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Worthwhile Legal News and Commentary

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Client Alert: SGT Kang's Group, LLC v. Board of County Supervisors

27 Oct 2020

The Supreme Court of Virginia recently issued an unpublished decision interpreting a reservation of easements prior to a recorded dedication. While unpublished, the decision provides valuable insight into the mindset of the Supreme Court.

In *SGT Kang's Group, LLC v. Board of County Supervisors*, two adjoining property owners in Prince William County obtained special use permits to construct a car wash and automotive service center, respectively. The special use permits, issued in November 1985, required the owners to dedicate a right-of-way along a heavily traveled road abutting the properties. Two weeks following issuance of the special use permits, the owners recorded reciprocal easements allowing for ingress and egress for vehicle and pedestrian traffic as well as to serve as parking areas. Four months subsequent from recording the reciprocal easements, the owners recorded the dedication and corresponding plat consistent with their special use obligations.

Thirty-two years after recording the dedication, Prince William County filed a condemnation action to acquire a strip of land within the right-of-way described in the dedication and plat. During that litigation, Prince William County sought to prohibit the owners from presenting any evidence regarding their use of the property and, as a result, their stated value of the property. In support of its argument, the County contended that the dedication and plat created a public ingress and egress across the property and that the owners did not have the right to use the property for their businesses. Upon granting the County's request, the Supreme Court granted an interlocutory appeal.

The portion of the Virginia Code in effect at the time of the grant provided, in relevant part, that "nothing contained in this article shall affect any right of a subdivider of land heretofore validly reserved." The Supreme Court determined that the 1985 easements were a valid reservation entered into prior to the subsequent dedication. Holding that the Virginia Code "clearly contemplated reservations that were made before a plat was recorded," the owners were not required to further state their reservations in the dedication or plat. The decision of the trial court was reversed and remanded.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

Client Alert: SGT Kang's Group, LLC v. Board of County

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Supervisors

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TAGGED: easements, title insurance, title industry, Supreme Court of Virginia, Prince William County