Circuit Court for Cecil County
Case No. C-07-CV-21-000324

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1238

September Term, 2023

CECIL COUNTY GOVERNMENT, *et al.*

v.

KRISTINE M. McCALL

Beachley,
Albright,
Robinson, Dennis Michael, Jr.
(Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: February 21, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal comes to us from the Circuit Court for Cecil County following a bench trial on Appellee Kristine M. McCall's claim for adverse possession. Ms. McCall claimed adverse possession of portions of two platted "paper streets" that adjoin her deeded property in Charlestown Manor, a subdivision in Cecil County. The circuit court found in favor of Ms. McCall for the most part, concluding that she adversely possessed all but a portion of the property she claimed, subject to a sewer easement held by Cecil County. This timely appeal, noted by Cecil County and some of Ms. McCall's neighbors, followed.

Appellants present four questions[1] for our review, which we condense and rephrase as follows:

[1] Appellants presented the questions in their brief as follows:

> QUESTION 1. Did the circuit court err in finding that the Plaintiff /Appellee, Kristine M. McCall, presented sufficient evidence to prove by a preponderance of the evidence the elements of adverse possession?
>
> QUESTION 2. Even if the Plaintiff established continuous possession of a property for over the 20-year statutory period in an actual, notorious exclusive, and hostile manner, did the circuit court err in ruling that the Plaintiff/Appellee adversely possessed part of Pennsylvania Avenue when the property was located within a public easement?
>
> QUESTION 3. Did the trial Judge err when arbitrarily ruling on the merits of the case without justifying in the memorandum opinion any distinction between the shaded area (which was created by the Judge) and non-shaded area on the plat attached to the opinion describing which areas were adversely possessed?
>
> QUESTION 4. Did the trial Judge err when the trial Judge decided not to recuse himself from the case when the trial Judge represented the

1. Did the circuit court abuse its discretion in denying Appellants' recusal motion?

2. Was there sufficient evidence that Ms. McCall adversely possessed the disputed property?

3. Did the circuit court err when, on the trial exhibit it attached to its Memorandum Opinion and Order, it drew in a shaded triangular area representing the portion of land that it declared was not adversely possessed by Ms. McCall?

We answer "no" to all three questions. Accordingly, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND[2]

Charlestown Manor is a waterfront subdivision in North East, Maryland. Its subdivision plat was recorded in 1923. Charlestown Manor is divided into numbered blocks and sections, which are further divided into lots. Some lots are undeveloped while others have dwellings and other improvements on them. The land in dispute ("disputed property") is located at and around the intersection of Maryland Avenue and Pennsylvania Avenue, which, again, are "paper streets" bordering Ms. McCall's deeded property. Cecil County has never accepted Maryland Avenue or Pennsylvania Avenue as

Plaintiff/Appellee as a previous client and prepared a deed within the 20-year statutory period which was introduced into evidence to support the Plaintiff/Appellee's claim?

[2] We summarize the facts based on the evidence presented at trial, "assum[ing] the truth of all the evidence, and of all the favorable inferences fairly deducible therefrom, tending to support the factual conclusions of the lower court." *Oliver v. Hays*, 121 Md. App. 292, 306 (1998).

dedicated streets,[3] and thus, as the circuit court noted, has "not improved or maintained [these streets] for their designated purpose of ingress or egress."[4]

"On the theory that a picture is worth a thousand words,"[5] we start with a plat of the area as it was in November 2021, which was the month before Ms. McCall filed this suit. It depicts the intersection of Maryland Avenue and Pennsylvania Avenue, the 0.18-acre section of disputed property (marked as "Adverse Area"), and the lots owned by Ms. McCall and those of her neighbors that are Appellants here. The neighbors that noted this appeal are Joseph and Kathleen Grace, Amy and Justin Sherlock, and Denise Zimmerman.[6] Below, and after the plat, we outline two easements that Appellants claim affect the disputed property. Then we turn to Ms. McCall and what she did over the years such that the circuit court concluded she adversely possessed most of the disputed

[3] Counsel for Cecil County provided no evidence at trial of the county having accepted Maryland Avenue and Pennsylvania Avenue as dedicated streets and conceded as much at oral argument before this Court.

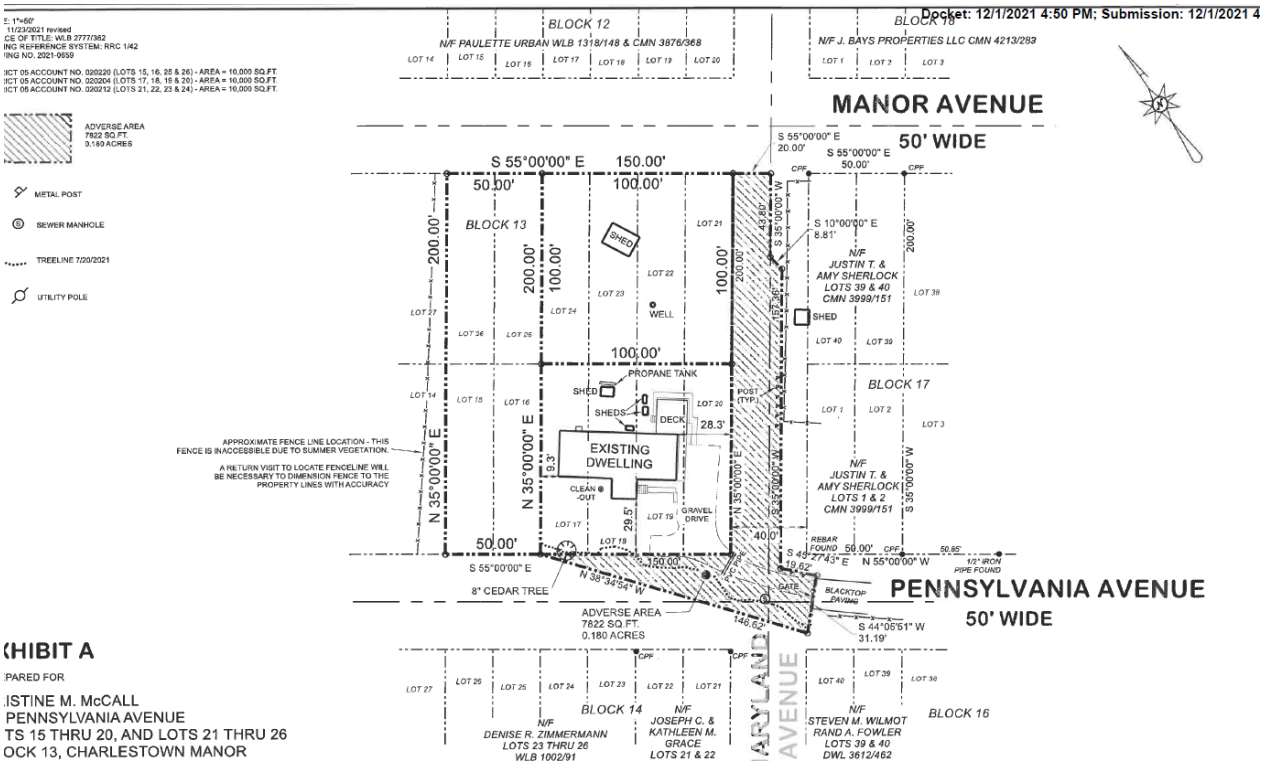
[4] Photographs and plats introduced by the parties at trial confirm that Maryland Avenue and Pennsylvania Avenue remain the "paper streets" that Cecil County never accepted as dedicated streets. What plats show as "Pennsylvania Avenue" is a path, in part (from the street bordering the subdivision up to Ms. McCall's claimed property), and was ultimately paved by the subdivision residents. What is shown as "Maryland Avenue" has a strong treeline running through it, as well as thicketing, near Ms. McCall's home.

