

## Access Granted?: New Law Enacts Major Changes to Rules Governing Access under RPAPL § 881, by Elizabeth Marchionni, Esq., Adam Perlin, Esq., and Rafael Pinkhasov, Esq., 1-15-2026

Real Property Actions & Proceedings Law § 881 addresses competing property interests of neighboring landowners. The statute allows property owners to obtain a court order permitting them to enter a neighboring property to perform improvements or repairs on their own property, subject to certain conditions. For nearly sixty years, Section 881 remained unchanged. However, on December 5, 2025, a new version took effect that amends the existing law in significant ways. The new RPAPL § 881 relaxes the standard for when the courts may grant access, expands the type of work allowed, and more clearly outlines legal protections and compensation owed to adjacent landowners.

### New Definitions and Parties

The amended law better defines who the necessary parties to a § 881 proceeding are. In addition to defining a Licensee – the owner or lessee requesting access – and an Adjoining Owner – the owner or lessee of the property adjoining the Licensees, the statute now requires an adjoining owner to provide information to the Licensee that would enable the Licensee to identify lessees of the Adjoining Owner and join them in the proceeding. The revised law also defines what documents a Licensee must provide to an Adjacent Owner, including plans, surveys, or proof of insurance. The new law clarifies that an Adjacent Owner’s “Refusal” to permit access includes ignoring a written request for access for an unreasonable period of time.

### Relaxed Standard for Obtaining Access

The new law relaxes the standard for obtaining access. For example, an owner no longer needs to show that access is “necessary” to make the improvements and repairs on its property. It is now sufficient that the planned work cannot be completed in a “commercially reasonable” way without entering the neighbor’s property.

### Expanded Scope of Permissible Work

The amended law permits court orders for access for a wider range of construction activities, including preconstruction surveys, installation of monitoring devices, protective netting or coverings/scaffolding. In a significant change, the law now permits access for some permanent structural work previously prohibited, including underpinning or tie backs.

### Required Insurance and Compensation

The amended law clarifies certain insurance requirements including that a Licensee provide proof of certain insurance, naming the neighbor as an additional insured, prior to entering their property.

The Licensee must also pay reasonable compensation to the neighbor for the use and occupancy of their property during the work, including reimbursement to the adjoining landowner for reasonable architect’s and/or engineer’s fees incurred in connection with any review of relevant documents. Under the prior law, courts often required the Licensee to pay the neighbor’s reasonable fees, including attorney’s fees, as a condition of a license. Now, such fees are limited to circumstances where one side acts in bad faith or engages in willful misconduct during license negotiations.

### Final Takeaway

In New York, construction is a part of daily life. Many properties share walls or sit very short distances away. Access disputes are common and can delay important repairs or new development. On the other hand, neighbors have a right to protect their homes from

*damage or encroachment. The changes to RPAPL 881 aim to codify certain areas of the law, modify others, and provide greater clarity to both sides in access agreement negotiations.*

*In clarifying adjacent property access issues, the effect of the new law will hopefully lead to less disruption for both sides, and less disputes. If you need assistance on any phase of a construction project from contract negotiations to dispute resolution, please contact the attorneys in Kaufman Dolowich's construction law team.*

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