THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas
Hon. W. Reid Cox, Jr., Special Referee

Appellate Case No. 2025-002595
Lower Case № 2021-CP-24-00361

James Ernest Young, Jr. . . . . Appellant

vs.

Robbie T. Boone and Paula P. Boone. . . . . Respondent

INITIAL BRIEF OF APPELLANT

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Question VI: Did the Master err in making rulings in this case on matters that were not relevant to the determination of the issue?

Statement of the Case

On April 22, 2021, James Ernest Young filed suit against Robbie T. And Paula Boone. The action sought to enjoin the Boones from blocking the access of Mr. Young to the platted street that separated the property of Mr. Young and the Boones. The Boones timely filed an Answer on June 25, 2021.

By Order dated December 14, 2023, the matter was referred to Reid Cox as special master. A hearing was held on March12, 2024. The Special Master requested briefs from both parties. On November 7, 2024, the Special Master issued his order denying relief to Mr. Young. A timely Motion under Rule 59e was filed by Mr. Young on November 18, 2024. After the Special Master requested additional information from both parties, he denied the Rule 59e motion on December 4, 2025. Mr. Young filed a timely Notice of Appeal on December 31, 2025 and filed with the Clerk of Court on January 7, 2026.

Standard of Review

As the issues involved in this case are errors of law in view of the facts as found by the Special Master, the standard of Review is de novo. "This Court undertakes a de novo review of all issues of law, and is free to decide matters of law with no particular deference to the trial court." *Menezes v. WL Ross & Co., LLC*, 403 S.C. 522, 530, 744 S.E.2d 178, 182 (2013)

Question I

Did the special master err in awarding the Boones great rights to the property they were deeded than were acquired by their predecessors in title?

James Ernest Young, Jr. and Robbie and Paula Boone trace their ownership to their respective properties to a common plat prepared for A.S. Wilkinson on September 4, 1937, and named Green Acres Subdivision. ROA at (Order Par. 3); Def. Ex. 2-B. The plat was recorded in Plat Box 2 at page 8 in the office of the Clerk of Court for Greenwood County. The Boones, through their immediate predecessor in title, acquired Lots 11 and 12. In addition they acquired property to the left of lots 11 and 12. They also acquired the title to the unnamed street shown on the plat. This street separates the property of the Boones from the property acquired by the father of Mr. Young, being lots 1-6 of Block B.

In 1954, an agreement was reached with Mr. Wilkinson and the owners of lots 1-10 of Block B and lots 1-10 of block C to close a portion of the road on the plat as it had never been used as a road. The agreement stated it was "impracticable and not feasible to open the proposed road." ROA Ex. 1-A. The agreement specifically acknowledged that all property owners adjacent to the portion of the road to be abandoned, agreed to abandon the road. The agreement further stated as to a portion of the platted road "Northeast of Lots 11 and 12, of Block

"c" which is to be left open as an outlet for the owners of lots Nos. 11 and 12, of Block 'c'". ROA at Ex. 1-A p. 2. By agreeing to leave that portion of the road open, they also agreed to continue the previously acquired right of Mr. Young to have access to the road that adjoins his property. The ownership of the road left open remained in the name of A. S. Wilkinson.

At the time of the agreement closing the road, A. S. Wilkinson conveyed Lot 12 of Block C to Mike Miserlis. ROA ord. Par. 7. Lot 11 had been conveyed to J. H. Hulsey in 1939. The property remained in the name of Mr. Hulsey until his death in 1945. ROA (order Par. 13, 14). Thus, at the time of the closing of a portion of the road shown on the plat, two different people owned lots 11 and 12, necessitating the keeping open the road the parties agreed to keep open.

Through a series of deeds, lots 11 and 12 of Block C and an unnamed lot adjoining lot 12 ended up being in the name of Grace A Marin on October 20, 1967. This was the first time the unnamed lot adjoining lot 12 and lots 11 and 12 of Block C were in the ownership of the same person. The portion of the road that was agreed to remain open in the 1954 agreement was still owned by A. S Wilkinson. James Klauber obtained the ownership of the road in 1991 from the heirs of A.S. Wilkinson. The deed given to Mr. Klauber in 1991 specifically refers to the property as being an "unopened street." The deed recites "the Grantor herein has no interest in the unopened portion of the roadway and desires to convey the same to the Grantee." ROA Ex. 1-M. Thus, Mr. Klauber was given fee simple interest to the portion of the road left open in the 1954 agreement. He acquired no greater rights than Mr. Wilkinson had to the portion of the road left open. And he had the same obligations Mr. Wilkinson had to honor the easement acquired by Mr. Young when he purchased the property before the 1954 agreement.

