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IDAHO COUNTY DISTRICT COURT
FILED
AT 10:23 O'CLOCK A.M. file

JAN 25 2007

ROSE E. GEHRING
CLERK OF DISTRICT COURT

~~KATHY JOHNSON~~ DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

CLIFFORD GALLI AND PAM GALLI,)
)
) Petitioners/Plaintiffs,)

vs.)

IDAHO COUNTY, IDAHO, A POLITICAL)
SUBDIVISION OF THE STATE OF IDAHO,)
)
) Respondent/Defendant.)

_____)
N.A. DAGERSTROM, INC.,)
)
) Intervenor.)
)
_____)

Case No. CV 36692
MEMORANDUM, FINAL ORDER AND
JUDGMENT

The Motion for Summary Judgment of the Petitioners/Plaintiffs, Clifford and Pam Galli, and the Motion to Dismiss of Respondent/Defendant, Idaho County, came before the Court for hearing on January 4, 2007, with the parties being represented by their respective counsel. This Court previously granted the Petition for Judicial Review on June 2, 2006, as set forth in the Opinion and Order entered by this Court on that date. The Court has reviewed the memoranda of the parties, reviewed the administrative record and transcripts, and received oral argument.

FOR THE REASONS SET FORTH BY THE COURT ON THE RECORD AT THE HEARING, IT IS HEREBY ORDERED THAT:

As to Count I of the Gallis' Petition for Judicial Review/Complaint, as noted above, this Court previously granted the Gallis' Petition for Judicial Review, reversing the decision of Idaho County as set forth in the Opinion and Order of this Court dated June 2, 2006, and remanded the matter to the Idaho County Board of Commissioners for further action consistent with that decision.

As to Count II of the Gallis' Petition for Judicial Review/Complaint, seeking declaratory judgment, the Gallis moved for summary judgment and Idaho County moved for dismissal of Count II. As set forth at the hearing, and based upon the Court's prior Opinion and Order, the Court hereby GRANTS the Gallis' motion and DENIES the County's motion as to Count II and hereby declares the Idaho County Board of Commissioners' erred in validating Race Creek Road and Kessler Creek Road as public highways and further declares that Race Creek Road and Kessler Creek Road are private roads that are not eligible for validation as public highways.

As to Count III of the Gallis' Petition for Judicial Review/Complaint, asserting a claim for unlawful taking, the Gallis moved for summary judgment and Idaho County moved for dismissal of that Count. For the reasons articulated by the Court at the hearing, the Court hereby DENIES the Gallis' motion and GRANTS the County's motion as to Count III and hereby dismisses Count III of the Petition for Judicial Review/Complaint with prejudice.

As to Count IV of the Gallis' Petition for Judicial Review/Complaint, asserting a claim for unlawful taking, the Gallis moved for summary judgment and Idaho County moved for dismissal of that Count. For the reasons articulated by the Court at the hearing, the Court hereby DENIES the Gallis' motion and GRANTS the County's motion as to Count IV and hereby dismisses Count IV of the Petition for Judicial Review/Complaint with prejudice.

As to Count V of the Gallis' Petition for Judicial Review/Complaint, seeking to have title in Race Creek Road and Kessler Creek Road quieted in favor of the Gallis, the Gallis moved for summary judgment and Idaho County has moved for dismissal of that Count, as set forth at the hearing and based upon the Court's prior Opinion and Order, the Court hereby GRANTS the Gallis' motion and DENIES the County's motion as to Count V and hereby quiets title in Race Creek Road and Kessler Creek Road located on the Gallis' property in favor of the Gallis determining that Idaho County has no right, title, easement, estate, lien, encumbrance or interest in or to Race Creek Road and Kessler Creek Road.

This Memorandum and Final Order constitutes the final judgment by this Court resolving all of Petitioners'/Plaintiffs' causes of action asserted in the Petition for Judicial Review/Complaint as set forth herein

DATED THIS 25 day of Jan, 2007.

JOHN BRADBURY

John H. Bradbury
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of Jan, 2007, I caused to be served a true copy of the foregoing MEMORANDUM, FINAL ORDER AND JUDGMENT by the method indicated below, and addressed to each of the following:

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