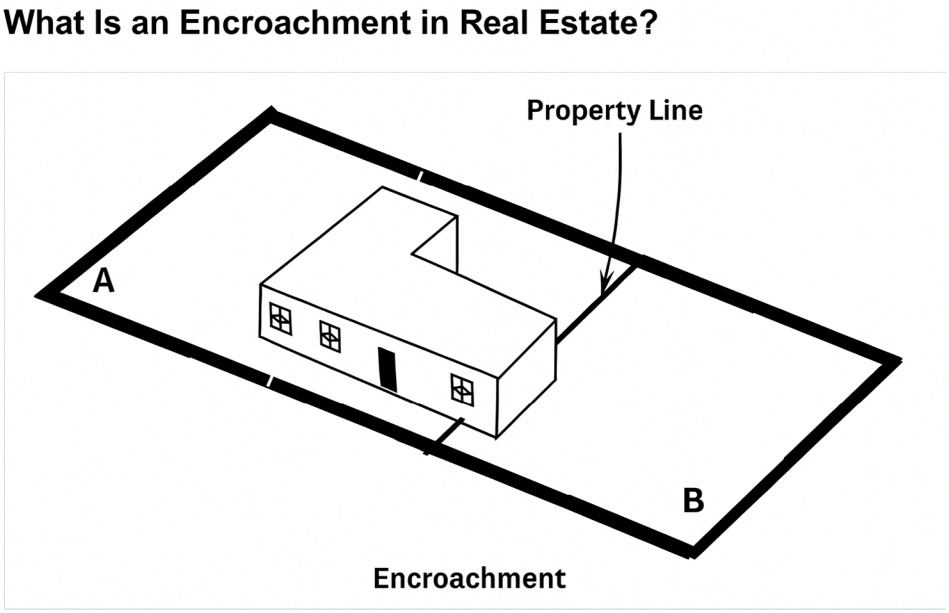
Understanding Encroachments



What's a property encroachment?

A **property encroachment** happens when something from one property crosses over into another property. This could be a fence, driveway, building, or even a tree. It means someone is using land that isn't theirs.

Some encroachments may have occurred on purpose – for example, one person owned two neighboring properties and built her house across both. Some encroachments may have been accidental – for example, a person built a shed in his backyard and incorrectly assumed he knew the location of his property line.

Why do encroachments matter? Who cares?

Property encroachments can lead to legal issues and disputes with neighbors. It is difficult to buy or sell a home with an encroachment; it lowers the property's value and undermines the creation of generational wealth.

Terms You Should Know: Encroachments vs. Easements	
Encroachment	**Easment**
Unauthorized extension onto another's property	Legal right to use another's property for a specific purpose
Often leads to disputes	Usually established through agreements or deeds
Can decrease property value	Typically does not affect property value

How do I know if I have one?

To find out if there's an encroachment on your property:

1. **Check your property lines using a survey, property deed, or subdivision plat. (Be careful about using aerial photos or map apps to prove encroachment, because the angles of photos can be deceiving.) Look for these documents within:**
   a. Your property's sales documents;
   b. Your County Recorder or Comptroller's files;
   c. Building permits that previous property owners have filed. You can try submitting a Public Records Request: Ask for any permits containing a survey, plat, or legal description. *Your City or County's Permitting Office does not always have documents for every property, and documents they do have could be outdated.*
2. **Hire a professional surveyor to measure your land.**
   a. Call local surveyors for an estimate. Typical cost range: A few hundred dollars to several thousand dollars, depending on type of survey, property size, and terrain.
   b. Tell the surveyor what you're using the document for, so he or she can help you choose the best option; most homeowners will just need a boundary survey.

What are the solutions to property encroachments?

- **Remove the Encroachment:** Come to an agreement with your neighbor to remove or demolish the structure, fence or thing that is encroaching.
- **Redefine Property Boundaries:** Go through a legal process with the help of a real estate attorney to adjust property lines through a lot line adjustment or deviation process.
- **Combine the Lots:** Property owners agree to treat two parcels as one, and file paperwork with the county clerk to resolve permit or development issues. This is referred to as a Unity of Title, Covenant Agreement, or Lot Combination.

How can the CRA help?

- **Survey Assistance Programs:** Provide free or discounted surveying to low-income property owners.
- Education and Outreach: Increase awareness of property encroachment issues.
- **Free Resources:** Connect community members to free resources and seek out pro-bono legal services to solve property encroachment issues.
- **Financial Support and Incentives:** Provide grants to reimburse low-income property owners for legal, survey, and recording costs when owners pursue lot combinations or adjustments.
- **Local Ordinances:** Ensure local regulations allow property owners to adjust property lines to resolve encroachment issues.