

NOTICE  
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 110935-U

Filed 6/4/12

NO. 4-11-0935

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

DELBERT ROBINSON and CATHERINE ROBINSON,	)	Appeal from
Plaintiffs-Appellees,	)	Circuit Court of
v.	)	Livingston County
GERALD A. WARWICK and PAULA D. LIND,	)	No. 08CH87
Defendants-Appellants.	)	
	)	Honorable
	)	Robert M. Travers,
	)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.  
Justices Steigmann and Appleton concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the trial court's judgment where the defendants failed to establish the elements of (1) adverse possession, (2) promissory estoppel, or (3) a prescriptive easement.

¶ 2 In August 2008, plaintiffs Delbert Robinson (Delbert) and Catherine Robinson filed a complaint for injunctive relief, alleging defendants Gerald A. Warwick and Paula D. Lind were encroaching on the Robinsons' property by constructing a patio and parking on a strip of the Robinsons' land. In October 2009, Warwick and Lind filed a countercomplaint, seeking to quiet title to the disputed strip based on adverse possession and promissory estoppel. The parties filed cross-motions for summary judgment, which the court denied in September 2010 after finding the pleadings contained genuine issues of material fact.

¶ 3 Following a bench trial that took place on April 5, 2011, and August 1, 2011, the

trial court denied Warwick and Lind's claims of adverse possession and promissory estoppel and granted injunctive relief to the Robinsons, requiring Warwick and Lind to remove all encroachments from the Robinsons' property and pay for the costs of the action.

¶ 4 Warwick and Lind appeal, arguing the trial court's ruling was contrary to the manifest weight of the evidence with respect to their claims of adverse possession and promissory estoppel. They also argue the trial court should have found they established a prescriptive easement. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 The parties own adjacent properties in Pontiac, Illinois. The Robinsons' property, located at 421 W. Grove Street, lies to the west of Warwick and Lind's property and is described as follows:

"The West 160 feet of that portion of Block Sixty-three (63) in Pontiac, which lies South of the Center of the Vermillion [*sic*] River, Livingston County, Illinois."

¶ 7 Delbert purchased his property in 1998 from the estate of Homer Parkhill. In 2007, Delbert conveyed the property to his wife, Catherine, and himself as joint tenants. Before Parkhill owned the property, Delbert Gardner (Gardner) owned it.

¶ 8 Warwick and Lind's property is located at 407 W. Grove Street and is described as follows:

"The West 38 feet of the East 107.25 feet and the East 13.25 feet of the West 173.25 feet of that portion of Block 63 which lies South of the Vermillion [*sic*] River in the Original Town, now City of

Pontiac, Livingston County, Illinois."

¶ 9 Warwick and Lind purchased their property in 2000 from the estate of Helen Wolff. Helen Wolff's brother, John Wolff, lived on the property until his death in 1974.

¶ 10 A 2010 survey of the properties, which was ordered by Warwick and admitted into evidence, is appended.

¶ 11 The southern edge of both parties' properties aligns Grove Street. The parties are contesting a strip of land that runs on the Robinsons' property along the easterly boundary line. A two-car wide approach sits to the south of the disputed strip, allowing access to Grove Street. The approach straddles the parties' properties. A gravel walkway runs immediately on the east side of the easterly boundary line.

¶ 12 Other relevant structures include the following: (1) a four- to five-foot long retaining wall located at the northern end of the Robinsons' property, 7.6 feet to the west of the boundary line, running north to south; (2) a seven- to eight-foot long retaining wall, located on the Robinsons' property, running diagonally from the north to west (not shown on the survey); and (3) a fence located at the northern end of the Robinsons' property, 9.3 feet to the west of the boundary line, running north to south.

¶ 13 In 2005, Warwick installed a concrete patio on the northwest portion of his property, such that 7.45 feet of the patio extends onto the northeast corner of the disputed strip. That same year, Warwick also installed a gravel driveway in the disputed strip. The driveway ran from the apron on West Grove Street to the concrete pad. The gravel driveway has since been removed by Warwick and grass grows in that area.

¶ 14 In August 2008, plaintiffs filed a complaint for injunction, petitioning the trial

court to order defendants to remove the patio and gravel from their property. In response, defendants filed a countercomplaint in October 2009, seeking to quiet title based on adverse possession and promissory estoppel. The parties filed cross-motions for summary judgment, which the court denied in September 2010 after finding the pleadings contained genuine issues of material fact.

