

## SUMMARY STATEMENT

*Bracken v. City of Ketchum, Docket No. 48721*

This appeal arose from Roy Bracken's application for a conditional use permit to construct a gas station/convenience store off Highway 99 in Ketchum, Idaho. Bracken's first application was denied by the Planning and Zoning Commission (P&Z Commission). Rather than appeal the denial, Bracken revised his application. However, when Bracken tried to submit his second application for a conditional use permit, Ketchum's Planning Director and Zoning Administrator rejected Bracken's filing because it was the same or similar to Bracken's first application. The same day, the City of Ketchum proposed a modification to its existing zoning law prohibiting gas stations from accessing Main Street. Bracken appealed the rejection of his second application to the P&Z Commission, which concluded there were significant changes between the first and second applications and orally reversed the Director's decision. Before the P&Z Commission issued its written findings instructing the Director to accept and process Bracken's application, Ketchum approved the proposed ordinance banning gas stations from accessing Main Street. Bracken tried to resubmit his second application after the P&Z Commission issued its written findings, but the Director repeatedly rejected the filing based on the newly adopted ordinance. Bracken then filed a notice of tort claim with the city of Ketchum, before later filing suit against the City of Ketchum, the Director, Ketchum's mayor, and Ketchum's city administrator. The district court dismissed all ten of Bracken's claims on summary judgment. The Idaho Supreme Court affirmed the district court's dismissal of Counts One through Nine in Bracken's second amended complaint, but the Court reversed the district court's dismissal of Count Ten based on its conclusion that Bracken was excused from exhausting administrative remedies under the facts of the case. As a result, the Court vacated the judgment against Bracken as to Count 10.

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