



ADVERSE POSSESSION

The Land Registration Act 2002 is due to come into force on 31st October 2003. The Act seeks to modernise Land Registration law and makes many important changes. One area of change is to the law on “Adverse Possession”.

At present, an Owner is prevented from recovering land occupied by a person who has exclusively possessed the land without consent for twelve years. This is known as “Adverse Possession” These old rules will no longer apply to registered land under the new Act.

New Rules:

Squatters who have occupied for ten years may apply to be registered as proprietors of the land. However, if the Registered Owner serves a Counter Notice, then that application will be dismissed unless the Squatters can prove one of three conditions;

- It would be unfair for them to be dispossessed (e.g. where the Owner encouraged them to occupy, and consequently they have spent money on the land)
- They have another title to the land (e.g. by virtue of a contract) or
- There has been a reasonable mistake as to boundaries (*not until October 2004)

If the application is refused, Squatters who have remained in possession throughout can reapply in two years, and will then be registered as Owners whether or not there is any objection.

ACTION POINTS FOR LANDOWNERS:

- **Owners must keep their addresses for service up to date; otherwise they may not receive Notices of applications and risk losing title to their land.**
- **Owners must serve Counter Notices within the time limit (likely to be 3 months) or will lose title to their land.**
- **Owners should evict Squatters or regularise their occupation within two years after serving Counter Notice to avoid losing title.**
- **Owners should consider applying to the Registry before October 2004 for their boundaries to be determined if there is a possibility of an Adverse Possession claim.**
- **Owners of Unregistered land may wish to apply for registration to obtain more protection from Adverse Possession claims. Squatters in Adverse Possession of Unregistered land should consider registration of their interest, to avoid losing their rights against a first Registered Owner.**

This Newsflash is issued by the Leisure and Property Management Law Group. Should you have any queries please contact **Anne Molyneux, Julia Elson or Carmela Inguanta**, email: annem@sghlaw.com juliae@sghlaw.com carmelai@sghlaw.com or your usual contact at S.G.H on 0207 544 5555.