STATE OF MAINE

SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT
LAW DOCKET NO. YOR-25-347

RICHARD LYTLE, et al.

Appellants

v.

DOUGLAS LIND, et al.,

Appellees

On Appeal from the Order of the
York County Superior Court

Brief of Appellees Douglas Lind, et al.

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Lind Family 2016 Trust

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INTRODUCTION

In this appeal, Appellants ask the Court to woodenly apply a blanket rule that any object placed in an easement by the servient estate is impermissible. Specifically, Appellants rely on language from the Law Court stating that an easement granted with specific boundaries entitles the easement holder to use the entire granted area. However, as discussed below, the Law Court has never interpreted this doctrine to mean that any object or obstacle in an easement area impairs the dominant estate holder's rights. On the contrary, the Court has consistently made fact-specific determinations that permit a fee owner to use the servient estate so long as that use does not unreasonably interfere with the dominant estate holder's use of the easement for its intended purpose.

Applying that analysis to the facts of this case, the Linds' installation of a split-rail fence down the center of a 10-foot-wide pedestrian right of way does not interfere with Appellants' rights of ingress and egress to and from the Webhannet River. The undisputed facts in the summary judgment record show that Appellants and others can, and in fact do, use the right of way for pedestrian access to the river after the Linds' installation of the fence. Accordingly, the Linds respectfully request that the Court affirm the Superior Court's well-reasoned grant of summary judgement in favor of the Linds.

STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

Appellees the Linds live year-round on and hold title to their property at 36 Riverside Drive in Wells, Maine ("Lind Property"). (A. 16, 113, 151-52.) The Lind Property is identified as Lot 327 on a 1938 subdivision plan titled Plan of the Wells Beach Improvement Company ("Subdivision Plan"). (A. 16, 40, 113.) The Lind Property abuts property owned by Eric and Kristen Blomgren ("Blomgrens"), identified as Lot 328 on the Subdivision Plan with an address of 40 Riverside Drive in Wells, Maine ("Blomgren Property"). (A.16.) Appellants own lots across the street on Riverside Drive. (A. 15, 40.)

The Subdivision Plan depicts a 10-foot-wide right of way running over or between the Lind Property and the Blomgren Property ("ROW," "Right of Way," or "Easement"). (A. 16, 40, 157.) Five feet of the width of the Easement is located on the Lind Property and five feet on the Blomgren Property. (A. 16.) There is no dispute that the Easement provides access for pedestrian ingress and egress between Riverside Drive and the tidal Webhannet River, including the right to carry small watercraft and related equipment. (A. 12, 79.)

Appellant Gregg Wilson's deed contains the following express easement grant: "Said premises are conveyed together with a right of way over the several ways and avenues shown on [the Subdivision Plan]." (A. 111.) The Linds' deed also contains an express grant of easement, stated as "Said premises are conveyed

with all the rights that the grantor has in the ten-foot right of way running . . . from River Road and said conveyance is subject to all the rights held in common by others in said right of way." (A. 113.)

On May 22, 2023, the Linds installed a split rail fence inside the boundary of the Lind Property and down the approximate center of the Easement. (A. 18.) The fence does not create an enclosure or otherwise exclude Appellants and others from walking over the Easement on the Lind Property. (A. 170, 175-76.) Following the installation of the fence, Appellants and others "can, and in fact do, use the ROW to access the shoreline" over both the Lind Property and the Blomgren Property. (A. 19, 105, 152-153, 161-163, 167-168, 171, 174.)

On October 4, 2023, Appellants filed a complaint and a motion for temporary restraining order and preliminary injunction against the Linds in York County Superior Court. (A. 6.) The complaint claimed, among other things, that the Linds' fence obstructed the Appellants' rights to use the Easement. (A. 36.) On October 10, 2023, the court denied Appellants' motion for temporary restraining order. (A. 6.) On October 31, 2023, the Linds filed a motion to dismiss for failure to join the Blomgrens as a necessary party because the Easement burdens the Blomgren Property and the Blomgrens' tenants regularly obstruct the Easement with parked vehicles. (A. 6-7, 195, 198-99.) On March 7, 2024, the Superior Court issued an order denying Appellants' motion for a preliminary

injunction and requiring Appellants to file an amended complaint naming the Blomgrens as parties in interest. (A. 8.)

