DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO
CASE NO. 07 CV 431 DIVISION 3

MOHAMMAD S. SALIM; GAY R. SALIM; PATRICIA S. ANGERER; and THOMAS K. ANGERER
Plaintiffs

v.

DANA L. MARSHALL
Defendant

RULING AND ORDER

This quiet title action was brought by Plaintiffs Mohammed and Gay Salim and Plaintiffs Thomas and Patricia Angerer against Defendant Dana Marshall. The Plaintiffs are next door neighbors on Bluebell Avenue in Boulder. The Salims live in Lot 22 and the Angerers to the east in Lot 21. Their houses face generally south.

Defendant Dana Marshall lives behind Plaintiffs on Mariposa Avenue in Lot 6 and her house faces north. The back of Defendant's backyard is the southern end of her property and it adjoins the back of Plaintiffs' backyards, the northern boundary of their properties. The eastern approximately fourteen feet of the boundary is between Defendant and Plaintiffs Angerer. The remainder of Defendant's backyard meets Plaintiffs Salim's backyard.

The Angerers have lived in Lot 21 since 1978, the Salims in Lot 22 since 1981. Defendant Marshall bought Lot 6 from the Shermans in August of 2006. In September of that year she removed a six foot wooden privacy fence that ran the length of her southern boundary. Subsequent surveys showed that the fence was a few inches, less than a foot, north of the property line between Plaintiffs and Defendant, and on Defendant's property.

Plaintiffs filed suit claiming (1) quiet title based on theories of adverse possession and acquiescence, (2) Maintenance Easement, (3) Trespass to Land (4) Permanent Injunction, and (5) Possession under the Forcible Entry and Detainer statutes.

Defendant counterclaimed claiming (1) quiet title in accordance with her warranty deed, (2) against Plaintiff Mohammed Salim only, Trespass, and (3) against Plaintiff Mohammed Salim only, Conversion.

FINDINGS OF FACT

1950s and 1960s

Sally Holloway has lived on Bluebell Ave. since 1959. She watched what is now Plaintiff Salim's house being built across the street by the McConnells who were the original owners of the Salim property, Lot 22. She saw Mr. McConnell build the fence which Mrs. McConnell wanted for privacy because there was so much glass in the house. Mrs. Holloway's boys helped build the fence and helped Mr. McConnell replace parts from time to time, including at the back of the McConnell property.

Shirley Keller moved into the last house built on that block of Bluebell Ave. in January of 1965. She lived next door to Mrs. Holloway and directly across the street from the McConnell's. When she moved in the McConnell fence already existed. It enclosed the entire McConnell yard which she remembers particularly because her young son would go over to play with the McConnell's son and the completely enclosed yard felt safe to her as a mom.

Doris Hass lived next door to the McConnells to the west, in Lot 1. She testified that her husband and Mr. McConnell were best friends. They helped each other finish their respective houses. Her husband and Mr. McConnell built the McConnell's fence together. The fence "defined Mac and Audrey's property." Mr. McConnell put it up and took care of it through the years.

Mrs. Hass's son, David Hass, was nine or ten years old when the fence was built. He particularly remembers surveyors being present just before the fence went up because he was allowed to look through their equipment. He remembers that his dad and Mr. McConnell built the fence. He could see from his back deck as Mr. McConnell maintained the fence during spring times. He saw him walk around onto neighboring lots to make sure nails were tight on the outside perimeter of the fence.

Lois Birmingham moved into her home on Mariposa Ave. in 1957. That property is Lot 5. Her backyard adjoined the western half of the McConnell's (now Plaintiff Salim's) backyard along McConnell's northern boundary. The McConnells were their friends. Although she conceded that her memory is not that good today, she remembers that her husband built the fence around their own backyard in 1963. Their neighbors to the west already had a fence up, so they did not need to fence that side of their yard. The Howards were their neighbors to the east in Lot 6 (now Defendant's property.) The Howards agreed to share the cost of putting a fence between their yards, but did not do any of the work. Mrs. Birmingham testified that the only time she was south of the fence at the back of her backyard was when she was visiting her friends the McConnells and was in their backyard.

The photos of the McConnell's fence show it to be of identical construction around the entirety of Lot 22. Square wooden fence posts are secured in concrete. Four 2 x 2s run horizontally between the posts. These horizontal cross pieces are on the interior of the fence on all four sides of the property. Where the fence lines meet at the corners of the

property, the wood is mitered into neat 45° angles on the interior of each corner facing into Lot 22.

