

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ROAD KNIGHTS MOTORCYCLE CLUB, INC. and	:	
BRADLEY AND KAREN PARSONS,	:	DOCKET NO. 11-01067
Plaintiffs	:	CIVIL ACTION – EQUITY
	:	
vs.	:	
	:	
DENNIS A. DAILEY and BRIAN L. MOORE,	:	
Defendants	:	

OPINION AND ORDER

AND NOW, this 10th day of May, 2012, following a non-jury trial held on May 4, 2012, in the above-captioned matter, it is hereby ORDERED and DIRECTED that Plaintiffs’ request for permanent injunctive relief is GRANTED in part and DENIED in part. Plaintiffs have a viable right-of-way over Defendant Dailey’s property. However, Plaintiffs’ use of the right-of-way should be limited to use for residential and non-commercial cabin access because Plaintiffs’ use of the right-of-way for public, commercial, fee-generating, fundraising events is an unreasonable use of the right-of-way, not envisioned by the original grantors.

I. Findings of Fact

Parties

1. Plaintiff Road Knights Motorcycle Club, Inc. (Road Knights), is a Pennsylvania non-profit corporation.
2. Road Knights are a social club, with a membership of approximately twenty to thirty people. Members of Road Knights all share a common interest in motorcycles.
3. Road Knights own three adjoining parcels of real property in Hepburn Township, Lycoming County, Pennsylvania. These parcels are identified as Tax Parcel Nos. 15-004-100, 15-004-103, and 15-289-184. See Lycoming County Record Book No. 6275,

170-72 (Tax Parcel No. 15-289-100); Lycoming County Record Book No. 4048, 77-81 (Tax Parcel No. 15-004-103); Lycoming County Record Book No. 3759, 346-49 (Tax Parcel No. 15-289-184).

4. Currently, the Road Knights' club house is located on these properties and has an address of 361 Haleeka Road, Cogan Station, Lycoming County, Pennsylvania. Members of Road Knights use the club house to socialize with each other and for charitable events.
5. Plaintiffs Bradley and Karen Parsons are adult individuals residing at 44Haleeka Road, Cogan Station, Lycoming County, Pennsylvania. When Plaintiffs filed their complaint in the above-captioned matter, the Parsons Plaintiffs resided at 409 Haleeka Road, Cogan Station, Lycoming County, Pennsylvania.
6. When Plaintiffs filed their complaint in the above-captioned matter, the Parsons Plaintiffs owned one parcel of real property in Hepburn Township, Lycoming County, Pennsylvania. This property is identified as Tax Parcel No. 15-004-105. *See* Lycoming County Deed Book No. 5673, 21-23. *See* Lycoming County Deed Book No. 6764, 118-22. This property borders one of the Road Knights' properties and is in close proximity to the other two Road Knights' properties.
7. Defendant Dennis A. Dailey is an adult individual residing at 6107 Lycoming Creek Road, Cogan Station, Lycoming County, Pennsylvania.
8. Defendant Dailey owns one parcel of real property located in Hepburn Township, Lycoming County, Pennsylvania. This property is identified as Tax Parcel No. 15-289-191.E. *See* Lycoming County Deed Book No. 1309, 345-47. This property is in close proximity to the Road Knights' properties. Defendant Dailey has lived on this property for approximately thirty years.

9. Defendant Brian L. Moore is an adult individual.
10. When Plaintiffs filed their complaint in the above-captioned matter, Defendant Moore owned a parcel of real property in Hepburn Township, Lycoming County, Pennsylvania. This property is identified as Tax. Parcel 15-289-191.G. This property is in close proximity to the Road Knights' properties.

