

TO: Nebraska Real Estate Commission

FROM: Samantha Lowery

RE: Squatter's Rights - Adverse Possession 25-202 – 25-213

DATE: May 9, 2024

**1. Actual**

**2. Continuous** (10 years)

a. Time may be tacked - owners.

i. meet the requirement of continuous possession, a plaintiff may tack the possession of predecessors in title. See Burk v. Demaray, 264 Neb. 257, 646 N.W.2d 635 (2002)

b. the law of adverse possession does not require the possession to be evidenced by persons remaining continuously upon the land and constantly from day to day performing acts of ownership, and it is **sufficient if the land is used continuously for the purposes to which it may be naturally adapted.** Nye v. Fire Group Partnership, 265 Neb. 438, 657 N.W.2d 220 (2003)

**3. Exclusive**

a. Use as a real owner (renting to a tenant would be okay, use of it only in Summer would be okay).

**4. Notorious**

a. If an **occupier's physical actions on the land constitute visible and conspicuous evidence of possession** and use of the land, that will generally be sufficient to establish that possession was notorious. Dugan v. Jensen, supra

**5. Adverse**

a. Even if by mistake (boundary lines) . Erickson v. Crosby, 100 Neb. 372, 160 N.W. 94 (1916), Weiss v. Meyer, [208 Neb. 429, 303 N.W.2d 765 (1981)

b. Even if by a tenant of the adverse possessor Hudkins v. Hempel, Neb: Court of Appeals 2023

**Trespass**

**28-520** Criminal trespass, first degree; penalty.

(1) A person commits first degree criminal trespass if: (a) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or

**28-522 Criminal Trespass; Affirmative Defenses:** (1) A building or occupied structure involving in an offense under section 28-520 **was abandoned**. An ownership interest is not an affirmative defense to the charge of criminal trespass. State v. Anderson, 14 Neb. App. 253, 706 N.W.2d 564 (2005).

**25-207.**

Actions for trespass, conversion, other torts, and frauds; **exceptions.**

The following actions can only be brought **within four years**: (1) An action for trespass upon real property; ...