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FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND JUDGMENT

COPY

1 Case No. 03-CV-0020

2 Dept. No. 1

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2005
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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

MILLIGAN-TAHOE, LLC, JACKSON
RANCHERIA BAND OF MIWUK INDIANS,
JEFFREY and SUZANNE LUNDAHL,
THOMAS H. and NANCY T. TORNGA, Trustees
of the TORNGA 1998 TRUST, PAUL H.
and N. K. CHAMBERLAIN, and TODD and
ANNE TARICCO,

Plaintiffs and Cross-Defendants,

vs.

DOUGLAS COUNTY, a Political Subdivision
of the State of Nevada,

Defendant,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND JUDGMENT**

vs.

WILLIAM C. ALLEN AND JOHN C. ALLEN,
EDWIN M. MILLER, TRUSTEE, GERALD GODFREY
PAGE AND ALMA IRENE PAGE, CO-TRUSTEES,
JOSEPH POHL AND MEGAN CLANCY, DICK L.
ROTTMAN AND JEAN M. ROTTMAN, ROBERT F.
STELLABOTTE AND GLORIA STELLABOTTE,
LUANN M. TUCKER, WILBUR E. TWINING AND
ROSMARIE M. TWINING, GRETA MARKS VALLERGA,
TRUSTEE, JAMES M. WILHOYTE, JR., MARGARET
WILHOYTE, THOMAS CHARLES WILHOYTE AND
JOHN GEORGE WILHOYTE, AND DONALD W. WINNE
AND DORIS L. WINNE

Intervenors and Cross-Petitioners

1 This cause first came on to be heard before the Court for
2 oral argument on May 5, 2004. Plaintiffs Milligan-Tahoe, LLC,
3 Jackson Rancheria Band of Miwuk Indians, Jeffrey Lundahl and
4 Suzanne Lundahl, Thomas H. Tornga and Nancy T. Tornga, Trustees
5 of the Tornga 1998 Trust, Paul H. Chamberlain and N. K.
6 Chamberlain, and Todd Taricco and Anne Taricco, having appeared
7 in person and through their counsel Ronald D. Alling, Esq., and
8 Michael K. Johnson, Esq. Defendant Douglas County, having
9 appeared by and through its counsel Thomas E. Perkins, Esq.,
10 Intervenor/Cross-Petitioners William C. Allen and John C.
11 Allen, Edwin M. Miller, Trustee, Gerald Godfrey Page and Alma
12 Irene Page, Co-Trustees, Joseph Pohl and Megan Clancy, Dick L.
13 Rottman and Jean M. Rottman, Robert F. Stellabotte and Gloria
14 Stellabotte, Luann M. Tucker, Wilber E. Twining and Rosmarie
15 Twining, Greta Marks Vallergera, Trustee, James M. Wilhoyte, Jr.,
16 Margaret Wilhoyte, Thomas Charles Wilhoyte and John George
17 Wilhoyte, and Donald W. Winne and Doris L. Winne (herein
18 collectively "Intervenors"), having appeared in person and
19 through their counsel Thomas J. Hall, Esq.

22 Before the Court on May 5, 2004 were Plaintiffs' Motion for
23 Summary Judgment and Intervenors' Motion for Partial Summary
24 Judgment. During a status conference held with all parties on
25 April 22, 2004, the Court determined, based upon the proffers of
26 counsel, that the main issues raised within the two motions were
27 matters of law, rather than matters of fact. Therefore, the Court
28



1 entertained and accepted a suggestion to treat the trial date as
2 one for oral arguments for summary judgment, in which all
3 relevant exhibits would be reviewed. All parties mutually agreed
4 to this suggestion, with the recognition that if factual
5 testimony became necessary, based upon the Court's ruling after
6 oral argument, that a further hearing could be scheduled to
7 resolve any remaining fact issues. The Court, having considered
8 the oral arguments heard and exhibits presented on May 5, 2004,
9 and having examined all relevant pleadings and papers on file
10 herein, including the Joint Stipulation of Facts, filed herein
11 May 4, 2004. On August 16, 2004, the Court entered its Order
12 denying Summary Judgment to Plaintiffs and granting Partial
13 Summary Judgment to Intervenor. 14

15 On June 13, 2005 through June 16, 2005, at the request of
16 Plaintiffs, the legal and factual matters of prescription,
17 adverse possession and abandonment were heard by the Court,
18 sitting without a jury. On June 15, 2005, the Court viewed the
19 premises. On June 16, 2005, at the conclusion of Plaintiffs'
20 case, the Court rendered its oral decision on the oral Motion for
21 Involuntary Dismissal made by Douglas County, which Motion was
22 joined in by Intervenor. 23

24 Good cause appearing, the Court being duly informed, hereby
25 enters the following Findings of Fact, Conclusions of Law and
26 Judgment. 27

28 \\\

FINDINGS OF FACT

WHEREFORE, the Court finds as follows:

1. Plaintiffs Paul K. Chamberlain and N.K. Chamberlain own Lots 14 and 16, Block C, Lincoln Park Subdivision, APN 1418-34-110-020.