¶ 15 A bench trial commenced in April 2011 and continued in August 2011. At the trial, the following individuals testified: Warwick, Paula Lind, Tom Harris, Delbert, Debra Rambo, and Donovan Gardner (Donovan).

¶ 16 A. Warwick's Testimony

¶ 17 Warwick first testified in April 2011. He said when he purchased the 407 W. Grove property in 2000, he did not have knowledge as to the property's boundary lines. After moving in, Warwick began driving and parking his car on the land running directly from the street approach, straddling the properties' common boundary line. He and his family members parked on the disputed strip of land on an "almost daily basis," and were the only people to use it.

¶ 18 Beginning in 2000, Warwick began transporting dirt and fill in order to build up the area where he later installed the concrete pad. Warwick estimated, in total, over 125 semitruck loads of fill were transported to the property over a five-year period. Delbert did not say anything to Warwick about the truckloads. Warwick said during this time, he mowed the grass on the disputed strip, although much of the grass had been trampled by the trucks.

¶ 19 In August 2005, Warwick obtained a permit to pour the concrete pad. Before obtaining the permit, Warwick said he spoke to Delbert one evening while Delbert was walking around the east side of his house and Warwick was on his back porch. Warwick testified he said,

"I'm planning on doing some concrete work and building a garage back here; I just wanted to, you know, let you know what I was going to be doing back here and, so you wouldn't be wondering what was going on." According to Warwick, Delbert responded, "no problem, I don't have a problem what you do over here, [Warwick], I'm never on this side of the house anyway." Delbert did not tell Warwick the garage or pad would be on Delbert's property.

¶ 20 Between August 2005 and November 2005, Warwick dug up dirt from the disputed strip to use as fill for the concrete pad. He also "frame[d] up everything" and brought in gravel for the pad. The pad was poured in November 2005. After it was installed, Warwick attempted to obtain a city permit to build a garage on top of it. However, the city's zoning department informed Warwick the pad extended past his property line, and therefore no permit could be issued for the construction of a garage. Based on this information, Warwick spoke to Delbert and offered to purchase the portion of the Robinsons' land that contained the concrete pad. In late 2006, Delbert wrote Warwick a letter stating he did not want to sell his property.

¶ 21 When Warwick spoke to Delbert about the letter, Delbert told Warwick he did not remember ever having a conversation about the concrete pad. In the spring of 2008, the Robinsons had their property surveyed. Thereafter, Catherine Robinson informed Warwick the survey showed the property line between the parties' homes fell in the middle of the gravel driveway. Warwick said from that point on, neither he nor his family members parked on the disputed portion of the property.

¶ 22 Warwick then testified about his memories of the 407 W. Grove property before he purchased it. Warwick lived approximately 4 blocks southeast of the property from the time he was 3 years old until he was approximately 19 or 20. Because the property is located near a

church and the Vermilion River, Warwick frequented the area "almost on a daily basis." As he got older, Warwick said he continued to be around the property on a regular basis, walking by to go "uptown."

¶ 23 Warwick's earliest recollection of the 407 W. Grove property was around 1974 when he was approximately eight years old. He remembered regularly witnessing "two vehicles parked right off the street, off of [the] approach." Warwick said one of the vehicles was a truck, and it was usually parked in the portion of the strip south of the home but north of the apron. On occasion, John Wolff parked his truck on the northern end of the strip, as John was a beekeeper who kept his bees behind the house. Warwick identified defendant's exhibit No. 11, a photograph taken in 1979, as showing a truck parked on the property at issue. He also identified defendant's exhibit No. 15 as a photograph of John's truck. (This photograph apparently had "9/98" written on it, but Warwick testified the photo was taken before 1979.)

¶ 24 Warwick did not see any vehicles other than the Wolffs' vehicles on the property. Warwick continued to live in Pontiac and observe the 407 W. Grove property until he purchased it in 2000, except for a one-year period when he lived in Peoria.

¶ 25 On cross-examination, Warwick said John died before Helen, and after John passed away, Helen did not keep John's vehicle on her property. Instead, Helen parked her vehicle "right in the middle of the driveway," straddling the boundary line. Helen did not ever pull her vehicle to the northern end of the property. Warwick acknowledged Helen was a teacher in the Danville area, but to his knowledge she always lived at the 407 W. Grove property. Defendant's exhibit No. 22, an affidavit of Helen Wolff, states she was a resident of Danville in 1972. Approximately seven years before Warwick purchased the home, Helen moved into a

nursing home because she could not care for herself. From 1993 to 2000, the home stood empty.

