

Adverse Possession

September 8, 2022

Dear WEHOA Membership,

As you may be aware, a number of HOA members have undertaken landscaping improvement and beautification on property owned by WEHOA adjacent to their individually owned improved (home built upon) lots. These voluntary improvements have enhanced the appearance of our 55+ community. As a community, we are very appreciative of these efforts.

It is important for all owners within the community that there be no misunderstanding relative to the laws of the State of Washington (**Revised Code of Washington (RCW)**) as they impact such beautification efforts (improvements).

The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed. It does not include temporary laws such as appropriations acts. The official version of the RCW is published by the [Statute Law Committee](#) and the [Code Reviser](#).

The online version of the RCW is updated twice a year, once in the early Fall following the legislative session, and again at the end of the year if a ballot measure that changes the law passed at the general election. Copies of the RCW as they existed each year since 1973 are available in the [RCW Archive](#).

Pertinent sections of the statutes include RCW [7.28.080](#)¹, **Color of title to vacant and unoccupied land**; and RCW [4.16.020 \(1\)](#)²
Commencement of actions.

RCW 7.28.080 addresses what is generally referred to in the law as Adverse Possession. The statute provides, in part, that in order for a person (in this case an owner of a parcel within WEHOA) to claim title to land not owned, but upon which improvements have been made, there must be “paper title” to that land **and** payment of taxes on that land for seven consecutive years (see FN1, below).

RCW 4.16.020 (1) provides for a ten (10) year statute of limitations for the bringing of an action for the purpose of making a claim as to that land (FN2).

The books and records of WEHOA, including but not limited to the C.C. & R.’s and Rules and Regulations, as well as the laws of the State of Washington and the Records of the County of Spokane relative to Title and Ownership of lands are clear and unequivocal in confirming that none of the lands involved with improvements as referenced above

¹ Every person having color of title made in good faith to vacant and unoccupied land, who shall pay all taxes legally assessed thereon for seven successive years, he or she shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land to the extent and according to the purport of his or her paper title. All persons holding under such taxpayer, by purchase, devise or descent, before said seven years shall have expired, and who shall continue to pay the taxes as aforesaid, so as to complete the payment of said taxes for the term aforesaid, shall be entitled to the benefit of this section: PROVIDED, HOWEVER, If any person having a better paper title to said vacant and unoccupied land shall, during the said term of seven years, pay the taxes as assessed on said land for any one or more years of said term of seven years, then and in that case such taxpayer, his heirs or assigns, shall not be entitled to the benefit of this section.

² **Actions to be commenced within ten years—Exception.**

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

provide a colorable claim of title by virtue of the improvements discussed herein.

The WEHOA Board is not attempting or intending to discourage improvements (beautification) to the community by individuals and/or groups. It is the purpose of this communication to clarify that such efforts do not provide a basis for a claim a right of ownership of WEHOA properties not specifically deeded to any owner, based upon improvements made to common WEHOA property.

This may be a required seller disclosure in negotiating a sale.

Sincerely,

A handwritten signature in blue ink that reads "Margie Warner". The signature is written in a cursive, flowing style.

Margie Warner

President, WEHOA Board of Directors