

§3034. Structures located in proposed ways

1. Action to compel removal. When any structure, for 20 years, has been continuously located, in whole or in part, within a proposed, unaccepted way laid out in a subdivision plan recorded in the registry of deeds, and lots have been sold with reference to this plan, no action may be maintained by any person to compel removal of the structure based upon the fact of its location within the proposed, unaccepted way. For the purposes of this section, person includes a corporation, partnership, governmental entity or other entity.

Nothing in this section may be construed to restrict or affect private rights in a proposed, unaccepted way which come into existence under common law, in equity or under existing statutes. This section shall not be construed for any reason to extend the 20-year period set forth in this subsection.

[PL 1987, c. 385, §2 (NEW).]

2. Applicability. This section applies to structures existing and proposed, unaccepted ways laid out on subdivision plans recorded in registries of deeds before, on or after the effective date of this section, except that:

A. When a structure is located within a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds 20 years or more before the effective date of this section, any person, other than the owner of the structure, who claims a right or interest of any kind in the land within the proposed, unaccepted way, or any person claiming by, through or under such a person, may preserve his right or interest by recording the notice set forth in subsection 3, within 2 years after the effective date of this section, in the registry of deeds where the pertinent subdivision plan is recorded; and [PL 1987, c. 385, §2 (NEW).]

B. When a structure is located within a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds less than 20 years before the effective date of this section, any person, other than the owner of the structure, who claims a right or interest of any kind in the land within the proposed, unaccepted way, or any person claiming by, through or under such a person, may preserve his right or interest by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within the later of:

- (1) Twenty years from the date of the recording of the subdivision plan, on which the way is laid out, in the registry of deeds; or
- (2) Two years after the effective date of this section. [PL 1987, c. 385, §2 (NEW).]

A person seeking to preserve a right or interest under paragraph A or B, within one year after the recording of the notice, shall bring an action to quiet title to establish the existence and extent of his claimed right or interest.

[PL 1987, c. 385, §2 (NEW).]

3. Notice. The notice required under subsection 2, paragraphs A and B, shall contain:

A. An intelligible description of the land in which the right or interest is claimed; [PL 1987, c. 385, §2 (NEW).]

B. The name and address of the person on whose behalf the right or interest is claimed; [PL 1987, c. 385, §2 (NEW).]

C. A description of the structure claimed to be within the proposed, unaccepted way in which the person claims a right or interest; [PL 1987, c. 385, §2 (NEW).]

D. The name and address of the owner of the structure; [PL 1987, c. 385, §2 (NEW).]

E. A description, including specific reference, by date of recording and the volume and page numbers, of the recorded instrument upon which the person claims the right to or interest in the recorded source of title; and [PL 1987, c. 385, §2 (NEW).]

F. A duly verified oath taken by the person claiming the right or interest before a person authorized to administer oaths. [PL 1987, c. 385, §2 (NEW).]
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4. Register's duties. In indexing a notice presented for recording under subsection 2, the register of deeds shall make an entry:

A. In the grantee index of deeds under the name of the person making the claim in the notice; and [PL 1987, c. 385, §2 (NEW).]

B. In the grantor index of deeds under the name of the owner of the structure described in the notice. [PL 1987, c. 385, §2 (NEW).]

The register of deeds may charge the same fee for recording the notice that is charged for recording deeds.

[PL 1987, c. 385, §2 (NEW).]

5. Who may present notice for recording. The notice required under subsection 2 may be presented for recording by the person claiming the right or interest or a person acting on his behalf. Disability or lack of knowledge by the person claiming the right or interest shall not extend the time limitations related to the recording of the notice.

[PL 1987, c. 385, §2 (NEW).]

6. Mailing the notice. Within 20 days of the recording of the notice required under subsection 2, the person who presented the notice for recording shall deliver or mail, to the owner's last-known address, a copy of the notice to the owner of the structure described in the notice.

[PL 1987, c. 385, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 385, §2 (NEW).

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