¶ 26 Warwick admitted he did not have any firsthand knowledge about whether the Wolffs and Gardners had worked out some kind of an agreement with respect to their properties and the disputed strip.

¶ 27 In August 2011, Warwick testified again. Warwick's attorney showed him plaintiffs' exhibit No. 14, the death certificate of John Wolff, which was later admitted into evidence. The death certificate showed John died in 1974. Based on this information, Warwick stated that, contrary to his original testimony, he actually started frequenting the 407 W. Grove property when he was younger than eight. He maintained he frequented the 407 W. Grove property "two to three years" before John died; thus, he believed he started coming around the area in 1971 or 1972. Contrary to his April 2011 testimony, Warwick said John's truck remained on the property for seven to eight years after he died.

¶ 28 Warwick also corrected his testimony with respect to the concrete pad, testifying he obtained the permit to build the concrete pad in April 2005, rather than August 2005. According to Warwick, the conversation with Delbert actually took place in April 2005.

¶ 29 B. Paula Lind's Testimony

¶ 30 Defendant Paula Lind testified she purchased the 407 W. Grove property with Warwick in 2000 and lived there until 2004. Lind parked her car on the left-hand side of the driveway, and Warwick parked on the right. She said their family members and friends "constantly" used the driveway as well. Although Delbert observed Lind parking on the disputed strip, he never said anything to her about her use of the strip. Lind never saw Delbert on the disputed strip. While Lind lived at the property, Warwick maintained the disputed strip.

¶ 31

### C. Tom Harris's Testimony

¶ 32 Tom Harris testified when he was five or six years old, he began riding his bicycle from his parents' home, located two or three houses to the west of the 407 W. Grove property, past the property. He believed Helen Wolff only visited the 407 W. Grove property on the weekends. When she did, she and John parked their cars side by side. Harris testified the southern portion of the disputed strip had "always been used as a driveway," but he did not know whether the driveway extended alongside the house. He remembered John driving "all the way back with his truck" because John kept beehives in the back of the property. He did not remember any other vehicles parked on the property.

¶ 33 Harris continued to live in his parents' home until he was 19 years old. He moved back into the area three years later, and remained in Pontiac until he moved to Missouri from 2000 to 2004. He regularly visited the property after Warwick and Lind moved in, and testified they parked their cars in the driveway. He also said Warwick's work on the driveway lasted "a couple years or more." He never observed the semitrucks, however.

¶ 34 Harris remembered the 407 W. Grove home sitting vacant for a period of time until Warwick purchased it. He did not know who maintained the area when the home was vacant, although he testified he never noticed the grass being "obnoxiously tall."

¶ 35

### D. Delbert's Testimony

¶ 36 Delbert testified Warwick began transporting fill in 2003 or 2004 without asking permission from Delbert or telling Delbert why he was hauling fill. Warwick's activity with respect to the fill lasted approximately a year. Contrary to Warwick's testimony, Delbert said he

mowed the grass in the disputed strip in 2005 and it "wasn't dug up" as Warwick claimed.

¶ 37 Warwick and Delbert had a conversation in "early spring" of 2005. At that time, Warwick told Delbert that Warwick and his boys intended to play basketball on the area where Warwick later installed the concrete pad. Delbert did not know Warwick intended to build a permanent structure on the land. He testified he and Warwick never discussed Warwick pouring a concrete pad, building a garage, or obtaining a permit. Delbert went on vacation for a week or week and a half, and when he returned home, the concrete pad was complete, the dirt was dug up, and the gravel was down. After Warwick installed the pad, Delbert and Warwick spoke again, at which time Delbert told Warwick he did not want to sell that portion of his land to Warwick.

¶ 38 Delbert told Warwick not to park on the disputed strip of land north of the driveway approach sometime after Catherine moved in with Delbert in 2005 or 2006. Before that, he never told Warwick to stay off his property.

¶ 39 E. Debra Rambo's Testimony

¶ 40 Debra Rambo testified she lived at 420 W. Grove Street, which is across the street from Delbert and "kitty-corner" from Warwick. She lived at 420 W. Grove with her parents from 1976-78 and again from 1984-87. From 1978-81, she lived in town and visited her parents at their home "four, five, six times a week." From 1981-84, she did not live in town. From 1987-92, she visited her parents at 420 W. Grove "a lot." In 1992, she and her husband purchased the home.

