

# Collins v. Hall

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In *Collins v. Hall*,<sup>[1]</sup> the supreme court held that in a property dispute between adjoining landowners, the lower court did not clearly err in concluding that no boundary had been established by acquiescence and in finding that the restrictive covenants had been abandoned. The Collinses and Halls disputed the boundary dividing their land in a recreational subdivision on an island near Juneau. The Collinses alleged that structures on the Halls' property encroached on to the Collinses' property and violated the subdivision's covenants governing setbacks and sewage disposal. Applying a clear and convincing standard, the lower court concluded that no boundary had been established by acquiescence. Further, the lower court found that the restrictive covenants had effectively been abandoned, as other property owners had also been violating those covenants. Affirming the lower court's ruling on boundary by acquiescence, the supreme court held that a boundary line is established by acquiescence where adjoining landowners whose property is separated by some reasonably marked boundary line mutually recognize and accept that boundary line for seven years or more. But the supreme court noted that here the parties did not agree on the boundary line and fewer than seven years had passed between the alleged creation of the new boundary line and the start of the lawsuit. The supreme court also affirmed the lower court's ruling on the abandonment of the covenants, holding that although failure to enforce a covenant against a single party is insufficient to establish abandonment, more widespread lack of enforcement may be. The court noted that here multiple property owners had violated the covenants and that a homeowner's association was entrusted with enforcement of the covenants, no homeowner's association was ever established. For the reasons detailed above, the supreme court held that the lower court did not clearly err in concluding that no boundary had been established by acquiescence and finding that the restrictive covenants had been abandoned.

<sup>[1]</sup> 453 P.3d 178 (Alaska 2019).