

ST. MARTIN PARISH REVENUES

VIDEO POKER REVENUES:

April 2003 - June 2004	July 2004 - June 2005	July 2005 - June 06	July 06 - June 07	July 07 - June 08	July 08 - June 09	July 09- June10
\$ 263,470.00	\$ 114,261.00	\$ 109,237.00	\$ 113,005.00	\$ 115,498.00	\$ 102,235.00	\$ 104,797.00

SALES TAX REVENUES

July 07 - June 08	July 08 - June 09	July 09- June10
\$ 330,701.23	\$ 358,836.14	\$ 345,800.00

GONDRON Litigation delayed the final annexation of the corridor by 34 months (11/98-9/2001) resulting in **LOSES** of **\$1,352,423** in Revenue to the City

***** Source: City of Broussard Annual Audits 2003-2009

I certify that this is
 a true and exact copy of original.

Melissa B. Dubroc
 Melissa B. Dubroc 058172 August 24, 2010



JAMES GOND RON AND GEORGE CHOPLIN

: 16TH JUDICIAL DISTRICT COURT

VS.

: DOCKET NUMBER: 60143C

TOWN OF BROUSSARD, LOUISIANA

: ST. MARTIN PARISH, LOUISIANA

PETITION TO VACATE ORDINANCES

The joint petition of JAMES GOND RON and GEORGE CHOPLIN, both of whom are domiciled in Lafayette Parish, Louisiana, within the municipal limits of the TOWN OF BROUSSARD, LOUISIANA, respectfully represents that:

1.

Made defendant herein is the TOWN OF BROUSSARD, a political subdivision of the State of Louisiana, currently located in Lafayette Parish, Louisiana.

2.

On October 13, 1998, defendant, TOWN OF BROUSSARD, LOUISIANA, adopted Ordinance Numbers 98-188 and 98-199. By virtue of those ordinances, the TOWN OF BROUSSARD, LOUISIANA, seeks to annex into its corporate limits approximately 766.72 acres in St. Martin Parish, Louisiana, notwithstanding the fact that the annexation crosses parish lines.

3.

The effective date of these ordinances is thirty (30) days from publication thereof which, according to petitioners' belief, was October 23, 1998.

4.

For the following reasons, petitioners submit that the foregoing ordinances are invalid and should be vacated.

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*Melissa B. Dubroc
Melissa B. Dubroc 058122 08/24/10*



5.

The petitions which were submitted to the TOWN OF BROUSSARD, LOUISIANA, in connection with the annexation ordinances did not contain the requisite signatures or assent as required by the laws of the State of Louisiana. Specifically, when considered together, the petitions do not contain the necessary signatures to justify inclusion of the areas encompassed by the annexation since the contiguity required by law is lacking.

6.

The annexation envisioned by the ordinances described herein is unreasonable since there is no valid justification therefor. Likewise, defendant, the TOWN OF BROUSSARD, LOUISIANA, cannot adequately provide the area with ordinary and necessary services including, but not limited to, utilities, fire, police, and related emergency services.

7.

Moreover, the boundaries of the areas to be annexed are irregular, lack compactness, and do not reflect the appropriate contiguity with the existing corporate boundaries of the TOWN OF BROUSSARD, LOUISIANA.

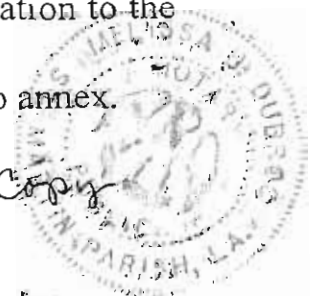
8.

By seeking to annex portions of St. Martin Parish by two (2) separate ordinances, the TOWN OF BROUSSARD, LOUISIANA, intentionally and wrongfully attempts to circumvent the express requirements of Louisiana law and further violates the spirit and intent of the annexation statutes of this state.

9.

The unreasonableness of the annexation is further demonstrated by the disproportionate amount of property of resident property owners in relation to the total areas which the TOWN OF BROUSSARD, LOUISIANA, seeks to annex.

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Melissa B. Dubree 058122
Melissa B. Dubree



10.

Consequently, the actions of the TOWN OF BROUSSARD, LOUISIANA, in the enactment of Ordinance Numbers 98-199 and 98-188 are in violation of express law and are ultra vires.

11.

The TOWN OF BROUSSARD, LOUISIANA, which is currently located solely and exclusively within Lafayette Parish, Louisiana, will have its corporate limits extended into St. Martin Parish, Louisiana, by virtue of the annexation ordinances described herein.

12.