Across the front and along each side of Lot 22, the vertical boards, the privacy fence planks, were cut to different lengths so that when nailed onto the exterior of the four horizontal cross pieces, the resulting fence top presented a jagged "up and down" line. Although this jagged silhouette was installed at the front and on the side of the property, it was not used on the property's northern boundary, the fence running across the back of the backyard. The photographs and witnesses' descriptions show that "dog-eared" vertical planks were nailed to McConnell's fence structure along the back where his property adjoined Lot 5, the Birmingham's property. Plain, flat-topped vertical planks were nailed to McConnell's fence structure where his property adjoined the back of Lot 6, the Howard's property, Mr. Howard being the neighbor who was willing to contribute money but no labor. The following year the Howard's house went into foreclosure so whether he contributed money or just promised to contribute money is open to question. At any rate, Mr. McConnell extended his fence structure beyond his property line to the eastern edge of Lot 6, Mr. Howard's, property line.

Findings of Fact

The above witnesses described the creation of a tight-knit, very friendly neighborhood in the late 1950s and early 1960s. The husbands were handy and helped each other with plumbing and electrical work and carpentry and fence building. The wives were busy with young children and their families knew each other and socialized at each other's homes. Their testimony and the photographs support a finding that Mr. McConnell built the entire fence surrounding his property and the extension to the eastern edge of Lot 6.

Mrs. Birmingham's recollection that her husband built the fence around their yard is not inconsistent with this finding. The evidence shows that Mr. Birmingham nailed the dog-eared planks on to Mr. McConnell's fence structure that divided their backyards. Mr. Birmingham built the separate fence structure that ran along the side yard between his property and the Howard's in Lot 6. This factual finding is based on the fact that the side fence is of completely different construction than Mr. McConnell's fence. Its horizontal elements consist of three 2x4s as distinguished from McConnell's four 2x2s running horizontally. Mr. Birmingham used the same dog-eared planks along the side fence that he built, as he put along the back, attached to the fence structure that Mr. McConnell built.

The more prosaic flat-topped planks that make up the remaining length of the fence across the back of the McConnell property were more likely than not nailed on by Mr. McConnell himself. This inference is drawn from the fact that Mr. McConnell and Mr. Birmingham both built their fences in 1963. Mr. Howard in Lot 6 told Mr. Birmingham, that he would chip in on the cost, but not the labor, of their shared fence. That being the case, it seems unlikely that he contributed labor to the fence going in along the back of his property when he declined to do so for the fence going in along the side of his property. It is possible that he agreed to contribute to Mr. McConnell's cost of building

the fence between their backyards. The strongest evidence in support of this inference is that Mr. McConnell extended the fence beyond the east end of his own property to the east end of Mr. Howard's property.

The testimony of these original homeowners also makes clear that the families treated the fences as the boundaries between their properties. Mr. McConnell and Mr. Birmingham jointly built their joint stretch of fence and the families knew that everything south of the fence was McConnell's and everything north of the fence was Birmingham's. Because David Hass vividly remembers the surveyors out just before the McConnell fence went up, it is also more likely than not that Mr. McConnell paid for a survey to try to ensure that the unusual fence he was about to build was within or at his property boundaries. This inference is further supported by other evidence of how careful Mr. McConnell was. He designed his own house and Mrs. Holloway described with admiration how the steel beams that supported the roof were put in place by a big crane "and they all fit perfectly." He took care to miter the corners of his cedar privacy fence even in the far corners back behind the creek that ran through his yard. He was observed maintaining the fence on an annual basis.

1975 TO THE PRESENT

Ms. Anne Tagawa now owns Lot 5, the old Birmingham property, which she bought in 1975. She believes the fence in the back yard is her fence because the realtor told her so. The previous owners built a shed in the southeast corner of her yard and attached it to the fence. In 1978 she had a deck constructed on top of the shed.

On those occasions when she could see into the Salim's backyard because she was on the deck on top of the shed, she did not see Mr. Salim repairing the fence. On those occasions, she did not see anyone doing yard work at the Salim's nor did she see adults or children in the area between the creek and the fence. She has never climbed over the fence at the back of her yard and never knew that the fence at the back of her property (McConnell's structure) and the fence on the east side of her property (Birmingham's structure) were constructed differently. She had not been aware that fence posts had been added or replaced on the Salim side of the fence separating her yard from the Salim's yard. She was aware of at least one repair made by Mr. Salim to the fence, however, and was thankful it had been done.