2. Plaintiffs Paul K. Chamberlain and N.K. Chamberlain own Lot 2, Block E, Lincoln Park Subdivision, APN 1418-34-110-021.

3. Plaintiff Jackson Rancheria Band of Miwuk Indians owns Lot 13, Block A, Lincoln Park Subdivision, APN 1418-34-110-008.

4. Plaintiffs Jeffrey Lundahl and Suzanne Lundahl, owned at the commencement of litigation and during subsequent litigation, sold *pendente lite* to Jackson Rancheria Development Corporation, Lot 14, Block A, Lincoln Park Subdivision, APN 1418-34-110-009.

5. Plaintiff Milligan-Tahoe, LLC, owns Lot 1, Block A, Lincoln Park Subdivision, APN 1418-34-110-001.

6. Plaintiffs Todd Taricco and Ann Taricco own Lots 10 and 12, Block C, Lincoln Park Subdivision, APN 1418-34-110-019.

7. Plaintiffs Thomas H. Tornga and Nancy T. Tornga own Lot 2, Block C, Lincoln Park Subdivision, APN 1418-34-110-015.

8. Plaintiffs Thomas H. Tornga and Nancy T. Tornga own the northerly 20 feet of Lot 6 and all of Lot 4, Block C, Lincoln Park Subdivision, APN 1418-34-110-016.

9. Intervenors William C. Allen and John C. Allen own Lot 12, Block B, Lincoln Park Subdivision, APN 1418-34-110-037.



1 10. Intervenors Edwin M. Miller, Trustee, and LuAnn M.
2 Tucker own Lot 7, Block B, Lincoln Park Subdivision, APN 1418-34-
3 110-040.

4 11. Intervenors Gerald Godfrey Page and Alma Irene Page,
5 Co-Trustees, own Lot 10, Block B, Lincoln Park Subdivision, APN
6 1418-34-110-038.

7 12. Intervenors Joseph Pohl and Megan Clancy own Lot 3,
8 Block B, Lincoln Park Subdivision, APN 1418-34-110-044.

9 13. Intervenors Dick L. Rottman, Jean M. Rottman, Donald W.
10 Winne and Doris L. Winne own Lot 5, Block B, Lincoln Park
11 Subdivision, APN 1418-34-110-022.

12 14. Intervenors Gloria Stellabotte and Robert F.
13 Stellabotte own Lot 15, Block B, Lincoln Park Subdivision, APN
14 1418-34-110-035.

15 15. Intervenors Wilbur E. Twining and Rosmarie M. Twining
16 own Lot 2, Block D, Lincoln Park Subdivision, APN 1418-34-110-
17 033.

18 16. Intervenors James M. Wilhojte, Jr., Margaret Wilhojte,
19 Thomas Charles Wilhojte and John George Wilhojte own Lots 8 and
20 9, Block B, Lincoln Park Subdivision, APN 1418-34-110-039.

21 17. Intervenors Donald W. Winne and Doris L. Winne own Lots
22 3 and 4, Block E, Lincoln Park Subdivision, APN 1418-34-110-042.

23 18. The above described properties owned by the parties
24 were created by approval of the Douglas County Commission on
25 September 7, 1921, and by the recordation on September 7, 1921,
26
27
28



1 of that certain Map entitled Lincoln Park, Lake Tahoe, Nevada, in
2 Book D of Miscellaneous, at Page 40A, as Document 305, Douglas
3 County Records (the "Map").

4 19. The Map particularly sets forth and describes all of
5 the parcels of land so laid out and platted by their boundaries,
6 course and extent, and whether they are intended for avenues,
7 streets, lanes, alleys, commons or other public uses, together
8 with such as may be reserved for public purposes, and all lots
9 therein intended for sale by numbers and their precise length and
10 width.
11

12 20. All documents and instruments conveying an interest in
13 a lot within Lincoln Park Subdivision make reference to the Map.

