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Facts About Easements and Rights-of-Way

From Janet Wickell, Your Guide to Home Buying / Selling.

Easement - An easement is the right to use another person's land for a stated purpose. It can involve a general or specific portion of the property.

Right-of-Way - A right-of-way is a type of easement that gives someone the right to travel across property owned by another person.

An easement can benefit a property.

Ms. Smith owns a tract of land that borders the Nantahala National Forest, a popular area for hiking, climbing, rafting, and fishing. Mr. Scott lives next door to her, but his land does not touch the National Forest. To avoid trespassing, he must access the Forest by walking or driving to a public entry point.

Instead, Ms. Smith grants an easement allowing present and future owners of Mr. Scott's property to cross her land to access the National Forest. It becomes part of the deed for both properties.

An easement can benefit an individual or a business entity.

In the example above, a tract of land was granted an easement so that its owners could use a neighbor's land to access a public area. Ms. Smith could grant an easement to another individual to do the same, but without adding it to her deed. That type of easement normally expires at a specific time or event or upon the death of the person who benefits from it.

- An easement may give a utility company the right to erect power lines or bury a gas pipeline across a tract of land.
- A housing development might possess an easement that allows it to build and maintain a water storage facility.
- Both easements above would probably be included in a deed description and remain in place if the land is sold.

How does an easement affect the person who grants it?

The landowner who grants an easement usually cannot build structures within an easement area or use fencing that would hinder access. Other activities might also be prohibited. Before you purchase property you should know where all easements are located and what restrictions are associated with them.

Can easements affect property values?

It's possible.

- Several easements on a tract of land might seriously limit the choice of building sites.
- High tension power lines running through an easement near an otherwise great building site can be unsightly. Resale values may be affected since many people feel that living too close to power lines is a health risk.
- Buyers may simply not like the idea that others have a right to use the land in some way.

Don't assume that because an easement is not currently being used it will never be used. As long as an easement is a part of your deed there's always a possibility that the individual who benefits from it will decide to enforce it.

Talk to an experienced real estate attorney to find out how and when an easement can be terminated.