Right-of-Way Reservation

11. Defendant Dailey's deed states that his property is "[s]ubject to a right-of-way for access to cabin lots as set out in prior deeds in the chain of title." Lycoming County Deed Book No. 1309, 347.
12. In the chain of title to Defendant Dailey's deed, this right-of-way was reserved by deed dated March 31, 1954. *See* Lycoming County Deed Book No. 392, 339-40. In particular, the 1954 deed provides:

ALSO EXCEPTING AND RESERVING, however, out of and from the above-described premises, to the owners and occupants of the cabin sites on land abutting on Lycoming Creek and adjacent to the land hereinabove described, their heirs and assigns, the use in common with the grantees herein, their heirs and assigns, for a right-of-way for a private road or driveway, of (1) that certain twenty (20) foot land extending along the southern line of the land hereinabove described from Cabin Land, aforementioned, to the Pennsylvania State Highway; (2) that certain fifteen (15) foot land situated at the northwest corner of the land hereinabove described, and extending from the Pennsylvania State Highway to Cabin Land, aforementioned; and (3) that certain twenty five (25) foot lane running along the western line of land hereinabove described and known as Cabin Lane.

Id. at 339. *See also* Lycoming County Deed Book No. 512, 107-08; Lycoming County Deed Book No. 720, 159-61; Lycoming County Deed Book No. 788, 212-13; Lycoming County Deed Book No. 1048, 211-13; Lycoming County Deed Book No. 1100, 302-04; Lycoming County Deed Book No. 1309, 345-47 (tracing Defendant Dailey's chain of title).

13. The twenty (20) foot stretch of land extending along the southern line of the property to the Cabin Land is the right-of-way at issue in this matter. This stretch of land is located at the southern border of Defendant Dailey's property.

Equity Complaint and Motion for Preliminary Injunction

14. On June 23, 2011, Plaintiffs filed a Complaint in equity and a Motion for Preliminary Injunction, seeking this Court to enjoin Defendants from interfering with Plaintiffs' use of the right-of-way.

15. Plaintiffs filed that motion because one or both of the defendants allegedly threatened to block the right-of-way during the June 2011 music festival.

16. On June 24, 2011, this Court issued a preliminary injunction preventing Defendants Dailey and Moore from blocking the right-of-way. This Court affirmed Plaintiffs' temporary preliminary injunction by its September 7, 2011 order.

Defendant Moore's transfer to the Parsons Plaintiffs

17. After the issuance of the preliminary injunction, the Parsons Plaintiffs purchased Defendant Moore's parcel of real property. *See* Lycoming County Deed Book No. 6764, 118-22.

18. After Defendant Moore sold his property to the Parsons Plaintiffs, he moved away from the area.

19. Defendant Moore is no longer a party to this litigation.

Road Knights' Events

20. Road Knights host several charity events a year. In a typical year, Road Knights will host three (3) to four (4) events.

21. Among other events, Road Knights host an annual June musical event. Road Knights host this event for the Stonehenge Music Society. Approximately three hundred (300) to four hundred (400) people attend the music festival. In addition to those people in attendance, vendors, promoters, and Road Knights and Stonehenge members attend the music festival.
22. For the past two years, Road Knights have hosted their annual June musical event at their properties in Hepburn Township.
23. The majority of those individuals who attend the June musical event use the right-of-way at issue to access the Road Knights' properties. These individuals traverse the right-of-way with automobiles, motorcycles, and campers. The vendors and promoters traverse the right-of-way with commercial vehicles, such as vending and multi-axel vehicles.
24. Defendant Dailey testified that he objected to the use of the right-of-way for access to the Road Knights' properties during the music festival and other large charity events hosted by the Road Knights.
25. Road Knights also host their other events at their Hepburn Township properties.
26. Road Knights members keep campers on their properties in Hepburn Township throughout the camping season. In order to get their campers onto their properties, the members traverse the right-of-way.
27. Defendant Dailey testified that he did not object to Road Knight members using the right-of-way, including using the right-of-way to access and leave the Road Knights' properties with their campers and motorcycles.
28. The Parsons Plaintiffs use the right-of-way to access their residence.

29. Defendant Dailey testified that he did not object to the Parsons Plaintiffs using the right-of-way to access their home or any of their properties.
30. Ms. Parsons testified that other residents who live on Haleeka Road use the right-of-way to access their homes or any of their properties.
31. Defendant Dailey testified that he did not object to any residents living on Haleeka Road using the right-of-way.
32. The right-of-way is not the only means of access to the Road Knights' properties and the homes on Haleeka Road.
33. Ms. Parsons and the President and Vice President of Road Knights, respectively Mr. Gross and Mr. Aikey, testified that the right-of-way was the easiest way to access the Road Knights' properties and the homes on Haleeka Road.

