

"ANYTHING TWO PEOPLE KNOW IS NOT A SECRET."

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A district court judge sides with the City again. No surprise there. But, will it stand?

Another story on P. 6

by Dave FEATHERLY

Almost as predictable as the wind, a local judge favored the City once again.

In granting their Motion for Summary Judgment, Judge Ed Grant ruled that there were "no issues of material fact" in the dispute between the City of Cheyenne and Mary Coonts.

After review of the lengthy case file and depositions of principals in the dispute, I can't understand how he thinks there are no facts in dispute.

One fact would be whether the City is compelled to follow its own rules.

How concerned should Mary Coonts be about a Laramie County District Judge's ruling that appears to make the City of Cheyenne the victor in a legal dispute?

Based on history, not very.

We have covered extensively the repeated legal battles between residents and the City involving illegal annexations and matters linked to those annexations that the governing body had approved. In every case, and the district court always sided with the City, residents eventually prevailed.

Cox v. City of Cheyenne (2003 WY 146 - 79 P.3d 500). That appeal was decided in favor of Elizabeth Cox and others, who appealed the district court decision of Judge James Burke (now on the Wyoming Supreme Court) in which he ruled that Cox et al did not have legal standing to sue the City and, even if they had standing, they were time-barred from bringing the suit for declaratory judgment.

In her first case before the Supreme Court as champion of the people, the Terminator, Gay Woodhouse, with the able assistance of Andrea Richard, won the first

of what would become repeated victories over the City of Cheyenne. The Supreme Court, in the unanimous opinion penned by Justice Lehman, ruled simply and succinctly, "We reverse."

Next, it was Judge Ed Grant's turn to be reversed by the Supreme Court. In a case that takes various names, crediting the County Commissioners when the credit belonged to Jean Cotton and her daughters, **Cotton v. City of Cheyenne (2004 WY 16 - 85 P.3d 999)** started the dominoes tumbling on a series of illegal annexations approved by the City of Cheyenne. Judge Grant actually mouthed the words that the City could determine what the word "adjacent" meant. Case law around the country disagreed with his absurd assertion. So did the Wyoming Supreme Court. In their March 3, 2004 decision, Justice Voigt wrote: "... the City was without legal authority to annex Saddle Ridge and its ordinance is void and of no effect. We reverse the ruling of the district court in that respect and remand to the district court for entry of an order consistent herewith."

That decision was known as "Saddle Ridge." The City had also approved two other illegal annexations, known as "Village West," a mile and a half west of the nearest City land, and "Southern Comfort," across the BNSF tracks and near Southwest Drive, at most touching at the corners. Justice Voigt wrote that:

"... boundaries of the municipality and the land proposed for annexation must touch to some substantial degree."

The City lost again and withdrew the second and third illegal annexations.

But, the district court had been wrong on the illegal annexations ruled upon. And a district court's decision will stand unless appealed. Even if subsequently found, in another similar appeal, to have been the wrong decision, it will still stand.

The City of Cheyenne has lost other appeals to the Supreme Court and Mary Coonts can take heart in that fact as well.

In the appeal, **Martinez v. City of Cheyenne (1990 WY 47 - 791 P.2d 949)**, the Supreme Court, with Justice Thomas writing the opinion and Justice Urgbikit concurring, reversed the "judgment entered by the trial court and remand the case for a new trial on the issue of damages only." A loss for the City.

In **Mondt v. Cheyenne Police Dept. (1995 WY 115 924 P.2d 70)**, Justice Golden wrote the unanimous opinion that "the public employer must afford the public employee constitutionally mandated pre-deprivation and post-deprivation due process." Another loss for the City.

Reiman Corp. v. City of Cheyenne (1992 WY 132 - 838 P.2d 1182).

Justice Golden wrote the opinion. "We will reverse and remand." City loss.

And in spite of their ally, the Wyoming Tribune-Eagle, editorializing that an appeal is a waste of time and money (the City has lost several appeals), the City of Cheyenne has itself appealed district court decisions.

City of Cheyenne v. Simpson (1990 WY 17 - 787 P.2d 580), again before Judge K. The City appealed a jury verdict claiming "improper jury instructions." Justice Golden wrote: "In conclusion, we find the trial court did not err in giving the questioned instructions to the jury nor abuse its discretion in denying the City's post-trial motions which were based on those instructions." A loss for the City.

In Wyoming, every verdict at district court can be appealed to the Supreme Court.

In the Coonts case, Judge Grant should not have granted either Motion for Summary Judgment and the dispute should have gone to jury trial. Some of the details: *Mary's attorney was notified on Friday, January 28, 2005 that she had to draw permits for demolition within two days and demolish within 14. Demolition was begun by the City on the same weekend. The City paid \$104,000+ for the demolition even though a permit was drawn for \$65,000. The permit application was submitted the day AFTER demolition began. Many facts are at issue.*

PUBLICATION DAY TO CHANGE!!

Beginning with the first September issue of the Cheyenne Herald, Thursday will become our "on street" day. The papers will be available in the morning on Thursday, as opposed to Monday afternoon or Tuesday, as has been the case since the Herald was started. A schedule for the balance of 2007 is on page 11.

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