

Strone, Jane

From: Douglas, Jessica
Sent: Monday, November 22, 2010 1:05 PM
To: Strone, Jane
Subject: FW: Note: Inverse Condemnation Law and Road Closing
Attachments: image001.jpg

Please add this e-mail 1 of two that we will have to add to the scheduling a public hearing for road closing of 647 N item.

Please note change in contact information below

Jessica Douglas
Staff Assistant III
Board of Sumter County Commissioners
7375 Powell Road
Wildwood, FL 34785
Phone: (352) 689-4400
Fax: (352) 689-4401
Email: Jessica.Douglas@sumtercountyfl.gov

From: Derrill McAteer [mailto:Derrill@hoganlawfirm.com]
Sent: Monday, November 22, 2010 11:05 AM
To: Douglas, Jessica
Subject: FW: Note: Inverse Condemnation Law and Road Closing

From: Derrill McAteer
Sent: Monday, October 11, 2010 12:44 PM
To: Arnold, Bradley; Cornelius, Brad
Cc: Tom Hogan; Amy Palmer
Subject: Note: Inverse Condemnation Law and Road Closing

Brad,

Please note the below re inverse condemnation and road closing:

“Right of access to one’s land is a property right; therefore, even where a public body has properly exercised its discretion in determining to vacate a street, the property owner may therefore be entitled to compensation for consequent loss of access.”

Pinellas County v. Austin, 323 So.2d 6 (Fla. 2d DCA 1975).

My offering of this citation does not infer anything about the quality of the upcoming petition for vacation or the risks of actual litigation should same be granted. I’m just advising the county that the landowner technically has a right of action, even, as in the above case, where alternate access exists.

-Derrill

Derrill L. McAteer, Esq.



We mean business™

Post Office Box 485
Brooksville, Florida 34605

Strone, Jane

From: Douglas, Jessica
Sent: Monday, November 22, 2010 1:05 PM
To: Strone, Jane
Subject: FW: "Easement" over L24=022

Please note change in contact information below

Jessica Douglas
Staff Assistant III
Board of Sumter County Commissioners
7375 Powell Road
Wildwood, FL 34785
Phone: (352) 689-4400
Fax: (352) 689-4401
Email: Jessica.Douglas@sumtercountyfl.gov

From: Derrill McAteer [<mailto:Derrill@hoganlawfirm.com>]
Sent: Monday, November 22, 2010 11:06 AM
To: Douglas, Jessica
Subject: FW: "Easement" over L24=022

From: Derrill McAteer
Sent: Sunday, November 07, 2010 10:31 AM
To: Arnold, Bradley; 'Cornelius, Brad'
Cc: Amy Palmer
Subject: "Easement" over L24=022

Brad A. and Brad C.,

As to the Hough property and the deed to the above referenced parcels, one of the cases cited by Mr. Johnston in his letter of November 2, 2010, *Procacci v. Zacco*, 324 So.2d 180 (Fla. 4th DCA 1976), appears to be on point and as represented therein. Inclusion of the simple language "Subject to" is not, on its face, evidence of the granting of an easement and often cannot be relied upon without the consideration of surrounding facts and a judicial determination. The second case cited does not seem as relevant or on point.

Derrill

Derrill L. McAteer, Esq.

THE HOGAN LAW FIRM
Post Office Box 485
Brooksville, Florida 34605
(352) 799-8423 Telephone
(352) 799-8294 Facsimile
derrill@hoganlawfirm.com

NOTICE: This Email (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, is confidential and may be privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.

IRS Circular 230 Disclosure. To the extent this email contains federal tax advice, such advice was not intended to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

(352) 799-8423 Telephone
(352) 799-8294 Facsimile
derrill@hoganlawfirm.com

NOTICE: This Email (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, is confidential and may be privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.

IRS Circular 230 Disclosure. To the extent this email contains federal tax advice, such advice was not intended to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Cornelius, Brad

Subject: FW: Follow Up to C 647N Road Closing Petition

From: Darryl Johnston [mailto:DJohnston@johnston-sasser.com]
Sent: Wednesday, November 17, 2010 12:46 AM
To: Derrill McAteer
Cc: Sue Clark
Subject: RE: Follow Up to C 647N Road Closing Petition

Derrill,

I will be in depositions all morning on Wednesday. Sue is calling the title searcher in Sumter and will get with you if there is information. In the meantime, you can simply review the deed and see it does not describe what is known as SW 70th Ave. It only describes property within my clients' property. Further, the grant in the deed is "subject to", not "together with" which means my clients would not have the legal right to claim use of the land even if it described SW 70th Ave. (which it does not). You can advise your client that regardless of the search, the Hough's deed does not give access as Mr. Cornelius represented. Hopefully we will have some of the search results available by noon, but I doubt it.

Darryl

11/17/2010

Douglas, Jessica

From: Arnold, Bradley
Sent: Thursday, November 18, 2010 2:11 PM
To: Douglas, Jessica
Cc: Cornelius, Brad
Subject: FW: Hough Petition for Rehearing - Sumter County

From: Derrill McAteer [mailto:Derrill@hoganlawfirm.com]
Sent: Thursday, November 18, 2010 1:48 PM
To: Arnold, Bradley
Cc: Cornelius, Brad
Subject: FW: Hough Petition for Rehearing - Sumter County

If you would, please add this email, the email concerning my review of Mr. Johnston's case law and the one concerning inverse condemnation to the executive summary for this item, thanks.

Derrill L. McAteer, Esq.



We mean business™

Post Office Box 485
Brooksville, Florida 34605
(352) 799-8423 Telephone
(352) 799-8294 Facsimile
derrill@hoganlawfirm.com

NOTICE: This Email (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, is confidential and may be privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.

IRS Circular 230 Disclosure. To the extent this email contains federal tax advice, such advice was not intended to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

From: Derrill McAteer
Sent: Thursday, November 18, 2010 10:03 AM
To: 'Darryl Johnston'
Cc: 'Cornelius, Brad'; 'Arnold, Bradley'; Amy Palmer
Subject: RE: Hough Petition for Rehearing - Sumter County

Darryl,

Yes, given the commission's tabling of the rehearing request and the silence of the code as to this issue, I would take the position that the appeal period would run as you described; from the time of final BOCC action (denial of request rehearing or denial *at* rehearing).

Derrill

Derrill L. McAteer, Esq.



We mean business™

Post Office Box 485
Brooksville, Florida 34605
(352) 799-8423 Telephone
(352) 799-8294 Facsimile
derrill@hoganlawfirm.com

NOTICE: This Email (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, is confidential and may be privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.

IRS Circular 230 Disclosure. To the extent this email contains federal tax advice, such advice was not intended to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

From: Darryl Johnston [mailto:DJohnston@johnston-sasser.com]
Sent: Thursday, November 18, 2010 9:32 AM
To: Derrill McAteer
Cc: Sue Clark
Subject: Hough Petition for Rehearing - Sumter County

Derrill,

Title work is still not complete. Will provide as soon as I receive.

Please advise if the filing of the Request for Rehearing tolls the time for appeal under the Sumter County Code? Will the time for appeal begin after the rehearing date and/or the denial of the request for rehearing?

Sincerely,

Darryl