

4. Defendant, Holmes County, Florida, is a local body politic existing under and by virtue of the laws of the State of Florida.

Facts

5. On June 19, 2006, Plaintiff Daniel Stone purchased a parcel of land located at 2020 Pollard Harris Road, Bonifay, Holmes County, Florida, (the "Property") at which location he currently resides with his fiancée, Rebecca Hagan. *See* Warranty Deed, recorded in the Holmes County Official Record on Book 395, starting on Page 491, attached and incorporated hereto as EXHIBIT 1.

6. Plaintiff purchased the Property subject to a 99-year private and express easement created in 1988. The private easement exists to provide access to Pollard Harris Road for the dominant estate, which is the second parcel of land to the west of the Property, and is located at 2022 Pollard Harris Road, Bonifay, Holmes County, Florida. *See* Warranty Deed, recorded in the Holmes County Official Record on Book 183, on Page 167, attached and incorporated hereto as EXHIBIT 2.

7. The express easement created in 1988, and subject to which Plaintiff purchased the property, runs along or near the northern property line of the Property from Pollard Harris Road to the western property line of the Property, which abuts the dominant estate.

8. Kenzie Harris owns the dominant estate served by the private easement over the Property.

9. Upon information and belief, at the time Mr. Stone purchased the Property, Mr. Harris occupied the dominant estate, along with his niece, Vicky Collins.

10. Upon information and belief, a friend of Ms. Collins, Jimmy Majors, visited the Harris property frequently and may have resided there.

11. In November 2006, Ms. Hagan observed Mr. Majors driving at a high rate of speed on the easement through the Stone parcel in a manner that endangered Ms. Hagan's children who were outside at the time.
12. Ms. Hagan called the Holmes County Sheriff's office, and a deputy responded to the call and went to the Harris property.
13. Shortly after the encounter between Ms. Hagan and Mr. Majors, in late November 2006, the Holmes County Road Department began grading the private easement running through the Stone parcel, significantly increasing the width of the easement.
14. Upon information and belief, Mr. Kenzie Harris is a former employee of the Holmes County Road Department and a personal friend of Holmes County Commissioner Jim King.
15. Upon information and belief, the County Road Department undertook this grading activity at the request of Commissioner King and as a personal favor to Mr. Harris.
16. Between November 2006 and August 2007 Ms. Hagan had a number of encounters with Commissioner King, several of which occurred on the Stone property, in which she requested that he stop the destruction and grading of this property. During these encounters, Commissioner King made it clear to Ms. Hagan that he had no intention of stopping this construction. He also confirmed to her that the work was being performed as a personal favor to Mr. Harris. Commissioner King told Ms. Hagan that if she did not like what was happening to her home, she and her fiancée could leave.
17. Defendant's grading of the easement has continued since November 2006. The original width of the easement was approximately 12 feet. The County has graded the private access to upwards of 40 feet in width. Whereas the original easement road could

accommodate only one vehicle passing at a time, the current width of the easement road can accommodate at least two vehicles passing.

18. In grading the easement, Defendant has removed bushes, trees and other vegetation, both those naturally-occurring and those planted by or on behalf of the Plaintiff.

19. County employees performing the grading of the easement have repeatedly driven through Plaintiff's yard, including once running over the tricycle of one of Ms. Hagan's children, and another time driving over and crushing Plaintiff's septic tank field lines.

20. As a result of the grading, dirt piles are often left, causing a nuisance in the form of standing water in the area in which Plaintiff normally parks his vehicles. This accumulation of water has, during heavy rains, encroached upon Plaintiff's house.

21. Between the time Plaintiff purchased the property in June 2006 and the commencement of the grading of the easement in November 2006, Defendant did not maintain the easement.

22. Upon information and belief, Defendant has not maintained any portion of the Plaintiff's parcel or the private access easement at least since 1996.

23. On February 18, 2008, Holmes County Administrator, Greg Wood, sent a letter to Plaintiff advising him that his fencing was within a County right-of-way and needed to be moved so that emergency vehicles could travel on the right-of-way, which Mr. Wood characterized as a dedicated County road.

24. Although Plaintiff took no action in response to the February 18 letter, Administrator Wood sent follow-up correspondence on February 22, 2008, thanking

Plaintiff for his “timely resolution of the ingress, egress issues for 2022 Pollard Harris Road.”

25. On February 26, 2008, Plaintiff caused counsel to send a letter to Mr. Brandon Young, Holmes County Attorney, regarding Defendant’s unauthorized widening of the easement on the Stone parcel. This letter included a demand that Defendant cease and desist from further attempts to treat the easement as a County road, as well as a demand that Defendant restore the easement to its original width. A true and correct copy of this letter is attached hereto as EXHIBIT 3 and is incorporated herein by reference.

26. Mr. Young did not respond to this February 26 letter.

27. On July 3, 2008, Plaintiff caused counsel to make a public documents request regarding County maintenance records for the easement on the Stone parcel and any maps certifying County-maintained roads.

28. In a letter dated July 18, 2008, Administrator Wood responded to the public documents request by simply stating that the County had maintained the easement since 1994 in order to provide emergency assistance to the occupant of the dominant estate (Mr. Harris). Mr. Wood indicated in this letter that no maps certifying county-maintained roads existed.