[5] *See Schlosser v. Creamer*, 263 Md. 583, 585 (1971).

[6] The Defendants at trial were Cecil County and fellow Charlestown Manor plot owners, Justin and Amy Sherlock, Steven Wilmot and Rand Fowler, Joseph and Kathleen Grace, Denise Zimmerman, and Kimberlee Lloyd (collectively, the "neighbors"). Ms. Lloyd, Mr. Fowler, and Mr. Wilmot are not appellants here.

property. And then we turn to Appellants, and outline when they acquired their lots, and what they did (or did not do) to dispute Ms. McCall's use of the disputed property.

Below is the November 2021 plat.



Two easements are alleged to exist (or to have existed) on the disputed property. One easement was an easement in common, or right of way, over Charlestown Manor's platted streets. When Ms. McCall and her neighbors acquired their property in Charlestown Manor, they took subject to this easement:

> TOGETHER with the buildings and improvement, thereupon erected, made or being, and all and every the right, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in any wise appertaining, as well as the free use, right and privilege in common with the owners, tenants and occupiers of the other lots bounding thereon, of all the

> streets shown and designated on the Map of Charlestown Manor hereinbefore referred to . . . .[7]

The other easement, which was established in 1991, is a fifty-foot-wide permanent utility easement in favor of Cecil County. It runs along and in the bed of Pennsylvania Avenue to construct and maintain a wastewater sewage system to serve all of the properties on Pennsylvania Avenue.[8] The easement was granted to the Board of County Commissioners of Cecil County as follows:

[7] This language is contained in Ms. Zimmerman's 2001 deed, but each neighbor's deed carries a counterpart. From the 2003 McCall deed:

> TOGETHER WITH all the buildings and improvements thereon, and all the rights, ways, privileges, appurtenances and advantages thereunto belonging or in anywise appertaining.

From the 2010 Grace deed:

> TOGETHER with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

From the 2014 Fowler/Wilmot deed:

> Together with the buildings and improvements thereon and all the rights, ways, privileges and appurtenances thereto belonging or in anywise appertaining;

And from the 2016 Sherlock deed:

> Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

[8] The easement, together with a plat, was recorded among the land records of Cecil County in Liber 342, folio 743.

> WHEREAS, [the Board of County Commissioners of Cecil County] finds it necessary to acquire a Permanent Utility Easement to construct and maintain a Wastewater Sewage System along and in the bed of Pennsylvania Avenue, where said Pennsylvania Avenue adjoins the property of the Grantors at Charlestown Manor, in the Fifth Election District of Cecil County, Maryland.
>
> . . .
>
> WHEREIN The Grantors obtained certain Rights in Common to use of said Pennsylvania Avenue.
>
> NOW, THEREFORE, WITNESSETH, that in consideration of the sum of One Dollar and other valuable consideration, the Grantors do hereby grant and convey until the Grantee, its successors and assigns (A PERPETUAL EASEMENT) to construct, use and maintain said Wastewater Sewage System on the land shown cross-hatched thus [drawing of cross-hatching] on the said plat.

In 1992, Cecil County installed a wastewater sewage main in the center of Pennsylvania Avenue (in front of what would later become the properties owned by the parties to this case). Ever since, the Cecil County Department of Public Works has regularly inspected, serviced, and maintained the sewage main.

Ms. McCall purchased her deeded property, 36 Pennsylvania Avenue, in Charlestown Manor in 1995 from Mark and Sara Connor. Ms. McCall's deeded property lies at the intersection of Pennsylvania Avenue and Maryland Avenue. As platted, Pennsylvania Avenue to the south is fifty-five feet wide, and Maryland Avenue to the east is forty feet wide. Prior to purchasing, Ms. McCall saw the property in 1993, when a chain extended across Pennsylvania Avenue to separate 36 Pennsylvania Avenue's gravel driveway from the rest of Pennsylvania Avenue. As the circuit court found, "[t]he

location of the chain appeared to be the accepted boundary between the driveway serving 36 Pennsylvania Avenue and the public-use[9] portion of Pennsylvania Avenue."

Since 1995, Ms. McCall used a portion of Maryland Avenue as her own: planting gardens, piling firewood, storing a tractor, and parking her car. She applied for permits to remove mature trees or burn downed trees, she received the permits, and she removed the trees.

Just as Ms. McCall considered Maryland Avenue an extension of her yard, she considered Pennsylvania Avenue to where the chain was to be her driveway. Shortly after purchasing in 1995, Ms. McCall removed the chain in order to access her property more easily. On Pennsylvania Avenue, Ms. McCall laid gravel three times, cleared snow, installed signs denoting private property and demanding no trespass, installed reflectors and cones at the end of the driveway, put up fencing along the driveway, and, ultimately, reinstalled the chain in 2021. No one else has maintained the driveway.

In addition, Ms. McCall claimed a hatched area within Pennsylvania Avenue that was adjacent to the gravel drive. Ms. McCall maintained this area as an extension of her lawn. This area was forested and swamp-like, dissimilar in character to the other portions of land she claimed. In this area, starting in 1996, Ms. McCall cleared underbrush, trimmed, and removed mature trees, mowed grass, and landscaped. To dissuade misguided drivers from continuing past the paved portion of Pennsylvania Avenue and

[9] Given that Cecil County had never accepted Pennsylvania Avenue as a street dedicated for public use, we assume the court intended this phrase ("public-use") to mean "common-use," referring to use by the subdivision owners.

into the swampy area beyond—and then tearing up her yard in their attempts to turn around—Ms. McCall installed posts, wire fencing, and reflectors near the end of the improved part of Pennsylvania Avenue. She later replaced these with a split rail fence.

Ms. McCall's neighbors purchased their lots after Ms. McCall did, starting with the Graces, who bought their lots in 2001. The Graces' lots are unimproved and lie directly across Pennsylvania Avenue from Ms. McCall's lots. Mr. Grace visited his property approximately twice a month, accessing his property via Pennsylvania Avenue. Mr. Grace testified that no one interfered with his access until 2018.

In 2003, an unnamed neighbor got an estimate to pave Pennsylvania Avenue, but only up to the gravel drive Ms. McCall was adversely possessing as her driveway. The quote from the paving company offered, as an add-on service, the paving of Ms. McCall's "driveway," which she declined. In 2004, a portion of Pennsylvania Avenue was paved, from the easterly perpendicular street, in front of what is now the Sherlocks' and Fowler/Wilmot's properties, up to Ms. McCall's claimed property.

In 2009, Ms. Zimmerman bought her lots. Ms. Zimmerman's lots are next to the Graces' lots, are also directly across Pennsylvania Avenue from Ms. McCall's lots, and, like the Graces' lots, are also unimproved. Ms. Zimmerman accessed her property via Pennsylvania Avenue. Prior to Ms. McCall fencing (and chaining) off that portion of Pennsylvania Avenue that she claimed as her driveway, Ms. Zimmerman would park near the sewer manhole (near the center of the Maryland Avenue-Pennsylvania Avenue intersection) and walk to her property. On at least one occasion, Ms. Zimmerman

requested Ms. McCall's permission to walk on the disputed property to get to her (Ms. Zimmerman's) undeveloped lots.

In 2014, Mr. Wilmot and Mr. Fowler acquired their lots in Charlestown Manor. The Fowler/Wilmot property lies diagonally across the intersection of Maryland Avenue and Pennsylvania Avenue from Ms. McCall's deeded property and directly across Pennsylvania Avenue from what would become the Sherlocks' property.