The irregularity of the boundaries of the areas which the said ordinances seek to annex creates serious jurisdictional questions and poses problems regarding practical issues.

13.

There is no legal, practical, or moral justification for the annexation of the areas encompassed by the ordinances referenced herein.

14.

Petitioners are residents and citizens of the TOWN OF BROUSSARD, LOUISIANA. As such, they each have significant interests in the outcome of this litigation.

WHEREFORE, petitioners pray that after due proceedings, Ordinance Numbers 98-188 and 98-199 be declared unreasonable and the product of ultra vires conduct on the part of the TOWN OF BROUSSARD, LOUISIANA, and, consequently, be declared null and vacated; all costs of these proceedings be taxed

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*Melissa B. Dubroc
Melissa B. Dubroc 058122 August 24, 2010*



against the defendant, TOWN OF BROUSSARD, LOUISIANA; and petitioners be granted all other general and equitable relief.

Respectfully submitted:

J. Phil Haney
J. PHIL HANEY
Attorney at Law
Courtthouse Building
St. Martinville, LA 70582
318/332-3585
Bar Roll Number: 6516
Attorney for petitioners

STATE OF LOUISIANA :
PARISH OF ST. MARTIN :

BEFORE ME, the undersigned Notary Public,
PERSONALLY CAME AND APPEARED:

JAMES GONDRON and GEORGE CHOPLIN,

both of whom did depose and state that:

1.

They have read the above and foregoing petition.

2.

They hereby verify that all of the allegations contained therein are true and correct.

J. James Gondron
JAMES GONDRON

J. George Choplin
GEORGE CHOPLIN

Becky P. Pat

Becky P. Pat

I Certify that this is a true and exact copy of original.
Melissa B. Dobbins 258122
Melissa B. Dobbins Notary Public August 24, 2010

SWORN TO AND SUBSCRIBED before me, Notary Public, on this 19th day
of November, 1998, in St. Martin Parish, Louisiana.

J. Phil Haney
NOTARY PUBLIC

PLEASE SERVE:

TOWN OF BROUSSARD, LOUISIANA,
through its Mayor:
CHARLES E. LANGLINAIS
416 East Main Street
Broussard, LA 70518

I certify that this is
a true and exact copy of
original.

Melissa B. DeB...
Melissa P. DeB...
August 24, 2010
LA.

Becky P. DeB...

CLERK OF COURT
LAFAYETTE PARISH, LA

CITY OF BROUSSARD 15th JUDICIAL DISTRICT COURT
 2009 SEP 28 PM 3:01 * DOCKET NUMBER 2009-5900-A
 * *
 VERSUS *
 * *
 JAMES C. GONDROU * LAFAYETTE PARISH, LOUISIANA
 * *
 * * * * *

PETITION FOR INJUNCTIVE RELIEF

MAY IT PLEASE THE COURT:

1.

Plaintiff is the City of Broussard, Louisiana, a Louisiana municipal corporation.

2.

Made Defendant herein is James C. Gondrou, a resident of Lafayette Parish, Louisiana, currently believed to be residing at 616 West Main Street, Broussard, Louisiana.

3.

Plaintiff City of Broussard is the grantee of a right-of-way and servitude of passage for public road purposes of a certain strip of land approximately 50 feet in width and more particularly described in the "Act of Dedication" from Leroy Gondron and Mary Morvant Gondron to the City of Broussard dated November 19, 1986 and recorded in the Conveyance Records of Lafayette Parish under Entry No. 86-039213. Defendant Gondrou has constructed and locked a gate across the right-of-way, blocking the right-of-way.

4.

Defendant's action in creating and locking a gate across the right-of-way owned by the City of Broussard is without the consent and approval of the City of Broussard, and unlawful in all respects.

5.

The creation and locking of the gate across the right-of-way limits and/or completely cuts off the access and use of the right-of-way for fire, police, and other emergency vehicles. The maintenance of the gate across the right-of-way creates a public safety hazard.

6.

In addition, the blocking of the access to the right-of-way is a violation of Louisiana law and City of Broussard ordinances, and causes damages to the City of Broussard which are irreparable and not compensable by monetary damages.

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Melissa B. Dubroc 058122 August 24, 2010
Melissa B. Dubroc



Round 11

7.

As a result, the City of Broussard is entitled to, and prays for issuance of one or more temporary restraining orders, a preliminary injunction, and a permanent injunction, ordering and directing James C. Gondron to remove the gate erected across the right-of-way owned by the City of Broussard, and forbidding him from impairing the use of the right-of-way in any way.

8.