¶ 41 In 1976, Rambo was approximately 17 years old. At the time, Gardner and his wife, Isabel, lived on the property later owned by the Robinsons. Rambo said Gardner allowed her and her neighbors to park in the portion of the disputed strip north of the sidewalk, "up into

the yard", if she or her neighbors had guests. Rambo did not know if her parents ever asked Gardner if they could park their cars there; she said, however, Gardner would "be out there" and "didn't care" and it "seemed like it was the neighborhood okay." Likewise, Rambo did not remember having a conversation with Helen Wolff about parking in the driveway. She said they typically parked in the driveway when Helen was teaching in Danville. According to Rambo, Helen was "gone most of the time still teaching" and "maybe home on weekends sometimes." She did not know whether Helen "had a place" in Danville. Rambo never met John Wolff and only remembered seeing Helen's vehicle in the driveway, except perhaps when Helen's sister visited. When Helen parked in the driveway, she only parked "right up to the edge of the house" and not behind it.

¶ 42 With respect to maintenance of the disputed strip, Rambo said she thought the Gardners hired someone to mow their lawn, and later, when Parkhill moved into the property, he mowed the area. Rambo remembered an occasion in the mid-1990s when Parkhill was mowing and a rock flew into her window. Rambo did not see Helen mow the disputed property, but said Helen mowed the "front of her lawn." After Helen went into a nursing home, the "house was vacant for a long time."

¶ 43 Rambo said she believed defendant's exhibit No. 15, previously identified by Warwick as showing John Wolff's truck, depicted another neighbor's truck. Rambo said the truck in the photograph was not Helen's vehicle, and Rambo had never seen John Wolff's truck. She said the garage shown in the picture was not built until 1995 or 1996; thus, she believed the picture was taken sometime in the 1990s.

¶ 44 Rambo witnessed Warwick parking vehicles on the disputed strip and she saw

Warwick pour the concrete pad. She never saw semitrucks bringing fill to the property, but said she worked during the day. She knew Delbert was out of town when Warwick poured the pad because she spoke to Delbert before he left. She did not remember Warwick doing work before pouring the pad, but she knew some fill and dirt were taken to the concrete area.

¶ 45

#### F. Donovan's Testimony

¶ 46

Donovan testified he lives on Henry Street, and from his home, he can see the 407 W. Grove property (the Warwick and Lind property). Donovan moved into his home in 1962 and observed the 407 W. Grove property regularly until 1980 because his children used to play there. He testified Helen did not live with John permanently, but rather, came back on weekends and holidays and then became a permanent resident after she retired. He did not know when Helen retired, except that it was after John died. When Helen visited, she parked in the street, and John parked in the driveway, sometimes pulling up to the side of the house on a single-width gravel driveway. He did not remember John and Helen ever parking their vehicles side by side in the disputed area. John's vehicle did not stay on the property very long after he passed away.

¶ 47

Donovan did not know who maintained the disputed strip when Gardner lived in the property, nor did he know whether John Wolff maintained the property later. From 1980 to 1999, Donovan worked as a consultant and traveled frequently such that he did not observe the 407 W. Grove property regularly.

¶ 48

#### G. The Trial Court's Order

¶ 49

At the conclusion of the testimony, the trial court allowed the parties to orally argue and to submit additional authority within 14 days. The Robinsons' attorney presented both oral argument and a written closing argument. Warwick and Lind's attorney submitted only a

written closing argument.

¶ 50 In September 2011, the trial court entered an order finding in favor of the Robinsons and requiring Warwick and Lind to remove all encroachments from the Robinsons' property. First, the court denied Warwick and Lind's adverse possession claim, finding Warwick and Lind failed to establish their possession of the disputed strip was both hostile and exclusive for a 20-year period. While Warwick and Lind presented evidence about hundreds of truckloads of fill being transported onto the property, the court noted the transportation of fill did not clearly show hostility or exclusive use of the property. In addition, the court pointed out the testimony did not establish the Wolffs' use of the disputed strip was hostile. Regarding the witnesses, the court noted Warwick's observations about John Wolff's use of land were "questionable," whereas Rambo's testimony was "convincing."