On April 1, 2024, Appellants filed an amended complaint joining the Blomgrens, to which the Linds submitted an answer. (A. 8.) On April 30, 2024, Appellants moved for summary judgment. (A. 8.) The Linds opposed Appellants' motion for summary judgment and moved for summary judgment in favor of the Linds under M.R. Civ. P. 56(c). (A. 8, 75-85.) On July 11, 2024, the Superior Court issued an order halting its review of the motion for summary judgment until Appellants provided proof that the amended complaint and motion for summary judgment had been served on the Blomgrens. (A. 8-9.) On September 9, 2024, the Superior Court identified deficiencies in Appellants' statement of material facts and granted leave for Appellants to provide supplemental support. (A. 9.)

On November 12, 2024, the Superior Court issued an order determining that the Linds' fence did not interfere with Appellants' Easement rights and awarding summary judgment to the Linds on that issue. (A. 9, 26-29.) The court also held, at the Linds' request, that vehicular parking materially impairs use of the Easement and is prohibited. (A. 30, 84-85.) Appellants and the Linds each filed motions to alter or amend judgment, which the court denied. (A. 10.) On July 15, 2024, the court entered final judgment (A. 13), from which the Appellants appealed to this Court.

ARGUMENT

I. The Linds' Fence Does Not Obstruct Appellants' Use of the Right of Way for its Intended Purpose to Provide Pedestrian Access to and from the Webhannet River

The question before the Court is whether the Linds' fence unreasonably interferes with the Appellants' rights to walk over the Right of Way to access the Webhannet River. Where an easement holder fails to establish that removal of an object is "required for their ingress and egress," the object does not run afoul of the easement holder's rights. *See Kinderhaus N. LLC v. Nicolas,* 2024 ME 34, ¶ 34 n.8, 314 A.3d 300, citing *Mill Pond Condominium Association v. Manalio,* 2006 ME 135, ¶ 7, 910 A.2d 392. The undisputed facts in the record show that the Appellants and others continue to enjoy pedestrian access to and from the Webhannet River on both sides of the Linds' fence after it was installed. Accordingly, Appellants have failed to demonstrate that removal of the Linds' fence is required for Appellants to exercise their rights of ingress and egress.

Appellants' argument relies entirely on language from the Law Court, stating that, "If a right-of-way 'expressly details its specific boundaries . . . the owner of the right-of-way is entitled to use the entire granted area, and is not limited to what is necessary or convenient.'" (Blue Br. 10, quoting *Mill Pond,* 2006 ME 135, ¶ 6) (ellipses in original). That broad statement has been reiterated and interpreted in

Kinderhaus, 2024 ME 34, *Mill Pond,* 2006 ME 135, *Beckerman v. Conant,* 2024 ME 36, 315 A.3d 689, and *Stanton v. Strong*, 2012 ME 48, 40 A.3d 1013.

However, as discussed below, the Law Court has never woodenly interpreted this concept to mean that any object or obstacle in an easement area impairs the dominant estate holder's rights. On the contrary, in *Kinderhaus, Mill Pond, Beckerman, Stanton,* and *Flaherty v. Muther,* 2011 ME 32, 17 A.3d 640, the Court made fact specific, case by case determinations of whether the objects in question interfered with the easement holder's right of ingress or egress over the easement.

