

BOISE, WEDNESDAY, MAY 7, 2025, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

HAROLD LAVELLE RUPP, JR., and)	
CHRISTINE R. PETERSEN, in their)	
capacities as the Trustees of the Harold L.)	Docket No. 51056-2023
Rupp Sr. Trust, an Idaho trust; and the Veda)	
J. Rupp Revocable Living Trust, an Idaho)	
trust,)	
)	
Plaintiffs-Appellants,)	
)	
v.)	
)	
CITY OF POCA TELLO, an Idaho)	
municipality; MILLENNIAL)	
DEVELOPMENT PARTNERS, LLC, a Utah)	
limited liability company; PORTNEUF)	
DEVELOPMENT, LLC, an Idaho limited)	
liability company; PORTNEUF BUILDERS,)	
LLC, an Idaho limited liability company;)	
KEN PAPE, individually; ARVIL B.)	
SWANEY, individually; and BRIAN BLAD,)	
individually,)	
)	
Defendants-Respondents,)	
)	
and)	
)	
JOHN or JANE DOES 1-10,)	
)	
Defendants.)	

Appeal from the District Court of the Sixth Judicial District of the State of Idaho, Bannock County. Robert C. Naftz, District Judge.

Olsen Taggart PLLC, Idaho Falls, for Appellants.

Hall Angell & Associates, LLP, Idaho Falls, for Respondents City of Pocatello and Brian Blad.

Beard St. Clair Gaffney PA, Idaho Falls, for Respondents Portneuf Development, LLC, Portneuf Builders, LLC, Ken Pape, Millennial Development Partners, LLC, and Avril B. Swaney.

This case concerns a dispute over undeveloped real property. The trustees of the Harold L. Rupp Sr. Trust and the Veda J. Rupp Revocable Living Trust (collectively “the Trusts”) filed a complaint for declaratory and monetary relief against the City of Pocatello and Brian Blad, the Mayor of Pocatello; Millennial Development Partners, LLC, and its member and manager Arvil B. Swaney; and Portneuf Development, LLC, Portneuf Builders, LLC, and its member and manager Ken Pape (collectively “Respondents”). The Trusts owned approximately 930 acres of agricultural land located near the cities of Pocatello and Chubbuck. Millennial Development Partners, LLC, and Portneuf Development, LLC are real estate development companies. The Trusts entered into a purchase and sale agreement with Millennial to sell a portion of their land for a right-of-way, which was developed into a paved road named Northgate Parkway. After its completion, ownership of Northgate Parkway was transferred to the City of Pocatello.

Once the road was completed, the Trusts filed a complaint alleging Millennial breached the terms of the purchase and sale agreement by failing to provide access points from Northgate Parkway to the Trusts’ property to allow for future development. The Trusts also alleged that Respondents conspired to defraud the Trusts and devalue the Trusts’ property, interfered with prospective buyers seeking to purchase the Trusts’ property, and deprived the Trusts of economic opportunities. Respondents filed motions for summary judgment. The Trusts filed two motions to continue the proceedings to allow them to complete additional discovery, which were denied by the district court. The Trusts then filed a late response to the motions for summary judgment. The district court declined to consider the Trusts’ late response brief, granted Respondents’ motions for summary judgment, dismissed the case with prejudice, and awarded attorney fees to Respondents. The Trusts filed a motion for reconsideration of the order dismissing the case, which the district court denied. The Trusts appealed.

On appeal, the Trusts argue that the district court erred by (1) denying their motions to continue the summary judgment proceedings; (2) granting Respondents’ unopposed motions for summary judgment and dismissing the case with prejudice; (3) denying the Trusts’ motion for reconsideration; and (4) awarding Respondents their attorney fees.