

Richardson v. Franc

- James and Lisa (P) traverse over 150-foot road on Greg and Terri's (D) land
 - Already written easement for “access and public utility purposes”
- P, for 20 years, landscaping, irrigation, and lighting
 - No objection
- D now object to use of road
 - Ask to remove landscaping, irrigation, and lighting
 - Say easement is expressly limited to access and public utility



Laguna Vista Dr

Laguna Vista Dr

Laguna Vista Dr

2515 Laguna Vista Drive

Franc

Richardson

Google

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- License
 - Written or Oral?
 - Explicit or Implicit?
- Improvement
 - Of what?
 - Need reliance?
 - On what?
- Consent
 - Explicit or Implicit?
- How long should it last?
- Worry about the lack of a writing?
- Fair there is no payment?

Easements

- Benefit > Burden
- Ways to create an easement
 - Express/Writing
 - Implied – two types:
 - Necessity
 1. Initially commonly owned property (unity of ownership)
 2. Necessity
 3. Transaction that creates necessity
- Prior Use (Implication)
 1. Common ownership
 2. Before severance, prior use (*quasi-easement*)
 3. Reasonable necessity

Easements

- Ways to create an easement
 - Prescription
 1. open and notorious use
 2. hostile and adverse
 - without owner's consent
 3. continuous and uninterrupted
 4. for statutory period
 - Estoppel (irrevocable license)
 1. License
 2. Improvement
 3. Reliance
 4. Consent

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3. How well does *Richardson* track your intuitions about everyday behavior? Would you ask permission before engaging in the landscaping at issue here? Would you advise a client to? Suppose you asked your neighbor for an easement of way to enable you to build on an adjoining property? You're friends, and he says yes. But you know a thing or two about the law, so you know that if your relations turn sour you would have to rely on an irrevocable license claim. Would you push for a formal grant in writing? Is that a neighborly thing to do? For one view, *see* *Shepard v. Purvine*, 248 P.2d 352, 361-62 (Or. 1952) ("Under the circumstances, for plaintiffs to have insisted upon a deed would have been embarrassing; in effect, it would have been expressing a doubt as to their friend's integrity."). Does it make a difference that you know to ask? What about