¶ 51 The trial court also denied Warwick and Lind's promissory estoppel claim, finding it failed for lack of an unambiguous promise. The court found Delbert's testimony to be more credible than Warwick's with respect to the conversations relating to the installation of the concrete pad.

¶ 52 This appeal followed.

¶ 53 II. ANALYSIS

¶ 54 On appeal, Warwick and Lind argue the trial court's ruling with respect to their adverse possession and promissory estoppel claims was against the manifest weight of the evidence. They also argue the trial court should have found they established a prescriptive easement on the disputed strip. We address each argument in turn.

¶ 55 A. Adverse Possession

¶ 56 To establish title to land by adverse possession, a claimant must show he has possessed the land for 20 years and his possession was (1) open, notorious, and exclusive, (2) continuous, (3) hostile or adverse, (4) actual, and (5) under claim of title inconsistent with that of the true owner. 735 ILCS 5/13-101 (West 2010); *Dwyer v. Love*, 346 Ill. App. 3d 734, 739, 805 N.E.2d 719, 723 (2004). To meet the 20-year statutory period, possession by successive possessors can be "tacked." *Hermes v. Fischer*, 226 Ill. App. 3d 820, 826, 589 N.E.2d 1005, 1009-10 (1992). "All presumptions are in favor of the title owner, and the party claiming title by adverse possession must prove each element by clear and unequivocal evidence." *Knauf v. Ryan*, 338 Ill. App. 3d 265, 269, 788 N.E.2d 805, 808 (2003).

¶ 57 We will not overturn a trial court's findings on appeal with respect to adverse possession unless the court's findings are against the manifest weight of the evidence. *Dwyer*, 346 Ill. App. 3d at 740, 805 N.E.2d at 724.

¶ 58 In this case, the trial court found Warwick and Lind failed to establish adverse possession by clear and unequivocal evidence because Warwick and Lind did not show the Wolffs' (Warwick and Lind's predecessors in interest) use of the disputed strip was (1) hostile or (2) exclusive. We agree.

¶ 59 First, Warwick and Lind failed to show the Wolffs' use of the disputed strip was hostile. " 'Hostile' possession does not imply actual ill will but only the assertion of ownership incompatible with that of the true owner and all others." *Peters v. Greenmount Cemetery Ass'n*, 259 Ill. App. 3d 566, 569, 632 N.E.2d 187, 190 (1994). However, if a claimant's possession of land is permissive, that possession cannot be hostile or adverse. *Davidson v. Perry*, 386 Ill. App. 3d 821, 827, 898 N.E.2d 785, 790 (2008).

¶ 60 In this case, Warwick, Harris, Rambo, and Donovan each testified John and Helen Wolff parked their cars in or along the disputed strip; however, none of the witnesses testified the Wolffs' use of the strip was hostile. Indeed, Warwick admitted he did not have any firsthand knowledge about whether the Wolffs had worked out an agreement with the previous owners of the Robinsons' property, the Gardners. Meanwhile, Rambo, whom the court found to be credible, testified she and her neighbors also parked on the disputed strip when the Gardners lived there, and although she did not know whether Gardner had given her parents permission for them to do so, Gardner saw Rambo parking in the strip and "didn't care."

¶ 61 Because the Robinsons are the record titleholders to the disputed property, we must draw all presumptions in their favor. *Joiner v. Janssen*, 85 Ill. 2d 74, 81, 421 N.E.2d 170, 174 (1981). Rambo's testimony, suggesting Gardner allowed her and her family to park in the disputed strip, supports an inference Gardner also allowed John and Helen Wolff to park their cars in the strip. Accordingly, we conclude Warwick and Lind failed to satisfy the hostility requirement for adverse possession.

¶ 62 Likewise, Warwick and Lind failed to show their possession was exclusive for the requisite 20-year period. Exclusivity requires that the adverse possessor deprive the rightful owner of all possession. *Davidson*, 386 Ill. App. 3d at 825, 898 N.E.2d at 789. In this case, Rambo testified both Parkhill and Gardner maintained the disputed strip of land when they lived in the Robinsons' property. In fact, Rambo remembered a specific instance when Parkhill was mowing the grass and a rock flew through her window. Rambo did not see Helen Wolff mow the disputed strip. The testimony thus failed to establish either Parkhill or Gardner were deprived of possession of the disputed strip.

¶ 63 Based on the foregoing, we conclude the trial court's findings with respect to Warwick and Lind's adverse possession claim were supported by the evidence.