Plaintiff Patricia Angerer testified that she lived in Lot 21 since 1978 and that she was a stay-at-home mom since 1979. The Angerers bought from the Ripleys and the Ripleys told them that the creek running through their yard was not their property line, but that they owned the land on the far side of the creek up to and including the fence. The neighbors told her that all of her predecessors-in-interest exercised control of her entire back yard to the fence. The Angerers exercised control over, and maintained, their entire backyard to the fence. She had a huge tree removed from her backyard that had been growing partly on the disputed strip of property just south of the fence. The fence excluded people from their yard and provided privacy. The fourteen feet of privacy fence

that extended into her yard has not needed any repair. She never saw Mr. Sherman, her neighbor to the north on Lot 6, in her yard or making any repairs to the fence.

Ms. Angerer also described information obtained from City of Boulder officials after the fence came down. She learned that the Salim's property and her property were in a high hazard floodplain and a designated wetlands area and that no new structures, including fences, could be erected without hydrological studies that would cost thousands of dollars. The original fence could be repaired and put back in its original location without the need for the studies.

The McConnells sold Lot 22 to the Thomases in 1975. The Thomases sold Lot 22 to the Salims in 1981. During the Salim's ownership of the property the fence and the entire area enclosed by the fence was treated as their own. The Salim's now-grown son, Evan, testified that he and his friends played in the entire backyard on both sides of the creek, that he remembers helping his dad replace one of the posts for the fence, and that during all the years he lived there he never saw any of their northern neighbors in his backyard.

Plaintiff Gay Salim testified that the family used the entire backyard from the house to the fence. The family left the area between the fence and the creek natural although a natural landscape still required an annual spring cleanup of the windblown debris caught by the fence over the winter, some pruning, and some mulching. She testified that the fence "contained" the yard and importantly, offered seclusion and privacy.

Mrs. Salim recalled her husband repairing the fence over the years. Although she can't remember which post it was, she specifically remembered having to hold some post while her husband poured concrete around its base. She also recalled holding horizontal slats while her husband drilled. She recalls four or five times that he made repairs to the fence.

Mrs. Salim particularly remembers a wind storm in January 1982 that broke a post on the back fence and left panels of slats swaying wildly. Her husband and their northern neighbor in Lot 6, Mr. Sherman, met at the fence. They pulled the fence up and tied it with rope. Then Mr. Salim bought a new post and repaired the wind-damaged fence. Mrs. Salim remembers this particularly because her young son helped with the project and she was proud of how grown up he was.

Plaintiff Mohammed Salim testified that the old cedar fence enclosed the backyard and was part of the natural landscaping. He testified that he spent 10 to 15 days annually, grading, raking, and otherwise maintaining this naturescape. He testified in detail about the repairs he made and the support posts he replaced at points all around the perimeter of the fence. He described learning as he went, for instance replacing a post a bit to the side of the original post hole, because the new hole could be smaller and thus would require half as much cement. He described having to reinforce the horizontal structural boards when he replaced a post and moved it out of its original position. Every post that was replaced along the back fence was replaced by him or hired to be replaced by him. He said that during the January 1982 windstorm he and Mr. Sherman met at the fence. Mr.

Sherman suggested replacing the fence with chain link and he said no. They had no discussion about who owned the fence. They discussed the repair and agreed that Mr. Salim would replace the broken post and that Mr. Sherman would then re-nail the vertical panels of slats back on from his side. Mr. Salim believed he replaced the post the following day and that Mr. Sherman nailed the panels back on about a week later.

10 years after he moved in, in 1991, Mr. Salim and the Angerers in Lot 21 next door to the east, agreed to remove that section of the side fence dividing their properties where the fence went over the creek that coursed through both their backyards. They hired a handyman to remove the fence sections spanning the creek and to put in reinforcing posts in the fence at the back of their properties to provide the support that the removed section had provided.

In observing Mr. Salim's open demeanor and body language, and noting the details in, and overall consistency of, his testimony, the court found him credible. The court was not persuaded however, by his testimony that he sometimes meditated in his backyard seated on the disputed strip of property with his back up against the fence.