This case involves two well established principles of property law. The first is a grantee of

a deed can take no greater rights than the grantor had. As our Supreme Court has said "[T]hese defendants, who claim through him as his heirs at law, could acquire no higher equity nor any greater rights in the premises than their intestate." *Brown v. Brown*, 44 S.C. 378, 22 S.E. 412, 414 (1895). *See, also, First Presbyterian Church of York v. York Depository*, 203 S.C. 410, 27 S.E.2d 573, 577 (1943)("Property descending or passing to heirs and distributees includes and is limited to property of the ancestor at the time of his death. Their status is the same as his was, and they stand in his place with no greater rights than he had with respect to such property. They take precisely what he leaves and no more."); *Mobley v. Cummings*, 35 S.C. 101, 14 S.E. 721, 726 (1892)("The defendant H. M. Haig, who derives title from them, cannot stand in a more advantageous position than they did, nor can he claim any greater or superior rights than could be asserted by his grantors in this action.") By the same token, a grantee of a deed takes no less rights than the grantor unless the deed so states. Under these principles, as both the plaintiff and defendant derived their title from a common grantor, the case is best viewed as if the parties were J. Ernest Young, Sr., the original purchaser of the lot 1, and A. S. Wilkinson, the original developer of the subdivision and the common grantor to the parties before the court. If Mr. Wilkinson had the right to bar Mr. Young, Sr. from using the implied easement to the road left open, then Mr. Boone has the right to bar Mr. Young, Jr. Under the law as discussed herein, Mr. Wilkinson did not have that right.

The second recognized principle is, "The purchasers of lots with reference to the plat of this subdivision acquired every easement, privilege and advantage shown upon said plat, including the right to the use of all of the streets, near or remote, as laid down on the plat by which the lots were purchased." *Blue Ridge Realty Co. v. Williamson*, 247 S.C. 112, 119–20, 145

S.E.2d 922, 925 (1965). This principle is well established in South Carolina. *See, e.g. Cason v. Gibson*, 217 S.C. 500, 509, 61 S.E.2d 58, 62 (1950) ("As between the owner, who has conveyed lots according to a plat, and his grantee or grantees, the dedication is complete when the conveyance is made, even though the street is not accepted by the public authorities.") *Billings v. McDaniel*, 217 S.C. 261, 265, 60 S.E.2d 592, 593 (1950)('Generally, where property sold is described with reference to a plat or map upon which streets and ways are shown, an easement therein is implied."). When Mr. Wilkinson deeded lot 1 of block B to Mr. Young, Sr. the dedication was complete. No document since has undone this dedication.

The fact that the Plaintiff has an implied easement to access the road left open in the 1954 agreement is recognized as a matter of law. The 1954 agreement did not even attempt to relinquish the rights of J. Ernest Young, Sr. nor anyone else, to use the unopened road that adjoined their property. The 1954 agreement specifically agreed to leave the road in dispute here, open. All the rights of adjoining landowners to the road that was to remain open, remained intact. The defendants never produced documents in the chain of title ever relinquishing the rights of Mr. Young, Sr. to the road to left open. No evidence suggests that Mr. Young, Sr., who originally purchased the property, nor any of his successors have ever voluntarily relinquished the easement to the road that by agreement of all parties, was to remain open.

The 1954 agreement agreed to leave the road open to give access to lots 11 and 12. This act does not relinquish the legally established implied right of Mr. Young, Sr. to access the road that was left open. He had a legal right to access the road before the agreement and he had the right after the agreement. The fact that the defendant in this action is now the owner of lots 11 and 12 is of no consequence. He purchased lots 11 and 12 and that purchase gave him the right to

