

Chapter 10**Trespass on Easements**

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Synopsis

| | | |
|-----------------|---|------------|
| § 10.01. | Introduction..... | 344 |
| § 10.02. | Right of Dominant Estate to Erect Gates or Fences over Servient Land on Dominant Estate-holder’s Own Determination | 345 |
| | [1] — How Dominant Estate Is Created May Indicate Right | 346 |
| | [a] — Dominant Estate Created by Express Grant..... | 346 |
| | [i] — Where Grant Specifically Permits Erecting Barrier..... | 346 |
| | [ii] — Where Grant Specifically Refers to Remaining Open | 347 |
| | [iii] — Where Grant Is Silent..... | 349 |
| | [b] — Dominant Estate Created By Prescriptive Rights | 350 |
| | [2] — Erection of Barrier May Be Considered a “Taking” of Servient Estate..... | 352 |
| | [3] — Erection of Barriers May Be Dictated by Federal or State Statute | 353 |
| §10.03. | Duty and Liability Regarding Shared or Co-Owned Easements | 354 |
| | [1] — Duty Owed to Co-Owners of Dominant Estates | 354 |
| | [2] — Liability to Servient Estate for Use or Misuse of Dominant Estate | 356 |
| | [3] — Liability of Servient Estate for Use or Misuse of Servient Estate | 356 |
| | [a] — Encroachments Within Bounds of Dominant Estate | 357 |
| | [b] — Excavation of Contractor of Servient Estate Which Injures Facilities of Dominant Estate | 357 |

§10.04. Liability for Injuries to Persons Within Boundaries of Dominant Estate 358

- [1] — Status of Injured Party May Determine Level of Duty of Dominant Estate-holder..... 358
 - [a] — Lines Between Invitee, Licensee and Trespasser Increasingly Blurred 358
- [2] — Standard of Care Towards Those Injured in General..... 360
- [3] — Duty to Injured Party 361
 - [a] — Duty to Inspect Dominant Estate..... 361
 - [b] — Duty to Mark or Post Warnings..... 362
 - [c] — Duty to Supervise Excavation or Construction..... 362
- [4] — Impact of Comparative Negligence or Contributory Negligence of Injured Party or Others 363

§10.05. Conclusion 364

§10.01. Introduction.

This chapter will include legal and practical advice on keeping trespassers off utility or other easements as well as a discussion on potential liabilities of the easement holder, ranging from complaining landowners to holders of shared easements to injured trespassers.

As “utilities” under what legal, literal, statutory or regulatory reference used to define the term, there is always a balancing act between using land rights not owned in fee for the benefit of the public as a whole, and not damaging the rights of a member of that public upon whose property our facilities are located or used. Especially for those utilities in energy generation, where business profiles are high and many companies are constant targets for backlash for even wholly proper use of land rights, the appearance that one of these 800-pound gorillas is stepping on an individual creates a public relations nightmare.

A much more significant—if not more likely worry—or utility businesses, is that of the potential for personal injury on an easement owned by a utility. Whether the injured party is an invitee, licensee or trespasser, any injury is unacceptable and the issue becomes: “How do we in the ‘utility’ business reasonably and rightfully keep unauthorized persons off of our easements in compliance with the land rights held and without infringing on landowners?” This chapter is a general discussion of issues which may