



September 18, 2020

Via US Mail and Email:

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Matt Powlison, Public Works Director
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**Re: Three Rivers LOA v. Jefferson County, et al
Jefferson County Circuit Court Case No. 16CV26227**

Dear Jefferson County Commissioners and Public Works Director:

As you know, I represent Three Rivers LOA (“Association”). The Association objects to Ralph DeMonte’s (DeMonte Family Trust) application for a permit to “Work Within A County Right-of-Way” dated September 9, 2020. This is the second such request from DeMonte. At a public hearing on Association’s request to vacate E.H. Sparks Road, if it existed, the Commissioners instructed legal counsel and the road department not to grant any road maintenance permit without approval from the Commissioners. The Association requests an opportunity to be heard on DeMonte’s recent application if it is not denied outright, as it should be.

To begin, DeMonte did not obtain a judgment from the Court declaring the location of E.H. Sparks Road. Thus, DeMonte cannot seek to maintain a road merely dedicated (a point contested and on appeal) but never physically located. DeMonte must first ask Jefferson County to legalize the road—a difficult request when he cannot prove either public use or the location of E.H. Sparks Road that was physically opened and used by the public for a public purpose. In support of this first point, the trial court stated in its August 17, 2020 opinion: *“Evidence at trial suggested that EH Sparks Road was later referred to as CR577 on Jefferson County maps, but this Court is not making a specific finding that CR577 is actually EH Sparks Road for the*

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*purpose of this trial.” *** “The exact location of EH Sparks Road is not at issue before the Court and therefore, the Court will not make any findings as to the specific location of the road.”* Consequently, there is no judgment finding that CR-577 exists. Moreover, there is no judgment declaring the location of E.H. Sparks Road, so the application should be denied. In addition, a petition to vacate E.H. Sparks Road will be filed next week. The Commissioners should first act on the petition to vacate.

Further, as has been repeatedly argued, DeMonte has no right to enter the common areas owned by the Association. DeMonte is intending to do exactly that which would constitute civil trespass, and perhaps criminal trespass. DeMonte has no right to use Lakeview Drive. It is private property and is a road within a 100-foot-wide common area parcel. Again, DeMonte cannot lawfully cross the Association’s private property for any purpose.

DeMonte tries to justify his application with a false representation that he has a “parking lot” that he can access from Lakeview Drive. Those representations have no basis in fact or law. Commissioner Fording, who was on the planning commission, told DeMonte’s attorney on the record that the County did not permit a “parking lot” and did not give DeMonte access to a parking lot, nor could it without a condemnation of the Association’s private property.

Further, the judgment of the trial court is on appeal. If the Court of Appeals reverses the trial court as it should, then DeMonte’s entry into private property will be actionable. If the County grants DeMonte’s permit application, then the Association will serve a tort claim notice and take all necessary actions to recover damages upon reversal of the trial court’s judgment by the Court of Appeals.

In sum, DeMonte’s permit application is wrong on many levels; it is also untimely and procedurally improper. For the reasons above, the application should be denied.

Sincerely,



Michael W. Peterkin

c: Client
Tim Elliott (via mail and email)
Alexa Gassner (via mail and email)
Greg Hathaway (via mail and email)