

Module Six – Adverse Possession

Question 14. Ernie and Bert own adjacent lots, each 100 feet wide in frontage. Ernie builds a fence on what he mistakenly assumes to be the true boundary line dividing the lots. In fact, Ernie has erected the fence on Bert's lot two feet beyond the boundary (as measured from the fence to the other side of Ernie's lot, Ernie now appears to have 102 feet of frontage). Ernie thereafter acts as the owner of all the land on his side of the fence for the statutory period. Later, after the statute has run, Bert surveys his lot and then is the first among the two to discover the mistake. Choose the answer selection that is most correct.

- a. In a suit by Ernie for the two feet strip, relying on adverse possession, under the Maine common law doctrine for hostility as discussed in class in relation to *Mannillo v. Gorski*, Ernie likely wins (assuming all other elements of adverse possession are met under any variations of those other elements).
- b. In a suit by Ernie for the two feet strip, relying on adverse possession, under the Connecticut doctrine for hostility as discussed in class in relation to *Mannillo v. Gorski*, Ernie likely wins (assuming all other elements of adverse possession are met under any variations of those other elements).
- c. In a suit by Ernie for the two feet strip, relying on adverse possession, under the open and notorious doctrine as applied by the court in *Mannillo v. Gorski*, Ernie likely wins without having to pay for the strip (assuming all other elements of adverse possession are met under any variations of those other elements).
- d. Two and only two of the selections *a* through *c* are accurate characterizations.
- e. All of selections *a* through *c* are accurate characterizations.

Question 15. Ernie and Bert own adjacent rectangular lots, each 100 feet wide in street frontage and fifty feet deep. Ernie has a house on his lot. Bert's lot is vacant. Beginning in 1985, without ever meeting or communicating with Bert, Ernie starts a garden covering all of Bert's lot and Ernie installs a wire fence around all sides of the lot, with a padlocked gate and only Ernie has a key for the padlock. In 1993 Ernie sends a letter to Bert asking Bert whether he would consider selling the lot to him. Bert never replies to the letter. In 1996 Ernie files an action to quiet title in the lot to him. No one else ever used the lot besides Ernie. Many lots in the neighborhood are used only for a garden. The statutory period for an ejectment suit in the jurisdiction is ten years. Choose the answer selection that is most correct.

- a. Bert wins because Ernie's claim cannot satisfy the hostility element.
- b. Bert wins because Ernie's claim cannot satisfy the open and notorious element.
- c. Bert wins because Ernie's claim cannot satisfy the exclusive element.
- d. Bert wins because Ernie's claim cannot satisfy the actual element.
- e. Bert wins because Ernie's claim cannot satisfy the continuousness element.

Module Six – Adverse Possession – Answer Key

Question Number	Correct Answer
14	b
15	a