In 2014, Ms. Lloyd acquired from the Connors "the residue of any remaining lands" in the Charlestown Manor plat. At trial, Ms. Lloyd claimed that this conveyance included "the paper roads" and granted her ownership in fee simple of the streets and common areas—including Maryland Avenue and Pennsylvania Avenue. She acknowledged that she did not maintain those areas.

In 2016, the Sherlocks bought their property from Homer Lutton, who had owned the property since 1957. The Sherlocks' property abuts Pennsylvania Avenue and Maryland Avenue, but is across Maryland Avenue from Ms. McCall's deeded property. Historically, no obvious boundary existed on the grassy area of Maryland Avenue to designate it as a roadway or otherwise separate the properties now owned by Ms. McCall and the Sherlocks. The Sherlocks moved into their property full-time in the spring of 2018, two years after they purchased the property from Mr. Lutton.

The Sherlocks continued to mow and maintain Maryland Avenue along the same makeshift property markers used by Mr. Lutton and Ms. McCall: "from the split tree and basketball hoop." The Sherlocks parked a boat on the Maryland Avenue side of their

house. A year later, Ms. McCall installed fence posts and planted several trees along the unofficial Maryland Avenue divide. Mr. Sherlock then began to park the boat further from his house, closer to Ms. McCall's plantings and fence posts. Ms. McCall requested that Mr. Sherlock move the boat back next to his house and complained that it was blocking sunlight to the trees she had planted,[10] but the boat remained.

When Mr. Sherlock began to drive over Ms. McCall's plantings, she installed a row of metal posts to mark the edge of the area she considered her yard. The tiff escalated in November 2020 when Ms. McCall laid out spiked boards in the middle of Maryland Avenue between their properties. Mr. Sherlock was afraid his dogs would be harmed and his tires damaged (they were not). In 2021, Ms. McCall put up stockade privacy fencing along Maryland Avenue as it adjoins her property, fifteen feet from the Sherlocks' deeded property line and five feet over the center line of Maryland Avenue. On her side of the fence, Ms. McCall continued to tend to her gardens and trees.

Ms. McCall Files Suit

In 2021, Ms. McCall sued her neighbors and "[a]ll others having or claiming an interest in an interest in [t]he unopened portions of Pennsylvania Avenue and Maryland Avenue adjoining [her] property . . . ." Ms. McCall claimed she acquired, by adverse possession, unopened portions of the platted streets adjoining her property.

[10] Ms. McCall testified that she had planted these trees for the Maryland Chesapeake Bay Critical Area Commission.

In her Amended Complaint, Ms. McCall alleged her use of the unopened, adjoining portions of Maryland and Pennsylvania Avenue "has been open, notorious, hostile, under claim of right for a continuous period in excess of twenty (20) years." According to the Amended Complaint, the Sherlocks' trailer parking and fence construction encroach onto the land Ms. McCall "has maintained and claims." She alleged that no one else had any interest or use in the claimed land since her 1995 acquisition through 2021 and that her title was superior to her neighbors and all others. Ms. McCall requested that the circuit court "[d]eclare her to be the fee simple owner of the 'cross hatched' area of [the plat attached to her complaint, reproduced *supra*] by adverse possession." Ms. McCall further requested injunctive relief requiring the Sherlocks to remove or move their personal property that encroached onto Ms. McCall's property, and the entry of orders prohibiting the Sherlocks from trespassing and prohibiting the defendant-neighbors—"and all others"—from encroaching onto Ms. McCall's property.

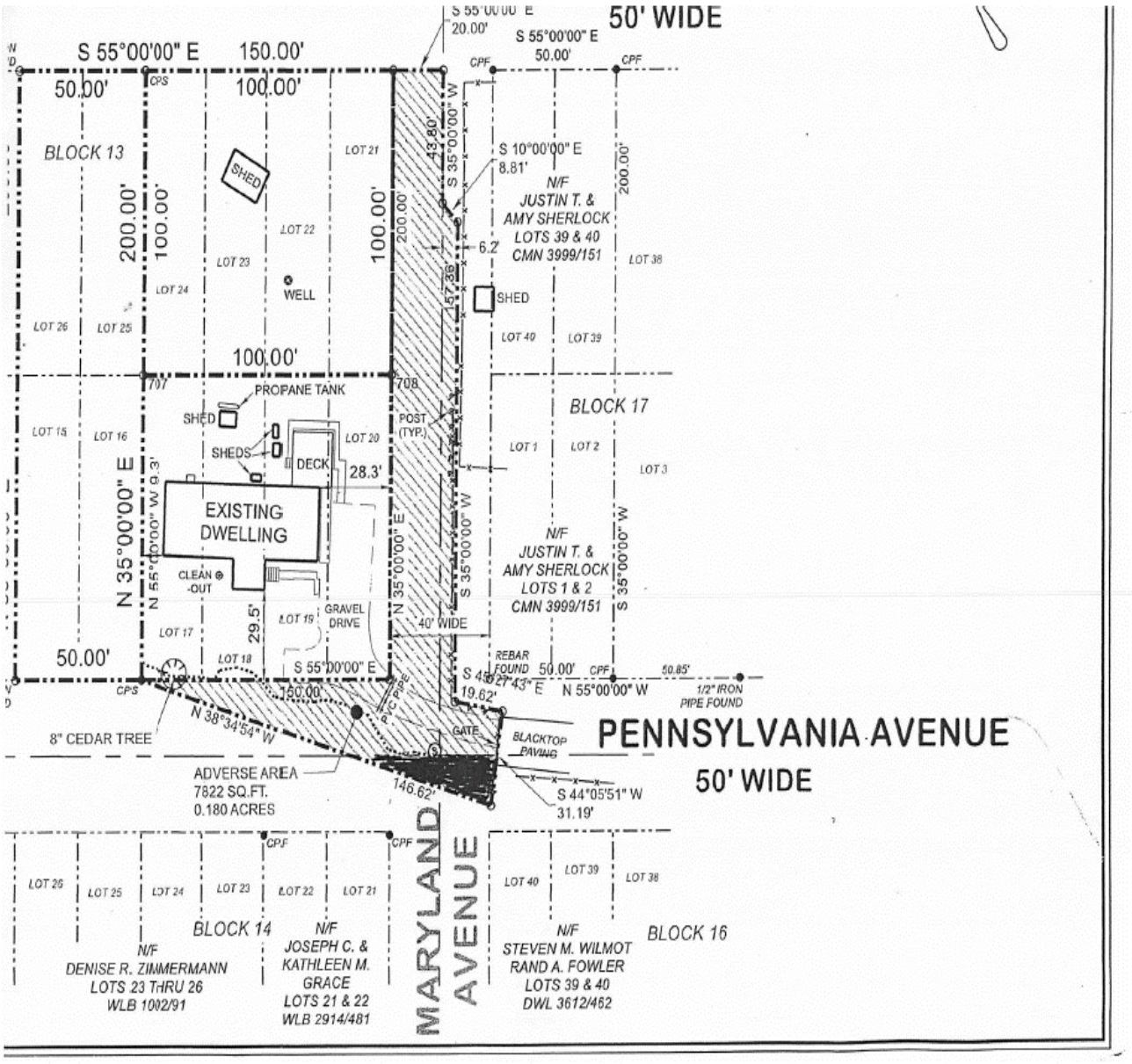
Trial was held on three noncontiguous days before the Honorable Keith A. Baynes. About a month before the second day, Appellants jointly (and unsuccessfully) moved to disqualify Judge Baynes. Defendants contended that in 2003, Judge Baynes, while in private law practice before taking the bench, had prepared one of the deeds to Ms. McCall's property. The deed had been attached as Exhibit 4 to Ms. McCall's original and amended complaints. Judge Baynes stated he did not remember representing Ms.