14 21. The Map includes an offer of dedication of an 18 foot
15 wide area, sometimes called "Unnamed Street" or later "Lincoln
16 Park Beach Road," located immediately lakeward of Blocks A, C, E
17 and F in the Lincoln Park Subdivision, which dedication was made
18 pursuant to the statute in effect at that time and which
19 dedication was accepted by Douglas County without exception,
20 reservation, qualification or limitation.
21

22 22. In living memory, no street, highway, avenue or roadway
23 of any sort has been constructed in the Lincoln Park Beach Road
24 area between 1921 and the present.

25 23. On May 7, 1946, a Resolution was adopted by the Douglas
26 County Board of Commissioners granting a petition that an
27 irregular parcel of land depicted on the Map, lying west of the
28



1 Lincoln Park Beach Road (aka "Unnamed Street"), be dedicated for
2 public uses for highway and street purposes. The Resolution
3 granting that petition determined that said tract of land be
4 dedicated for public uses and for highway and street purposes,
5 thereby amending the Map previously recorded. Exhibits 2 and 16.
6 The Resolution was recorded on May 7, 1946 in Book D, at Page
7 338, as Document 2705, Douglas County Records. The newly
8 dedicated and accepted area and the Lincoln Park Beach Road
9 merged together and later became known as the Common Beach Area.
10

11 24. The Common Beach Area is shown on the Douglas County
12 Assessor's Maps and is an amenity of substantial value to the
13 Intervenors. Exhibits 42, 43 and 67.

14 25. According to documents on file with the Douglas County
15 Recorder's Office, including the Map and the Resolution recorded
16 on May 7, 1946, in Book D, at Page 338, as Document 2705 (Exhibit
17 12) and in conjunction with the decision from Douglas County
18 Community Development, as of March 9, 1983, the Douglas County
19 Assessor's Office believed the beachfront property noted as
20 Common Beach Area on Map Book 03, at Page 16 is public property
21 controlled by Douglas County. Exhibit 19.
22

23 26. In 1997, Douglas County abandoned three small portions
24 of the Common Beach Area lying under improvements owned by
25 Plaintiffs Milligan, Jackson and Lundahl, and denominated Parcels
26 A, B and C, pursuant to An Order of Abandonment Vacating Portions
27 of the Lincoln Park Beach Road (the "Order of Abandonment"),
28

1 recorded on November 19, 1997, in Book 1197, at Page 3696, as
2 Document 0426667, Douglas County Records. Exhibit 33.

3 27. While the Order of Abandonment ordered a reversion to
4 the abutting property owners, Douglas County expressly reserved
5 any Public Utility Easement embracing the limits of the original
6 roadway, therein named the Lincoln Park Beach Road, for the
7 continuation, maintenance, expansion and operation of the public
8 utilities contained within the limits of the abandonment.
9

10 28. The Intervenors make no claim to Parcels A, B and C
11 described in the Order of Abandonment.

12 29. Various Quiet Title Actions, specifically Case Numbers
13 97-CV-0225, 99-CV-0122 and 01-CV-0240, were previously brought
14 before this Court, which resulted in stipulated Orders and
15 Judgments Quieting Title that acknowledged fee ownership of the
16 area lakeward of Plaintiffs' lots subject, however, to a right-
17 of-way easement held by Douglas County. The right-of-way easement
18 has no limitation on the extension of its area. The Court has
19 taken judicial notice of each case and having reviewed these
20 actions, it does not appear to the Court that Intervenors
21 received specific and personal notice regarding these actions.
22 Exhibits 34-36.
23

24 30. The three Judgments Quieting Title referenced in
25 Finding 29, were recorded on April 26, 1999, in Book 0499, at
26 Page 5138, as Document 0466488; on September 9, 1999, in Book
27 0999, at Page 1316, as Document 0476114 and on March 12, 2002 in
28



1 Book 0302, at Page 03906, as Document 0536777, Douglas County
2 Records. Exhibits 34-36.

3 31. Prior to July 1, 2002, the Douglas County Assessor
4 designated and renumbered the three tax parcels comprising the
5 Common Beach Area as APN 1418-34-110-011, 1418-34-110-012 and
6 1418-34-110-013, with a nominal land value of \$1.00 each. Exhibit
7 47.

8 32. No taxes have been assessed, levied or paid with
9 respect these three tax parcels.
10

11 33. The Common Beach Area is burdened by a recreational
12 easement in favor of all lot owners within Lincoln Park
13 Subdivision including the Intervenor, which recreational
14 easement has been integrated from its inception on September 7,
15 1921 and May 7, 1946, and which recreational easement affects
16 every piece and portion of the Common Beach Area with the
17 exception of Parcels A, B and C.
18

19 34. The recreational easement over the Common Beach Area is
20 a valuable property right to each lot owner within Lincoln Park
21 Subdivision.

