

PREFACE

The law is a means for identifying rights, especially as they correspond to the rights of others, for conflict avoidance by setting clear expectations of rights and obligations of individuals in society vis-a-vis each other, for providing the methods, means, and substantive rules for conflict resolution and to redress wrongs, and for the facilitation of exchange so that resources are allocated and preferences aligned in an optimal manner. Perhaps nowhere are all of these features of the legal system more intimately experienced or more robustly exhibited than in the Law of Neighbors. The purpose of this book is to explore the full range of legal principles and rules that collectively operate to define these rights, obligations, and exchange opportunities of the Law of Neighbors. In doing so, we discuss many areas of law that are not usually found in a single-volume treatise.

The traditional doctrines of real property law that structure neighborhood relationships—nuisance, trespass, adverse possession, lateral support, easements, covenants, and servitudes—are fully analyzed. They are complemented by discussions of federal, state, and local laws and regulations, which in our modern legal system increasingly modify and shape the law of neighbors. Thus, for example, we discuss zoning, right-to-farm statutes, and environmental laws. We also explain the law of homeowner’s associations, which although it has a common-law base is largely statutory.

Our primary focus is the residential neighborhood, although we regularly include discussions of conflicts between homeowners and nearby non-residential activities. Occasionally, we consider conflicts between non-residential neighbors, such as neighboring store owners, but that is not a major focus of this book. Likewise, we include only limited analysis of what might be termed “vertical neighbors”—specialized problems raised with respect to surface activities when confronted with the fragmentation of interests including through separate ownership of airspace or subsurface resources.

This book is designed to be a basic tool for the analysis of issues and conflicts among neighbors. As a starting point for dealing with a problem, this volume should be useful for those who have little experience in the field, as well as experts who wish to have a concise refresher, with citations to leading authorities. We often discuss leading cases in text, and the footnotes include a sampling of representative cases, which may assist the reader

who desires to dig deeper into a particular issue. This book is not an exhaustive treatise of all the legal topics that together compose the Law of Neighbors. To limit this book to one volume, we have necessarily exercised a great deal of selectivity. Likewise, in preparing footnotes, we have given only a sampling of the most important authorities in a few jurisdictions, which we consider representative of U.S. law in all its jurisdictions.

The book replaces and updates a previous work, *Neighboring Property Owners*, written by Jacqueline P. Hand and James Charles Smith, originally published in 1988 by Shepard's/McGraw-Hill, Inc. and continued with annual updates published by Thomson Reuters through 2020. This book retains much material written by Professor Hand, and we gratefully acknowledge her valuable contributions to elucidating the principles governing relationships among neighbors.

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