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Ross A. Kopperud

Attorney at Law, LLC

PO Box 201
Palmer, Alaska 99645

Phone 907-745-2318
Fax 907-746-2318
Email Kopperud@mtaonline.net

April 27, 2007

RECEIVED

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DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
3rd JUDICIAL DISTRICT
ANCHORAGE, ALASKA

Jeff Stark, Esq.
Assistant Attorney General
State of Alaska, Dept. of Law
1031 W. 4th Ave. Suite 200
Anchorage, Alaska 99501

Re: State of Alaska v. Triple B's, et al.; 3 AN-05-11232 CI

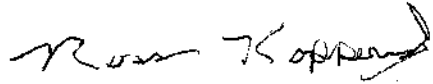
Dear Jeff:

I just received Jay Sullivan's report concerning the Triple B's property on the Wasilla - Fishhook Road. I have attached it to this letter for your convenience. His conclusion is that the state's movement of the road onto Triple B's property was a taking. To the extent necessary, I would like to use the current case filing as the vehicle for an inverse condemnation action to sort out the issues surrounding the taking if we cannot settle this matter. However, I would also suggest that we stipulate to vacate the trial date and hold the litigation in abeyance. I ask this because this case should be relatively easy to settle once Jay Sullivan's report is confirmed or rejected by DOT&PF.

There are two people I know of who could review and confirm Jay's work. The first is John Bennett, DOT&PF Chief of Right of Way in Fairbanks. John is both very knowledgeable as to the history of the rights of way in Alaska and I believe is a registered land surveyor as well. The other is Jim Sharp, formerly the Chief right of way engineer for Anchorage DOT&PF and who is also a registered land surveyor. I am sure there are others who could do this work as well, such as Dan Beardsley, but he might not be available. In any event, someone at DOT&PF should be able to confirm or not Jay's work. Assuming it is confirmed, I believe it is a relatively simple matter to determine the size of the take as well as its value. Let me know if this is a workable solution.

Please call me if you should have any questions.

Sincerely,



Ross A. Kopperud
Attorney for Triple B's LLC

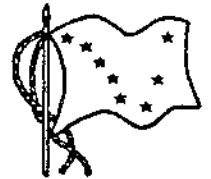
Attachments

cc: Bernie Cullen



LAND FIELD SERVICES, INC.

P.O. BOX 221649
ANCHORAGE, ALASKA 99522
(907) 248-6740



April 24, 2007

Mr. Ross A. Kopperud
Attorney at Law, LLC
P.O. Box 201
Palmer, Alaska 99645

Subject: Triple B's LLC
Lot 18A, Parks Manor Subdivision
Plat 2004-114
Prescriptive Rights

Dear Ross:

The following paragraphs will memorialize my understanding of the history and current right-of-way status of the Wasilla-Fishhook Road as it affects the captioned property.

The parent parcel of the captioned property was entered in 1915, thus any federal Executive Orders or Public Land Orders creating reservations or dedications after that date would not affect the parent parcel.

The earliest Executive Order (9145) was issued effective April 23, 1942 and, although it did not directly affect the parent parcel, it was the first of 12 EO's and PLO's that affected highways in Alaska.

As you know, the Alaska Omnibus Act, enacted on June 25, 1959, was the Act by which the Secretary of Commerce conveyed to the State of Alaska all lands or interests in lands owned, held, and administered by the Bureau of Public Roads in Alaska. On June 30, 1959, the Secretary of Commerce issued a Quit Claim Deed to the State of Alaska under this Act.

This Omnibus Act Quit Claim Deed referred to Fishhook-Knik-Goose Bay Road, Federal Aid Secondary "A" Route 525, traversing from Goose Bay northeasterly along Knik Arm through Wasilla to FAS Route 580 at Fishhook Junction.

However, because of the parent parcel entry date of 1915 and the fact that neither the federal Bureau of Public Roads, the Territory of Alaska, nor the State of Alaska acquired right-of-way from the entryman, patentee, or his successors, the only

Mr. Ross A. Kopperud
April 24, 2007
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interest that the federal government had affecting the parent parcel which could be conveyed by the Omnibus Act was a prescriptive use right.