the agreement that abandoned his right to the easement of a potion of the road left open. Under the findings of the Master, this is neither legally nor factually correct. First, the 1954 deed conveying the land of the abandoned road, specifically states the portion of the road that adjoins lots 11 and 12 is to remain open for the benefit of lots 11 and 12. ROA at Ex. 1-A. The fact that a portion of the original road is to remain open means that the adjoining property owners to the portion left open, have not lost their legal right to use the road left open. The agreement did not forfeit the rights acquired by the predecessor in title to Mr. Young. Had the parties so desired, they could have simply said "J. Ernest Young agrees to relinquish any rights he may have to the road left open." No such language appears in the agreement. The burden of proof of an abandonment of a grant of an easement is by clear and convincing evidence. "The party claiming abandonment of an easement, in this case the defendants, has the burden to establish such abandonment by 'clear and unequivocal evidence.'" *Hudson v. Pillow*, 261 Va. 296, 302, 541 S.E.2d 556, 560 (2001); *Carolina Land Company, Inc. v. Bland.* 265 S.C. 98, 109, 217 S.E.2d 16, 21 (1975)("Here, the burden of proof was upon the respondents [Carolina Land Co.] to show the abandonment by clear and unequivocable evidence.") Proof of an abandonment of an easement should not be gleamed from a silent record as to abandonment. The parties to the 1954 agreement specifically recognized the property remained an "unopened road." As such, Mr. Young continued to have his access to the portion of the road left open. The Master erred in finding the 1954 agreement abandoned the easement acquired by Mr. Young when he purchased the property before the 1954 agreement.

The Master further erred in stating, "In the instance case, the parties to the Agreement never sought to revive the right abandoned by the Agreement, and there is no record evidence of any documents creating new rights." This statement is simply not correct. The parties to the

agreement reserved as open the road that is in dispute in this case. As the agreement did not extinguish the easement rights to the portion of the road left open, those rights continued to exist. No need existed to create new rights. A need, however, existed to cancel the previously acquired rights. This did not occur.

Question III

Did the Master err in holding that James Ernest Young, Jr. abandoned the property through non-use when the Master never found Mr. Young took any affirmative action to abandoned his interest in the easement as required by the case law in South Carolina?

The Master also erroneously found Mr. Young abandoned his right to the easement by his actions. This ruling was also contrary to the law in South Carolina. The most significant case as to abandonment of an easement is *Carolina Land Company, Inc.* This case involves the purchase of four lots that were part of a proposed subdivision containing 36 lots. The purchase was made in 1951 and the plat was prepared in 1945. The four lots were then divided into eight lots according to a plat which was prepared on February 14, 1956 and recorded on May 7, 1962. The original 1945 plat showed a 30 foot wide street running along the original lot 36 and the new lots seven and eight. Dr. Maynard Bland and Myra D. Bland obtained lots seven and eight on March 7, 1969. The case does not indicate that any improvement had been made to the 30 foot street beyond the end of lot eight of the 1962 plat. Without the 30 foot wide street marked on the plat, lot eight would not have access to a road.

The remainder of the property was never developed as originally planned. On April 1, 1966, Carolina Land Company, Inc. acquired 70.68 acres which included the reaming lots shown on the 1945 plat. In 19 years the only lots sold from the 1945 plat were lots one, two, 35 and 36.

After purchasing the land, Carolina Land Company, Inc. created a new subdivision named "Knollwood Heights." The plat of the subdivision shows the original 30 foot easement, now called "30' strip" ending just short of lot 69. In the 1945 plat the 30 foot wide road extended for a distance of 2,465.7 feet. This would carry the 30 foot wide street well past all the lots platted in the 1967 plat.

In 1973, Dr. Bland graded and graveled the portion of the original road that went through lot 69 of Knollwood Heights. He terminated his grading and graveling at Devon Drive, shown on the 1967 plat. Upon Dr. Bland grading and graveling through a portion of lot 69, Carolina Land Company brought an action to enjoin him from continuing the grading and graveling and requiring him to remove the gravel placed on the land.[1] A view of the plats recorded in the Greenville County Courthouse, copies of which were provided in the brief filed below, shows that the extension of the original 30 foot easement was not needed to have access to any of the properties. The original 30 feet street provided access to Highway 276 in Mauldin. ROA at (Brief of Plaintiff)

The master in equity issued an order enjoining the construction of the street through lot 69. On appeal, the South Carolina Supreme Court reversed and held Dr. Bland and his wife had a right to use the 30 foot street easement because it was shown on the plat when they bought the property. The court noted that the master ruled for the Carolina Land Company because, "[T]he proposed '30 foot street' was never opened or used and was abandoned by the only persons in interest by their actions and specifically the acts of the recutting and resubdividing by Garrett and

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[1] A Google Earth view of the property today shows that the original 30 foot street is now called Crick Alley. It extends to Devon Drive. A copy of the ariel view and the ground view were provided to the Master as part of the brief. ROA at ___

Parsons, and the development by the Carolina Land Co., Inc., of Knollwood Heights." *Carolina Land,* at 19, 217 S.E.2d at 104.