A. The Law Court Applies a Case-by-Case Analysis to Determine Whether Objects in a Servient Estate Unreasonably Impair the Dominant Estate Holder's Right of Access

Despite the language relied on by Appellants, the Law Court has consistently looked at the specific facts of a case to determine whether objects in an easement impede the dominant estate's access rights. This approach is in accord with the recognized principle that an easement holders' rights are limited to "use which is reasonably necessary and convenient and as little burdensome to the servient estate as possible for the use contemplated." *Beckwith v. Rossi,* 175 A.2d 732, 735 (Me. 1961); *see also Beckerman,* 2024 ME 36, ¶ 21 ("Servient estate holders have the right to use their land in any manner as long as the use does not 'materially impair' or 'unreasonably interfere' with the dominant estate holder's use of the easement for its intended purpose."); *Mill Pond,* 2006 ME 135,116

("the holder of an easement may only exercise the rights granted in a reasonable manner, and cannot do more.").

Where an easement does not create exclusive rights in the dominant estate, as is the case in this matter, a servient estate holder retains the right to use their land in any way that does not interfere with the intended use of the easement. *See Zemero Corp. v. Hall*, 2002 WL 465153, at *4 (Me. Super. Mar. 11, 2002) ("Servient owner has all the rights and benefits of ownership consistent with the easement and the right to use the land remains in him without any express reservation to that effect so far as such right does not conflict with the purpose and character of the easement.") (quoting 25 Am.Jur. 2nd, Easements & Licenses § 98) (aff'd in relevant part, vacated on other grounds by *Zemero Corp. v. Hall,* 2003 ME 111, 831 A.2d 413; Restatement (Third) of Property (Servitudes) § 4.9 (2000) ("The person who holds the land burdened by a servitude is entitled to make all uses of the land that are not prohibited by the servitude and that do not interfere unreasonably with the uses authorized by the easement or profit. An easement is a nonpossessory interest that carves out specific uses for the servitude beneficiary. All residual use rights remain in the possessory estate—the servient estate.").

The Law Court has repeatedly applied this balancing of the rights of the dominant and servient estate holders in its case-by-case determinations on claims of

easement obstruction. In *Kinderhaus,* the Court held that several trees growing in an easement for vehicular access could be removed because they impeded the dominant estate holder's right of access. 2024 ME 34, ¶ 34. Specifically, the Court found that "Numerous trees of varying size and genus . . are or were located within the confines of the twenty-foot easement." *Id.* ¶ 31. And that "The trees located within the easement would require the [easement holder] to zig-zag" to be able to drive over the easement. *Id.* ¶ 34. As such, the trees in the easement area materially impacted the easement holder's ability to use the easement for its express purpose of vehicular access. The Court noted that "The right to unfettered use of the full area of the easement is not, however, a blanket prohibition on any objects being placed within the space of the easement." 2024 ME 34, ¶ 34, n.8. In other words, a fee owner has the right to erect objects in a part of an easement "that the dominant estate owners failed to establish was required for their ingress and egress." *Id.,* citing *Mill Pond,* 2006 ME 135, ¶ 7.

In *Mill Pond,* the fee owner erected a sign within a deeded right of way "described by metes and bounds, 'over and along the full length, breadth and width of the . . . parcel of land for the purposes of ingress and egress . . . over, on and under said right of way and the construction of and maintenance of a roadway over said right of way . . . .'" 2006 ME 135, ¶ 2. The easement holder claimed that the sign infringed on his rights on the theory that "where the metes and bounds of an

easement are explicitly described in the deed, the easement holder has the right to use the full extent of the described land for purposes consistent with the deeded easement." *Id.* ¶ 7. While the Court acknowledged that general rule, it affirmed a holding that the fee owner could maintain the sign because nothing in the record suggested that the easement holder "may not, or cannot, use the land for the stated purpose of the easement, namely ingress and egress." *Id.*

In *Flaherty v. Muther,* dominant estate holders had acquired an easement by implication for foot access based on deed references to a subdivision plan that depicted a "20' Drainage & Walkway Easement." 2011 ME 32, ¶¶ 5, 56. The scope of the easement included the use of "strollers, wagons, bicycles, and wheelchairs . . . because they were incidental to pedestrian traffic." *Id.* ¶ 61. The fee owners installed a locking gate across the entrance to the easement. *Id.* ¶ 19. The dominant estate holders "testified that the gate was a physical impediment that restricted or hindered their ability to pass through the easement, they could not open the gate without putting down items they were carrying, and keeping track of the key would be burdensome." *Id.* ¶ 64. Reversing the trial court, the Law Court found that the gate only created a "slight physical impediment" and held "as a matter of law that the gate does not unreasonably interfere with the dominant estate's use of the easement." *Id.* ¶ *71.*

