

IN THE COURT OF APPEALS OF IOWA

No. 8-1054 / 08-0942
Filed January 22, 2009

**DARYL L. CAMPBELL and
SHARON CAMPBELL,**
Plaintiffs-Appellants,

vs.

**HENRY L. DEGRAW and
ANNETTE M. DEGRAW,**
Defendants-Appellees,

and

**RAYMOND RIDOUT and
BETTY RIDOUT,**
Intervenors.

Appeal from the Iowa District Court for Adair County, Gregory A. Hulse,
Judge.

Plaintiffs appeal the district court's decision in this action involving a
boundary dispute. **AFFIRMED.**

Martin L. Fisher, Adair, for appellants.

Arnold O. Kenyon, II, Creston, for appellees.

Jeffrey N. Bump of Bump & Bump, Panora, for intervenors.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

DOYLE, J.

Following a bench trial, Daryl and Sharon Campbell appeal from the district court's ruling that concluded they did not prove a boundary by acquiescence because they failed to establish by clear evidence the existence of a definite and certain line capable of ascertainment. The district court must be affirmed if substantial evidence supports its finding. *Olinger v. Bennett*, 562 N.W.2d 167, 170 (Iowa 1997).

A boundary line may be established by showing adjoining landowners or their predecessors in title have acquiesced in a boundary line for more than ten years. Iowa Code § 650.6 (2007). Furthermore, "[t]he line acquiesced in must be known, definite, and certain, or known and capable of ascertainment. The line must have certain physical properties such as visibility, permanence, stability, and definite location." *Heer v. Thola*, 613 N.W.2d 658, 662 (Iowa 2000) (quoting 12 Am. Jur. 2d *Boundaries* § 86, at 487 (1997) (footnotes omitted)). As plaintiffs, it was the Campbells' burden to prove they and the DeGraws own adjacent properties, and that for a period in excess of ten years, the Campbells and the DeGraws and/or their predecessors in title mutually recognized, acknowledged, and treated as the boundary between the properties, a line, definitively marked by a fence or in some other manner. *Ollinger*, 562 N.W.2d at 170. A party seeking to establish a boundary line other than a survey line must prove it by clear evidence. *Tewes v. Pine Lane Farms, Inc.*, 522 N.W.2d 801, 806 (Iowa 1994).

After considering conflicting evidence, the district court concluded: "[The Campbells] failed to establish clear evidence of a definite and certain line

capable of ascertainment. Since [the Campbells] cannot show a definite line existed, they have failed to carry their burden of proof.” Upon careful review of the record, we conclude substantial evidence supports the district court’s findings and conclusions. Therefore, we affirm, and decline the Campbells’ request for attorney fees.

AFFIRMED.