



Trespass to Land

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Konomark
Most rights sharable

Trespass to Land

Trespass to Land

The defendant

- (1) intentionally
- (2) caused an intrusion, either by entry onto or failure to leave or remove from,
- (3) plaintiff's real property.

Sometimes I like going in the reverse order. It can be easier.

Trespass to Land

Trespass to Land

(re-ordered)

- (1) With plaintiff's real property,
- (2) defendant has caused an intrusion, either by entry onto or failure to leave or remove from,
- (3) intentionally.

Trespass to Land

(simplified)

- (1) Land**
- (2) Entry**
- (3) Intent**

Or, to really
simplify it ...

Trespass to Land

(simplified)

- (1) Land**
- (2) Entry**
- (3) Intent**

Real property (a.k.a. Land)

- **Tangible “immovable” property**
 - as opposed to chattels (moveable tangible property)
- **Land**
- **Buildings and improvements**
- **Fixtures**
- **Subsurface to the center of Earth**
- **Above surface to a reasonable distance**

Intrusion (a.k.a. Entry)

Can include:

Entering someone's property without permission.

Where you're invited to be on someone's property, going to an off-limits place—some part of the property where you aren't permitted.

Doing something with a fixture you're not allowed to do.

Subsurface (e.g., horizontal oil & gas drilling)

Overhead (e.g., drone encroachment)

Omissions – failure to leave, failure to remove

HVAIF

**H
V
A
I
F**

**Horizontal
Vertical
Acting on
Inducement
Failure to leave/remove**

Trespass to Land

Intent

All you need is intent for the entry.

Not intent to trespass!

Contrast this with battery.

Ex.: Kicking a box with a child hiding inside.

We're going to dig deeper into intent.
Hold on – that's coming up in a bit ...

Remedies and scope of recovery

- You don't need any injury. You can get mere nominal damages. But bear in mind ...
- Trespass to land remedies can be very powerful!
- Recovery for damages caused by the trespass can function like strict liability for damage caused during a trespass. This can be an important way to recover for accidental damage independent of negligence or strict liability causes of action!
- You can also get things like rental value, compensation for emotional distress / annoyance / discomfort, and injunctions!
 - (And injunctions can sometimes be worth money – because they can create leverage to get the defendant to cut a big check to you to get your agreement to lift the injunction.)

Some quick problems

Is this trespass to land?

A person you thought was an employee directs you to a back bathroom ...

You climb installed shelving to reach something high up in a store ...

You drive a snowmobile along the edge of your property line, and then you hit a concealed fencepost in the snow and your snowmobile careens out of control over the property line and on to your neighbor's property. You immediately drag the snowmobile back over to your side ...

Is this trespass to land?

Student-made examples:

New homeowner is getting old owner's newspapers via a 8-year-old paperboy. They flag down the paperboy and tell him to pick up the accumulated papers and stop throwing them at the porch. He does neither.

Kid leaves lit candle on the lawn of his neighbor's house in memoriam to his neighbor's wife's death. The candle ends up getting knocked over, and it starts a fire.

Visitors on a factory tour wander away from the path they were told to follow, stumble over some cords negligently left in a pathway, and end up breaking a multi-million-dollar machine.

Is this trespass to land?

Student-made examples:

Graffiti artist (e.g., Banksy) leaves graffiti that turns out to be very valuable.

Kids, standing on a public sidewalk, are playing catch over corner of the neighbor's yard, when the neighbor has previously told them not to. An errantly thrown ball hits a piece of unsecured statuary on the lawn, knocking it over and causing it to break, doing tens of thousands of dollars in damage.

Google v. Boring









**Let's do some problems
on intent to help you get
the concept.**

Intent problem: Danny places the puck

Danny doesn't intend to trespass, but Danny does intend to place a hockey puck on piece of land "X," and he does so. Piece of land "X" is owned by Pilar, and Pilar hasn't given Danny permission to place the puck on piece of land "X."

Is there requisite intent for trespass to land?

- A. Yes
- B. No

Intent problem: Danny places the puck

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Is there requisite intent for trespass to land?

A. Yes ←

B. No

Is there a winning case for trespass to land for Pilar against Danny on these facts?

A. Yes

B. No

Intent problem: Danny places the puck

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Is there requisite intent for trespass to land?

A. Yes ←

B. No

Is there a winning case for trespass to land for Pilar against Danny on these facts?

A. Yes ←

B. No

Intent problem: Danny fumbles the football

Danny doesn't intend to trespass, but Danny does intend to throw a football up in the air and catch it on and over piece of land "Y." After a few minutes of doing this, Danny fumbles the ball, accidentally dropping it so it falls on piece of land "X." Piece of land "X" is owned by Pilar, and Pilar hasn't given Danny permission to place anything on piece of land "X."

Is there requisite intent for trespass to land?

