



GUNSTER, YOAKLEY, VALDES-FAULI & STEWART, P.A.
ATTORNEYS AT LAW

PAC

m. J. Angelo
Mark G. Blunckes

JOHNS RIVER WATER MFG. DISTRICT

MAY 10 1999

May 4, 1999

RECEIVED
MAY 10 1999
By _____

VIA FACSIMILE & U.S. MAIL

M. J. Angelo
Assistant General Counsel
St. Johns River Water Management District
P.O. Box 1429
Palatka, FL 32178

4-06d-0164A-ERP

Re: Wieler and Town of Indian River Shores v. Horse's Head, Ltd. and St. Johns River Water Management District

Dear Mary Jane:

In his April 15, 1999 correspondence, Kenneth R. Macht, Chairman of the Indian River County Board of County Commissioners, essentially asserts that the County owns the right-of-way proposed for mitigation purposes on Hole-in-the-Wall Island by virtue of an action taken by the St. Lucie County Commission on June 2, 1923. Simply put, Mr. Macht is mistaken. Leaving aside for the moment the obvious fact that this same right-of-way has been abandoned by the County by virtue of some 40 years or more of non-use, the Board of County Commissioners of Indian River County, Florida adopted a resolution on or about December 16, 1959, a copy of which is attached hereto, stating in relevant part:

1. That this Board has heretofore determined upon its own motion by resolution duly adopted to vacate, abandon, discontinue, close and renounce and disclaim any right of said County and the public in and to any land in connection with certain public roads and parts thereof described as follows:

F. Any and all other public County roads situated within the limits of the Town of Indian River Shores, except, however, the following. . .
[emphasis supplied]

The resolution then goes on to except from the coverage of this paragraph certain roads or parts thereof lying elsewhere in the Town of Indian River Shores but clearly and unmistakably not excepting from the ambit of this paragraph the road/right-of-way on Hole-in-the-Wall Island (which is located within the territorial limits of the Town). In other words, by clear and unequivocal official action in 1959, the Indian River County Board of County Commissioners took the very action that Mr. Macht in his correspondence claims has never been done, i.e., the abandonment of the right-of-

B11 Pg 36'

M. J. Angelo
May 4, 1999
Page 2

way by the County. Mr. Macht should do his homework better.

I hope and trust that this resolves this late-blooming and spurious claim. Of course, if you have any other questions, please do not hesitate to give me a call.

Very truly yours,



William L. Hyde

WLH:nl
Mark Gronceski
Ernest A. Cox, III, Esquire
Charles M. Bayer, Jr.
Steve Melchiori

12-10-59

108986

OFFICIAL RECORD 87 PAGE 493

RESOLUTION

BE IT RESOLVED by the Board of County Commissioners of Indian River County, Florida, that this Board does herewith find and determine as follows:

1. That this Board has heretofore determined upon its own motion by resolution duly adopted to vacate, abandon, discontinue, close and renounce and disclaim any right of said County and the public in and to any land in connection with certain public roads and parts thereof described as follows:

A. That portion of the 200-foot dedication now used for State Road No. A1A as shown on Replat No. 2 of Southern Shores Subdivision, according to plat thereof recorded in Plat Book 2, page 66, of the public records of Indian River County, Florida, lying more than sixty (60) feet from the Baseline of Survey as shown on the right of way map of Section 8807-102, State Road A1A, filed in the office of the Clerk of the Circuit Court for Indian River County, Florida, EXCEPTING therefrom area needed for 25-foot radial returns at Beachcomber Lane.

B. All that part of the right of way of former State Road A1A extending from the North line of Silver Shores Subdivision, Units Nos. 1 and 2, according to plats thereof recorded in the office of the Clerk of the Circuit Court of Indian River County, Florida, in Plat Book 4, pages 45 and 69, respectively, to the South line of the Town of Indian River Shores, as the same now exists, that lies outside the limits of State Road No. A1A, according to the right of way map of Section 8807-102, State Road A1A, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida.

C. All that part of the public County road as designated in Minute Book 3, page 392, of the Board of County Commissioners of St. Lucie County, Florida, commonly known as the Johns Island Road, that lies within the limits of the Town of Indian River Shores, which said road is described as follows:

Beginning at the South end of the Orchard and Narrows Road running Southeast 592 feet to the division line between the McDonald and Dannel land, thence East 2088 feet to the Southeast corner of the McDonald land, then due South between the Dannel and Asker land to the Indian River 1508 feet corner with J. J. P. Hamilton, then along river to D. H. Mathis Northwest corner, then along Indian River to Southwest corner of Government Lot No. 8, Section 36, Township 31 South, Range

RECORDED BY RECORDER BOOK AND PAGE ABOVE RECEIVED

1959 DEC 10 AM 11:24

DONALD BAKER CLERK OF CIRCUIT COURT Indian River County, FLA.

