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## Przegląd zagranicznych opracowań naukowych

**Peter N. Salib, *The Law of Banksy: Who Owns Street Art?*  
(Prawo Banksy'ego: Kto jest właścicielem street artu?),  
„University of Chicago Law Review” 2016, vol. 83, no. 4, p. 2293–2328**

The author attempts to provide an answer to a seemingly trivial question – Who owns a given work of street art? This attempt is based on doctrinal arguments regarding American property law raised with respect to the issue of street art ownership.

Firstly, the author tries to define the work of a street artist who, in the author's opinion, is a person painting the art work in public places without anyone's permission and in violation of trespassing and vandalism laws.

Furthermore, the author explains what street art is and why it is worth taking care of. Street art is generally created within urban areas, on a given property without the property owner's permission, and displayed where the public can see it. There are many street artists, working in various styles and creating their art in all kinds of locations. Such artists' creations have recently become extremely valuable. Street art has entered the world's art mainstream, with Banksy pieces regularly being sold for more than one million dollars.

To present the scale of the phenomenon and its increasing importance, the author describes the history of legal dispute over the work of Banksy, who painted *Mobile Lovers* directly on a piece of public property. Consequently, the city of Bristol, which was the owner of the building, stated that the painting belonged to the city. Another example of a dispute over the right of ownership of street art is the case of *Slave Labour*, which constitutes a commentary on discount stores' labour practices, and which eventually became an important attraction in London, drawing many visitors to the neighbourhood. After one year, the piece of art vanished in mysterious circumstances, ripped from the wall on which it was painted. The painting later appeared at auction. Street artists' works represent real financial value and are often known worldwide.

Most disputes arise between finders of street art and the owners of the property on which the art is found. In general, traditional legal doctrine categories are

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insufficient to enable all potential disputes to be solved. The author analyzes the issue in question on the basis of current doctrines, including the law of finders, the law of gift, the law of accession and equitable division.

In conclusion, the author indicates that a relevant court might choose to expand one of the existing doctrines in such a way that makes it applicable to the majority of cases. However, as the author advocates, the courts should not apply any of the traditional doctrinal categories and instead, they should exercise their powers equitably in the analyzed cases.

Piotr Szulc

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**Geraint Ellis, *Discourses of Objection: Towards an Understanding of Third-party Rights in Planning* (W kierunku zrozumienia uprawnień podmiotów trzecich w planowaniu przestrzennym), „Environment and Planning A: Economy and Space” 2004, vol. 36, DOI:10.1068/a36176, p. 1549–1570**

The author analyses third party rights in planning and their consequences. Firstly, he points out that jurisdictions around the world are moving towards an increasing role of public participation in spatial planning. The scale and scope of research on public participation also covers the issue of balance between law and democracy, as well as between individual and collective interests. There are voices that the increased share of social factors in spatial planning does not serve the benefit of the general public, but the pursuit of particular interests, which in turn leads to chaos.

The objective of public participation in planning is commonly understood as acting in belief that everyone should be aware that they can influence the shape of their community. Most jurisdictions seek to strengthen the significance and position of the social factor in spatial planning, but their number and scope are still unsatisfactory.

The author indicates that there is a focus on enabling citizens to participate in the spatial planning procedure, through specific tools, such as public consultations at various stages of planning, without taking into account the purpose for which such participation was enabled. The goal of social participation, which was balancing the interests of all participants in shaping space, has disappeared from the horizon.

The article presents a case study of third party claims in the Republic of Ireland and identifies five distinct social discourses. The said discourses highlight the complex factors that stimulate third party rights/claims and illustrate how they can be related to values such as citizenship, public interest and property rights. The main difficulty is that such discourses tend to emphasise rights as vehicles for expressing interests, rather than to emphasise the values that they seek to protect.

Finally, the author concludes that even if citizens exercise their claims aiming to secure the right to protect their particular interests, it is not their lack of collective thinking that should be blamed, as they simply enjoy the rights granted to them