29. Administrator Wood subsequently indicated that the only map certifying county-maintained roads had been de-certified.

30. According to the minutes of the June 26, 2007, Regular Session of the Holmes County Board of Commissioners, Chairman Thomas informed the public that the “County Maintained Road Map” had been decertified at the June 21, 2007, Special

Session because it had been adopted without proper procedure and because several private driveways had been placed on the map “in error.”

31. On July 25, 2008, Defendant responded to Plaintiff’s public documents request by providing: maintenance records reflecting the maintenance and repair of roads in Holmes County, District 1, between July 2007 and June 2008; a Holmes County Road Map; a copy of the record of the easement on the Stone parcel; and a number of affidavits.

32. A street name or road designation was provided for each road listed as maintained by Defendant. Upon information and belief, the easement on the Stone parcel has never been given a street name or county road designation and thus was not referenced within the records provided by Defendant.

33. The Holmes County Road Map provided by Defendant was labeled as the “Holmes County 911” map.

34. According to the minutes of the June 21, 2007, Special Session of the Holmes County Board of County Commissioners, Chairman Thomas stated that the 911 map was required to include every road in Holmes County, whether or not the road was maintained by Defendant.

35. The easement running through the Stone parcel to the Harris parcel is not shown on the Holmes County 911 map produced by Defendant on July 25, 2008.

36. On February 10, 2009, Mr. Stone caused counsel to submit to Administrator Wood a Notice of Claim letter, as required by Florida Statute § 768.28, with regard to Defendant’s unauthorized grading of the easement on the Stone parcel.

37. In a letter dated March 3, 2009, County Attorney Brandon Young issued a responsive letter clearly indicating that Defendant maintained its position regarding the

status of the easement on the Stone parcel as a County road. This letter served effectively as a written denial of Plaintiff's claims.

38. Defendant has at no time acknowledged that the grading of the easement on the Stone property, which widened the easement from approximately 12 feet to between 30 and 40 feet, constitutes a taking of Plaintiff's property.

39. Defendant has not formally exercised its power of eminent domain to take Plaintiff's property and has at no time offered just compensation for the property so taken.

Count 1 – Inverse Condemnation

40. The facts stated in paragraphs 1 through 39 are incorporated herein by reference as though fully set out.

41. Defendant's actions in grading and expanding the existing 12-foot private easement on the 2020 Pollard Harris Road property constitutes an unlawful taking of a portion of this property by inverse condemnation.

42. Through Defendant's grading activities, the Plaintiff has been permanently deprived of all beneficial use and enjoyment of the entire 417-foot length of (a) the original access easement of approximately 12 feet in width, which would revert to the Plaintiff's sole use in 2087, and (b) the additional land graded to be used as a road, which is an additional width of approximately 18 to 28 feet.

43. As a direct and proximate cause of Defendant's grading of the private access easement on Plaintiff's property, Plaintiff has also suffered damage through a loss of vegetation, both naturally-occurring and planted by and on behalf of Plaintiff, and has

been deprived for substantial periods of time of all beneficial use and enjoyment of the portion of his property adjacent to his house on which he typically parks his vehicle.

44. Plaintiff is entitled to compensation for the value of his property taken by Defendant.

45. Defendant's actual taking of Plaintiff's private property occurred at the earliest in November 2006 when Defendant began grading the private access easement on Plaintiff's land. This action is therefore timely filed within the applicable statute of limitations.

WHEREFORE Plaintiff respectfully requests the Court grant him the relief set out below in the Prayer for Relief.

Prayer for Relief

46. Plaintiff respectfully requests the Court to declare that Defendant HOLMES COUNTY has inversely condemned the aforementioned portions of Plaintiff's property.

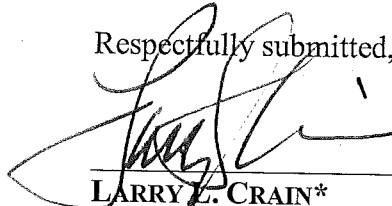
47. Plaintiff respectfully requests that the Court award him just compensation for the property so taken.

48. Plaintiff respectfully requests that the Court enter an order granting him recovery of his costs, expert witness fees, and reasonable attorney's fees, as permitted by Florida Statute § 73.092, incurred in prosecuting this action.

49. Plaintiff respectfully requests that the Court grant such other and further relief that is just in the circumstances.

DATED: May 21, 2009

Respectfully submitted,



LARRY L. CRAIN*

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* Pro Hac Vice Motion filed herewith

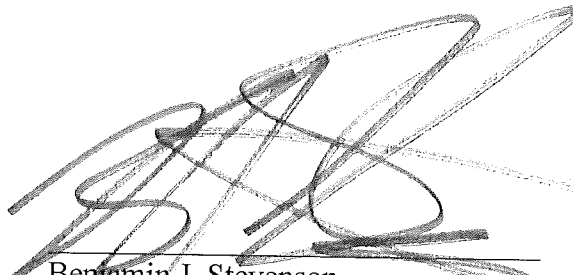
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was furnished by U.S. mail to

Monty Merchant, Chairman
Holmes County Board of Commissioners
201 N. Oklahoma St.
Bonifay, FL 32425

this 26 day of May 2009.

June 1, 2009



Benjamin J. Stevenson