Plat 71-27, entitled Parks Manor Subdivision and recorded in the Palmer Recording District on May 17, 1971, indicates that the centerline of the Fishhook Road borders the easterly lot line of Lot 20, Block 2, Parks Manor Subdivision.

Research indicates that at this time (i.e. 1971) the road now named Wasilla-Fishhook was approximately 28 feet wide. Thus, as indicated on Plat 71-27, the State of Alaska probably had prescriptive right for highway purposes over the easterly 14 feet of Lot 20, Block 2, Parks Manor Subdivision.

Assume that there is sufficient evidence to substantiate the fact that, in the years 2000-2002, the Wasilla-Fishhook Road was relocated easterly; then at that time the prescriptive right held by the State of Alaska on the easterly 14 feet of Lot 20, Block 2, Parks Manor Subdivision, Plat 71-27, would have been abandoned and the servient estate of the landowner would merge and become unencumbered fee.

The end result of this research indicates to me that there is a substantial indication that the abandonment of this prescriptive right is provable in court and that the landowners should receive just compensation for the current take on Lot 18A, Parks Manor Subdivision, Plat 2004-114.

Very truly yours,

LAND FIELD SERVICES, INC.



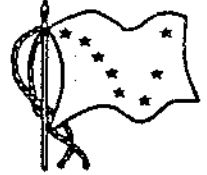
P. J. Sullivan

PJS/ns



LAND FIELD SERVICES, INC.

P.O. BOX 221649
ANCHORAGE, ALASKA 99522
(907) 248-6740



August 11, 2006

Mr. Ross Kopperud
Attorney at Law, L.L.C.
P.O. Box 201
Palmer, Alaska 99645-0201

Subject: Triple B's, LLC
Lot 18A, Parks Manor Subdivision
Plat 2004-114

Dear Ross:

The problem presented in this instance relates to the rights of the present landowners of Lot 18A vs. the rights of the Territory of Alaska and the State of Alaska via the doctrines of adverse possession and public prescriptive rights across private lands for the public right-of-way now known as Wasilla Fishhook Road.

I am making the assumption that neither the entryman, patentee, nor his successors in interest ever granted a right-of-way to the Territory or the State affecting the lands that later became subject to the Parks Manor Subdivision (Plat 71-27). As you know, on Plat 71-27, there is a notation that the centerline of Fishhook Road follows the boundary of Lot 20, Block 2, which is now the replat's Lot 18A.

However, the Public Land Orders and Secretarial Orders which determine rights-of-way widths for the various federally-owned lands would only apply in this situation for as much of Lot 18A as was affected by adverse possession and prescriptive rights. This statement is based on the fact that these lands were entered in the 1915 era and have been in some form of private ownership ever since.

Thus, when we rely on Alaska's adverse possession statutes and case law (especially *Dillingham Commercial Company v. City of Dillingham*, 705P2d410 (1985)) we come to the conclusion that only so much of the land that was actually occupied adversely becomes subject to the public prescriptive rights.

This situation leaves us with two tasks to accomplish: first, a thorough review of the old Wasilla Recording District records to determine that the Triple B's predecessors in title did not grant rights-of-way to the Territory of Alaska; and secondly, if the Wasilla Fishhook Highway was moved off (at least partially) of the lot now owned by Triple B's, then the

Mr. Ross Kopperud
August 11, 2006
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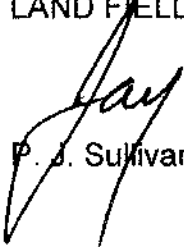
prescriptive rights of the Territory and the State would be abandoned for that portion of the Triple B's lands that were, for a period of time, not occupied for highway purposes.

This latter situation would mandate that the adverse possession and prescriptive rights would have to run again for their statutory period. Both of these instances would need further study and investigation to determine the constructive abandonment by the State of their prescriptive rights within the Parks Manor Subdivision.

On November 1st and November 2nd, Dan Beardsley, John Bennett and I are meeting and we will discuss this issue of PLO's, prescriptive rights, constructive abandonment, and statutory limitations, and shortly after that time I will contact you so that we can make a determination as to what the best avenue of procedure will be in this situation.

Very truly yours,

LAND FIELD SERVICES, INC.



P. J. Sullivan