

Bond Case Briefs

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PROPERTY - LOUISIANA

Davis v. Brent

Court of Appeal of Louisiana, Second Circuit - June 19, 2013 - So.3d - 48, 088 (La.App. 2 Cir. 6/19/13)

Landowner filed a petition for declaratory judgment against neighbors, alleging that neighbors had a right-of-way over, and did not possess fee ownership of, a strip of land used as driveway.

The Court of Appeal held that deed granted a servitude of passage and did not grant fee ownership of the driveway.

Deed conveying tract of land and granting a "fifty foot driveway" in a certain location across land adjacent to tract granted a servitude of passage, and did not grant fee ownership of the driveway. Deed language referring to driveway did not refer to a "parcel" or "strip," did not specifically describe where driveway ended, and required reference to the description of adjacent land to determine where the driveway began.

In deciding whether a fee simple title to land has been conveyed or a servitude thereupon has been granted by a deed, the intention of the parties must be determined from the stipulations in the entire instrument, giving effect to all of the provisions therein contained.

The general rule is that if an instrument is so ambiguous as to leave doubt about the parties' intent, the court may resort to extrinsic evidence as an aid in construction.