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COUNTY JUDGE

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November 24, 2015

HONORABLE RAMON GARCIA
Hidalgo County Judge
Hidalgo County Courthouse
100 E. Cano
Edinburg, Texas 78539

Re: Order Dated October 13, 2015, Accepting "Ted Garza Road" Into Hidalgo County Road System and Finding of Prescriptive Right Based on Public Use

Dear Judge Garcia:

My firm represents Teodoro "Ted" Garza, Beatriz Lopez Garza (on behalf of Robert Garza's estate), Emma G. Elizondo, Alexandra L. Scott, Carmen Mead and Pablo A. Garza in connection with the action taken by the Hidalgo County Commissioners Court on October 13, 2015, by which it purportedly brought the "Ted Garza Road" (referred to in this letter - for purposes of clarity only - as the "Road") into the Hidalgo County Road system and ordered that it be included in the Hidalgo County Road map as a public road (the "Order"). My clients are the owners of the property on which the purported "road" lies; they were not given notice of the proposed action of the County Commissioners Court until well after the matter was placed on the agenda and acted upon.

The purpose of this letter is to give you and the Commissioners Court notice that my clients, as the owners of the property, reject the action taken and intend to assert a claim for inverse condemnation if the Order is not promptly rescinded. I will describe the principal bases of the objections to the Order.

First, the Order is based on a finding of "prescriptive right based on public use." My clients inform me that any use by the "public" has been by their permission and in conjunction with their own use of the easement for ingress and egress into their various properties to the north of Chapa Road. Texas law on the subject holds that a prescriptive right may not be maintained unless the public use is adverse and exclusive - use by the landowner(s) as well as the public bars a finding of prescriptive right. Any public use of the roadway has been neither adverse (except as described below), nor exclusive, as my clients and their relatives (property owners to the north) have used the easement.

It has not been until fairly recently that the property owners to the east (including some who signed the petitions for acceptance of the Road into the County Road System) began to use the easement. The historical access for the owners to the east, from their properties to Chapa Road (and before that, to the San Manuel Road), was down the centers of shares/lots 56, 57 and 58, and then to the eastern boundary of share/lot 59 southward to the public road. The statements in the sworn attachments to the petition that the Road is the only access to their properties is simply inaccurate, and certainly misleading.

Second, to the extent the County (Precinct 4 maintenance crews) has maintained any part of the Road in the past, it has been over the express objection of one or more of my clients. Historically, the work done on the portion of the Road that has been improved with caliche has been performed by the oil and gas companies that have well sites along the properties bounded by the Road and to the north. The oil and gas companies' improvement and maintenance of the easement has been specifically authorized by one or more of my clients - and that authorization is memorialized by a written agreement recorded in the Hidalgo County Official Records. According to some of my clients, the County maintenance crews would occasionally bring maintainer equipment to the easement, but would destroy the crown of the roadway and impair the drainage. I am told that when my clients noticed the County crews on the easement, the crews were asked to stop work and leave.

In connection with County maintenance of the easement, I would point out that a county may not expend public funds to maintain a private road (with an exception that is not applicable here). So, we assume that any prior use of public funds to "maintain" the easement was unauthorized, and that the purpose of the Order was to justify future expenditure of public funds.

Third, the reliance on the 1947 Judgment in Cause No. B-15811, for the finding that the Road was declared a public road, is misplaced. First, the "public" was not a party to that suit, and that Judgment does not grant the public any rights - except to the extent the affected property owners permitted ingress and egress on the easement to their invitees. That is my clients' interpretation of the Judgment, and as they are the only parties affected by its scope, I trust their interpretation will prevail. Second, even if the public were to have some rights under that Judgment, it is limited to only part of their property, and certainly not the entire 7,520 feet recited in the Order. Third, the Judgment related to specific properties, identified by reference to a map recorded at a certain location in the Probate Minutes of Hidalgo County. Examination of that page reference reveals no map and nothing by which the affected tracts can be identified with the specificity required by the Statute of Frauds. And fourth, the public roadway to which the easement connected was the old San Manuel Road, which has since been abandoned. There is a gap (through property belonging to some of my clients) between the presumed ("presumed" because there is no map to verify it) location of the easement and Chapa Road, to which the Order apparently refers. The Judgment offers little support for the Commissioners Court's action.

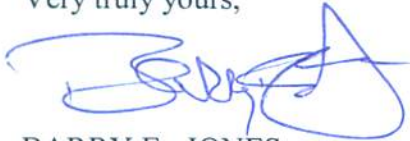
Fourth, as we understand Texas law, the Order does not - itself - create rights in the petitioners. Only the district court could adjudicate the rights of my clients with respect to their property. At best, the Order creates a basis for future maintenance of the Road, an outcome which my clients intend to avoid. Hidalgo County, and specifically Precinct 4, is hereby put on notice that it is not to take any steps to provide maintenance for the Road.

It appears that the Commissioners Court adopted the Order improvidently and without full knowledge of the underlying facts, at the request of property owners who did not have the right to use of the easement (except through the permission of my clients). I trust that if the Commissioners had information set out in this letter before it acted on the petition, it would not have granted it.

Should the County persist in its efforts to declare the Road as a public road and to incorporate it into the County's official road map, my clients intend to oppose such efforts, including opposition by way of litigation to assert their rights with respect to their property. We trust that will not become necessary and that the County Commissioners Court will act to rescind the October 13th Order. Should you require more information or if I can be of assistance with your evaluation of this matter, please do not hesitate to contact me.

With best regards, I am

Very truly yours,



BARRY E. JONES

Enclosure(s): As stated

pc: Hidalgo County Commissioners
Stephen Crain, Atlas, Hall & Rodriguez
clients