22 35. Some of the Plaintiffs have installed lawn sprinkler
23 systems and landscaping on portions of the Common Beach Area.

24 36. At various times, some of the Plaintiffs have erected
25 fences on or across portions of the Common Beach Area.
26

27 37. Because it was possible to climb over or merely walk
28 around the fences erected by Plaintiffs on the Common Beach Area,



1 access by Intervenor to the Common Beach Area was not completely
2 obstructed.

3 38. No substantial enclosure has surrounded any part or
4 portion of the Common Beach Area except for a small area adjacent
5 to Parcel B, constructed within the easement reserved by Douglas
6 County. Exhibit 63.

7 39. Plaintiffs did not give Intervenor specific and
8 personal notice that Plaintiffs were claiming the Common Beach
9 Area, or any part or portion thereof, as their own, by any theory
10 of prescription or adverse possession.

11 40. Plaintiffs have not had open, notorious or continuous
12 possession of the Common Beach Area, or any part or portion
13 thereof, for five (5) years preceeding the filing of this action
14 on January 23, 2003.

15 41. As of June 23, 2005, Intervenor have incurred attorney
16 fees in the amount of \$69,229.74.

17
18 **CONCLUSIONS OF LAW**

19
20 Based on the foregoing Findings of Fact, the Court makes its
21 Conclusions of Law, as follows:

22 1. The Map originally delineated the lot boundaries and
23 access rights in 1921, and particularly sets forth and describes
24 all of the parcels of land so laid out and whether they are
25 intended for avenues, streets, lanes, alleys, commons or other
26 public use, together with such as may be reserved for public
27 purposes.
28



1 2. The Map notes that all streets and avenues are 18 feet
2 in width and an 18-foot partial delineation is marked along the
3 beach area immediately west of Block A, establishing a strip of
4 land along the beach for a future street, the so called Lincoln
5 Park Beach Road.

6 3. Douglas County possesses an easement extending along
7 the streets and beach area from the original western edge of the
8 lots at issue in this matter to Lake Tahoe Datum at 6,223 feet
9 elevation ("Datum"), creating a right of access over lands west
10 of the original property lines of Blocks A, C, E and F, to the
11 Datum, for public uses and for highway and street purposes,
12 excluding Parcels A, B and C previously abandoned by Douglas
13 County, as set forth in Findings 26, 27 and 28, and as to those
14 three areas (see Exhibit 33),
15

16 Any Public Utility Easement embracing the limits of
17 the original roadway is expressly reserved [to Douglas
18 County] for the continuation, maintenance, expansion,
19 and operation of the public utilities contained within
20 the limits of this abandonment.

21 4. In reaching this determination, the Court concludes
22 that reserving access for purposes of public highways must be
23 interpreted as it pertains to the era in which such reservations
24 were made.

25 5. Considering that horses, bicycles and pedestrian means
26 were still viable modes of transportation in the early 20th
27 century, it is entirely reasonable to conclude that a dedication
28 of a street over a beach area should be interpreted as providing

1 a path for access along the beach to those that may also make use
2 of the public streets.

3 6. In 1946, Douglas County again resolved to accept an
4 offer of dedication of certain land for public uses and for
5 highway and street purposes, and later reserved a right-of-way
6 easement in the Quiet Title Actions. See Findings 23-30, Exhibits
7 16 and 33.

8 7. All parties were always on notice of the record Map,
9 the dedications and the amendments, both actually and
10 constructively pursuant to NRS 111.315 and NRS 111.320, as it may
11 affect title to their respective properties and interests in the
12 Lincoln Park Subdivision.
13

14 8. A dedication is a gift of land by the owner for an
15 appropriate public use, such as a street. Dedications may be
16 classified as either by statute or by common law. A statutory
17 dedication operates by way of grant, vesting in the municipality
18 the fee for public use. Under a common law dedication however,
19 the fee of the land dedicated for a street remains in the owner,
20 subject to a public easement in the land which is vested in the
21 municipality. A common law dedication rests upon the doctrine of
22 estoppel *in pais*, which extends to an owner permitted use of
23 private property to protect the public's expectation of continued
24 use. The recording of a plat may qualify as a statutory
25 dedication, or, at least, provides evidence of an intent to make
26 a common law dedication. Finally, the party asserting a
27
28



1 dedication bears the burden of proof. Carson City v. Capitol City
2 Entertainment, Inc., 118 Nev. 415, 421, 49 P.3d 632, 635 (2002).