In *Stanton v. Strong*, the dominant estate holder held a deeded 30-foot-wide

easement to access his property. 2012 ME 48, ¶ 2. Critically, "The entire eastern boundary of [the dominant estate holder's] property, which is about ninety feet in length, is adjacent to the boundary of the easement." *Id*. Over a period of two years, the servient estate holder "placed boulders, a pile of three- to six-inch crushed rock, and fence posts along the common boundary of the easement and [the dominant estate holder's] property. Some of the obstructions were partially on the easement and partially on [the dominant estate holder's] property, and all of the obstructions blocked access to [the dominant estate holder's] property." *Id*. ¶ 5. On these facts, the Court affirmed the Superior Court's finding that the servient estate holder "has wrongfully and persistently acted to interfere with Stanton's legitimate and material rights of access to his property." *Id*. ¶ 11.

In *Beckerman v. Conant,* the dominant estate held "a deeded right of way over the entire paved drive[way] located on [the fee owner's] property ... for ingress to ... and egress from [the easement holder's] property." 2024 ME 36, ¶ 22 (ellipses in original). In construing the parties' rights, the Court held that "even though [the easement holder] enjoys the right to use any portion of the 'entire paved drive' for ingress and egress to and from his property, he does not have the right to preclude the [fee owner] from reasonable use of their driveway, including using it to park vehicles that do not block passage." *Id.* ¶ 23.

Appellants' reliance on *Rotch v. Livingston*, 40 A. 426 (Me. 1898), is likewise without merit. In *Rotch*, the language of the easement expressly provided for "a *road* fifty feet wide." *Id*. at 430 (emphasis added). The *Rotch* Court found that the easement was:

> "not merely 'a right to pass and repass over' in some reasonably convenient direction, in some convenient road somewhere within the limits of 'a strip of land fifty feet wide.' The easement described and granted is clearly a right to 'a road [or 'a way'] fifty feet wide.' That road or way has been actually located and permanently marked, and is in fact 50 feet wide upon the surface of the earth."

Id. at 430–31. As the *Rotch* Court made clear, the express language of the easement in that case granted the dominant estate not just a right of access, but the right to build a 50-foot-wide road. By contrast, Appellant Gregg Willson's deeded easement is "a right of way over the several ways and avenues shown on [the Subdivision Plan]." (A. 111.) Accordingly, the Court's reasoning in *Rotch* based on a grant of "a *road* fifty feet wide" is not applicable to Appellants' rights to "a right of way" over the ways shown on the Subdivision Plan.

Thus, while the Law Court has articulated seemingly sweeping language that "the holder of a right of way is entitled to use the entire granted area," in practice the Court has made fact-specific determinations of whether objects in an easement area impair the holder's rights of ingress and egress.

Common law from other jurisdictions also supports a case-by-case analysis permitting the servient estate holder to place objects in an easement if such action

does not impair the dominant estate holder's right to use the easement for its intended purpose. For example, in *DeHaven v. Hall*, the Supreme Court of South Dakota held that a dominant estate holder did not have the right to remove a pine tree that was in the approximate center of a 30-foot-wide vehicular access easement. 2008 S.D. 57, ¶¶ 30-33, 753 N.W.2d 429, 439-440. The *DeHaven* Court noted that, absent contrary language in the easement, "a servient owner may reasonably use that portion of its real property subject to an egress, ingress, and roadway easement for its own purposes up to the point where such uses substantially interfere with the dominant owner's reasonable use of the easement," and that "[t]he dominant owner may only remove an obstruction when it interferes with the dominant owner's right of use." *Id*. ¶ 31. Where the dominant estate holder did not present evidence "that removal of the tree was necessary because it obstructed the roadway," there was no right to remove the servient estate's tree. *Id*. ¶ 33.[1]