¶ 64 B. Promissory Estoppel

¶ 65 Warwick and Lind next argue the trial court's ruling with respect to their promissory estoppel claim was against the manifest weight of the evidence. To establish a claim based on promissory estoppel, a claimant must show (1) the other party made an unambiguous promise to them, (2) the claimant relied on the other party's promise, (3) the claimant's reliance was expected and foreseeable by the other party, and (4) the claimant relied on the promise to their detriment. *Quake Construction v. American Airlines, Inc.*, 141 Ill. 2d 281, 309-10, 565 N.E.2d 990, 1004 (1990). The trial court found Warwick and Lind's promissory estoppel claim failed because they did not establish the Robinsons made an unambiguous promise. We agree.

¶ 66 Delbert and Warwick both acknowledge they had a conversation in 2005; however, Delbert says Warwick told him he intended to use the area where he later installed a concrete pad to play basketball, while Warwick maintains he told Delbert he planned to install a concrete pad and garage. In comparing Delbert's and Warwick's testimony, the trial court found Delbert's "testimony to be more credible on the substance of the conversations relating to installation of the concrete pad." We will not substitute our judgment on credibility matters because the fact finder is in the best position to evaluate the conduct and demeanor of the witnesses. *Samour, Inc. v. Board of Election Com'rs of City of Chicago*, 224 Ill. 2d 530, 548, 866 N.E.2d 137, 148 (2007). Thus, we conclude the trial court's finding that Warwick and Lind failed to establish an unambiguous promise is not against the manifest weight of the evidence.

¶ 67 C. Prescriptive Easement

¶ 68 Finally, Warwick and Lind argue the trial court should have found they had established a prescriptive easement over the disputed strip. The Robinsons respond this court should disregard and strike Warwick and Lind's argument because (1) a contention that does not cite any authority fails to satisfy the requirements of Supreme Court Rule 341(h)(7) (eff. July 1, 2008); (2) parties cannot raise an argument for the first time on appeal; and (3) the requirements for a prescriptive easement are the same as the requirements for adverse possession. The trial court did not specifically address Warwick and Lind's prescriptive easement claim.

¶ 69 At the end of their brief, Warwick and Lind make the following argument: "Finally, at a minimum the trial court should have ruled that Defendants, through their predecessors in title, had a 'prescriptive easement' for the use of the disputed strip." Warwick and Lind cite authority for this proposition in their points and authorities section and later in the portion of their argument section under the subheading "Applicable Statutes and Decisional Law." Accordingly, we find Warwick and Lind have complied with Rule 341(h)(7).

¶ 70 Next, we note although Warwick and Lind did not raise a prescriptive easement claim in their countercomplaint or later move to amend their countercomplaint to include this claim, they did raise the claim in (1) their January 2010 motion for summary judgment and response to plaintiffs' motion for summary judgment and (2) their August 2011 written closing argument. Thus, we will address Warwick and Lind's prescriptive easement claim on the merits.

¶ 71 We have already concluded Warwick and Lind failed to show their use of the disputed strip was adverse or exclusive. Like a party seeking to establish adverse possession, a party seeking to establish a prescriptive easement must show, clearly and unequivocally, their 20-year use of the land was hostile or adverse, exclusive, continuous, uninterrupted, and under a

