



# Title Tidbits Newsletter



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## A Tale of the Pig Easement

by Gloria Tison, Manager/Counsel - Kotner Title

Easements can be confusing. An easement is a non-possessory interest in the land of another that gives the easement holder certain limited rights relating to the use of such real property. Most people think of them as only for ingress and egress to a property. However, easements can involve much more. What is the purpose of the easement - access, utility pipelines, maintenance, signage? How will the easements be use? For example, if it is an access easement, will it be for pedestrian, vehicular or even equestrian use. Who may use the easement? Is it exclusive or non-exclusive, perpetual or for a term? How can it be terminated?

On August 23, 2024, the Supreme Court of Kansas issued an opinion in *Ross v. Nelson*. This case illustrates why landowners need to understand what rights an easement conveys. The defendant, Nelson, runs an industrial hog farming operation. The hogs produce

enormous volumes of waste. He piped the treated waste from his facilities to his nearby farmland, where he used an irrigation system to spray it onto the fields. This wrinkled the noses of his neighbors, two of whom sued for trespass and nuisance. The neighbors alleged that Nelson trespassed on their land by installing pipes in the subsurface of the public highway, that they owned the land on which the highway was located, that they had not given Nelson permission to install the pipelines, and that the resulting odors and fly infestations had unreasonably interfered with their use and enjoyment of their property.

When land is bounded by a public easement, the landowner owns the fee up to the center of the road. The landowner owns all the rights above, on, and under the surface of the highway subject only to the condition that he does not interfere with the public's use of the easement. To fall within the scope of a

public highway easement, any proposed use must be public use that facilitates the highway's purposes of travel, transportation, or communication. The court found that while pipelines are a means of transporting products, Nelson installed the pipelines for his private and exclusive use. Nelson's pipelines thus infringed on the private property rights of the neighbors – the fee owners who retained all rights in the subsurface not included within the easement. Nelson did not have the neighbor's permission to install the pipelines, nor did he have permission from any other body with authority to permit the installation. The court held that Nelson committed trespass as a matter of law.

Kotner Title can assist you in avoiding costly lawsuits such as the one described by helping you understand your rights as a property owner.

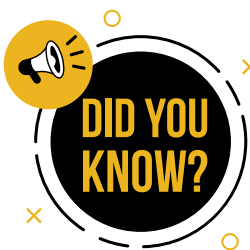
# Convenience is KEY

## REMOTE CLOSINGS

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We know that in today's busy world it may be hard to come to our office for your closing. We want to make your real estate transaction as seamless as possible.

We even meet farmers in the field during harvest! Kotner Title makes closing your real estate transaction convenient.



Is there an area of property rights or title that you want to learn more about? Our team at Kotner Title will come to your office to do short presentations on the topic of your choice. We have earned the ILTA escrow and title professional designations as well as the ALTA Certification of Homeowner Outreach Program (HOP) Leader Excellence. **CALL OUR TEAM TO LEARN MORE!**



- Football historians state that the first tailgate was held at Yale University in 1906. They were referred to as "parking lot picnics" until the 1950s.
- Starbucks' iconic Pumpkin Spice Latte was almost called Fall Harvest Latte.
- Pumpkin spice does not taste like pumpkin. The flavor is a mix of ground cinnamon, nutmeg, dry ginger and cloves.
- In 1898 when the Goelitz Candy Company marketed Candy corn, roughly half of Americans were farmers and candy manufacturers produced agriculture-themed sweets for the masses of American farm children. It was originally called Chicken Feed.
- Early pumpkin pies had pumpkins as the crusts.
- Bobbing for apples was once a British courting ritual. Males were assigned an apple, and females would bob for them, trying to get the right apple from the man she wanted!
- There is a popular belief that "as many falling leaves as can be caught in the hand in autumn, so many happy months will follow."

## What Makes Up Closing Costs?

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Simply open camera on your smart phone and hover over QR code.



### BUYERS

Buying a home? You need to be certain that the seller is the true owner of the property and that no outstanding issues damaging title carry over to you. Why? Because if there are problems with the title it can restrict the use of the property and ultimately result in financial loss. That's where Kotner Title can help you.



### SELLERS

Selling your house? Kotner Title will work with you to coordinate any satisfactions of liens and prepare all the necessary closing documentation to make the experience for you and the buyer as smooth as possible. We promise competitive rates, great communication and amazing service.



### REALTORS

You need a trustworthy partner who understands your needs.

Realtor's Benefits with Kotner Title:

- Full service on every transaction
- Timely and accurate title commitments
- Superior communication
- Knowledgeable and professional staff
- Contract upload capability or drop off



### LENDERS

Kotner Title is proud to say that we have the necessary experience to meet or exceed the compliance guidelines that are required of lenders. We are fully TRID compliant and protect a lender's interest against any title defects by carefully reviewing your instructions and ensuring that all documents are executed in a timely fashion.