

Adverse Possession attack plan

Adverse possession: A way to obtain title to land by possessing it for a certain period of time against the interests of the owner. Requirements for qualifying possession:

1. **Continuous** and uninterrupted through the statutory period.
 - a. Consider: Was property only used part of the year? (*Howard* – part-year occupancy okay if customary in area/improvements made)
2. **Hostile** to the interests of the true owner.
 - a. *Manillo* – even mistaken claim of title is okay (don't need intentional hostility)
 - b. Look at whether the use was permitted by the landowner (no AP)
3. **Open and notorious**, so as to put the true owner on notice that the trespasser is in possession.
 - a. Would it have been clear to an observant owner or the public that the trespasser was using the property?
4. **Actual**, so that the true owner has a cause of action for trespass.
5. **Exclusive**, in order that there be no confusion as to who acquires title once the time has run.
 - a. Can't share occupancy with the owner or public at large (but guests are okay, if accompanied)
6. **For the statutory period** (differs by jurisdiction)
 - a. With privity of estate, may be able to use "tacking" to add together subsequent periods of possession
 - i. Typically, can't add together periods of squatting/trespassing