrance of the easement.

However, the Court of Appeals reversed the trial court's order. The Court of Appeals found that the intention of the original parties of the easement controls whether or not an owner of a burdened property may lawfully gate the entrance to an access easement. If the easement is ambiguous or silent regarding certain issues, such as obstructions, the situation of the property, the parties, and the surrounding circumstances must be analyzed. The court held that burdened owners may lawfully impose reasonable restraints on access easements to avert a burden on the property greater than that originally contemplated. Whether the restraints imposed by the burdened landowner are reasonable is a factual determination based on the change in the circumstance of the easement and the balancing of the burden with the benefitted owner's inconvenience.

This issue arises quite frequently in new subdivisions. Burdened parties typically want to limit access while benefitted parties typically seek no limitations. The issues frequently decompose into emotional impasses, when the lawyers are called in.

Prudent landowners and developers will seek to define their rights and liabilities prior to purchase, or at least development. Oftentimes it will be cheaper to pay a nominal fee to work things out rather than suffer a contentious lawsuit.