

EXHIBIT B
AUGUST 14, 2020 ORDER
TO
COUNTY OF GREENVILLE'S NOTICE OF APPEAL

*Richard Joseph Rogozinski v. County of Greenville
and City of Simpsonville*
C.A. No. 2018CP2305191

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2018-CP-23-05191

Richard Joseph Rogozinski,)
)
Plaintiff,)
)
vs.)
)
County of Greenville and City of)
Simpsonville,)
)
Defendants.)
_____)

ORDER
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SEP 14 2020
SC Court of Appeals

The matter is before the Court pursuant to Defendants’ Motions to Reconsider, Alter or Amend relative to this Court’s Order filed July 7, 2020. Following a careful review of the respective motions, the Court held a telephone conference call with the attorneys on August 4, 2020. At that time, each attorney carefully and zealously presented their respective arguments.

For reasons hereinafter set forth, the motions are denied.

The primary argument submitted by both Defendants is that the Court erred in finding acceptance of Maple Court as a public road.

As set forth in the Order filed July 7, 2020, Plaintiff testified that Maple Court had been considered a public road for as long as he had been familiar with the property. In 1972, a partnership consisting of his parents, was deeded the area in question. He also testified as to law enforcement continuously using Maple Court since at least 1990 for traffic enforcement. It was further uncontested that the property shown as Maple Court has never been taxed nor has Plaintiff or his parents ever paid ad valorem property taxes for the road.

Of greatest significance to the Court are the documents that have been publicly recorded since 1974. Specifically, the Final Plat approved by the Director of the Greenville

County Planning Commission on December 4, 1974, clearly states that it is a "Certificate of Ownership and Dedication". It notes that Maple Properties is dedicating Maple Court as shown on said plat. The Final Plat was recorded in the Greenville County ROD Office on December 5, 1974. Also, on the Final Plat, is the following "FOR DEDICATION OF ROADS see Dedication Book 1 Page 193". See, Plaintiff Ex. 1.

The Final Plat, Plaintiff's Ex. 2, "STATEMENT OF OWNERSHIP, AND CONSENT TO DEDICATE STREETS AND ROADS TO GREENVILLE COUNTY FOR PUBLIC USE", which is recorded in Dedication Book 1, Page 193, clearly notes that the parties "consent to dedicate streets and roads to Greenville County", and states that once approved by the County Planning Commission, the Statement would be recorded in the Office of the County Register of Mesne Conveyance. This Statement was recorded in the Register of Deeds Office on December 5, 1974. The Statement notes by signature that it was approved as to form by the County Attorney for Greenville. Plaintiff's Ex. 2 also states that "Maple Properties is granting and dedicating to those who may purchase said property or any part of it, to the general public and to Greenville County the use and control of the streets and roads shown on said plat of property for public use" (emphasis added).

Defendants argue that approval of the plat does not evidence acceptance. Section 6-29-1170 S.C. Code of Laws provides "public acceptance of the lands must be by action of the governing body customary to these transactions". Under the facts of this case, and as set forth in the recorded plat and Statement that have been of public record in Greenville County since 1974, there was both approval and acceptance of a governing body, in this case Greenville County. There has been no evidence presented that any further steps would have been necessary in 1974 for acceptance of Maple Court by Greenville County.

While the testimony at trial indicated that Maple Court may not have ever been administratively inventoried as a public road in Greenville County, this fact is not dispositive. The

plain language used in the 1974 plat must be given its plain meaning by the Court. And, the only meaning that the Court is able to clearly discern is that Maple Court was approved and accepted by Greenville County.

While it is clear that Plaintiff may have taken some steps over the years contrary to Maple Court being a publicly dedicated street, these steps cannot overcome the clear evidence of public record outlined above.

Notwithstanding the above, and as noted on a footnote on page 6 of the July 7, 2020 Order, the Court finds that the entire area shown as Maple Court is a public road. Plaintiff must comply with all applicable laws, regulations, ordinances, etcetera, in the use of Maple Court. The Court does not and cannot go beyond this limited finding regarding Maple Court.

AND IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al
Case Number: 2018CP2305191
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)