

Beware the Neighbor

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In *Ryan v. City of Chicago*, 2019 IL APP (1st) 181777, a home builder mistakenly constructed a home within the two-foot setback adopted in the City of Chicago. Even though the new homeowners applied for and obtained a 2.5 inch setback variance from the Chicago Zoning Board of Appeals for the setback encroachment, the adjoining property owner filed a lawsuit against the City seeking an order to require the home to be moved out of the setback. The matter ended up in the appellate court. The appellate court first ruled that statute commonly referred to as the Adjoining Landowner Act relied on by the Plaintiff expressly did not authorize a lawsuit against a municipality relating to enforcement of zoning regulations; and then ruled that the City had authority and discretion in regard to how it would enforce its ordinances; so declined to require the home to be moved. While common sense did win out, in the end, the litigation costs, and the fact that the homeowners and builder would not enjoy the same immunity from the Adjoining Landowner Act as the City was found to have, under-score the need to make sure ordinance requirements are being followed by the construction team. Angry neighbors are no small matter.