

SUPREME COURT OF WYOMING

Wagstaff v. Sublette County Board of County Commissioners

Wagstaff v. Sublette County Bd. of County Comm'rs, 53 P.3d 79 (Wyo. 2002) · No. No. 01-81 · Decided August 20, 2002

SUMMARY

The Wyoming Supreme Court reviewed a county board's establishment of a private road across the Wagstaffs' property for access to Grindstone Cattle Company's land. The court affirmed the finding that the private road was necessary and upheld the thirty-foot width, but reversed the damages assessment because the required before-and-after valuation analysis was not performed. The matter was remanded for a proper determination of damages.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Lehman, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	August 20, 2002
DOCKET	No. 01-81
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court judgment affirming a county board of commissioners' administrative order establishing a private road across the appellants' property, setting the road width at thirty feet, and awarding \$10,000 in damages.
STANDARD OF REVIEW	The court reviews the administrative order as if it came directly from the agency, examines the entire record for substantial evidence supporting factual findings, does not substitute its judgment for the agency's when substantial evidence supports the decision, and reviews legal conclusions de novo. An abuse-of-discretion standard applies to the Board's determination of road width, including whether the ruling was arbitrary or capricious.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	H.R. Wagstaff, Evelyn Wagstaff v. Sublette County Board of County Commissioners, Grindstone Cattle Company

TOPICS

easement by necessity

real estate

judicial review of agency action

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Board properly found that GCC's property had no outlet to, or connection with, a convenient public road and therefore qualified for a private road under Wyoming Statutes § 24-9-101.
2. Whether the Board acted arbitrarily, capriciously, abused its discretion, or lacked substantial evidence when it modified the viewers' report and established a thirty-foot-wide private road over the entire route.
3. Whether the Board's \$10,000 damages award complied with the required before-and-after valuation analysis and was supported by the record.

HOLDINGS

1. A landowner demonstrates statutory necessity when the property lacks a legally enforceable outlet to a convenient public road; the owner need not overcome every possible obstacle or pursue an impractical, uneconomic, or legally uncertain alternative route. The Board's finding that GCC lacked such an outlet and that the unimproved State and BLM dirt tracks did not provide a legally sufficient public-road connection was supported by substantial evidence and was not erroneous as a matter of law.
2. The Board has discretion under Wyoming law to modify a viewers' and appraisers' report when reviewing and establishing a private road, and the Board did not abuse that discretion or act arbitrarily or capriciously by setting the road at thirty feet over its entire length.
3. A damages assessment for a private road must use the prescribed before-and-after valuation analysis: determine the value of the affected property before the road is established, determine the value of the remaining property afterward, and subtract the after value from the before value. Because the Board did not conduct or explain that analysis, the damages award was reversed and remanded.

KEY QUOTATIONS

"We hold that any person whose land is so situated that it has no outlet—no legally enforceable means by which he can gain access— has demonstrated necessity, as a matter of law" (53 P.3d at 82)

"those viewers and appraisers assess those damages incurred by the Wagstaffs, if any, using the necessary prescribed "before-after" analysis." (53 P.3d at 87)

FACTUAL BACKGROUND

Grindstone Cattle Company owned Scott's Place, which had no recorded easement or legally enforceable right of access to a public road. Although GCC and its predecessors had permissively used a mile-long roadway across the Wagstaffs' property for more than fifty years, the Wagstaffs could revoke that permission. Alternative routes were impractical, substantially longer, seasonally inaccessible, or lacked maintained or legally enforceable

access. The Board established a thirty-foot private road along the existing roadway but awarded \$10,000 in damages without explaining the basis for that amount.

PROCEDURAL HISTORY

Grindstone Cattle Company petitioned the Sublette County Board of County Commissioners under Wyoming Statutes §§ 24-9-101 through 24-9-103 to establish a private road to property alleged to lack a legally enforceable outlet to a convenient public road. The Board established the road along an existing roadway, set its width at thirty feet, and assessed damages at \$10,000. The Wagstaffs petitioned the district court for review, but the district court affirmed the Board's action; the Wagstaffs appealed. The Supreme Court affirmed the road establishment and width determination but reversed the damages portion and remanded for a proper damages assessment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must remand the matter to the Board. The Board must reassemble the original viewers and appraisers, or a different body if necessary, and have them assess any damages incurred by the Wagstaffs using the required before-and-after analysis.

CASES CITED

- Dunning v. Ankney, 936 P.2d 61, 63 (Wyo. 1997)
- State ex rel. Workers' Compensation Div. v. Fisher, 914 P.2d 1224, 1226 (Wyo. 1996)
- Celotex Corp. v. Andren, 917 P.2d 178, 180 (Wyo. 1996)
- Latimer v. Rissler & McMurry Co., 902 P.2d 706, 709 (Wyo. 1995)
- Mayland v. Flitner, 2001 WY 69, ¶¶ 10, 26, 35-39, 28 P.3d 838
- Miller v. Bradley, 4 P.3d 882, 886-89 (Wyo. 2000)
- Gold v. Board of County Commissioners of Teton County, 658 P.2d 690, 694 (Wyo. 1983)
- McGuire v. McGuire, 608 P.2d 1278, 1286-88 (Wyo. 1980)
- Walton v. Dana, 609 P.2d 461, 463-64 (Wyo. 1980)
- Snell v. Ruppert, 541 P.2d 1042 (Wyo. 1975)
- Martens v. Johnson County Board of Commissioners, 954 P.2d 375, 380 (Wyo. 1998)
- Lindt v. Murray, 895 P.2d 459, 463 (Wyo. 1995)
- Ferguson Ranch, Inc. v. Murray, 811 P.2d 287, 290 (Wyo. 1991)
- Carney v. Board of County Commissioners of Sublette County, 757 P.2d 556, 560-61 (Wyo. 1988)
- Thompson v. Board of County Commissioners of County of Sublette, 2001 WY 108, ¶ 7, 34 P.3d 278
- Vaughn v. State, 962 P.2d 149, 152 (Wyo. 1998)
- Coronado Oil Co. v. Grieves, 642 P.2d 423, 433 (Wyo. 1982)

- Mettee v. Kemp, 236 Kan. 781, 696 P.2d 947, 949 (1985)

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