

## FAQ LEGAL

Disclaimer: we are not lawyers representing anyone or anything. This is not legal advice.

### Frequently Asked Legal questions

Q. What is the Alaska Railroad's interest in the 200 foot -wide 500 mile long track area?  
Generally,

A. (a) It is an easement. It is not ownership of the area

Q. My platted lot or property is depicted as stopping at the edge of the easement. Don't my rights stop there?

A. Usually not, according to most courts and statutes. If your parcel and an adjacent easement were once owned by the same person the common law presumes that the conveyance to you intended to convey the rights that the original owner had in the easement area. This is the "centerline presumption".

Q. What is an easement?

A. In the 2009 Hansen v Davis case the Alaska Supreme Court said: "An easement creates a nonpossessory property right to enter and use land in the possession of another [the servient estate owner] and obligates the possessor [of the burdened land] not to interfere with the uses authorized by the easement." RESTATEMENT (THIRD) OF PROPERTY: SERVITUDES § 1.2(1) (2000)."

Q. I have heard that the area is a right-of way not an easement, doesn't that change things?

A. In general, it does not matter. the rules for the property owner to use the area do not change depending on the name used.

Q. What right does the property owner have to use the easement area?

A. In the 2018 Reeves v. Godspeed case the Alaska court said: "The {property owner} has a right to use the area in question to the extent that such use does not unreasonably interfere with the easement holder's rights." This allows for maximum value to come from the easement."

Q. What uses may the railroad make of the easement?

A. The uses are set in writing in federal land patents: "railroad, telegraph and telephone". The railroad claims "exclusive" rights that include fencing off the easement and bar your uses that are recognized by the Alaska Supreme Court.

Q. What uses remain for the landowner?

A. All uses that do not interfere with the railroad uses

Q. What does it mean to change the fundamental legal nature of private property?

A. The RRs illegal action to circumvent the constitution and due process of law created numerous legal implications for Alaskans. These include an illegal cloud on title, onerous private property access issues, and property market value devaluation issues.

Q. What's a cloud on title?

A. Any irregularity in the chain of title of property that would give a reasonable person pause before accepting a conveyance of title.