McCall or preparing her deed and did not discuss the facts of the case at bar with her or anyone at any time. The motion was denied.

During trial, the parties presented nearly 100 photographs and called numerous witnesses to testify about the changes to and activities on Pennsylvania and Maryland Avenues from 1996 to 2021. Ms. McCall's witnesses included Ms. McCall herself, James Halsey (a longtime resident of the area), Nicholas Doyle (a friend of Ms. McCall and her husband and a recurring guest on her property since 1996), and Dale Linton (Ms. McCall's friend and frequent visitor from 2015 through 2017). These witnesses testified to Ms. McCall's use and maintenance of the disputed property.

The defense witnesses included Ms. McCall's defendant-neighbors Ms. Zimmerman, Mr. Grace, Mr. Sherlock, and Ms. Lloyd—as well as James Zell (a longtime Cecil County collection system employee familiar with the sewer line on Pennsylvania Avenue), Doris Schultz (a niece of Mr. Lutton, the Sherlocks' predecessor-in-title who hosted an annual neighborhood corn roast set up with parking on or around the disputed property), and Michael Leighty (a nephew of Mr. Lutton who purportedly frequented and maintained the property during his uncle's ownership).

After the bench trial, the circuit court issued its opinion, to which it attached a plat illustrating the land that Ms. McCall did and did not adversely possess. The portion that she did not adversely possess was shown as a "blacked out area." We provide a copy of the circuit court's attached plat here.



The circuit court split its analysis into "Maryland Avenue Claim" and "Pennsylvania Avenue Claim." The circuit court found that Ms. McCall had demonstrated all necessary elements for adverse possession for the Maryland Avenue Claim:

> Since moving into her property in 1995, Plaintiff testified that she has planted gardens, kept a firewood pile, stored a tractor, and parked her car in the disputed area of Maryland Avenue. Over the next 20+ years Plaintiff's

> acts under claim of title or ownership escalated from mowing, maintaining, tree trimming, and occasional plantings within the hatched area to starting a woodpile, applying for the removal of mature trees from Cecil County Government, paying for the removal of these mature trees, driving posts to demarcate the boundary as she understood it . . . , setting a boundary marker, installing a fence with "No Trespassing" signs, and requesting Sherlock move his boat back from the fence she had installed. Plaintiff took additional steps to assert and display her ownership of Maryland Avenue by laying out the spiked boards to discourage trespassing and as well as increasing the size of her plantings from flower and vegetable garden to young trees lining the claimed border. The Court accepts the testimony of the Plaintiff and finds that her testimony is supported by the numerous historical photographs introduced into evidence.
>
> The Court further finds that the evidence supports Plaintiff's contention that these actions were actual, open and notorious. There was no hiding Plaintiff's above actions under claim of ownership when she is mowing, planting, applying for the removal of trees, driving posts to demarcate the boundary of land she is claiming, and installing fencing with no trespassing signs.
>
> The Court also finds that the above actions were continuous and uninterrupted from the time of Plaintiff's acquisition to the time of her Complaint and continue through the present and were done under claim of ownership.

As to the Pennsylvania Avenue Claim, the circuit court made the following findings:

> Similar to the Plaintiff's actions with regard to the area within Maryland Avenue, the evidence supports Plaintiff's claim that since acquiring her property in 1995, Plaintiff immediately performed acts under claim of ownership within the hatched area shown on the above referenced plat. These actions included improving and maintaining the area of the driveway to her lots from its historical start on Pennsylvania Avenue where the chain was located when she purchased the property in 1995. Plaintiff has openly and exclusively improved and maintained the drive area from the end of the paved portion of Pennsylvania Avenue to her lots under claim of ownership. Plaintiff installed gravel, cleared snow, installed private property and no trespassing signs, installed reflectors and cones creating a visible boundary between the improved portion of Pennsylvania Avenue and the hatched area under her claim of ownership.
>
> These actions have been continuous and uninterrupted from the date of her acquisition to the time of the filing of her complaint and continuing.

> The Court further finds that Plaintiff has openly, exclusively, notoriously, and continuously since 1996, under claim of ownership, cleared underbrush, trimmed and removed mature trees, mowed grass, and landscaped the hatched area located immediately to the west of her driveway as shown on the plat.

The circuit court's ruling included two caveats. First, it concluded that Ms. McCall's adverse possession claim failed as to a small "triangular area located adjacent to the center line of Pennsylvania Avenue and extending into the westerly and/or southerly area of Pennsylvania Avenue." Second, as to that portion of the disputed property that it had ruled Ms. McCall did adversely possess, it ruled that Ms. McCall's land was subject to Cecil County's sewer easement.

We add additional facts below as needed.

DISCUSSION

I. The circuit court did not abuse its discretion in denying Appellants' recusal motion.

We review a trial judge's decision on a motion to recuse for abuse of discretion. *Nathans Assocs. v. Mayor of Ocean City*, 239 Md. App. 638, 659 (2018) (citing *Scott v. State*, 175 Md. App. 130, 150 (2007)). "[T]here is a strong presumption in Maryland, and elsewhere, that judges are impartial participants in the legal process, whose duty to preside when qualified is as strong as their duty to refrain from presiding when not qualified." *Nathans Assocs.*, 239 Md. App. at 659 (quoting *Jefferson-El v. State*, 330 Md. 99, 107 (1993)).

Maryland Rule 18-102.11 requires a judge to recuse[11] themselves "in any proceeding in which the judge's impartiality might reasonably be questioned[.]" Recusal is warranted when "[t]he judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding." Md. Rule 18-102.11(a)(1).[12] Unless the reason for recusal is bias or prejudice, the judge may disclose the basis for recusal to the parties, who may then decide whether to waive it. Md. Rule 18-102.11(c) ("[a] judge subject to disqualification under this Rule, *other than for bias or prejudice under subsection (a)(1) of this Rule*, may disclose on the record the basis of the judge's disqualification and may ask the parties and their attorneys to consider, outside the presence of the judge and court personnel, whether to waive disqualification.") (emphasis added).

Appellants contend that because Judge Baynes drafted a deed for one of Ms. McCall's lots in 2003, i.e., while he was in law practice, it was an abuse of discretion for him to have failed to recuse himself in this case. Appellants contend that Ms. McCall's and Judge Baynes's failure to have brought this fact to anyone's attention during the trial, coupled with Judge Baynes's delay in issuing his opinion and the "ambiguous nature" of

[11] On March 1, 2024, this Court adopted amendments to Maryland Rule 18-102.11(a), replacing "disqualify himself or herself" with "recuse" and "he or she" with "the judge[,]" which became effective on July 1, 2024. Supreme Court of Maryland, Rules Order at 2–3, 68–69 (Mar. 1, 2014), https://www.courts.state.md.us/sites/default/files/rules/order/ro220.pdf [https://perma.cc/2QA9-BZ5L].

[12] Rule 18-102.11 outlines additional bases for recusal that are not pertinent here.

the opinion, together suggest that Judge Baynes should have disqualified himself.

We see no abuse of discretion in Judge Baynes's decision not to recuse himself from this case. Although Judge Baynes drafted the deed that later became Exhibit 4 to Ms. McCall's complaint and amended complaint, the contents of that deed were not in dispute below. Specifically, Ms. McCall referenced the deed in conjunction with her allegation that she had been deeded Lots 15-26, the lots that comprised 36 Pennsylvania Avenue. No Appellant disputed the contents of the deed when it was offered into evidence. Accordingly, because Ms. McCall's ownership of Lots 15-26 was not "in dispute in the proceeding[,]" Md. Rule 18-102.11(a)(1), Judge Baynes was not required to recuse himself over having drafted the deed, particularly where he did not remember having done so.