In rejecting the Master's argument, the court said, "It follows that even though there has been a resubdivision of the dominant tenement, this did not destroy the right of the appellants [Dr. Bland] to claim the easement so far as it is applicable to their property. The fact that a new plat of the property in question was made did not destroy the easement created in the 1945 Locke plat." *Id.* at 20, 217 S.E.2d at 107.

As to whether the original easement had been abandoned, as previously noted, the evidence had to be clear and unequivocable. In holding that mere non-use over a period of time, without more, does not constitute an abandonment, the court cited *Witt v. Poole,* 182 S.C. 110, 188 S.E. 496 (1936). In *Witt,,* the court in describing abandonment stated:

> An intention to abandon property or a right need not appear by express declaration, although it may be manifested thereby, but is ordinarily to be ascertained from the acts and conduct of the owner or holder. It may be inferred as a fact from the surrounding circumstances, and is shown by acts and conduct clearly inconsistent with any intention to retain and continue the use or ownership of the property or right. So, in determining whether property or a right was intended to be abandoned, it is proper to consider, and to give due weight to the nature of the property or right, and the conduct of the owner to it, and also the fact, where it is a fact, that at the time the question comes up for determination such property or right is being adversely used by another, or others. Lapse of time, and nonuser, are likewise circumstances to be taken into consideration, even though neither of them is, in itself, an element or act of abandonment.
> *Witt* at 110, 188 S.E. 496, 498–99.(Internal citations omitted)

As applies to this case, there is no evidence of an abandonment by Mr. Young nor any of his predecessors in title. Mr. Young would keep his right to the easement even if he never drove an automobile across the unopened road. The picture introduced into evidence show that prior to the building of the parking area for the motor home, the area has been well maintained. ROA at

(Defendants Ex. 13, 14). The testimony and findings by the Master showed that the road left open had been used by previous owners to gain access to the backyard of Mr. Young, Sr to cut grass in the back of the house. ROA Order, par. 41. Neither Mr. Young nor any of his predecessors in title had ever taken any action to indicate an abandonment. When the parking area was improved so as to block Mr. Young from having access to the back yard, he first wrote Mr. Boone a letter objecting to the fence. Exhibit (Letter Dec. 2018). He later filed this suit to remove that obstacle. As an owner who traces his title to the original plat of the subdivision, Mr. Young has the legal right to use the road left open to access his back yard.

As noted earlier, the Boones were on clear notice they were buying property which had an unopened street on it. The plat they relied upon in purchasing the property has the unopened street clearly marked. They could take no greater rights than any of their predecessors in title. As the heirs of A. S. Wilkinson would have to honor the easement right of Mr. Young, so do the Boones have to honor those easement rights. In viewing the December 31, 1991 plat, Mr. Boone would also have the right to access the unopened street. He can use the access to place his mobile home on either lot 11 or 12 which has access to by the unopened street. The only thing the Boone's may not do, is block reasonable access to the unopened street by Mr. Young.

The Master erred in holding *Hodge v. Manning,* 241 S.C. 142, 127 S.E.2d 341 (1980) is a basis for finding an abandonment. The Master failed to appreciate that in *Hodge,* the supreme court held there was an abandonment of any easement right to the proposed road by affirmative action of the plaintiff's predecessor in title. In the case, the argument was over a proposed road placed on a plat in 1916 running on the boundary of lots 11 and 12. In 1921, Marion J. Knox acquired the title to lot 11 and the remaining portion of lot 12 that contained the proposed road.

