

A landowner orally gave his neighbor permission to share the use of a private road on the landowner's land so that the neighbor could have more convenient access to the neighbor's land. Only the landowner maintained the road. After the neighbor had used the road on a daily basis for three years, the landowner conveyed his land to a grantee, who immediately notified the neighbor that the neighbor was not to use the road. The neighbor sued the grantee, seeking a declaration that the neighbor had a right to continue to use the road.

Who is likely to prevail?

- A. The grantee, because an oral license is invalid.
- B. The grantee, because the neighbor had a license that the grantee could terminate at any time.
- C. The neighbor, because the grantee is estopped from terminating the neighbor's use of the road.
- D. The neighbor, because the neighbor's use of the road was open and notorious when the grantee purchased the land.

Explanation:

Licenses, easements & profits

License Revocable privilege to enter & use another's land for specific purpose

Easement Nonpossessory interest in land that gives easement holder right to:
use another's land for specific purpose (ie, affirmative easement) *or*
prohibit other owner from doing something on land that owner would otherwise be allowed to do (ie, negative easement)

Profit Nonpossessory interest in land that gives profit holder right to enter another's land to remove products of soil (eg, timber, minerals, oil)

A **license** is a grant of permission to enter and use another's land for a specific purpose. Unlike easements, licenses do *not* create an interest in the land. As a result, they are not subject to the [statute of frauds](#) and can be created orally or by another act demonstrating the licensor's intent to let the licensee enter the property (**Choice A**). Licenses can generally be **revoked at any time** and **terminate automatically** upon (1) the death of either party or (2) **conveyance of the licensed property**.

Here, the landowner orally gave his neighbor permission to use a private road on his land. This created a license, which terminated automatically when the landowner conveyed his land to the grantee. Additionally, the grantee's immediately notifying the neighbor to stop using the road demonstrates that the grantee did not intend to revive the license. As a result, the neighbor has no right to continue to use the road, and the grantee is likely to prevail.

(**Choice C**) A license may become [irrevocable](#), and the licensor may be estopped (ie, precluded) from revoking it, if the licensee expends substantial money, labor, or other resources in reliance on the license. But estoppel does not apply here since the landowner alone maintained the road and there is nothing to suggest that the neighbor expended any resources to use it.

(**Choice D**) Open and notorious use goes to determining whether a [prescriptive easement](#) was acquired. But the neighbor's use of the road was with the landowner's *permission*, which negates the *nonpermissive* use required for such an easement.

Educational objective:

A license is a grant of permission to enter and use another's land for a specific purpose. It can be revoked at any time and terminates automatically upon (1) the death of either party or (2) conveyance of the licensed property.

References

Restatement of Property §§ 515, 519 (Am. Law Inst. 1944) (creation and revocation of licenses).

Rau v. Collins, 891 A.2d 1175, 1184 (Md. App. 2006) (stating that a license terminates automatically upon sale of the licensed land).

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