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ASK REAL ESTATE

By Ronda Kaysen Feb. 14, 2014

Stairway to Heaven

Q. I recently bought a home that adjoins a church. A social club in the early 1900s, the church has a long vertical fire escape that is not actually attached, but instead bridged to it by a walkway that protrudes about 15 feet into my backyard and is covered in metal sheeting. Both the staircase and the metal sheeting that cover it are rotting away because of old age. The structure also covers up most of my yard space, affecting how much I can use the backyard and my property value. What recourse do I have? Can I ask that it be removed or modified so that the intrusion into my space is limited?

A. The backyard is your property, but that doesn't necessarily mean that the staircase shouldn't be there. The church might be required to have the structure there. Look to your closing documents and see if there is any mention of an easement license or right of way. Check the survey to see if the staircase appears on it.

“It really comes down to: Can we sue to get it removed and what do we win?” said [Lorraine Nadel](#), a real estate lawyer. “The first step is to talk to them and see what can be done.”

If the structure is abandoned — maybe there's a different fire escape, or the door that connects to the staircase has been walled off — then you can argue that it should be taken down. But even if it is permitted, it needs to be maintained. And a rusting, decaying structure is hardly a safe fire-escape route. You could call 311 to file a complaint about a safety hazard, but setting your neighbors up for a violation would certainly antagonize them before you've given them a chance to remedy the problem.

Use the case of the crumbling fire escape as an opportunity to introduce yourself to your new neighbors at the church. Discuss the issue with them. If they must have the staircase, suggest they upgrade to a more modern (and perhaps less intrusive) alternative. If it is no longer used, ask them to remove it. Perhaps you could offer to make a generous donation to the church (one that would cover about half of the cost of removing or replacing the structure). Explain to them that the structure is unsightly and unsafe, both for guests to your home and parishioners trying to use it in an emergency.