

## Transferring Title to Real Estate Page 31 of the Outline

- o Death
- o Accession
- o Occupancy
- o Transfer

---

---

---

---

---

---

---

---

## A. Death of Owner

1. Terminology
  - a) Deceased
  - b) Decedent
  - c) Probate

---

---

---

---

---

---

---

---

## Transferring Title

- o Death
- 2. By Devise, Testate, Has a Will
  - a) Executor
- o Types of Wills
  - o Witnessed
  - o Holographic (Handwritten & signed)
  - o Nuncupative (Oral)
  - o Codicil (Supplement, addition or modification of a will)

---

---

---

---

---

---

---

---

### Transferring Title

- o Death
  - o By Devise, Testate, Has a Will
    - o Requirements for Making a Will
      - o Legal Age (Emancipated or 18+)
      - o Sound Mind
      - o Written and Signed
      - o Free Will
      - o Last Will
      - o Witnessed (Ok if witnessed by someone benefiting from the will)

---

---

---

---

---

---

---

---

### Transferring Title

- o Death
  - By Devise, Testate, Has a Will
    - o Types of Property
      - o Legacy – Gift of Money
      - o Bequest – Personal Property
      - o Devise - The act of disposing of property, esp. real property, by will

---

---

---

---

---

---

---

---

### Transferring Title

- o Death
  - 3. By Succession (Descent), Intestate, No will
    - o Administrator
    - o Statutes of Succession (Descent and Distribution)
      - o Idaho Law
    - o Heirs
    - o No Heirs, State (Escheat)

---

---

---

---

---

---

---

---

## Transferring Title

**B. By Accession** (*coming into the possession of a right, title, an increase by something added*)

1. Man-Made (Annexation of Fixtures )
2. Natural Gains
  - Accretion - An increase by natural growth
  - Reliction - The gradual withdrawal of water from land, leaving it permanently dry
3. Natural Losses
  - Erosion – The slow removal
  - Avulsion – The rapid removal

---

---

---

---

---

---

---

---

## Transferring Title

### C. By Occupancy

1. Adverse Possession – Requirements:
  - Actual Possession
  - Open and Notorious
  - Hostile to Owner
  - Exclusive
  - Continuous and Uninterrupted (20 year statute of limitations)
  - Payment of Taxes and Assessment
  - Quiet Title Action
2. Prescriptive Easement – Requirements:
  - No payment of taxes
  - Usually for ingress & egress purposes
3. Abandonment

---

---

---

---

---

---

---

---

## Boundary By Agreement

---

---

---

---

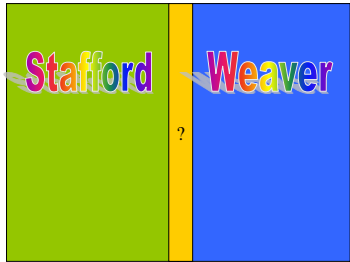
---

---

---

---

### Stafford v. Weaver



1

---

---

---

---

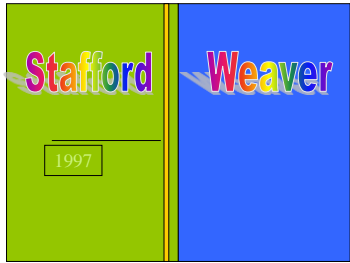
---

---

---

---

### Stafford v. Weaver



1

---

---

---

---

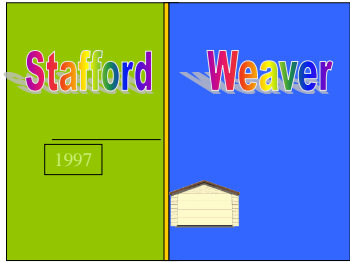
---

---

---

---

### Stafford v. Weaver



1

---

---

---

---

---

---

---

---

### Stafford v. Weaver



1

---

---

---

---

---

---

---

---

### Stafford v. Weaver

- o If competent evidence shows that the parties acquiesced to the boundary, that is sufficient. In other words, twenty years does not have to pass.

---

---

---

---

---

---

---

---

### Transferring Title

#### D. By Transfer – Alienation

1. Original Titles
2. Public Grant
  - o Homestead Act (Land Rush)
  - o Auction
3. Derivative Titles
 

Issued by Federal Government or states upon statehood

---

---

---

---

---

---

---

---

### Transferring Title

- 4. Voluntary Alienation
  - Sale
  - Dedication
  - Gift
  - Lease
  - Deed of Trust
  - Abandonment

---

---

---

---

---

---

---

---

### Transferring Title

- 5. Involuntary Alienation
  - Confiscation (To Seize)
  - Forfeiture
  - Eminent Domain
    - Power to Take – Eminent Domain
    - Actual Taking – Condemnation
    - Just Compensation
  - Partition Action
  - Foreclosure
  - Bankruptcy

---

---

---

---

---

---

---

---