

**QUESTION 11 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV**

Joe and Trina Murphy purchased their house and lot, Lot 27 of Happy Land Subdivision in 2001, and moved in immediately. Lot 27 was bounded on the north by Briggs Ave. The other three sides of the lot were completely fenced in by a continuous chain link fence. Before they signed the purchase agreement, the Murphys walked the property with the seller, Dominico Brown, who told them that the lot included everything within the fence.

Brown had owned Lot 27 since 1973 and erected the fence in 1974. Since that time, he had maintained all of Lot 27 within the fence, planted a hedge along the fence on the east side of Lot 27, and installed a lawn sprinkler system that ran within six inches of the fence around the entire perimeter of the yard. When Brown erected the fence, he did so without any regard for where the actual surveyed boundary line was located. In 1984, Brown also built a large storage shed for his lawn tractor that literally hugged the fence on the east side of his property.

After the Murphys had purchased Lot 27 and lived there for seven years, their neighbor to the east, Alfred Zehnder, had a survey performed on his property, known as Lot 26, in connection with a refinancing of his home mortgage. The survey, which was accurate, showed that the Murphys' fence encroached on Zehnder's lot by about three feet, and that the Murphys' sprinkler system, hedge, and shed were located within that three foot encroachment.

Zehnder's attorney wrote the Murphys a letter in October 2008, stating that they were trespassing on Lot 26 and demanding that they remove the fence, hedge, sprinkler system, and shed. The Murphys have sought your advice on this controversy.

**Do not decide the case, but please advise them of their possible rights and potential liabilities in a written memo.**

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