

TOTAL ECLIPSE OF THE YARD – ADVERSE POSSESSION LAW IN MISSOURI

Posted on August 21, 2017 by Brian J. Sabin



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The [Great American Solar Eclipse](#) is scheduled to cross through the United States from coast to coast on August 21, 2017. Solar eclipses occur when the [moon moves between the Earth and the sun](#), which causes the shadow of the moon to be projected on the Earth. As an aside, for those curious, The Moonrise Hotel, located in The Delmar Loop in St. Louis, Missouri, is [home to world's largest man made moon](#) on its rooftop!

Location is very important for viewing the solar eclipse. Everyone in North America will be in a position to view at least a partial solar eclipse, where the moon covers only part of the sun. However, only those people located within a path about 70 miles wide will be able to view a total solar eclipse, where the moon fully covers the sun—this occurs for a short period of time known as “totality.”

During totality, rare and spectacular phenomena occur, such as visibility of:

- (1) a “diamond ring” created by the last bit of sunlight before totality;
- (2) “Baily’s beads” formed by light shining through the moon’s canyons and craters;
- (3) streamers from the sun’s corona;

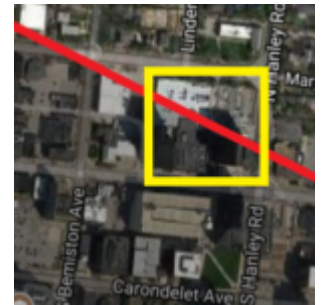
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CAPE S • SOKOL

- (4) a 360-degree sunset; and
- (5) mysterious "shadow bands" of distorted light before and after the total eclipse.

Those in the path of totality are temporarily plunged into darkness and outside temperatures drop.

Location *within* the path of totality is also important. Most eclipse watchers assume that the middle of the path of totality is the optimal viewing location, but that's up for debate. While the duration of the total solar eclipse is the longest at the middle of the path of totality (about 2 minutes and 40 seconds, certain eclipse phenomena are more prominent and [can last up to 10 times longer](#) near the edge of the path of totality. The downside of viewing a total solar eclipse from the edge of the path is that the duration of totality is much shorter compared to the center of the path.



Although I cannot confirm that Neil Young was singing about a total solar eclipse in *My My, Hey Hey (Out Of The Blue)* when he referenced going "out of the blue and into the black," I can only guess that he would prefer to view the total solar eclipse from the edge of the path of totality, when he later posited that "it's better to burn out than to fade away." As another aside, it just so happens that Capes Sokol's office building (yellow box on the right), is on the edge of totality (red line on the right).

Adverse Possession

Just as location is important with respect to solar eclipses, "location, location, location" is not only crucial with respect to real estate values, but also real property legal rights in the State of Missouri. For example, a fence on a landowner's property that extends on to a neighboring property by just a few feet could give rise to a claim of adverse possession.

Krumm v. Streiler, 313 S.W.2d 680, 686 (Mo. 1958) The doctrine of adverse possession allows a person to claim rightful possession of all or part of the land owned by another person, when the claimant exerts certain control over the subject property. In order to gain title of real property by adverse possession, a claimant must establish all of the following elements, that possession of the claimant was:

- (1) hostile, that is, under a claim of right;
- (2) actual;
- (3) open and notorious;
- (4) exclusive and

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- (5) continuous.

Each element of adverse possession has specific legal definitions that are analyzed in further detail in Missouri case law.

A claimant must occupy the land in question for a continuous period of 10 years. Under certain circumstances, an occupant may tack (i.e., add on) years of adverse occupation claimed by an earlier occupant. Before you lay claim to one of Missouri's many beautiful state parks, you should know that R.S.Mo. § 516.090 prohibits adverse possession claims of public land.

Like the location to view solar eclipses, the law of adverse possession is subject to many nuances, particularly if you are Living' on the Edge of a neighbor's property. If you suspect that your property may be subject to a claim of adverse possession, or you believe that you may be in a position to assert a claim of adverse possession, you should consult with an attorney to discuss your legal rights. Either way, a Total Eclipse of the Heart . . . or yard, is possible.

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