Nor have Appellants shown that the deed was anything but "innocuous" in this proceeding. *See Nathans Assocs.*, 239 Md. App. at 662–63 (2018) (declining to find an abuse of discretion where the trial judge did not recuse himself despite having written, as City Solicitor, an "innocuous" letter about a property involved in the dispute before the judge). The 2003 deed prepared by Judge Baynes nearly twenty years prior to the trial is but one of many deeds that were introduced only to establish Ms. McCall's chain of title to 36 Pennsylvania Avenue, a fact that Appellants admitted in their pleadings (or by their failure to plead). Given the relative unimportance of Ms. McCall's deed to the proceedings, we cannot conclude that Judge Baynes's failing to recuse over having prepared it was an abuse of discretion.

Appellants are not helped by the fact that they waited until well after the first day of trial before moving to recuse Judge Baynes. The filing of a motion for recusal must be timely. *Surratt v. Prince George's Cnty.*, 320 Md. 439, 468–69 (1990) ("To avoid disruption of a trial, or the possible withholding of a recusal motion as a weapon to use only in the event of some unfavorable ruling, the motion generally should be filed as soon as the basis for it becomes known and relevant."). The deed that Judge Baynes prepared was attached to Ms. McCall's complaint and amended complaint, and Judge Baynes's name was on the deed. Nonetheless, Appellants fail to explain why they waited more than a month after the trial started (July 21 to August 29), and after Ms. McCall had rested her case in chief, to move for Judge Baynes's recusal. Ultimately, because Appellants' recusal motion was not filed as soon as Judge Baynes was assigned as the trial judge, the motion was untimely.

To the extent that Appellants here argue other reasons for why Judge Baynes's nonrecusal was an abuse of discretion,[13] we decline to address them because they are unpreserved and unaccompanied by record citations or legal argument. Md. Rule 8-

[13] Appellants' reply brief lists several alleged reasons for disqualification, without citation or support:

> The fact that Judge failed to state anything, the Plaintiff failed to state anything, the Plaintiff's counsel failed to state anything, the aggression towards the Defendants' viewpoints, the length of time passed before rendering a decision (approximately six months), and the ambiguous nature of the memorandum opinion all leads towards the conclusion that disqualification in this case should have been appropriate decision to move forward in this case.

131(a) ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . ."); Md. Rule 8-504(a)(4) ("Reference shall be made to the pages of the record extract or appendix supporting the assertions [of fact]."); Md. Rule 8-504(a)(6) (requiring that appellate briefs contain "[a]rgument in support of the party's position on each issue."); *Anne Arundel Cnty. v. Harwood Civic Ass'n, Inc.*, 442 Md. 595, 614–15 (2015) (holding that an appellant's failure to present an argument constituted a waiver of that argument).

II. There was sufficient evidence to support the circuit court's determination that Ms. McCall adversely possessed the disputed property (other than the shaded triangular area).

As this was a bench trial, we "will review the case on both the law and the evidence [and] will not set aside the judgment of the trial court on the evidence unless clearly erroneous[.]" Md. Rule 8-131(c). "A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it." *Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 576 (2007). In discerning clear error, "we may not substitute our judgment for that of the fact finder, even if we might have reached a different result." *Oliver*, 121 Md. App. at 306. In other words, we do not reweigh the evidence. Instead, "we must assume the truth of all the evidence, and of all the favorable inferences fairly deducible therefrom, tending to support the factual conclusions of the lower court." *Id.*

With regard to an adverse possession claim, we review the sufficiency of evidence in a light most favorable to the prevailing party. *Clickner v. Magothy River Ass'n Inc.*,

424 Md. 253, 266 (2012). Thus, if substantial evidence was presented to support the circuit court's determination that Ms. McCall adversely possessed the disputed property (other than the triangle) for the requisite period, that determination is not clearly erroneous and cannot be disturbed. *See id.*

While factual findings will be reviewed for clear error, questions of law require a non-deferential review. *Montgomery Cnty. v. Bhatt*, 446 Md. 79, 88 (2016). We review legal questions for legal correctness. *Clickner*, 424 Md. at 266. Where a case involves both issues of fact and questions of law, this Court will apply the appropriate standard to each issue. *Id.* at 266–67 (citing *Dickerson v. Longoria*, 414 Md. 419, 432 (2010)).

A successful claim for adverse possession[14] requires "continuous possession of the property for 20 years in an actual, open, notorious, exclusive, and hostile manner, under claim of title or ownership." *Anderson v. Great Bay Solar I, LLC*, 243 Md. App. 557, 594 (2019) (quoting *Porter v. Schaffer*, 126 Md. App. 237, 276, *cert. denied*, 355 Md. 613

[14] "Most adverse possession cases involve extinguishment of fee ownership through adverse possession, but an easement may be terminated through adverse possession as well." *USA Cartage Leasing, LLC v. Baer*, 202 Md. App. 138, 200–01, *aff'd*, 429 Md. 199 (2012). The analysis of adverse possession of an easement differs from the typical adverse possession analysis. *Purnell v. Beard & Bones, LLC*, 203 Md. App. 495, 528 (2012). In addition to demonstrating a visible, notorious, continuous, adverse, and hostile use of the land, the servient tenement owner must prove more than possession that is inconsistent with another's claim of title. *Id.* The adverse possession must be "inconsistent with the use made and rights held by the easement holder[.]" *Id.* "The challenges are increased where, as here, the owner of the dominant estate makes no effort to use the easement." *USA Cartage Leasing*, 202 Md. App. at 201. Below, the neighbors claimed that they had used their right-of-way easement, but the circuit court concluded that Ms. McCall's use of the disputed property was inconsistent with the neighbors' use of their easement.

(1999)). A disseisor need not go to court and succeed on an adverse possession claim to gain ownership; vesting of fee simple ownership is automatic upon fulfillment of the requisites for the statutory period. *Hillsmere Shores Improvement Ass'n, Inc. v. Singleton*, 182 Md. App. 667, 728 (2008) ("[O]nce the statutory period has run, there is nothing left for the adverse possessor to do to gain title, i.e., no application to any authority need be made." (cleaned up) (quoting with approval *Wanha v. Long*, 587 N.W.2d 531, 543 (Neb. 1998)).

Maryland courts have considered the elements of adverse possession in three broad groups: "possession must be (1) actual, open and notorious, and exclusive; (2) continuous or uninterrupted for the requisite period; and (3) hostile, under claim of title or ownership." *Senez v. Collins*, 182 Md. App. 300, 324 & n.15 (2008) (relying on formulations of adverse possession elements in *Yourik v. Mallonee*, 174 Md. App. 415, 424, 426–27 (2007); *Orfanos Contractors, Inc. v. Schaefer*, 85 Md. App. 123, 130 (1990); and *Blickenstaff v. Bromley*, 243 Md. 164, 170 (1966)). While the third grouping of factors speaks to the "adverse" nature of adverse possession, the bulk of the factors go toward the "possession"—the use must be actual, open and notorious, and exclusive. *See Senez*, 182 Md. App. at 324 & n.15.