James Sherman and his wife bought Lot 6 in November or December of 1978. He testified that he does not know who originally built the fence at the back of his yard. He had several trees in the back of his yard near the fence and he pruned them from time to time. When he was preparing his house for sale in 2003-2004 he brought in a landscaper whose work stopped at the fence. The court observed Mr. Sherman to be relatively confident when describing the above facts.

Mr. Sherman said that when he bought his house the realtor showed him the surveyor's pins marking his property on the south side of the fence. He also said that he climbed over the fence and "found" the pins the following spring.

He said that following the fence breaking in the 1982 windstorm he and Mr. Salim stacked a couple of the fence panels on Salim's property and that he didn't "recall ever being on the south side of the fence prior" to that time. He also said he was on the south side of the fence every other year. He also said that between 1978 and 2006 he climbed over the fence 15 times. He said that he climbed up to the top of this privacy fence by way of a six or seven foot ladder. He said that he balanced on top of the fence (perhaps steadying himself with a nearby tree branch or by doing this where the back and side fence joined at the corner of his yard) and then pulled the six or seven foot ladder up after him, lowered the ladder down on the south side of the fence, descended the ladder and did whatever he did south of the fence, after which he went back up the ladder, balanced atop the fence, re-hoisted the ladder, swung it while balancing, over to the north side and descended once again. The court observed Mr. Sherman to be of retirement age, solid, and at least 6 feet tall. He did not have the build or carriage of a gymnast.

Mr. Sherman said that he repaired the fence. He said he put new posts in concrete, rebuilt the cross rails and put the panels up. He also said he never repaired the horizontal cross rails. He did not remember whether the fence at the back of his yard had three or four

cross rails. He said that he believed the portion of the Salim-Angerer fence that spanned the creek was still there after the year 2000. (It had been removed in 1991.) He said he never noticed any new posts so he did not think Mr. Salim put any in. He could not explain why two posts were installed close to each other. (These were the reinforcing posts.)

He testified that when the fence broke in the January 1982 wind storm Mr. Sherman told Mr. Salim he'd like to take it down. Mr. Salim said he would put a new one up set back inside his property if that happened. Mr. Sherman said he did not want Plaintiff to put up a brand new fence because it would not look good. He said the two of them agreed to split the costs of a temporary, or interim repair, while Mr. Sherman decided what he wanted to do with the fence. (Mr. Salim testified that during the windstorm meeting Mr. Sherman said he would like to replace the fence with chain link but Mr. Salim wanted the wooden fence. They did not discuss who actually owned the fence.) Mr. Sherman testified that the two of them just braced up the structure and leaned the panels against it until the spring when Mr. Sherman decided to put the fence back up, but only on an interim basis. Although he testified that all fence decisions were just "interim" he also testified that he installed the new post in concrete and that he did so in April. He said that in his deposition he testified that he repaired the fence within weeks of the January windstorm. During all of this testimony, which was rife with contradictions, the court observed Mr. Sherman to look very tense and uncomfortable and the court found him not very credible.

Finally, Mr. Sherman said he is quite careful about keeping important papers. He said he put in an insurance claim on his homeowner's policy for repairing the fence after the windstorm. Given that the repair consisted of a 4x4 fence post, a bag of cement and some nails, the court finds that highly unlikely. No insurance documents were produced at trial. Mr. Sherman did produce however, a document purporting to be a copy of a letter he sent to Mr. Salim on May 26, 1982. This letter says that enclosed is a $45 check "to cover the financial costs that you directly acquired when assisting me in a temporary repair of the common fence on the southern edge of my property." The letter goes on to say that Mr. Sherman intends to make a change in this fence in the future. Although the fence extended along the back of part of the Angerer's yard as well as the Salim's yard, Mr. Sherman said he gave no similar notice to the Angerers. Mr. Salim testified that no such letter, and no check from Mr. Sherman, was ever received by him.

The court observed Mr. Sherman as he was asked to identify Exhibit T as a copy of the letter he sent to Mr. Salim in 1982. Remarkably, at this point in his testimony his hand was visibly shaking, and with it he completely covered his mouth while he said that Exhibit T was a copy of a letter he wrote and he sent to Mr. Salim in 1982. The court does not believe this was a truthful statement.