OFFICIAL RECORD

BOOK 87 PAGE 494

39 East, to a cabbage tree in front of the Ed. Walker house, thence South 45 degrees East to the South corner of Lot 8, Section 18, Township 32 South, Range 40 East, then one-half mile South on half section line, then East 900 feet, then 18 degrees East of South to Public School House, then same direction to a point 350 feet North of the Chamberlain house, thence East to Atlantic Ocean, thence along beach 4375 feet to Palm Avenue, then West on Palm Avenue 3450 feet to Indian River Drive, then South on Indian River Drive 450 feet to Live Oak Avenue, then 1000 feet South on Live Oak Avenue, then West to Bridge. Said road to be 30 feet wide.

D All that part of the County public road as described in Minute Book 4, page 77, of the Board of County Commissioners of St. Lucie County, Florida, described as follows:

er Beach Road

Beginning at a point on the East bank of Indian River which is 2230.3 feet South and 254.1 feet West of the intersection of the East bank of Indian River with the North line of Township 32 South, Range 39 East, run North 60 degrees and 20 minutes East 45 feet, thence on a 12 degree and 0 minute curve to the left 348 feet, thence North 18 degrees and 30 minutes East 690 feet, more or less, to a point which is 1320 feet South of the aforesaid Township line. Thence East and parallel to the said Township line 4230 feet, more or less, to the Atlantic Ocean. The right of way of said road to be 70 feet wide;

P = 478.24

EXCEPT, however, that part thereof which lies in Government Lots 1 and 2 in Section 1, Township 32 South, Range 39 East.

E. All that part of the right of way of former State Road A1A extending from the South limits of the Town of Indian River Shores to the North limits of the Town of Indian River Shores lying outside the limits of State Road A1A, according to the right of way map of Section 8807-102, State Road A1A, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida; EXCEPT, however, that part thereof described as follows:

Any and all parts thereof lying in Government Lots 1 and 2, Section 1, Township 32 South, Range 39 East, and except any parts thereof lying North of said section.

F. Any and all other public County roads situated within the limits of the Town of Indian River Shores, EXCEPT, however, the following:

(1) That part thereof which lies in Government Lots 1 and 2 in Section 1, Township 32 South, Range 39 East.

(2) Any and all parts of former State Road A1A lying in Government Lots 1 and 2, Section 1, Township 32 South, Range 39 East, and except any parts thereof lying North of said section.

9/17/71
Contacted Sherman Smith regarding discrepancy between this description & advised same what the ground was. This description puts the North line of Lot 2, however, 35' north of place it is placed in Lot 2.

OFFICIAL RECORD

87 495

(3) From the gate across the old County road, said gate lying 35 feet South and 15 feet West of the Southeast corner of Government Lot 1, Section 1, Township 31 South, Range 39 East, run North 9 degrees 11 minutes East a distance of 70.62 feet to the centerline of old State Road A1A, the same being the point of beginning; thence run 219.34 feet along the arc of a curve concave to the North, said curve having a radius of 991.12 feet to the P.C.; thence North 67 degrees 15 minutes 30 seconds East a distance of 1490 feet to Station 306 + 28.7 on the centerline of State Road A1A according to the right of way map of Section 8807-102, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida.

(4) The North 70 feet of that part of the South 11.5 acres of Government Lot 10, Section 36, Township 31 South, Range 39 East, that lies East of State Road A1A, according to the right of way map of Section 8807-102.

All of the same now being in Indian River County, Florida.

2. That this Board has published notice thereof one time in the Vero Beach Press Journal, a newspaper of general circulation in Indian River County, Florida, said publication being published at least two (2) weeks prior to the date stated therein for such public hearing, as will more fully appear by proof of publication filed in the records of this Board.

3. That each of the above described public roads is not a state or federal highway.

4. That a public hearing thereon has been held by the Board of County Commissioners of Indian River County, Florida, in the office of said Board in the Indian River County Courthouse, Vero Beach, Florida, on December 1, 1959, at 10:00 o'clock A.M.;

and,

BE IT FURTHER RESOLVED that this Board does herewith vacate, abandon, discontinue, close, renounce and disclaim any right of the County and the public in and to any land in connection with the existing public roads hereinbefore described.