[1] *See also Martin v. Simmons Properties, LLC,* 2 N.E.3d 885, 898 (Mass. 2014) (stating "Whether the use by the owner of the servient estate is reasonable depends on the facts and circumstances in a given case" and holding that servient estate's landscaping and structures in easement could remain because they did not interfere with dominant estate's right of ingress and egress); *Craft v. Weakland*, 23 P.3d 413, 417 (Or. Ct. App. 2001) (servient estate was permitted to erect windscreens and gated fence in easement where such structures did not prevent dominant estate from using easement to access beach); *Skow v. Goforth*, 618 N.W.2d 275, 281 (Iowa 2000) ("until the [dominant estate] can show a reasonable need for this strip of land, in order to exercise their rights of ingress and egress, the strip may be used by the [servient estate to erect a fence]"); *Kwolek v. Swickard*, 944 N.E.2d 564, 569, 574-75 (Ind. Ct. App. 2011) (servient estate could install "landscape timbers, metal posts, a no-parking sign, and numerous evergreen trees within the easement" because objects did not interfere with the dominant estate's right of ingress and egress); *Gaw v. Seldon*, 85 So. 3d 312, 317 (Miss. Ct. App. 2012) (allowing servient estate's brick columns to encroach upon dominant estate's easement by nine and one-half feet because columns did not impede dominant estate's ability to use the easement for ingress and egress); *Sambrook v. Sierocki*, 861 N.Y.S.2d 483, 484

The *De Haven* reasoning is corollary to that of the Law Court in *Kinderhaus*, in that both cases analyzed whether trees within a defined easement materially obstructed the dominant estate holder's right to drive over the easement. In *Kinderhaus*, the trees "would require the [easement holder] to zig-zag" to be able to drive over the easement and therefore constituted an impermissible obstruction. 2024 ME 34, ¶ 34. In *DeHaven*, the tree did not interfere with the dominant estate's reasonable use of the easement and therefore it could be maintained by the servient estate. 2008 S.D. 57, ¶¶ 30-33.

Accordingly, consistent with its precedent, the Court should make a fact-specific determination whether the Linds' fence prevents Appellants from using the easement for pedestrian access to and from the river. As discussed below, it does not.

B. The Linds' Fence Does Not Impede Appellants' Use of the Easement for Ingress and Egress

As stated by the Superior Court, "the parties agree that users of the easement can access the river after the installation of the fence." (A. 28.) Nowhere in Appellants' brief do they contend that the fence prevents them from pedestrian ingress and egress. In fact, Appellants admit that they and others

(N.Y. App. Div. 2008) (where dominant estate holder failed to submit any evidence that stockade fence and other improvements actually impaired ability to use easement to gain access to dominant estate holder's property, improvements could remain); *Briggs v. DiDonna*, 575 N.Y.S.2d 407, 409 (N.Y. App. Div. 1991) (servient estate's shed on easement could remain where it created no obstacle to dominant estate's access to lake).

continue to be able to, and in fact do, traverse the Easement to access the Webhannet River after the installation of the Lind fence, even when the Easement is materially obstructed by parked cars.[2] (A. 105.)

Thus, the Linds' fence is akin to the fee owner's sign in *Mill Pond* and the gate in *Flaherty* in which the servient estate holder did not materially impair the dominant estate holder's use of the easement, and unlike the facts in *Kinderhaus* where numerous trees in the right of way were found to obstruct the easement holder from using the easement for its express purpose of vehicular access.