A. Actual, Open and Notorious, and Exclusive

A disseisor's *actual use* forms the crux of the elements of actual, open and notorious, and exclusive possession. *Id.* at 325. Actual use signifies "[p]ossessory acts of dominion" that go beyond "mere occasional use." *Id.* at 325–26 (quoting *Miceli v. Foley*,

83 Md. App. 541, 561 (1990) and *Porter*, 126 Md. App. at 277). We focus on the "objective manifestation" of a claimant's adverse use—rather than on the claimant's subjective intent. *Porter*, 126 Md. App. at 276 (quoting *Barchowsky v. Silver Farms, Inc.*, 105 Md. App. 228, 241 (1995)). We look for possession that is visibly open and notorious enough to charge the title owner(s) with constructive notice. *Senez,* 182 Md. App. at 325; *see also Beatty v. Mason*, 30 Md. 409, 414 (1869). We require possession to be exclusive such that the disseisor has appropriated and used the land for her own benefit, not another's. *Orfanos Contractors*, 85 Md. App. at 130; *Blickenstaff*, 243 Md. at 173.

Ms. McCall actually, openly and notoriously, and exclusively possessed the disputed property that fronted Maryland Avenue and Pennsylvania Avenue. As to Maryland Avenue, Ms. McCall treated it as the yard to her home. Thus, she planted gardens, stored a woodpile, tended to mature trees (including applying for permission to remove them, getting that approval, and paying for their removal), and laid out boundary markers on it, all as if it was her yard. As to Pennsylvania Avenue, Ms. McCall treated it as her driveway: improving, maintaining, and installing boundaries on it, as if it was her driveway. As the circuit court found, Ms. McCall's actions were "continuous and uninterrupted from the time of [Ms. McCall's] acquisition to the time of her Complaint and continue through the present and were done under claim of ownership."

Appellants argue that Ms. McCall did not actually possess the disputed property for the requisite period because Ms. McCall did not put a chain across the driveway until

2019, or the spiked board in until 2020, or have the land surveyed until 2021. They also point to the testimony of Ms. Schultz and Mr. Sherlock, who said that Ms. McCall installed no physical obstructions on the disputed property until 2015 or 2016. Accordingly, Appellants argue that until that time, there was nothing on the disputed property that prevented its free use by other residents of Charlestown Manor.

But adverse possession does not turn on a static set of steps that the would-be possessor must take in every case. Instead, "[d]etermination of whether a claimant is in actual possession of the claimed land is a fact-intensive inquiry." *Senez*, 182 Md. App. at 325. Indeed, we consider the character of the land at issue: "acts sufficient to demonstrate possession of wild, undeveloped forest may fall short of the activity needed to establish possession of developed property." *Porter*, 126 Md. App. at 277. Simply put, an adverse claimant's possession "need only be a type of possession which would characterize an owner's use." *Blickenstaff*, 243 Md. at 173 (quoting 3 AM. JUR.2d, Adverse Possession, § 50).

Here, even though Ms. McCall did not install obstructions on the property until 2015 or later, she used the disputed property as an owner would have. As to the property fronting Maryland Avenue, Ms. McCall tended to it as her own yard, planting gardens, maintaining the trees, seeking permission from Cecil County to remove trees, getting that permission, and having the trees removed. As to the property fronting Pennsylvania Avenue, she used it as her driveway and maintained it as such. Because these are the uses that an owner would have made of the property, these uses were actual, open and

notorious uses of the property sufficient to notify of Ms. McCall's possession of the property.

As part of their argument that Ms. McCall's possession was not sufficiently open and notorious, Appellants also contend that Ms. McCall did not appropriately notify her previous or current neighbors (or Cecil County) of her possession. There is no requirement that competing owners or easement holders receive actual notice of a would-be adverse possessor's possession, however. *Senez*, 182 Md. App. at 325. Nor is there is a requirement that the adverse possession be absolutely exclusive. *Blickenstaff*, 243 Md. at 173. "The element of 'open and notorious' pertains to the concept of constructive notice to the title owner." *Senez*, 182 Md. App. at 325. Actual notice is not required. *Id.* Instead, any owners "may be presumed to have notice" of possession that is sufficiently visible and notorious. *Beatty*, 30 Md. at 414. The circuit court correctly concluded that because of Ms. McCall's activities on the disputed property, others were presumed to have notice of her possession of it.

Appellants next claim that Ms. McCall's possession was not sufficiently "exclusive." They point out that Ms. McCall acknowledged and even facilitated Cecil County's sewer easement and that her neighbors periodically used Pennsylvania and Maryland Avenues for ingress and egress to inspect their own properties. Appellants point to evidence the neighbors introduced at trial purporting to show that the community held an annual corn roast on the Maryland Avenue property that Ms. McCall claims.

According to Appellants, this evidence proves that Ms. McCall did not use the portion of Maryland Avenue that she claims only for herself.

For the purposes of adverse possession, however, "exclusivity" is about exclusive possession, not exclusive use. "It is the claim of right rather than the use itself which must be exclusive" for the adverse possession of property. *Zimmerman v. Summers*, 24 Md. App. 100, 107 (1975). For possession to be exclusive, "the claimant must possess the land as his own and not for another." *Senez*, 182 Md. App. at 325 (quoting *Orfanos Contractors*, 85 Md. App. at 130). "An adverse claimant's possession need not be absolutely exclusive, however; it need only be a type of possession which would characterize an owner's use." *Blickenstaff*, 243 Md. at 173 (quoting 3 AM. JUR.2d, Adverse Possession, § 50). The circuit court rejected the neighbors' use of photographs and testimony regarding the corn roast and other annual events, finding instead that "these community events were not an act of ownership" by others that defeated Ms. McCall's claim. That others may have traversed the disputed property does not mean that they possessed it, or that Ms. McCall's possession of it was non-exclusive.

Appellants also contend that Ms. McCall's use of the disputed property could not have been "exclusive" because she acquired the property subject to the right-of-way easement of the other Charlestown Manor owners. Looking to Section 2-114(a) of Maryland's Real Property Article ("RP"), Appellants argue that Ms. McCall's use of the disputed property was not "exclusive" because deeds in her chain of title "specifically allow[] an easement in common with all owners among the streets shown and designated

on the plats of Charlestown Manor."

RP § 2-114(a) does not support Appellants' contention. The statute, as a whole, pertains to the construction of deeds and other instruments that pass title to land binding on a street or highway or that include a street or highway "as 1 or more of the lines thereof." RP § 2-114(a). It provides:

> § 2-114. Title to streets or highways
>
> **In general**
>
> (a) Except as otherwise provided, any deed, will, or other instrument that grants land binding on any street or highway, or that includes any street or highway as 1 or more of the lines thereof, shall be construed to pass to the devisee, donee, or grantee all the right, title, and interest of the devisor, donor, or grantor (hereinafter referred to as the transferor) in the street or highway for that portion on which it binds.
>
> **Boundary between tracts**
>
> (b) If the transferor owns other land on the opposite side of the street or highway, the deed, will, or other instrument shall be construed to pass the right, title, and interest of the transferor only to the center of that portion of the street or highway upon which the 2 or more tracts coextensively bind.
>
> **Application of section**
>
> (c) The provisions of subsections (a) and (b) of this section do not apply if the transferor in express terms in the writing by which the devise, gift, or grant is made, either reserves to the transferor or grants to the transferee all the right, title, and interest to the street or highway.

RP § 2-114. While RP § 2-114 establishes a presumption for how to construe deeds or other instruments, it does not eliminate the possibility of adverse possession of those streets or highways. *Accord Anderson*, 243 Md. App. at 592, 594.