In addition, the City of Broussard prays for an award of reasonable attorney's fees, Court costs, and all other expenses incurred by Plaintiff. The City of Broussard alleges that Defendant has no reasonable basis upon which to conclude that he has authority to block the right-of-way, and therefore Defendant is in bad faith. As a result, Defendant is liable for all damages, foreseeable or not, that are a direct consequence of his actions under Louisiana Civil Code Article 1997, and such other provision of Louisiana law as are applicable, including La. R.S. 48:512.

WHEREFORE, Plaintiff prays that Defendant be served with a copy of this Petition and cited to answer within the delays allowed by law, and that after all necessary proceedings are completed, there be judgment in favor of Plaintiff and against the Defendant James C. Gondron:

A. Issuing one or more temporary restraining orders against him, ordering him to unlock and remove the gate constructed across the right-of-way owned by the City of Broussard, and forbidding and prohibiting him from interfering with the use of the right-of-way in any manner;

B. Issuing a preliminary injunction in favor of the City of Broussard, ordering him to unlock and remove the gate constructed across the right-of-way owned by the City of Broussard, and forbidding and prohibiting him from interfering with the use of the right-of-way in any manner;

C. Issuing a permanent injunction against James C. Gondron, ordering him to unlock and remove the gate constructed across the right-of-way owned by the City of Broussard, and forbidding and prohibiting him from interfering with the use of the right-of-way in any manner;

D. And awarding reasonable attorney's fees and all Court costs to Plaintiff City of Broussard.

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Melissa B. Dubroc 058122
Melissa B. Dubroc

August 24, 20

Respectfully submitted,

Allan L. Durand

ALLAN L. DURAND (#5222)
285 Rue France
Lafayette, LA 70508
337/237-8501

Please serve Defendant James C. Gondron at:

616 West Main Street
Broussard, LA

I certify that this is a true
and exact copy of original.

Melissa B. Dubroc
Melissa B. Dubroc 058122
August 24, 2010



CITY OF BROUSSARD • 15th JUDICIAL DISTRICT COURT
 •
 VERSUS • DOCKET NUMBER 2009-5900-A
 •
 JAMES C. GONDRON • LAFAYETTE PARISH, LOUISIANA
 •
 • • • • •

JUDGMENT

THIS MATTER came for hearing at Lafayette, Louisiana, on October 12, 2009, on a request for a preliminary injunction by Plaintiff City of Broussard against Defendant James C. Gondron. Present were Allan L. Dursod and Donald D. Landry, attorneys for the City of Broussard; Defendant James Gondron and Glenn Foreman, his attorney. Considering the documentary evidence, testimony of witnesses, pleadings, briefs, and argument of counsel, and for the reasons orally assigned in Open Court,

IT IS ORDERED, ADJUDGED AND DECREED that a preliminary injunction is hereby granted in favor of the City of Broussard and against Defendant James Gondron, ordering and directing that the gate erected by James Gondron across that existing roadway referred to as Gondron Lane and shown on the plat of survey admitted into evidence as City Exhibit No. 2 shall remain open and shall not be closed pending trial of the permanent injunction.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that costs of the hearing of October 12, 2009, be assessed against Defendant James Gondron.

RENDERED in Open Court at Lafayette, Louisiana, October 12, 2009, and read and signed in Chambers at Crowley, Louisiana, on October 14th, 2009.


 DISTRICT JUDGE

FILED THIS 21 DAY OF Oct, 2009
 TRUE COPY ATTEST, LAFAYETTE, LA
Julie Olsen
 Deputy Clerk of Court

I Certify that this is a true and exact copy of original
 Melissa B. Dubroc
 Melissa B. Dubroc 058122
 August 24, 2010



"Round 3"

page 11 of 15

CITY OF BROUSSARD

* 15th JUDICIAL DISTRICT COURT

VERSUS

* DOCKET NUMBER 2009-5900-A

JAMES C. GONDRON

* LAFAYETTE PARISH, LOUISIANA

* * * * *

JUDGMENT

THIS MATTER came for trial on Plaintiff's Petition for a permanent injunction at Lafayette, Louisiana, on December 1, 2009. Present were the City of Broussard, represented by Mayor Charles Langlais, and Allan L. Durand, its attorney; and Defendant James C. Gondron, and his attorney Glenn Foreman. Considering the pleadings, briefs, witnesses, evidence, and stipulations, and for the reasons set forth in the "Reasons For Ruling" dated December 23, 2009,

IT IS ORDERED, ADJUDGED AND DECREED that there be Judgment in favor of Plaintiff, the City of Broussard, and against Defendant James C. Gondron, granting a permanent injunction in favor of Plaintiff, and thus ordering and directing Defendant James C. Gondron to either remove any and all constructions within the right-of-way (granted by his father to the City of Broussard in 1986) within 60 days of the signing of this Judgment, or, within said time limit, Defendant may provide another equally convenient location to Plaintiff for the exercise of the servitude of passage and right-of-way.

