

SUMMARY STATEMENT

Berglund v. Dix, Docket No. 48276

This appeal arose from a dispute between neighbors over a locked gate placed across an easement road in Gem County known as “Palomino Lane.” Craig and Kristi Berglund and Mary Kaye Brown (“Respondents”), then owners of land served by the road (the dominant estates), sued Brian Dix, who placed the gate across the road on his property (the servient estate). Based on this Court’s holding in *Johnson v. Highway 101 Investments, LLC*, 156 Idaho 1, 319 P.3d 485 (2014), the district court found that the gate was “per se unreasonable,” granted Respondents’ motion for summary judgment, and ordered the gate to be removed. The district court also awarded attorney fees to Respondents. Dix appealed.

Before the Supreme Court heard the appeal, Respondents each sold their land to different third parties. On appeal, Dix argued that since this case was now moot, the judgment should be vacated because Respondents no longer had standing to assert their rights in the easement. During oral argument before the Supreme Court, the Respondents conceded that they had sold their properties and were no longer the real parties in interest, but still had a right to defend the award of attorney fees. Following oral argument, the successors-in-interest to the Berglund property were substituted in place of the Berglunds on all issues except the award of attorney fees.

In its unanimous opinion, the Idaho Supreme Court reversed the judgment of the district court in part, holding that the per se unreasonable rule from *Highway 101 Investments* was not applicable to gates because they do not necessarily act as permanent obstructions. However, it affirmed the district court’s grant of summary judgment to Respondents based on its alternative finding that the use and operation of this particular gate was unreasonable. The Idaho Supreme Court reversed the award of attorney fees to Respondents, concluding that Dix’s defense was reasonable and that the district court abused its discretion by failing to articulate a “basis and reasons” for its award, as required by I.R.C.P. 54(e)(2).

******This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.******