

56<sup>th</sup> Annual William W.  
Gibson, Jr  
MORTGAGE LENDING  
INSTITUTE

# Easements Appurtenant

Dawn M. Lewallen | September 29, 2022

First American Title Insurance Company, and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, and First American Title are registered trademarks or trademarks of First American Financial Corporation or its affiliates.  
The following presentation is for informational purposes only and is not intended to constitute legal advice. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding its practices, and such third party should consult with an attorney prior to embarking upon any specific course of action.  
This presentation may not be distributed without written permission from First American.



**First American Title**  
NATIONAL COMMERCIAL SERVICES

©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF

0

## Topics

- Types of Easements & Other Interests in Land
- Creation of Easement Appurtenant
- Rights and Duties Created by Easement Appurtenant
- Overburdening & Redevelopment Planning
- Termination of
- Title Insurance & Easements Appurtenant

PAGE 1

**CONFIDENTIAL**

©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF



**First American Title**  
NATIONAL COMMERCIAL SERVICES

1



# Types of Easements

©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF



2



## Easement 101

- Easements are non-possessory interests in the land of another authorizing the owner of the easement to use the other's land for a particular purpose.
- Does not convey estate in land itself, but a right to use land of another without interference.

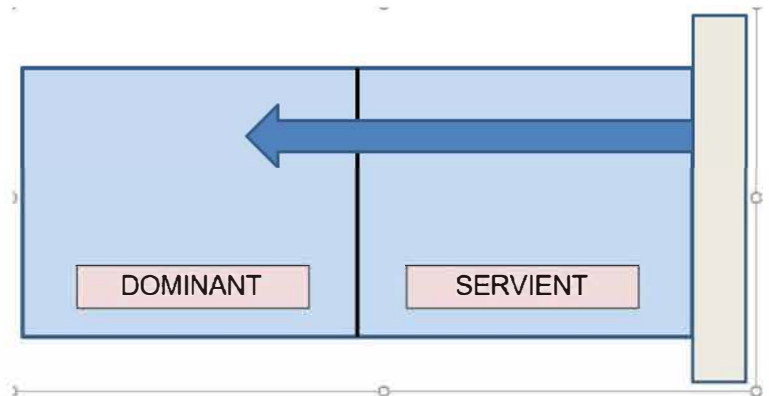
PAGE 3  
**CONFIDENTIAL**  
©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF



3

# Easement Appurtenant

- Creates a right to use a servient estate for the benefit of the dominant estate.
- Attaches to & runs with the land regardless of identity of the owner of either estate.
- Transfers automatically with conveyance of dominant estate.
- Benefits entire dominant estate unless limited.



PAGE 4

CONFIDENTIAL

©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF



4

# Affirmative vs. Negative

## Affirmative Easement

- The right to use another's property for a specific purpose:
  - Grantor grants to Grantee, its successors and assigns, a perpetual non-exclusive easement whereby Grantee may access Grantee's property as described in the attached Exhibit "A".

## Negative Easement

- The right to prevent another from using the property for an otherwise lawful purpose:
  - "Grantor grants to Grantee, its successors and assigns, a perpetual, non-exclusive negative easement, whereby Grantor covenants and agrees that it will not construct any permanent improvements within the "No-Build Area" described in the attached Exhibit "A".

PAGE 5

CONFIDENTIAL

©2022 First American Financial Corporation and/or its affiliates. All rights reserved. NYSE: FAF



5

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Easement Appurtenant

Also available as part of the eCourse

[2022 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

First appeared as part of the conference materials for the  
56<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session  
"Easement Appurtenant"