

Squatter Makes Millions!



By Brian Madigan

And you thought squatter's rights were abolished years ago. In part, you're right, but you must remember that there are two systems of land registration. Under the land titles system, squatter's rights were abolished, as they should be. However, under the registry system these rights have been preserved and accorded a rather exalted status.

Did you hear about the case?

Harry Hallows a homeless man from Ireland took up residence in what he believed to be an abandoned old building in a park. Now Harry was a good judge of real estate, and he certainly knew what it meant when realtors would say "location, location, location", so the location he chose was not that far from Buckingham Palace, in a neighbourhood known as Hampstead Heath that would be just about one of the most expensive neighbourhoods in the world. It's filled with multi-million dollar estates in a rather idyllic, parklike setting. And, the privacy of the park is what Harry liked about the place.

Harry moved into his "residence" in the late 1980's and lived there for 18 years. According to the Courts, that's enough for him to be declared the "true owner" of the property.

In accordance with the old common law rules, an individual who occupies a piece of property for a period of 7 years or more may be declared to be the owner. In England, this was later changed by legislation to 12 years. In Ontario it's 10 years. Other common law jurisdictions use other time periods, but the basic rules are all the same. The **occupation** of the lands must be **open**, that is, it cannot be secret or surreptitious in any way. It must be **peaceable**, that is, no one is trying to throw you off the property, either physically or through the Courts. It must be **continuous**, otherwise the time period starts all over again. It doesn't mean that you can never leave the property. So long as you leave enough of your "stuff", you are still considered to be "there".

This ancient remedy was helpful in resolving disputes in the latter part of the middle ages. If one farmer continued to cultivate a piece of land at the back of his

farm, and the neighbouring farmer did not object, then after seven years he owned it. At that time of course, it wasn't worth much. The purpose of the rule was to regularize the boundaries of the properties. The added value of the cultivation of the property over a period of years was considered to be an investment and an improvement to the land.

After the crusades, many people had been dispossessed from their properties, and many others never returned, so squatter's rights were a good way to redeploy the lands into active use (and revenues for the King) once again.

Dwyer Asset Management bought the property in 2005 and wanted to build condos. That seemed like a fine plan, until they met up with Harry. They said they had a deed to the property. He said he wasn't moving and that he owned the property. He liked living in the woods. In fact, he was just like the "forest people" referred to in the 1215 Magna Carta. The Courts agreed and Harry now has a new deed in his name.

The property is worth millions. But, Harry still doesn't want to move. By the way, he doesn't have doors, windows or a proper roof on his dilapidated old ruins, nor does he have water, sewers, plumbing, electricity or heating (unless he sets up a campfire).

Nevertheless, a man's home is his castle and in this case John's castle is worth millions.

PS. If you live on a big property, don't forget to check the back shed to see if someone's living there!

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