IT IS FURTHER ORDERED that costs are assessed to James C. Gondron

JUDGMENT RENDERED December 23, 2009, and read and signed at Crowley, Louisiana, this 14th day of January 2010.

[Signature]
DISTRICT JUDGE

Approved as to form: [Signature]
GLENN FOREMAN,
Attorney for Defendant

STATE OF LOUISIANA PARISH OF LAFAYETTE
I hereby certify that a certified copy of this
[Signature] order has been mailed/served on all
parties this 22 day of Jan 20 10
[Signature]
Deputy Clerk of Court

cc: Allan L. Durand
Glenn Foreman
Russel B Kahn

ORIGINAL

A TRUE COPY ATTEST
Lafayette, La. 1-22-2010
[Signature]
DEPUTY CLERK OF COURT

FILED THIS 19
DAY OF Jan, 20 10
[Signature]
Deputy Clerk of Court

I certify that this is a true and exact copy of original.
Melissa B. Dubroc Melissa B. Dubroc 058122

Round 4

FIFTEENTH JUDICIAL DISTRICT COURT
PARISH OF LAFAYETTE
STATE OF LOUISIANA

CITY OF BROUSSARD

VERSUS

DOCKET NO. 2009-5900-A

JAMES C. GONDRON

REASONS FOR RULING

In 1986, defendant Lee Roy J. Gondron, father of the defendant James C. Gondron executed an Act of Dedication donating a fifty foot wide right-of-way to the City of Broussard. The City of Broussard seeks an injunction against the defendant prohibiting him from impairing the use of the right-of-way.

A pre-existing limestone road known as Gondron Lane is contained within the right-of-way for most of its length, except for a short portion of approximately 100 feet which diverges from the boundaries of the right-of-way onto the property of the defendant. This road connects KOL Drive, a public street, to Louisiana Highway 182, which is the main street of Broussard. The roadbed of Gondron Lane has always been in the same location.

Within the last ten years, the defendant erected a pipe fence that crosses the right-of-way and that has a gate across Gondron Lane on the portion that meanders outside the right-of-way. Plaintiff contends that the construction of the fence inside the right-of-way is an interference with the use of the servitude and that the defendant should remove it.

The Defendant argues that the servitude of passage has been extinguished by ten years prescription of non-use. He further argues that the City has not acquired by prescription a servitude over the portion of Gondron Lane which is outside the described fifty foot servitude.

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Melissa B. Dubroc 058122
Melissa B. Dubroc August 24, 2010



A servitude of public use created by formal dedication may be terminated through ten years prescription of non-use. *La. C. C. Art. 753; Winn v. Jefferson Davis Police Jury*, 560 So. 2d 89 (La.App. 3 Cir. 1990). Prescription of non-use begins to run from the date of the last use. *La. C.C. Art. 754*. If the servitude has never been used, then the prescriptive period commences to run from the date the servitude was established and its exercise is possible. A..N. Yiannopoulos, *Predial Servitudes* § 164 (4 *Louisiana Civil Law Treatise* 1997).

In order to interrupt prescription, one must use it in the manner contemplated by the grant of the servitude. *Ashland Oil Company, Inc. v. Palo Alto, Inc.* 615 So. 2d 971, 973-974 (La. App. 1st Cir. 1993). The Act of Dedication contains the following language:

This grant is for a right-of-way and public road purposes only and for the construction and maintenance of same, and for such other purposes as may be authorized by the laws of the State of Louisiana. This grant in not a conveyance of fee title to the land and Grantors expressly reserve all oil, gas and other minerals lying beneath the land:..." [Plaintiff's Exhibit #1]

Defendant contends that the servitude was granted for construction and maintenance of a public road and that since the City never constructed or maintained a road, the servitude has prescribed. The Plaintiff contends that Mr. Lee Roy Gondron intended to donate both a right of way and the right to construct a public road. James Gondron testified that the reason that his father made the donation to the City was that a requirement for obtaining a mortgage was that the property be on a public road. The minutes of the Broussard Town Council dated November 11, 1986, reflect that the City accepted the donation of the servitude only on the condition that "the Town has no obligations on development of the road" [Plaintiff's Exhibit # 4]. The Act of Dedication was executed after this meeting.