Mrs. Sherman briefly testified and said she remembers her husband digging holes in the spring of 1982. She testified that on occasion she observed her husband repairing the fence from the deck.

Findings of Fact

During the last thirty-one years -- from 1975 to 2006 -- the owners of Lots 5, 6, 21 and 22 acted in conformity with their shared belief that their property boundaries were defined by the forty-five year old cedar privacy fence that separated the two northern neighbors' backyards from the two southern neighbors' backyards. Ms. Tagawa in Lot 5 and Mr. Sherman in Lot 6 were rarely or never south of the privacy fence. None of these witnesses persuaded me that any of them even knew (until the instant dispute erupted) that the legal descriptions of their property showed that the northern neighbors' property line was actually some number of inches (less than a foot) on the other, southern, side of the fence. These homeowners all used their yards and did their landscaping acknowledging the fence as the border. From 1981 on, Mr. Salim did whatever fence repairs were required. Ms. Tagawa and Mr. Sherman were aware at different times that Mr. Salim was repairing the fence.

SEPTEMBER 2006

Defendant, Dana Marshall, bought Lot 6 from this Shermans on August 2, 2006. She cut down the privacy fence between her and her southern neighbors on September 9th. She said that Mr. Sherman and his realtor had said the fence was hers. The Salim's wooded yard with its little creek was lovely, and she wanted to look at it. This in turn meant that the Salims and the Angerers had to look out upon, not an ancient cedar privacy fence, but a manicured backyard and the back of Defendant's house that had previously been screened by that fence.

The parties agree that Mr. Salim and then later, Mrs. Salim, went over to Ms. Marshall's house to talk about the fence. They agree that Mr. Salim was invited in for tea. They agree that on that same day Ms. Marshall accompanied Mrs. Salim to the Salim's backyard to look at the creek and the little island in the creek. They agree that also on that day the Salims followed Ms. Marshall back to her yard where Mr. Salim and Ms. Marshall collected the fence panels and carried them back over to the Salim property. They agree that Mrs. Salim could not help because of a bad back. They agree that Ms. Marshall was not conceding ownership by allowing the Salims to hold the fence panels until the issue was resolved. The court finds all of the above to be true.

Given those facts, the court is not persuaded that Mr. Salim, whom Ms. Marshall had never met, appeared at her front door "shaking", "furious", and "intimidating" yet was nonetheless invited in for tea. Nor is the court persuaded that upon discovering the privacy fence -- that had stood since he bought his house twenty-five years before -- was now gone, Mr. Salim was not upset but merely "curious." The court is not persuaded that the Salims and Ms. Marshall were in each other's yards without permission or consent, nor that the fence panels that Ms. Marshall helped carry to the Salim's yard to lean up against the remaining section of the back fence were stolen or improperly kept from her.

Finally, the court finds that Plaintiffs and Defendant hired dueling surveyors who disagreed by a few inches as to where the dividing line between the northern and

southern neighbors was according to legal descriptions. Both surveys put the line a few inches south of the fence, however.

CONCLUSIONS OF LAW

Quiet Title

As Defendant argued in her Trial Brief, Plaintiffs must "demonstrate that their possession was 'actual, adverse, hostile and under claim of right and open, notorious, exclusive and continuous for the statutory period.'" *Haney v. Olson,* 470 P.2d 933, 935 (Colo. App. 1970). The statutory period is eighteen years. CRS 38-41-101. The facts set forth above show that both of the Plaintiffs have met this burden. They each openly and exclusively laid claim to and used all of the property south of the fence as well as the fence that was at the back of their respective lots; the Salims for 25 continuous years and the Angerers for 28 continuous years. "A presumption that the possession is adverse arises after the claimant has demonstrated actual and exclusive possession of the property for the statutory period. . . . .[A] claimant need only act as the average landowner would to assert the exclusive nature of the possession." *Palmer Ranch, Ltd. v. Suwansawadi,* 902 P.2d 870, 872 (Colo. App. 1996), *cert denied,* (Aug 19, 1996). The court found Mr. Salim credible and Mr. Sherman not, in describing the maintenance and repair of the fence. By replacing and moving support posts, adjusting cross rails and otherwise repairing the fence exclusively, and without seeking permission from anyone, Mr. Salim acted as an average landowner would to assert the exclusive nature of his possession of the fence which had been built in its present location by his predecessor-in-interest. Mrs. Angerer testified that the portion of the fence between her yard and Defendant's did not require repair.

