



City of West Allis

Legislation Text

File #: R-2015-0235, **Version:** 1

Resolution Calling on Governor Walker and the Wisconsin State Legislature to Pass Legislation to End Adverse Possession Claims Against Public Lands.

Whereas, adverse possession is an ancient legal doctrine that allows a person occupying another's land to obtain title to that land if certain requirements are met; and,

Whereas, adverse possession is not allowable against the property of the United States, or against the property of most other States and their subunits; and,

Whereas, 1998 the legislature passed a bill intended to end adverse possession of all publicly owned land, but a late amendment had the effect of expanding the scope of public land subject to adverse possession; and,

Whereas, unless the current laws change, on April 29, 2018 adverse possession claims can be made against most public lands, including roads, if the claim is founded on a "continuously maintained fence line which has been mutually agreed upon"; and,

Whereas, the courts have found that routine governments actions, such as mowing and maintenance adjacent to a fence line can constitute "mutual agreement"; and,

Whereas, hedge lines, retaining walls, out buildings and sheds could likely be found to be "fence lines" for the purpose of claiming adverse possession; and,

Whereas, to preserve the public's parks and roadways governmental agencies will be forced to identify and remove property owners' encroachments, even if the encroachment poses no immediate threat to the public's use of the land; and,

Whereas, the cost just to survey and identify encroachments on all public lands is enormous, and would need to be repeated regularly to identify new encroachments; and,

Whereas, the cost and scope of this work would be burdensome both for governmental entities and for affected property owners.

Now, Therefore Be It Resolved, By the Common Council of the City of West Allis that the City supports the adoption of Wisconsin Assembly Bill 459 and Senate Bill 314 which, in line with the vast majority of other states, will end most adverse possession claims against public lands.

Now, Therefore Be It Further Resolved, that the Director of Public Works/City Engineer be and is hereby authorized and directed to submit this resolution to all the appropriate elected and appointed officials in the State of Wisconsin.