II. Conclusions of Law

1. In *Big Bass Lake Community Ass'n v. Warren*, 950 A.2d 1137 (Pa. Cmwlth. Ct. 2008), our Commonwealth Court held that injunctive relief is “an extraordinary remedy that should be issued with caution and only where the rights and equity of the plaintiff are clear and free from doubt, and where the harm to be remedied is great and irreparable.” *Id.* at 1144 (citations omitted)
2. Injunctive relief can be awarded in cases involving real property. A court may grant injunctive relief to restrain a party's interference with an easement. 950 A.2d at 1145.
3. In order to establish a right to permanent injunctive relief, Plaintiffs must establish: “a clear right to relief; an urgent necessity to avoid an injury that cannot be compensated in damages; and a finding that greater injury will result from refusing, rather than granting, the relief requested.” 950 A.2d at 1144.

4. If this Court determines injunctive relief is appropriate, it must “narrowly tailor its remedy to abate the injury” in question. 950 A.2d at 1144.
5. Trial courts have the discretion to grant or refuse an injunction under the facts and circumstances of the particular case at hand. 950 A.2d at 1145.
6. In *Zettlemyer v. Transcontinental Gas Pipeline Corp.*, 657 A.2d 920 (Pa. 1995), our Supreme Court held that courts should apply the rules of construction used in contract interpretations when interpreting easement grants. *Id.* at 924. *See also McNaughton Properties, LP v. Barr*, 981 A.2d 222, 223 (Pa. Super. Ct. 2009). A right-of-way is an easement. *Lease v. Doll*, 403 A.2d 558, 561 (Pa. 1979).
7. When an easement grant is ambiguous, trial courts must determine if the use asserted by the grantee is “a reasonable and necessary use in relation to the original purpose of the grant and within the intention of the original parties to the grant.” 657 A.2d at 924.
8. Our Supreme Court also held that “[i]n ascertaining the scope of an easement, the intention of the parties must be advanced.” 657 A.2d at 924. *See also Lease*, 403 A.2d at 561. The original parties intentions are determined “by a fair interpretation and construction of the grant and may be shown by the words employed construed with reference to the attending circumstances known to the parties at the time the grant was made.” 657 A.2d at 924 (citing 403 A.2d at 561). *See also McNaughton*, 981 A.2d at 226; *PARC Holdings, Inc. v. Killian*, 785 A.2d 106, 112-13 (Pa. Super. Ct. 2001).
9. Additionally, when an easement grant is unrestricted, the grant bestows on the grantee rights that are “necessary for the reasonable and proper enjoyment of the thing granted.” 657 A.2d at 924. *See also Dowgiel v. Reid*, 59 A.2d 115, 118 (Pa. 1948).

10. Unlimited reasonable uses are distinguishable from unreasonable and improper uses. *See Dowgiel*, 59 A.2d at 121.
11. Our Superior Court has held that when the language of the easement grant is in general terms and does not have a specific statement of purpose or limitation of use, trial courts should focus on the intention of the original parties as to the easement's purpose. *PARC Holdings*, 785 A.2d at 112.
12. Subsequent conduct of other parties in the chain of title is irrelevant when determining the intent to the original parties to the easement grant; this subsequent conduct includes a decision to develop property. *See* 981 A.2d at 227. *But see* 785 A.2d at 116 (extrinsic evidence established that the original owner of the dominant estate was in the business of land development and testified that he intended to hold the land for future development).
13. The burden upon a servient tenement can increase by the frequency in which an easement is used. *See Garan v. Bender*, 55 A.2d 353, 354 (Pa. 1947).
14. Trial courts should construe express easements in favor of the grantee "when the terms of an express grant of an easement are general, ambiguous, and not defined by reference to the circumstances known to the parties at the time of the grant." *Lease*, 403 A.2d 562.
15. The location of the right-of-way at issue is not ambiguous. *See* 981 A.2d at 229 (affirming trial court's failure to find that the location of an express easement is ambiguous, despite not being delineated by precise boundaries or location, because of the description of the easement in the deed in relation to other lanes and roads). *See also Garan*, 55 A.2d at 353 (Pa. 1947) (location of easement was not in dispute because the location had been well-established by the user). The right-of-way at issue is located at

the southern boundary of Defendant Dailey's parcel. Mr. Dailey admitted as much during his testimony.