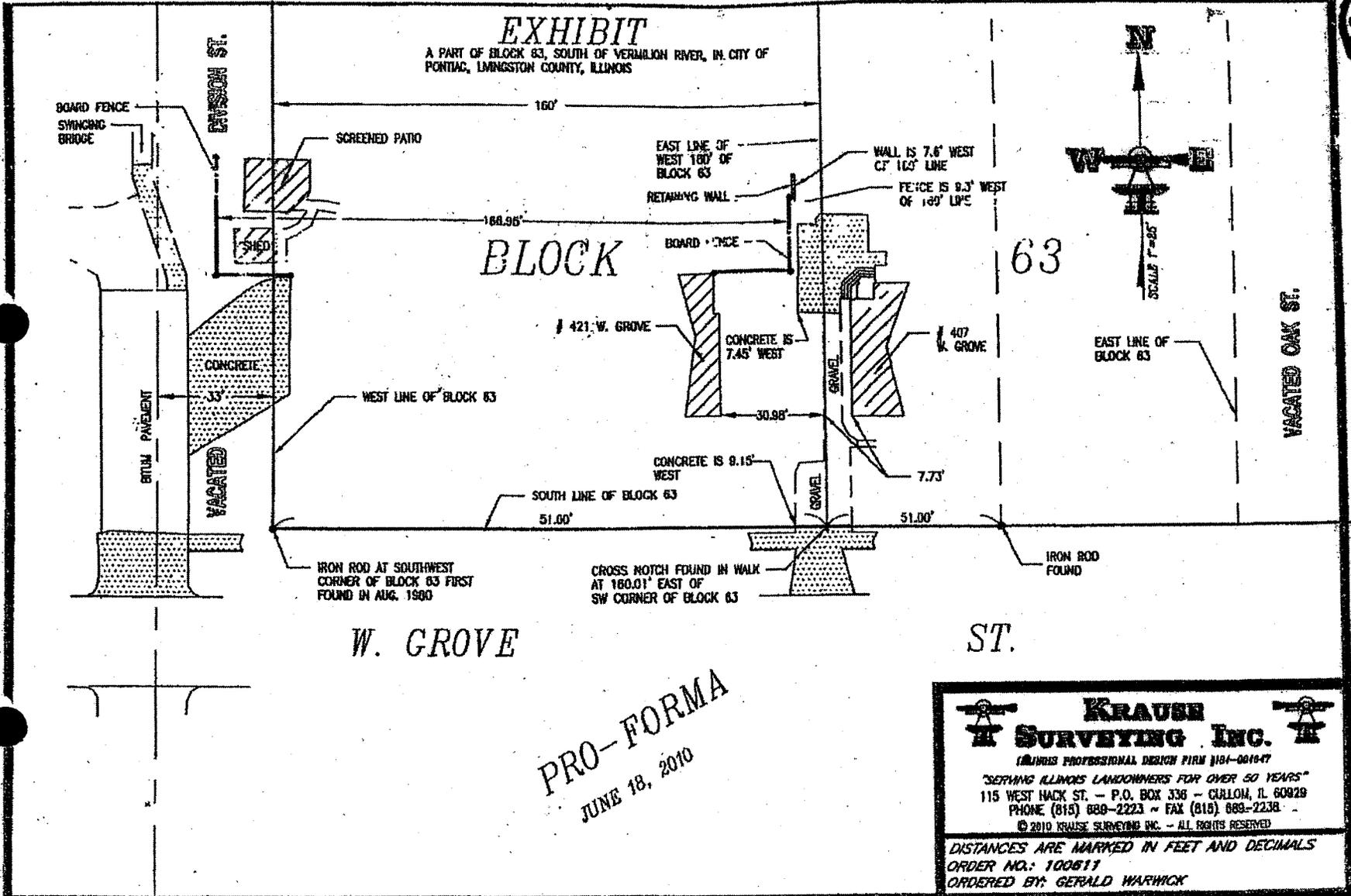
claim of right inconsistent with that of the true owner. 735 ILCS 5/13-101 (West 2010); *Catholic Bishop of Chicago v. Chicago Title & Trust Co.*, 2011 IL App 1st 102389, ¶ 14, 954 N.E.2d 797, 799 (2011). Accordingly, the trial court could properly conclude Warwick and Lind failed to establish a prescriptive easement.

¶ 72

### III. CONCLUSION

¶ 73 For the reasons stated, we affirm the trial court's judgment. In closing, we note we found the trial court's six-page written order very helpful in resolving the issues on appeal.

¶ 74 Affirmed.



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KINATE LAW OFFICE		
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APPENDIX

NO. 4-11-0935

PRO-FORMA  
JUNE 18, 2010

**KRAUSE SURVEYING INC.**  
 (ILLINOIS PROFESSIONAL DESIGN FIRM 1181-001647)  
 "SERVING ILLINOIS LANDOWNERS FOR OVER 50 YEARS"  
 115 WEST HACK ST. - P.O. BOX 338 - CULLOM, IL 60929  
 PHONE (815) 889-2221 ~ FAX (815) 889-2238  
 © 2010 KRAUSE SURVEYING INC. - ALL RIGHTS RESERVED

DISTANCES ARE MARKED IN FEET AND DECIMALS  
 ORDER NO.: 100611  
 ORDERED BY: GERALD WARWICK

KINATE LAW OFFICE		
<input type="checkbox"/> Ptf	<input type="checkbox"/> Pg	Exh 4
<input type="checkbox"/> Dft		