In *Anderson,* this Court applied the common law precursor to RP § 2-114 to conclude that the Andersons owned disputed land in fee simple "absent evidence to the contrary." *Id.* at 592. After concluding the common law presumption applied, the Court

went on to analyze whether a competing landowner had adversely possessed the disputed land. *Id.* at 594–95. Although the Andersons benefitted from the presumption that they owned the land in fee simple, that presumption was not conclusive and did not eliminate the possibility that the competing landowner had adversely possessed the disputed land that the Andersons were presumed to own. *Id.* Likewise, even if a grantee receives a portion of a street or highway by virtue of Section 2-114(a)'s presumption, there is nothing in that statute that conclusively insulates that grantee from a claim of adverse possession.

B. Hostile (Under a Claim of Title or Ownership)

A hostile possession is one that is "adverse in the sense of it being without license or permission." *Anderson*, 243 Md. App. at 594 (quoting *Yourik*, 174 Md. App. at 429). Where the claim is contrary to easement rights, the claimant must "demonstrate a visible, notorious and continuous adverse and hostile use of [the] land which is inconsistent with the use made and rights held by the easement holder, not merely possession which is inconsistent with another's claim of title." *Purnell*, 203 Md. App. at 528 (2012). "Therefore, the owner of a servient estate must prove the use of the servient estate made during the period of adverse possession is sufficiently hostile and inconsistent with the use permitted by the easement." *Id.*

Appellants argue that Ms. McCall "failed to establish that her claim was without license or permission." Appellants claim that Ms. McCall used the property "in a manner consistent with the permissive use," i.e., consistent with the "deeded right to the use of

the designed streets on the plat" that all owners of land in Charlestown Manner had. Again, we disagree.

In analyzing Appellants' argument, we discuss Maryland Avenue and Pennsylvania Avenue in halves. With regard to the portion of Maryland Avenue and Pennsylvania Avenue between Ms. McCall's deeded property and the centerline of these paper streets ("the inner half of Maryland Avenue" and the "inner half of Pennsylvania Avenue," respectively, or collectively "inner halves"), Ms. McCall owned these inner halves in fee simple because she owned the deeded lots binding on them. *See* RP § 2-114.[15]

Similarly, the other halves of Maryland Avenue and Pennsylvania Avenue are owned in fee simple by the owners of the lots that bind those paper streets on those sides. *See* RP § 2-114. Thus, the Graces, the Sherlocks, Ms. Zimmerman, and Mr. Fowler and Mr. Wilmot own to the centerline of Maryland Avenue (or Pennsylvania Avenue, as appropriate) to the extent that their deeded lots bind on those paper streets. For ease, we refer to these portions of Maryland Avenue and Pennsylvania Avenue as "the outer half of Maryland Avenue," "the outer half of Pennsylvania Avenue," or the "outer halves," as appropriate.

To be sure, all streets in Charlestown Manor, including Maryland Avenue and Pennsylvania Avenue, were, at one time, subject to the right of way granted all lot owners

[15] We assume without deciding that RP § 2-114 applies to land binding on paper streets.

in Charlestown Manor. Thus, the inner halves of Maryland Avenue and Pennsylvania Avenue were subject to the right of way held (as appropriate) by the Graces, the Sherlocks, Ms. Zimmerman, and Mr. Fowler and Mr. Wilmot. And the outer halves of Maryland Avenue and Pennsylvania Avenue were subject to the right of way held (as appropriate) by all of the neighbors, including Ms. McCall.

As to these inner halves, Ms. McCall's adverse possession need only be analyzed as to whether her use of the land extinguished the deeded right-of-way easement of her neighbors. As to the outer halves, Ms. McCall's adverse possession claim need be analyzed in the context of whether her use of the land was inconsistent with her deeded right-of-way easement such that her easement was converted into fee simple ownership.

As we understand their arguments, Appellants are not contending that an easement can never be extinguished via adverse possession by the servient estate owner. Indeed, "[a]n easement may be obtained or extinguished by adverse possession." *Purnell*, 203 Md. App. at 527–28 (2012). To extinguish the easement, "the owner of a servient estate must prove the use of the servient estate made during the period of adverse possession is sufficiently hostile and inconsistent with the use permitted by the easement." *Purnell*, 203 Md. App. at 528. This is because the owner of the servient estate already has the right to possess and use the land so long as that use is not inconsistent with the easement. *Id.*

Here, as the circuit court found, Ms. McCall's use of the inner halves of Maryland Avenue and Pennsylvania Avenues was sufficiently inconsistent with the right of way the neighbors had over the inner halves. She possessed the land for her own singular

purposes, selfishly. Even as to sunlight coming onto the portion of Maryland Avenue that she claimed, Ms. McCall did not want Mr. Sherlock parking his boat trailer (on his land) in such a way as to block the sunlight. She put up signs and fences and obstructions to prevent her neighbors from freely using that portion of Maryland Avenue that she claimed. As to Pennsylvania Avenue, she used part of the land as her driveway, and prevented others from sharing this use. These facts, as found by the circuit court and supported by the record, illustrate a possession that is inconsistent with the "free use, right and privilege" of Charlestown Manor's streets that the right-of-way easement granted at one time.

As to the outer half of Maryland Avenue, specifically Ms. McCall's claim to the five-foot-wide strip of Maryland Avenue between Maryland Avenue's centerline and the edge of the Sherlocks' deeded property (the "sliver"), we disagree that the right of way easement prevented Ms. McCall from adversely possessing the sliver. An easement holder may acquire, via adverse possession, fee simple ownership to the servient estate over which the easement runs. *See* 3 Tiffany Real Prop. § 827 (3d ed.) (citing the following Maryland cases: *Allori v. Dinenna*, 188 Md 1 (1947); *City of Baltimore v. Canton Co. of Baltimore*, 124 Md. 620 (1915); *Mullan v. Hochman*, 157 Md. 213 (1929)). Although Ms. McCall was not the owner of the sliver's servient estate (the Sherlocks are), the circuit court found that Ms. McCall's actions were inconsistent with having a mere right-of-way.

To the extent that Appellants suggest that Ms. McCall's use of the disputed

property was not "hostile" because it was permitted by Mr. Connor (who was Ms. Lloyd's predecessor in interest), that argument fails as well. On the issue of whether a putative adverse possessor's use or occupancy of land was permissive, the true owner has the burden of proof. *Zimmerman*, 24 Md. App. at 111. Moreover, we do not reweigh evidence or otherwise redo the circuit court's credibility determinations. *Johnson v. State*, 142 Md. App. 172, 205 (2002) ("Contradictions in testimony or determinations of credibility go to the weight of the evidence, and not to its sufficiency."). The circuit court credited Ms. McCall's testimony generally, saying it "accept[ed] the testimony of [Ms. McCall] and [found] that her testimony is supported by the numerous historical photographs introduced into evidence." On whether she had gotten permission from anyone to use the disputed property, Ms. McCall testified that she "never got permission from anyone."[16] Thus, although Ms. Lloyd testified that Ms. McCall had said that Mr.

[16] Regarding whether Mr. Connor had given her permission to use the disputed property, Ms. McCall testified that she never got such permission:

> Q: Now, Ms. Lloyd testified that -- something about a letter from Mark Connor granting you permission to use the roadways. Was there ever such a letter?
>
> A: No.
>
> Q So you never had a letter from Mr. Connor granting you any kind of permission to use roads?
>
> A: Nothing granting permission, no.
>
> Q: And then after, I guess, he sold out, did you get any permission from Ms. Lloyd?
>
> A: I never got permission from anyone.

Connor had given Ms. McCall permission to use the disputed property, the circuit court credited Ms. McCall on this point, a credibility finding that we do not disturb. Ultimately, because Ms. Lloyd did not prove that Ms. McCall's use of the disputed property was permissive, Appellants' challenge to the circuit court's conclusion that Ms. McCall's use was "hostile" fails.

