

See notes on Letter of Intent, this needs to be resolved prior to any further review.

June 11, 2019

Mr. Richard Morrow
6295 Vessey Rd
Colorado Springs CO 80908-3358

**Re: Ms. Janice Woodard
Trespass – Demand Payment or Removal of Encroachments
Our Intake No. 768291**

Mr. Morrow:

Ms. Janice Woodard recently contacted this Law Firm concerning a fence, shed, and other things you placed on her property without permission. Ms. Woodard authorized this Firm to write this letter on her behalf.

The relevant facts according to Ms. Woodard are as follows: You and Ms. Woodard have been in a dispute concerning the property line between your two properties. As a result, Ms. Woodard acquired a letter and survey dated May 5, 2015 showing that your fence and other structures were built on Ms. Woodard's property. See Letter and Survey attached. Once Ms. Woodard brought this to your attention, Ms. Woodard states you agreed to purchase the property for \$9,000.00. To this end Ms. Woodard delivered a Bill of Sale to you that merely needed your signature and payment. Nevertheless, Ms. Woodard states that you have avoided tendering payment or signing the Bill of Sale since she delivered it to you. Therefore, Ms. Woodard demands you either tender payment or remove the encroachments on her property.

Ms. Woodard never gave you permission to install the fence or other encroachments on her Property. Therefore, the fence and other encroachments constitute a trespass and must be removed immediately or you must tender full payment to Ms. Woodard.

Your fence and other encroachments on Ms. Woodard' property constitutes a trespass. Under Colorado law, "[t]he elements for the tort of trespass are a physical intrusion upon the property of another without the proper permission from the person legally entitled to possession of that property." *Hoery v. United States*, 64 P.3d 214, 217 (Colo. 2003) (citing *Public Serv. Co. of Colorado v. Van Wyk*, 27 P.3d 377, 389 (Colo. 2001); *Gerrity Oil & Gas Corp. v. Magness*, 946 P.2d 913, 933 (Colo. 1997)). Additionally, "[a] landowner who sets in motion a force which, in the usual course of events, will damage property of another is guilty of a trespass on such property." *Hoery*, 64 P.3d at 217. Trespass occurs "when an actor causes something else to enter the land." *Id.* Moreover, "an actor's failure to remove a thing tortiously placed on another's land is considered a 'continuing trespass' for the entire time during which the thing is wrongfully on the land." *Id.* at 218 (citing *Restatement (Second) of Torts* § 161 cmt. b.) Therefore, "[u]ntil the thing tortiously placed on the land, or underneath the land, is removed,

then liability for trespass remains.” *Hoery*, 64 P.3d at 218 (citing 75 Amer. Jur.2d Trespass § 26 (2002)). Moreover, fumes and toxic chemicals that can harm the property of another can be considered a trespass. *See generally, Hoery*, 64 P.3d 214.

Here, you installed a fence and other encroachments on Ms. Woodard’s Property without her permission. Despite numerous requests to either remove the fence and other encroachments or purchase the relevant property, you have not done so, resulting in a continuing trespass of Ms. Woodard’s Property.

Monetary damages may be sought by a landowner, whose interests in such property are injured. The Colorado Court of Appeals found that “[t]he purpose of an award of compensatory damages is to make the injured person whole by reimbursing him or her for the actual loss suffered.” *Hawley v. Mowatt*, 160 P.3d 421, 423 (Colo. App. 2007) (citing *Board of County Commissioners v. Slovek*, 723 P.2d 1309, 1316 (Colo. 1986); *Harsh v. Cure Feeders, L.L.C.*, 116 P.3d 1286, 1288 (Colo. App. 2005)).

Therefore, Ms. Woodard demands that you either sign the Bill of Sale and tender payment or remove the fence and other encroachments that are currently on her Property within ten (10) days of the date of this letter.

Failure to comply with this demand will cause this Firm to further advise Ms. Woodard of all legal and equitable rights and remedies available to her.

For now, and until instructed otherwise, Ms. Woodard asks that you communicate with her directly about these issues. Such communications should be reduced to writing and mailed to Ms. Woodard at the following address:

**Ms. Janice Woodard
6385 Vessey Rd
Colorado Springs CO 80908-3320**

Your prompt attention to this matter is both expected and appreciated.

Sincerely,



Elizabeth Anderson, Esq.
For the Firm

ESA/bjb

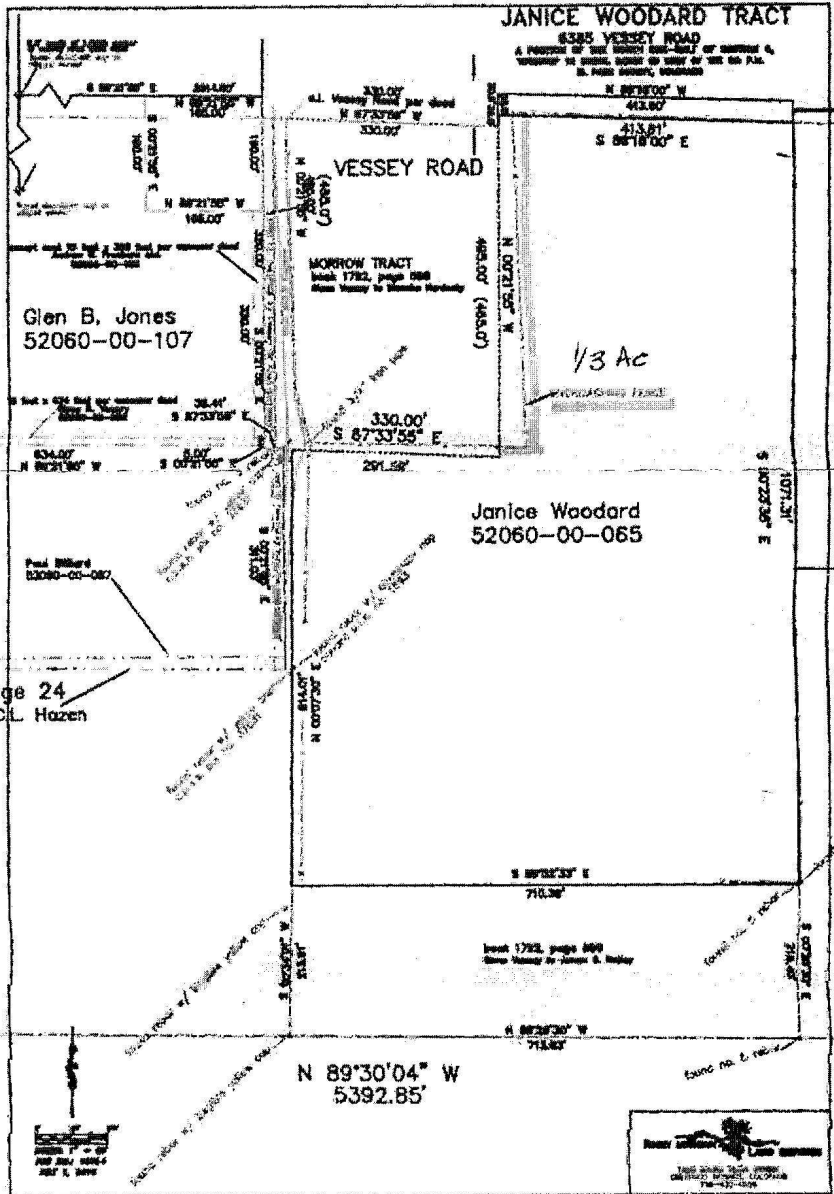
Enclosures: (2)
Survey Drawing
Letter dated May 5, 2015

cc: Woodard 768291

(D/s: 6/11/2019)

JANICE WOODARD TRACT

6385 VESSEY ROAD
A PORTION OF THE SECT 104-401 OF COUNTY 4,
WAGONER IN PART, TOWNSHIP 10 NORTH OF THE 101 P.M.
IN PART SECTION, OKLAHOMA



book 1829, page 24
Glenn Vessey to C.L. Hazen



The State of Oklahoma
Department of Land Management
Tulsa, Oklahoma
74103-0001

MAY 5, 2015

ERIC AND CAROL MORROW
6335 VESSEY ROAD
COLORADO SPRINGS, COLORADO 80908

RE: LOCATION OF IMPROVEMENTS AND BOUNDARIES AT 6385 VESSEY ROAD, BLACK FOREST,
COLORADO SPRINGS, COLORADO

DEAR MR. AND MRS. MORROW:
YOUR ADJOINING NEIGHBOR, MS. JANICE WOODARD AT 6385 VESSEY ROAD, TO THE EAST AND SOUTH OF YOUR PROPERTY AT 6335 VESSEY ROAD, HAS RETAINED RMLS TO COMPLETE A SURVEY OF HER BOUNDARY. ENCLOSED PLEASE FIND A COPY OF THE DRAWING OF THE SURVEY (PRELIMINARY AT THIS TIME) THAT WE ARE PREPARING FOR MS. WOODARD. IT APPEARS THAT THE ORIGINAL CONTROLLING DEED WAS A SALE FROM GLENN VESSEY TO BLANCHE HARDESTY AS RECORDED IN BOOK 1792, PAGE 598, WHICH IS THE PREDECESSOR IN TITLE AND THE DESCRIPTION OF YOUR TRACT. MS. WOODARD'S PARCEL GOES TO, AND RUNS ALONG THE SOUTHERLY AND EASTERLY BOUNDARY OF YOUR TRACT. THEREFORE, THE SURVEY OF HER BOUNDARY INCLUDES A RETRACEMENT OF THAT DESCRIPTION AND YOUR BOUNDARY. THE RESULTS ARE DEPICTED ON THE ATTACHED PRELIMINARY DRAWING. IT APPEARS THAT THE FENCE ALONG THE EASTERN SIDE OF YOUR BOUNDARY IS LOCATED WITHIN THE PROPERTY OF MS. WOODARD.

THIS LETTER IS SENT TO INFORM YOU OF OUR PRELIMINARY FINDINGS AND TO REQUEST PERMISSION TO GO INSIDE THE FENCED AREA OF YOUR LOT AND LOOK FOR BOUNDARY EVIDENCE AND SET POINTS ALONG THE LINE PER THE DEEDED DESCRIPTION. PLEASE CONTACT ME AT YOUR EARLIEST CONVENIENCE TO SCHEDULE A TIME TO COMPLETE THE SURVEY TASKS. MY CONTACT INFORMATION IS BELOW. CALL WITH QUESTIONS. THANK YOU.

Sincerely,

CHRISTOPHER THOMPSON P.L.S.
ROCKY MOUNTAIN LAND SERVICES
1623 SOUTH TEJON STREET
COLORADO SPRINGS, COLORADO 80905
719-630-0559
719-502-9738 cell