"When parties acquiesce to the location of a particular boundary line, this boundary ripens into a reality after a prescribed period of time." *Salazar v. Terry,* 911 P.2d 1086, 1093 (Colo. 1996). Such acquiescence is binding upon the parties and their successors in interest." *Id.* In Colorado that period is twenty years. CRS 38-44-109. The testimony of the original landowners shows that they certainly acquiesced to the fence as the boundary between the neighborhood properties. These original owners were not there for twenty years however, and there is a gap in the evidence about how the interim owners viewed the fence. The evidence does prove that Defendant's predecessor-in-interest, Mr. Sherman, in Lot 6, and the Plaintiffs in Lots 21 and 22 acquiesced to the fence as the boundary between their adjoining properties for 25 years.

On Plaintiffs' claim to quiet title based on theories of adverse possession and acquiescence, Judgment for Plaintiffs.

Maintenance Easement

Plaintiffs have not carried their burden of proving their claim to a maintenance easement on four feet of Defendant's property north of the fence, for the length of the fence. The original fence builder and owner, Mr. McConnell, was observed walking on neighboring

lots for the purpose of fence maintenance. He may well have had permission given the tenor of neighborhood relations at the time. There is no evidence that Plaintiffs Salim and Angerer have found it necessary to go onto Lot 6 for the purpose of fence maintenance at any time and they have not proven the existence or necessity of any easement.

On Plaintiffs' claim to a Maintenance Easement, Judgment for Defendant.

Trespass

The elements for the tort of trespass are a physical intrusion upon the property of another without proper permission from the person legally entitled to possession of that property. Damages available on trespass claims can include not only diminution of market value, costs of restoration, and loss of use of the property, but also discomfort and annoyance to the property owner as the occupant. *Trask v. Nozisko,* 134 P.3d 544, 554 (Colo. App. 2006). "Once the 18-year period has passed, all remedies, including those for quiet title, ejectment and trespass may be utilized even against the record title holder." *Spring Valley Estates, Inc. v. Cunningham*, 510 P.2d 336, 338 (Colo. 1973).

Here the 18 and 20 year periods have passed and Plaintiffs have established title to the property. For that reason Defendant had no legal right to enter on to Plaintiffs' property and remove the fence. Plaintiffs are entitled to all costs incurred in restoring the fence to its original position.

On Plaintiffs claims for Trespass to Land, Judgment for Plaintiffs.

Possession

Plaintiffs seek statutory relief under Colorado's Forcible Entry and Detainer statute, including a writ of restitution and attorney's fees. CRS 13-40-101 *et seq*. This matter was not brought as an FED action. The FED statutes have very particular procedural requirements with which Plaintiffs here have not complied. See e.g. CRS 13-40-111, "Issuance and return of summons."

On Plaintiffs' claim for Possession, Judgment for Defendant.

Permanent Injunction

Plaintiffs seek a permanent injunction enjoining Defendant from entering on the disputed property, and from damaging, removing or destroying any improvements erected on or contiguous with the disputed property. An injunction is an equitable remedy to be applied when there is no plain and adequate remedy at law. Plaintiffs have not established that their legal remedies are insufficient and that the extraordinary equitable remedy of an injunction is required.

On Plaintiffs' claim for an injunction, Judgment for Defendant.

Defendant's Counterclaim against Mr. Salim for conversion

The court has concluded that the fence is the property of Plaintiffs and therefore Mr. Salim had authority to exercise dominion and control over the fence panels.

On Defendant's counterclaim for conversion, Judgment for Plaintiff, Mr. Salim.

Defendant's Counterclaim against Mr. Salim for Trespass

The court found that on the day the fence panels were collected and returned to the Salim property, the Salims were not in Defendant's yard without her consent. Defendant has not proven a wrongful entry.

On Defendant's Counterclaim for trespass, Judgment for Plaintiff, Mr. Salim

Defendant's Counterclaim for quiet title

Because the court has found that Plaintiffs have borne their burden of proof to ownership of the disputed property by adverse possession and acquiescence, Defendant does not own this property.

On Defendant's Counterclaim for quiet title, Judgment for Plaintiffs.

So ordered

this 31 May 2008

L Montgomery

Lael Montgomery
District Court Judge