

Bond Case Briefs

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Avery v. Medina

Appellate Court of Connecticut - July 8, 2014 - A.3d - 151 Conn.App. 433

Landowners brought action against co-owners, alleging that co-owners' construction of three-foot high stone wall violated restrictive covenant in deed requiring that permanent structures be located at least 100 feet from road, and sought punitive damages and injunctive relief. The Superior Court held that stone wall was not a permanent structure. Landowners appealed.

The Appellate Court held that:

- Stone wall was a permanent structure, and
- Trial court acted within its discretion in declining to award punitive damages.

Three-foot high stone wall with a one-and-a-half-foot fence attached to top of wall was a permanent structure, as that term was used in a restrictive covenant in deed requiring that such structures be located at least 100 feet from a road, even if wall did not have a concrete core, where wall had two six-foot high stone pillars with a large wooden gate attached to one of them, wall was heavy, immobile, constructed with large rocks, and affixed with its pillars and fencing to the ground by gravity, and property owners who built wall intended for it to remain firmly in the same place where it was erected and not be moved or relocated on a seasonal basis.