While Mr. Knox owned the entirety of the proposed road, he placed a barn on the proposed road completely blocking the proposed road. He also placed a fence along the center of the proposed road along the property line of lots 11 and 12. This also blocked use of the proposed road. In ruling the actions of Mr. Knox clearly showed an intent to abandon any easement rights to the proposed road, the court said, "It may be inferred from the acts and conduct of the owner [of the easement] and the nature and situation of the property, where there appears some clear and unmistakable affirmative act or series of acts clearly indicating either a present intent to relinquish the easement, or a purpose inconsistent with its further existence." *Id.* at 151, 127 S.E.2d at 345. Obviously building a barn across the easement and placing a fence along the middle of the easement is an affirmative act showing an intent to abandon the easement. No such facts exist in this case. The Rule 59e motion called to the attention of the Master that no evidence of any affirmative action appeared at the hearing and such affirmative action was required to abandon an easement. Simple non-use will is not sufficient to constitute an abandonment. ROA, Rule 59e p. 4. In response to this issue raised in the Rule 59e Motion, the Master simply responded, "denied." ROA at (Order denying Rule 59e Motion) No affirmative facts were ever cited by the Master. The reason is simple - none exist. In fact, after the dirt and gravel had been placed on the easement, the plaintiff wrote the defendants requesting that they remove the fence blocking his use of the easement. ROA at (letters submitted.) As the easement was used for landscaping in the back of the Young house, the use would be both seasonal and sporadic. Neither is a basis for finding an abandonment. The Master erred in finding Mr. Young abandoned the easement.

Question IV

Did the Master err in finding James E. Young is not entitled to easement under adverse possession when none of the necessary elements of adverse possession were established by the Boones?

The Master stated, "Assuming for argument's sake that Plaintiff had successfully attacked Defendants' legal record title by clear and convincing evidence, the Defendant in turn established legal title by adverse possession." ROA order at 15. Mr. Young never made a claim to attack the fact that the Boones owned the portion of the road left open. Mr. Young has never made a claim any type of legal title. Adverse possession is simply not an issue. To the extent the Master ruled against Mr. Young because of adverse possession, he is simply not legally correct.

In the same paragraph, the Master stated, "Plaintiff recites the principle that no grantee can gain greater rights than their grantor. There are exceptions to that rule and adverse possession under color of title, where additional rights are created by the actions of the party and the passage of time, is one notable exception." ROA Order at 15. No authorities are cited to support this claim. The Master seems to be arguing that adverse possession by the Boones of the unopened road somehow extinguished the easement. Had the Boones blocked off the road for at least ten years, they may have an argument. In South Carolina the property has to be possessed for ten years to claim adverse possession. S.C. Code § 15-67-210. In addition, our courts have said, "For the purpose of constituting adverse possession by a person claiming title founded upon a written instrument, land shall be deemed to have been possessed and occupied when it has been 'usually cultivated or improved,' and when it has been 'protected by substantial enclosure.' *Jones v. Leagan*, 384 S.C. 1, 12, 681 S.E.2d 6, 12 (Ct. App. 2009). The Boones did not attempt to fence off the property until August of 2017. ROA Exp. 8. This action was objected to by Mr.

Young. ROA, submitted letters. The Master never explained how adverse possession applies in this case nor the facts that would give anyone the right to the property under adverse possession. In fact, had the Boones acquired the title by adverse possession, they would have acquired the land subject to the easement of Mr. Young. "If he had in any way acquired title in the plaintiff's land, he would have acquired the easement as an incident of that land, but no control over his own land could be a possession of the plaintiff's, either substance or incident." *Bowen v. Team*, 40 S.C.L. 298, 304 (S.C. App. L. 1853)

The comment by the Master that the Boones have been paying taxes on the unopened street is of no consequence. In all easements, someone owns the land subject to the easement and pays the taxes as the owner. One can rationally infer that A. S. Wilkinson or his estate paid the taxes until the unopened street was sold to Mr. Klauber. No adverse possession permits the Boones to extinguish Mr. Young's easement.

Question V

Did the Master err in finding the easement of James E. Young, Jr. was lost under the doctrine of laches when the Master improperly started the time period for laches in 1991 when James Klauber purchased the unopened street and Mr. Young notified the Boones of his claim of the easement before the Boones poured a concrete slab on the easement?

The Master started the time period for laches as it relates to the easement in 1991 when James Klauber purchased the fee simple title to the unopened street. When Mr. Klauber owned the street no barriers to the use of the property were place by Mr. Klauber. The unopened street when acquired by the Boones looked as shown in exhibit 13 and 14. ROA at __. There was no

need for Mr. Young nor his predecessor in title to file any suit against Mr. Klauber. The easement was not obstructed. As our court said over 200 years ago, "More plainly, a right of way over another's land, the enjoyment of which is only occasional, cannot be possessed by obstructing it. All easements are things incorporeal,—mere rights, invisible and intangible. The defendant ploughed his own soil, over which the plaintiff had a right to go,—but he did not plough the right of way." *Bowen* at 305. Simply put, no action would lie until there is an obstruction of the right of way.