A. Yes

B. No

Intent problem: Danny fumbles the football

Danny doesn't intend to trespass, but Danny does intend to throw a football up in the air and catch it on and over piece of land "Y." After a few minutes of doing this, Danny fumbles the ball, accidentally dropping it so it falls on piece of land "X." Piece of land "X" is owned by Pilar, and Pilar hasn't given Danny permission to place anything on piece of land "X."

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A. Yes

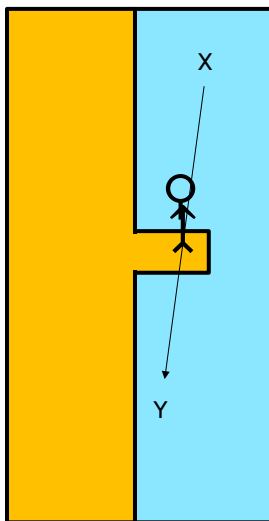
B. No ←

Is there a winning case for trespass to land for Pilar against Danny on these facts?

A. Yes

B. No ←

Intent problem: Nora and the notch

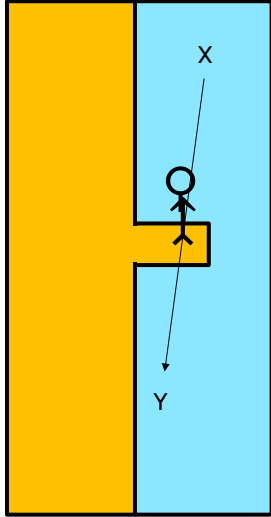


Nora owns Blueacre (right). Oren owns Orangeacre (left). Nora believes Blueacre is a rectangle, and her belief in this regard is supported by a land survey she paid for, an attorney opinion, and county land records. But in fact, Oren owns a notch that extends Orangeacre into what Nora believes to be the rectangular tract of Blueacre. With her subjective belief that she is staying on her property, Nora walks from one point to the other in a straight line. As a result, she transits the notch. Is there requisite intent for trespass to land?

A. Yes

B. No

Intent problem: Nora and the notch



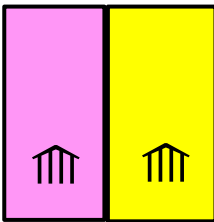
Nora owns Blueacre (right). Oren owns Orangeacre (left). Nora believes Blueacre is a rectangle, and her belief in this regard is supported by a land survey she paid for, an attorney opinion, and county land records. But in fact, Oren owns a notch that extends Orangeacre into what Nora believes to be the rectangular tract of Blueacre. With her subjective belief that she was walking on Blueacre, Nora walks from point X to point Y. Because she walks from one parcel to another, and because the result, she trespasses on Blueacre. Is there intent for trespass to land?

Nora meant to walk where she did. So that counts as the requisite intent for trespass to land.

A. Yes ←

B. No

Intent problem: Mitch's mistake #1



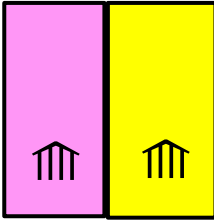
Mitch has a demolition business. He was hired by Ajax to demolish a shed on Pinkacre (left). "I sure don't want to trespass," Mitch said. So Ajax signed a written contract that provided, "I, Ajax, hereby represent, warrant, and certify that Mitch has permission to demolish the shed on Pinkacre, and I agree to indemnify Mitch for any tort claim that may result from Mitch undertaking the activity that is the subject of this contract." Mitch thought everything was on the up and up. He demolished the Pinkacre shed on purpose, using his bulldozer. It turns out Ajax had no lawful authority to authorize the demolition of the shed, which, along with the rest of Pinkacre, was owned by Polly.

Is there requisite intent for trespass to land in a suit brought by Polly against Mitch?

A. Yes

B. No

Intent problem: Mitch's mistake #1



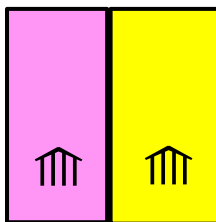
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Is there requisite intent for trespass to land in a suit brought by Polly against Mitch?

A. Yes ←

B. No

Intent problem: Mitch's mistake #2

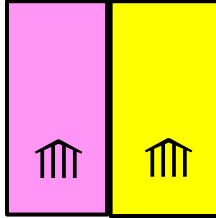


After demolishing the shed on Pinkacre, Mitch carelessly left the engine running on his bulldozer. The transmission slipped (because of Mitch's negligent maintenance of the machine), and the bulldozer moved over to Goldacre (right), owned by Golda, where it destroyed Golda's shed.

Is there requisite intent for trespass to land in a suit brought by Golda against Mitch?

A. Yes

B. No

Intent problem: Mitch's mistake #2

After demolishing the shed on Pinkacre, Mitch carelessly left the engine running on his bulldozer. The transmission slipped (because of Mitch's negligent maintenance of the machine), and the bulldozer moved over to Goldacre (right), owned by Golda, where it destroyed Golda's shed.

Is there requisite intent for trespass to land in a suit brought by Golda against Mitch?

A. Yes

B. No ←

Do you feel like you have the concept for intent for trespass to land?

A. Yes

B. No