16. The width of the right-of-way is not ambiguous. *See* 981 A.2d. at 229 (parties must strictly comply with the intentions of the original parties regarding the width of an express easement). *See also Zettlemyer*, 365 A.2d at 925. The right-of-way at issue has a width of twenty (20) feet.
17. The purpose of the right-of-way is ambiguous. *See* 785 A.2d at 112 (holding that a non-exclusive fifty (50) foot wide right-of-way “for ingress and egress to certain land now owned by Grantor” was ambiguous because the language of the grant did “not specify a limited purpose for the access, such as ‘for the purpose of maintaining a water system’ or ‘for pedestrian and vehicular travel only.’”).
18. The use of the right-of-way for access to Road Knights' properties for commercial purposes is not reasonable. *See Lease*, 403 A.2d at 564 (reasonable use allowed accommodating a footpath to allow motor vehicle access to a land-locked property); *Dowgiel*, 59 A.2d at 117-18 (reasonable use allowed construction of electricity poles on easement so that grantees could use electricity instead of oil and coal to illuminate and heat their home). The original parties to the grant did not intend for hundreds of people and commercial vehicles to traverse the right-of-way to access the cabin lots for approximately four weekends a summer.
19. The increased traffic on the right-of-way caused by these Road Knights' charity events during the summer months creates an increased burden on the right-of-way.

20. Plaintiffs' request for permanent injunctive relief is denied with respect to the use of the right-of-way for a commercial, fee-generating purpose because they have failed to prove that their right to relief is clear.
21. Plaintiffs' request for permanent injunctive relief is granted with respect to the use of the right-of-way by Road Knights members and their guests, for non-commercial purposes, to access Road Knights' properties.
22. Plaintiffs' request for permanent injunctive relief is granted with respect to the use of the right-of-way for residential purposes is granted.

III. Discussion

Injunctive relief is only warranted partially in the case at bar. Plaintiffs have a viable right-of-way over the southern boundary of Defendant Dailey's property in Hepburn Township. A 1954 deed created this easement across Defendant Dailey's property. *See* Lycoming County Deed Book No. 392, 339-40. The grant of the easement expressly provides that the easement is a width of twenty (20) feet. However, there is an issue as to the purpose of the easement. In the express easement grant, the parties did not limit the scope or define the purpose of the easement. Yet, reading the grant as a whole, the parties provided that the easement provided the grantees with a private road or driveway to their cabin lots. This Court cannot hold that the original parties intended for the easement to be used to allow access to the cabin lands for hundreds of people on four (4) weekends a summer. This increased traffic, albeit during only a few weekends in the summer, is an increased burden on the easement not envisioned by grantors originally. Additionally, this Court cannot hold that the original parties intended for the easement to be used by commercial vehicles, such as vending machines and multi-axel trucks. In addition to not being within the intent of the original parties, this Court believes that the use of

the right-of-way for commercial vehicles is not safe for those residents whose properties border the right-of-way and those people driving the vehicles on the right-of-way.

The Court commends Road Knights for supporting charity throughout the community. However, Road Knights' use of their right-of-way to support a heavy volume of commercial, fee-generating traffic and vehicles is an unreasonable use of the right-of-way.

ORDER

AND NOW, this ____ day of May, 2012, Plaintiffs' request for permanent injunctive relief is GRANTED in part and DENIED in part. Defendant is enjoined from interfering with the use of the twenty (20) foot wide right-of-way, along the southern boarder of his land, for Haleeka Lane cabin access and routine residential purposes. Plaintiffs shall refrain from using the right-of-way for music festivals, commercial events, fee-generating activities, and such other events constituting unreasonable, non-residential use of the right-of-way granted. This Court DECLARES that the Road Knights' proposed commercial, fundraising use of the right-of-way is unreasonable because it was not envisioned by the original grantors.

BY THE COURT,

Richard A. Gray, J.

RAG/abn

cc: Benjamin E. Landon, Esquire
Joel McDermott, Esquire
Gary L. Weber, Esquire