The language in the Act of Dedication which states that the servitude is granted "for such other purposes as may be authorized by the laws of the State of Louisiana" indicates that the use of the servitude contemplated by the grant was very broad. The Court finds that the intent of the parties to the Act of Dedication (Mr. Lee Roy Gondron

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and the City of Broussard) was to dedicate the existing road for public use but with no obligation on the part of the City to maintain the road or to construct a new one.

The Plaintiff has the burden of proving use consistent with the grant. In considering whether a roadway has been lost by non-use of ten years, the jurisprudence has held that within that ten-year period, even occasional use or use by only one person constitutes public use. See *Harris v. Adams*, 203 So.2d 809 (La. App. 4th Cir. 1967); *Trahan v. Fontenot*, 380 So.2d 1240 (La. App. 3rd Cir. 1980); *Wise v. Key*, 445 So.2d 98 (La. App. 2nd Cir. 1984); *Winn v. Jefferson Davis Parish Police Jury*, 560 So. 2d 89 (La.App. 3 Cir. 1990).

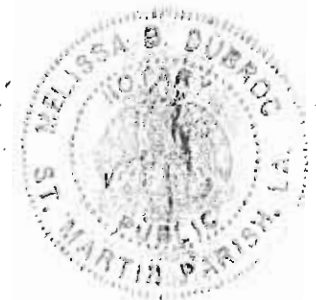
There was testimony at the trial that a gate existed at the KOL Drive entrance that was there prior to the donation of the servitude and that was taken down in 1999. Charles Langlinois testified that his father-in-law, Mr. Lee Roy Gondron, would instruct him to close the gate at night and then he would open it early in the morning. The period of time during which the gate was closed or locked at night was less than thirty days, not sufficient time to lose the servitude by non-use.

Ted Broussard, who was employed by the Broussard Police Department from 1985 to 1992, testified that he traveled on Gondron Lane while on patrol in his police car once or twice a month during the years of his employment and there was never a gate that impeded travel. Bobby Broussard testified that from 1993 to 2000 when he was employed to read water meters for the City, the road was used monthly by city employees to read water meters. Dave Gondron said that Gondron Lane was used at least monthly. He said that there was a gate at the KOL entrance, but that it did not stay locked for long. The Chief of Police of Broussard from 1982 to 1990, Brian Champagne, testified that firemen are trained to use Gondron Lane to access any Gondron property and that it is an alternate route to the KOL commercial area. The evidence establishes that there has not been ten years non-use of the right of way.

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August 24, 2010



Defendant contends that the portion of dedicated right of way which does not contain the Gondron Lane roadbed has never been used and therefore the servitude over that portion has prescribed. The partial use of a servitude constitutes use of the whole.

La. C.C. Art. 759. *Dupont v. Hebert*, 984 So. 2d 800, 2008 La. App. LEXIS 338

(La.App. 1 Cir. 2008), writ denied 980 So. 2d 695 (La. 2008).

La. C.C. Art. 748 provides the following:

The owner of the servient estate may do nothing tending to diminish or make more inconvenient the use of the servitude.

If the original location has become more burdensome for the owner of the servient estate, or if it prevents him from making useful improvements on his estate, he may provide another equally convenient location for the exercise of the servitude which the owner of the dominant estate is bound to accept. All expenses of relocation are borne by the owner of the servient estate.

The construction of the pipe fence inside the right-of-way is an interference with the servitude. There was testimony that there is a tree and septic tank within the donated right of way. Under Article 748, if the original location of the servitude has become more burdensome, the Defendant may provide another equally convenient location for the exercise of the servitude. Accordingly, the Defendant is ordered to either remove the fence that is within the fifty foot right-of-way, or, at his option, provide the public an equally convenient location for the exercise of the servitude.

THUS DONE AND SIGNED this 23rd day of December, 2009

Reason For Filing
STATE OF LOUISIANA PARISH OF LAFAYETTE
I hereby certify that a certified copy of this judgment/order has been mailed/served on all parties this 5 day of Dec, 20 10

[Signature]
JOHN D. TRAHAN, District Judge

[Signature]
Deputy Clerk Of Court

cc: DONALD O Landry
MUSSELL KAHN

ALLEN L. DURANO

I certify that this is a true and exact copy of original
[Signature]
Melissa B Dubroc
Melissa B Dubroc



4 FILED THIS 23 DAY OF Dec, 2009
TRUE COPY ATTEST LAFAYETTE, LA

[Signature]
Deputy Clerk of Court

058122 August 24, 2010