3 9. Sufficient evidence exists in the record of an intent
4 to make, at a minimum, a common law dedication. A dedication of
5 land for public purposes is simply a devotion of it, or an
6 easement in it, to such purposes by the owner, manifested by some
7 clear declaration of fact. Shearer v. City of Reno, 36 Nev. 443,
8 449, 136 Pac. 705, 707 (1913). The sale of lots with express
9 reference to the Map qualifies as such evidence. Exhibits 5
10 through 12.

12 10. If a party contracts for a valuable consideration to be
13 made by others founded upon a supposed appropriation of the
14 property to the uses indicated, the dedication becomes
15 irrevocable. The lot sale contract with the Lincoln Park
16 Subdivision owner estops him from later asserting any interest
17 except in common with the lot purchasers from him. Shearer,
18 supra, 36 Nev. at 449, 136 Pac. at 708.

20 11. In this instance, access to the beach area within the
21 Map has been demonstrated as previously described. Upon
22 recordation of the Map, subsequent lot purchasers were notified
23 that beach access was allowed as an amenity.

24 12. As described previously, the Map delineates a portion
25 of the Common Beach Area at issue in this matter to serve as a
26 street with a designated width of 18 feet. Again, in 1946 Douglas
27 County resolved to accept the dedication of certain additional
28



1 land for public uses and for highway and street purposes and
2 later retained certain right-of-way easements in the Abandonment
3 and Quiet Title Actions. Exhibits 33-36.

4 13. The Intervenor, as lot owners within Lincoln Park
5 Subdivision, have and possess an easement and right to use and
6 enjoy the Common Beach Area for recreational purposes, hence the
7 recreational easement.

8 14. All the lot owners within Lincoln Park Subdivision
9 possess a recreational easement and right for beach access over
10 the same ground described in Plaintiffs' Petition, being the
11 Common Beach Area.

12 15. An easement is a right, distinct from ownership, to use
13 the land of another in some limited way, and gives no right to
14 actually possess the land affected.

15 16. A servient estate owner cannot unreasonably restrict or
16 interfere with the proper use of an easement established for
17 joint use.

18 17. When an easement is non-exclusive, as here, the common
19 users must accommodate each other.

20 18. Use of a portion of the easement is use of the whole.

21 19. The easement rights held by Intervenor cannot be
22 divested except by due process of law.

23 20. The prior quiet title actions described in the Petition
24 and in Findings 29 and 30 did not comply with due process of law
25 relative to the Intervenor and therefore did not affect
26
27
28

1 Intervenor's' interests in and to the Common Beach Area. Exhibits
2 34-36.

3 21. An easement is a vested interest in real property and
4 cannot be lost or terminated by mere non-use alone, for any
5 period, however long it may continue.

6 22. Mere use does not constitute adverse use.

7 23. The statutory provisions governing the acquisition of
8 title by adverse possession must be strictly construed and
9 strictly followed.

10 24. Plaintiffs have not met their burden of proof to
11 demonstrate compliance with the statutory provision governing the
12 acquisition or loss of title by adverse possession.

13 25. A permissive use cannot ripen into an adverse use
14 absent specific notice to the owner of the servient estate that
15 such use is henceforth adverse for purposes of creating a
16 prescriptive easement.
17

18 26. The Plaintiffs failed to show any evidence of a hostile
19 claim of right to the Common Beach Area for the requisite five
20 years.
21

22 27. Just as creation of an easement by prescription is not
23 favored in the law, the termination of an easement by adverse
24 possession or prescription is not favored.

25 28. Between co-tenants, the tenant out of possession may
26 assume that the permissive possession of his co-tenant is
27 amicable until notified that it has become hostile. Here, the
28



1 Plaintiffs failed to give notice of any adverse or hostile use to
2 Intervenor.

3 29. The use by Plaintiffs of the Common Beach Area has been
4 a matter of convenience and not of necessity.

5 30. An adverse possession claimant has the burden of
6 establishing his or her claim by clear and competent proof in
7 order to overcome the presumption that possession of the land is
8 under the regular title. The Plaintiffs failed to establish their
9 claims of adverse possession or prescription by clear and
10 competent proof.
11

12 31. Plaintiffs have not adversely possessed any portion of
13 the Common Beach Area for five years preceding the filing of this
14 action on January 23, 2003.

