

Grantees' Use of Easement Property for Parking Exceeded Scope of Rights Reserved in Easement Deed

The court of appeal held that a secondary easement right exists only to the extent necessary to effectuate the principal easement described in the document creating the principal easement. *Pear v. City and County of San Francisco*, 67 Cal.App.5th 61 (2021). In 1951, the plaintiffs' grandparents executed a deed granting the City and County of San Francisco fee title to an 80-foot strip of land for the purpose of constructing an underground water pipeline. The deed reserved certain rights to the plaintiffs' family, including the right to use the surface of the property for pasturage and to construct roads and streets "over and across" the property "but not along in the direction of the City's pipe line or lines." Since the 1960s, the pipeline property had served as a paved parking lot for commercial uses on the plaintiffs' properties on either side of the pipeline property. When a dispute arose about whether parking and related circulation was authorized as part of the reserved easement, the Pears filed a quiet title action to determine whether their current uses of the pipeline property were authorized. The Sixth Appellate District held that the language of the deed did not allow plaintiffs' use of the pipeline property as a parking lot. Parking was not among the uses expressly authorized by the deed. The court opined that a parking lot is not necessary to the enjoyment of a road, nor does it represent merely the "occasional or temporary parking that normally accompanies the movement of vehicles in and out of, or over, a location." The court further noted that any ancillary parking would be subject to the express directional limitation set forth in the deed. As currently situated, the parking covered such a large percentage of the pipeline property that it existed not only "over and across" but also necessarily "along in the direction of" the pipeline, contrary to the express restriction set forth in the deed. The court thus held that plaintiffs' parking exceeded the scope of parking authorized as a secondary right to the authorized uses in the deed.

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