Appellants also point to Cecil County's sewer easement over Pennsylvania Avenue and argue that Ms. McCall cannot adversely possess land within a public easement. Again, we disagree. Although "land held by a municipality in its governmental capacity may not be acquired privately by adverse possession," a public utility easement does not preclude adverse possession of the servient land. *Desch v. Knox*, 253 Md. 307, 312 (1969). In *Desch*, Knox claimed adverse possession of a strip of land that Desch claimed was his deeded property. 253 Md. at 308. The circuit court denied relief to both parties after concluding that the strip was within a county sewer easement. *Id.* at 310. We reversed because "[t]he mere fact that Baltimore County had some interest in the disputed land is not sufficient reason to preclude a determination as to whether the appellee has encroached upon the appellant's property." *Id.* at 311. We disagreed with the circuit court's finding that the county held all the rights and privileges as though it were fee simple owner of the right-of-way land. *Id.* at 312.

Appellants' attempt to distinguish *Desch* is unpersuasive. Appellants argue that *Desch* is not controlling because the public utility easement there "was located in the rear of the parcel" while Pennsylvania Avenue is within the public utility easement. To be

sure, the disputed property in *Desch* was in the rear of the parcel while the disputed property here is in the front of 36 Pennsylvania Avenue. But this makes no difference. In both cases, the disputed property is within a public utility easement, not on land owned in fee simple by the county. The strip of land in *Desch* was within a public utility easement just as the disputed property on Pennsylvania Avenue is within a public sewer easement. Moreover, the circuit court found that Ms. McCall's adverse possession of Pennsylvania Avenue was subject to Cecil County's sewer easement. Thus, Cecil County's sewer easement is not a bar to Ms. McCall's adverse possession claim.

Appellants next point to *Nathans Associates v. Mayor and City Council of Ocean City* to argue that adverse possession will not lie as to property located within a dedicated and accepted public easement. But *Nathans* was about property owned outright by the sovereign (there Ocean City, Maryland), not about a public utility easement in favor of the sovereign. In *Nathans*, the disputed property was on Atlantic Avenue.[17] The would-be adverse possessors of the disputed property filed to quiet title and for declaratory judgment that Ocean City had no rights or interest in it. *Id.* at 645. Ocean City contested Nathans' adverse possession claim "on the sole basis that the [disputed property] was located within a dedicated and accepted public easement[.]" *Id.* The circuit court agreed with Ocean City, and Nathans appealed to this Court. *Id.* at 645–46. This Court remanded, holding that there was insufficient evidence to have determined that the

[17] The disputed property was the Atlantic Avenue boardwalk for Ocean City. *Nathans Assocs.*, 239 Md. App. at 640.

disputed property was within the public, dedicated portion of Atlantic Avenue. *Id.* at 658–59. We noted that there could be "no serious dispute that that portion of Atlantic Avenue which lies within the original boundaries of the Town of Ocean City was accepted by the General Assembly on behalf of Ocean City as a public roadway." *Nathans Assocs.*, 239 Md. App. at 649 (quoting *Windsor Resort Inc. v. Mayor of Ocean City*, 71 Md. App. 476, 487 (1987)).

Unlike in *Nathans*, this case involves a public *utility* easement on a paper street that was never accepted by the county and is not open to the public. There is no serious dispute that the 0.18-acre parcel lies within streets that were never accepted by Cecil County as county roads. The Appellants conceded this point at oral argument, and it is clear from the record. Though Appellants refer to this easement as a public easement in their questions presented and throughout their briefs, this is not so. The sewer easement held by Cecil County is not a public easement for use by the public. The language of the deed specifically designates the easement as a "Permanent Utility Easement" and speaks to the limited nature of the County's use: "to construct and maintain a Wastewater Sewage System." Appellants' attempt to conflate public easements (where the public has right of way over land owned by the county) with public utility easements (where the county has a right of way over land owned by others) fails.

Not only does *Nathans* not support Appellants' positions, but *Desch* outright refutes it. Cecil County does not own the land at issue, and it does not hold the land for

use as a right of way for public.[18] Cecil County has merely a right of way to access and use the land for a specific purpose: sewage.

III. The circuit court did not err when, on the trial exhibit it attached to its opinion, it drew in a shaded triangular area representing the portion of land it declared Ms. McCall did not adversely possess.

Appellants next claim that the circuit court erred when "arbitrarily ruling on the merits of the case without justifying in the memorandum opinion any distinction between the shaded area (which was created by the judge) and non-shaded area on the plat attached to the opinion describing which areas were adversely possessed." (emphasis/all-capitalization removed). Appellants assert that the "trial [j]udge failed to state in his memorandum opinion the reasons for the decision[,]" in violation of Maryland Rule 2-522(a),[19] and thus the decision should be reversed. We disagree.

Maryland Rule 2-522(a) requires, when a matter is tried to the court, the court to "explain, at or before the time judgment is entered, [its] reasons for making [its] decision." *Patriot Constr., LLC v. VK Elec. Servs., LLC,* 257 Md. App. 245, 269 (2023). But the trial court need not "set out in detail each and every step of [its] thought process." *Plank v. Cherneski*, 469 Md. 548, 607 (2020) (quoting *Thomas v. City of Annapolis*, 113 Md. App. 440, 450 (1997)). Nor is the court required to "elaborate on the reason" for its

[18] While the land may have been dedicated to Cecil County when the plat was created, there is no contention that Cecil County ever accepted the dedicated land.

[19] Maryland Rule 2-522(a) states: "In a contested court trial, the judge, before or at the time judgment is entered, shall prepare and file or dictate into the record a brief statement of the reasons for the decision and the basis of determining any damages."

decision. *Plank*, 469 Md. at 607 (citing *Attorney Grievance Comm'n v. Jeter*, 365 Md. 279, 288 (2001)).

In this case, the circuit court's opinion easily satisfied Maryland Rule 2-522(a). The circuit court attached to its opinion a plat that illustrated its ruling. That plat was derived from Plaintiff's Exhibit 4, but showed a "blacked out" area on Pennsylvania Avenue, with shading added by the circuit court. In its written opinion, the circuit court explained the "black out" triangular area was such because, while Ms. McCall had satisfied some of the elements of adverse possession for this area, her possession was not for the requisite period.

> The Court finds however that [Ms. McCall] fails in her claim for ownership of the hatched area located in the triangular area located adjacent to the center line of Pennsylvania Avenue and extending into the westerly and/or southerly area of Pennsylvania Avenue (see attached black out area). The installation of fencing within this area, while being open, notorious, and under claim of ownership, has not been for the requisite period.
>
> For the reasons stated the Court finds [Ms. McCall] has demonstrated all necessary elements of adverse possession for the hatched area within Pennsylvania Avenue except for the triangular area located adjacent to the center line of Pennsylvania Avenue and extending into the westerly and/or southerly area of Pennsylvania Avenue as shown on the plat marked Plaintiff's Exhibit 4. The westerly and/or southerly boundary of Plaintiff's claimed area is the centerline of Pennsylvania Avenue.

To the extent that Appellants assert that the circuit court's reference to the blacked-out triangular area "is simply illogical and unsupported by any factual determination," we disagree. The circuit court's factual findings and legal conclusions regarding the blacked-out portion of the attached plat allowed us to "adequately assess[] the cogency of its conclusion[.]" *See Patriot Constr.*, 257 Md. App. at 270 (citing

Prahinski v. Prahinski, 75 Md. App. 113, 136 n.6 (1988)). We find no error in the manner in which the circuit court explained the reasons for its decision here.

JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANTS.