



## Boundary by Acquiescence Claim Requires “Still Known and Definite” Line

📅 September 1, 2023 | 👤 Kitt Tovar Jensen



The case is [Witting v. Schinstock-McConnell, No. 22-1301 \(Iowa Ct. App. Aug. 9, 2023\)](#). [↗](#)

On August 9, 2023, the Iowa Court of Appeals affirmed that a boundary by acquiescence was established between a farm and neighboring homeowner. The parties treated a fence as the boundary line for over ten years. Even though a homeowner later tore the fence down, the boundary line was still clearly marked from farming activities. Therefore, the Court of Appeals affirmed the district court's finding in favor of the plaintiffs.

## Background

In 1959, the plaintiffs bought a farm property which included a house that was enclosed by a fence. In 1976, the plaintiffs partitioned the house from the rest of the farmland. The plaintiffs sold the house property and also began renting out the farmland to a farm tenant. For many years, the farm tenant would farm within a few feet of the fence. The farm tenant and his family were still renting the farmland at the time of the lawsuit.

The house property, on the other hand, was sold several times. All homeowners treated the eastern fence as the boundary line. Between 1998 and 2001, one of the property owners removed the fence east of the house leaving only a corner post. In 2019, the defendants purchased the property. The couple hired a surveyor who determined that the eastern boundary line was thirty-three feet from the fence post. The defendants made new markers based on the survey.

In response, the plaintiffs petitioned the court alleging that a boundary by acquiescence along the fencepost was established. The district court found a boundary by acquiescence at the fencepost and ruled in favor of the plaintiffs. The defendants appealed.

## Boundary by Acquiescence

The Court of Appeals agreed that a boundary by acquiescence was established in 1986, ten years after the plaintiffs first sold the house. To establish a boundary by acquiescence, both parties must treat a line as the boundary for at least ten years. Iowa Code § 650.14. The claimed line must be clearly visible and definite. In addition, the line must currently exist. *Heer v. Thola*, 613 N.W.2d 658, 662 (Iowa 2000).

The issue in this case was whether a definite line could still be ascertained. The defendants argued that because there was no longer a fence, the plaintiffs did not establish a clearly marked boundary line. Although several former owners and other witnesses testified to small differences in the fence's location, this "did not detract from the continued existence of a sufficiently definite boundary line." Even after the fence was torn down, the farm tenant continued to farm within a few feet of the farmer fence. Thus, the Court of Appeals affirmed the district court's finding of a boundary by acquiescence.

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