As with the fee owner's sign in *Mill Pond,* there is nothing in the record to suggest that Appellants "may not, or cannot, use the land for the stated purpose of the easement, namely ingress and egress." 2006 ME 135,117. As with the fee owners' gate in *Flaherty,* the Linds' fence "does not unreasonably interfere with the dominant estate's use of the easement." 2011 ME 32, ¶ 71. On the contrary, the undisputed facts in the record on summary judgment show that Appellants and others continue to use the Easement on both the Lind and Blomgren properties for its intended purpose of pedestrian access with

[2] Appellants' brief ignores a critical aspect of the proceeding below, which is that the Superior Court, at the Linds' request, declared that "parking in the ROW materially impairs pedestrian access over the ROW and constitutes an interference with the rights of easement users." (A. 29, 84-85.) That aspect of the Superior Court judgment has not been appealed and is therefore final. The photographs that Appellants included in their brief to "reflect the narrow passage" in the ROW show cars parked on both sides of the ROW. (Blue Br. 13-14.) Those photographs do not represent the current legal or factual state of the ROW in which parking is prohibited.

watercraft and related items to and from the Webhannet River. (A. 19, 105, 152-153, 161-163, 167-168, 171, 174.) The fence does not enclose any part of the Easement or otherwise obstruct Appellants and others from walking over the Easement on both sides of the fence, including on the Lind Property. (A. 170, 175-76.)

Unlike *Kinderhaus,* the easement at issue in this action is for foot traffic only. And unlike *Kinderhaus,* the Linds' fence does not require users of the Right of Way to "zig-zag" in order to access the Webhannet River. Walking over the Right of Way, with or without kayaks, paddleboards, or other hand carried items, is unobstructed by the Linds' fence, which allows foot traffic in a direct line to and from the river. Appellants' apparent objection to the Linds' fence is that it precludes their ability to zig-zag back and forth over the Right of Way. However, zigzagging around the Right of Way is not consistent with Appellants' rights of pedestrian ingress and egress to the shoreline.

Accordingly, under the principles set forth above, the Linds respectfully request that the Court hold that the Linds' fence does not materially impair Appellants' right of pedestrian access over the Right of Way and therefore does not constitute an interference with Appellants' easement rights.

II. Summary Judgment in Favor of the Linds Was Appropriate and Should Be Affirmed

After arguing that the Linds' fence interferes with the Easement "as a matter of law" (Blue Br. 18), Appellants then argue that the Superior Court erred by awarding summary judgment to the Linds on the same legal issue without further fact finding. (Blue Br. 18-19.) However, Appellants do not and cannot identify any disputed material fact relevant to the legal question before the Court. Appellants argued in Superior Court that there were no disputed material facts: "There are simply no issues of genuine material fact left for the Court's determination." (A. 71.) The Linds agreed. (A. 75-76.) So did the Superior Court: "The Court finds that there are no genuine issues of material fact as to the split-rail fence and accordingly, the Court may reach the merits of the parties' arguments." (A. 26.)

The Appellants' statement of material facts on summary judgment is devoid of any assertion that the Linds' fence obstructs Appellants' use of the Easement for access to and from the river. (A. 86-90.) On the contrary, Appellants admitted the Linds' statement of material fact that Appellants "can, and in fact do, use the Right of Way to access the shoreline after the installation of the Lind Fence." (A. 105.) The Linds' statement of material fact is supported by sworn statements and photographs in the summary judgment record. (A. 152-153, 161-176.)

Thus, there is simply no basis for Appellants' assertion that "the trial court should have denied the Linds' motion for summary judgment and scheduled a

trial." (Blue Br. 18.) The record contains sufficient undisputed facts to determine that the Linds' fence does not materially interfere with Appellants' use of the Easement. No genuine issues of material fact exist that would warrant an evidentiary hearing. Appellants have not demonstrated how the fence prohibits their reasonable use of the Easement, making either reversal or remand unfounded.

Accordingly, summary judgment in favor of the Linds should be affirmed. *Badler v. Univ. of Maine Sys*., 2022 ME 40, ¶ 5, 277 A.3d 379, 381 ("A grant of summary judgment will be affirmed if there are no genuine issues of material fact and the undisputed facts show that the prevailing party was entitled to a judgment as a matter of law.").

CONCLUSION

For the reasons set forth above, the Linds respectfully request that this Court DENY Appellants' appeal and AFFIRM the Judgment of the Superior Court.

Dated at Portland, Maine this 26th day of November, 2025.

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