



JAMES G. DIBBINI  
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*Attorneys At Law*

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## **Understanding Adverse Possession in New York What Property Owners Need to Know**

At James G. Dibbini & Associates, P.C., we are dedicated to helping property owners navigate the complex laws surrounding property rights. One area of real estate law that often raises questions is adverse possession, which allows an individual to claim ownership of another's property under specific conditions. In this newsletter, we'll clarify what adverse possession is, the elements required to claim it, and what property owners can do to either prevent or secure property through adverse possession.

### **What Is Adverse Possession?**

Adverse possession is a legal principle that allows a person to claim ownership of land under certain conditions, even if they are not the titled owner. In New York, adverse possession claims require specific elements to be met continuously for a period of at least ten years.

### **Elements Required to Satisfy Adverse Possession in New York**

To successfully claim adverse possession, an individual must establish that their use of the property was:

1. Actual – The claimant must have physical possession of the property, using it in a way that a typical property owner would.
2. Open and Notorious – The possession must be obvious to others, including the rightful owner, and not hidden.
3. Exclusive – The claimant must possess the property without sharing it with others, including the rightful owner.
4. Hostile – The occupation must be without the owner's permission, establishing that the claimant's possession is adverse to the owner's interest.
5. Continuous and Uninterrupted – The claimant must maintain possession consistently for at least ten years.

These elements help ensure that an adverse possession claim demonstrates a long-standing and overt use of the property.

### **How to Prevent Adverse Possession Claims**

Property owners can take several steps to prevent potential adverse possession claims:

1. Regular Property Inspections – Routine checks of property boundaries can help catch any unauthorized use early, preventing long-term possession by another party.
2. Document Boundary Lines – Maintain accurate records of property boundaries and consider fencing or clear markers to define the property.
3. Address Unauthorized Use Promptly – If someone begins to use or

- occupy your property, address it quickly. This could involve a conversation, written notice, or legal action if necessary.
4. Grant Permission in Writing – If you're aware of a neighbor using a portion of your property, consider granting permission in writing to use it temporarily. This prevents the element of hostility required for adverse possession.

## Securing Property Through Adverse Possession

If you believe you meet the criteria for adverse possession, securing ownership of the property involves a few essential steps:

1. Consult Legal Counsel – A real estate attorney can review your case to ensure you meet all legal requirements.
2. File a Claim – A lawsuit in New York Supreme Court is required to officially assert your claim of ownership.
3. Document Usage – Keep records of how you've used the property to demonstrate actual, open, and exclusive use over the statutory period.

Adverse possession claims can be complex and, if successful, can provide significant benefits by expanding property rights. However, the burden of proof is high, and all statutory elements must be satisfied without interruption.

## Protecting Your Property Rights

Whether you're looking to prevent adverse possession claims or wish to secure a claim yourself, our team is here to help. Contact us at James G. Dibbini & Associates, P.C. to discuss how we can assist you with any adverse possession questions or claims.

If you have any questions or need assistance, please don't hesitate to contact us at (914) 240-8270 or [jdibbini@dibbinilaw.com](mailto:jdibbini@dibbinilaw.com). We look forward to working with you to ensure the success of your investment property.

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