"Under the doctrine of laches, if a party, knowing his rights does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." *Emery v. Smith*, 361 S.C. 207, 215, 603 S.E.2d 598, 602 (Ct. App. 2004). Mr. Young was on notice when the Boones placed dirt and gravel on the easement blocking his use of it. The dirt and gravel was placed on the easement in August of 2017. Obviously, this was done without notice to Mr. Young. In December of 2018, Mr. Young did write an attorney for the Boones of his objections to the blocking of the easement. The next major improvement by the Boones was well after that when a concrete slab was placed on the easement. This was done in June of 2019, some six months after Mr. Young notified the Boones of his easement.

The Master improperly determined that laches applied back to 1991. From 1991 until the blocking of the easement by the Boones, Mr. Young nor his predecessors in title had no notice they did not have access to the easement. "[S]o long as there is no knowledge of the wrong committed and no refusal to embrace opportunity to ascertain facts, there can be no laches." *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 296, 519 S.E.2d 583, 599 (Ct. App. 1999). *Mid-State Tr.,*

II v. Wright, 323 S.C. 303, 307, 474 S.E.2d 421, 423 (1996)("The failure to assert a right 'does not come into existence until there is a reason or situation that demands assertion.'") Mr. Young acted when he had notice. The fact that the Boones poured a concrete slab after they were notified by Mr. Young as to his claim, cannot be held to be against Mr. Young. They poured the concrete at their own risk. A party cannot enhance its position as to laches by increasing their damages if they lose.

The reason for this is laches is an equitable remedy. As the supreme court has said, "Laches is based on the maxims, Nothing can call equity into activity but conscience, good faith, and diligence, Equity aids the vigilant, not those who slumber on their rights, He who seeks equity must do equity, and, He who comes into equity must come with clean hands.'" *Hemingway v. Mention*, 228 S.C. 211, 217, 89 S.E.2d 369, 372 (1955). As an equitable matter, one cannot take action to increase its damages after the person has received notice of the claim. To do so would not be equitable.

Question VI

Did the Master err in making rulings in this case on matters that were not relevant to the determination of the issue?

The Master made several other findings that are simply not relevant to the issues in this case. The Master stated, "That the strip to which Plaintiff has claimed a public interest was never opened as a public thoroughfare, as acknowledged by all parties to the 1954 Agreement, which specifically states in pertinent part 'since the establishment of the said subdivision and the preparation of the said Plat, it has been made to appear it is impracticable and not feasible to open the proposed street. . ." ROA (order par. 28). Mr. Young has never claimed a public

interest in the unopened street. At the time of the agreement in 1954, the parties anticipated a possible public road. The agreement shows that. The Master further stated, "As to a pubic right of way, there must be dedication and acceptance." This finding was not relevant to the case. A present public access has never been a claim by Mr. Young.

Under the section of the order titled "Paramount Title," the Master made several findings that are simply not relevant to the issues in this case. ROA (order p.13). Mr. Young has never disputed that the Boones own the unopened street in question. The Master erroneously stated, "Defendants legal title affords them a presumption of possession and a presumption of unencumbered title." ROA Order at 14. No case law was cited to support this position. As a legal premise, the statement is not correct. As a Texas court has stated, "When an easement is abandoned, the landowner is vested with unencumbered fee simple title, and the presumption of an intent to convey the easement no longer applies." *City of Austin v. Whittington*, 384 S.W.3d 766, 788 (Tex. 2012). In this case there is no evidence of abandonment to support the claim. The title documents alone do not create any presumption. As is applicable to this case, the Texas court also said, "While not all public records establish an irrebuttable presumption of notice, the recorded instruments in a grantee's chain of title generally do." *Ford v. Exxon Mobil Chemical Co.*, 235 S.W.3d 615, 617 (Tex. 2007). As shown in the exhibits, the documents in the Boones' chain of title gave them clear legal notice of an easement arising from Mr. Young's predecessor in title giving Mr. Young the right to access the unopened street. No court order ever extinguished that right. As the deed by which the Boones acquired title describes the property as an unopened street, they were on notice of an easement. A complete title examination would also show the claim of Mr. Young is based on a road shown on a plat. The Boones were on

record notice of the easement.

CONCLUSION

For the foregoing reason, this court should reverse the ruling of the Special Master and enter an order granting James Ernest Young, Jr. the right to an easement for the use of the unnamed road as shown on the plats.

April 1, 2026

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