15 32. Plaintiffs have not extinguished any part or portion of
16 the recreational easement over the Common Beach Area by
17 prescription.
18

19 33. The easement rights held by Intervenor have not been
20 lost by non-use, abandonment, forfeiture, prescription or adverse
21 possession.

22 34. There can be no adverse possession or prescriptive
23 claim against Douglas County.

24 35. Attorney fees may be awarded as special damages in
25 those cases in which a party incurred the fees in recovering real
26 property acquired through the wrongful conduct of a party or in
27 clarifying or removing a cloud upon the title to real property.
28

1 36. Intervenor shall be awarded their costs and reasonable
2 attorney fees as special damages.

3 37. Intervenor are entitled to judgment against the
4 Plaintiffs quieting title in and to a recreational easement over
5 the Common Beach Area described in the Petition, at trial and
6 herein and at the location and for the uses herein described
7 above.

8 38. If a Conclusion of Law is found to be a Finding of
9 Fact, or Finding of Fact is really a Conclusion of Law, the same
10 should be freely substituted as the case may be.

11 **JUDGMENT**

12 Judgment based on the foregoing Findings of Fact and
13 Conclusions of Law, the Court enters Judgment as follows:

14 1. To the extent Plaintiffs' Petition seeks a declaration
15 that the Lincoln Park Subdivision beach area was dedicated to
16 Douglas County for highway and street purposes but not for public
17 use, highway and street purposes, and that the same area is not
18 subject to an easement for beach or recreation purposes, those
19 portions of the Petition are DENIED.

20 2. To the extent Intervenor's Cross-Petition requests a
21 judgment confirming the rights of Intervenor to have, use and
22 enjoy the Common Beach Area for recreational purposes, that
23 request is GRANTED.

24 3. The Intervenor jointly have, own and possess a
25 recreational easement over the Common Beach Area, being that area
26
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1 lakeward of the west side of Blocks A, C, E and F originally
2 shown on the Plat of Lincoln Park Subdivision, recorded on
3 September 7, 1921, in Book D of Miscellaneous, at Page 40A, as
4 Document 305, with the provision however, that the recreational
5 easement over all such area be extended lakeward, pursuant to NRS
6 321.595, to the low water mark of Lake Tahoe at a line whose
7 elevation is 6,223 feet, Lake Tahoe Datum, and with the further
8 provision that such recreational easement be reduced for Parcels
9 A, B and C as described in the Order of Abandonment, recorded on
10 November 18, 1997, in Book 1197, at Page 3696, as Document
11 0426667, Douglas County Records.
12

13 4. Douglas County has a right-of-way, including a
14 recreational easement over the Common Beach Area, that being the
15 area lakeward of the west side of Blocks A, C, E and F, as shown
16 on the Map, with the provision that the recreational easement was
17 reduced by abandonments for Parcels A, B and C as ordered on
18 November 18, 1997 and recorded in Book 1197, at Page 3696, as
19 Document No. 0426667, Douglas County Records.
20

21 5. Plaintiffs shall remove all fences from the Common
22 Beach Area within sixty (60) days of this Judgment. If not so
23 removed, Intervenors shall be entitled to apply to the Court for
24 further relief.
25

26 6. Intervenors are entitled to Judgment against the
27 Plaintiffs Milligan-Tahoe, LLC, Jackson Rancheria Bank of Miwuk
28 Indians, Jeffrey and Suzanne Lundahl, Thomas H. and Nancy T.

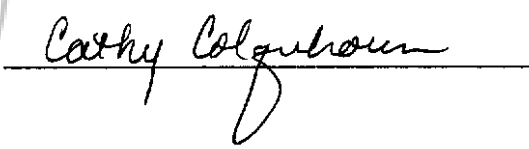
1 Tornga, Trustees of the Tornga 1998 Trust, Paul K. and N.K.
2 Chamberlain and Todd and Anne Taricco, jointly and severally, for
3 damages in recovering real property acquired through the wrongful
4 conduct of the Plaintiffs and in clarifying or removing clouds
5 from their title to the recreational easement over the Common
6 Beach Area in the amount of \$69,229.74, plus interest at the
7 lawful rate thereon from the date of Judgment.

8
9 7. Costs shall be awarded to Douglas County and to
10 Intervenors and against Plaintiffs.

11 DATED this 22 day of August, 2005.

12
13
14 
15 DAVID R. GAMBLE
16 District Judge

17 Copies served by mail this 22 day of August, 2005, to: Thomas
18 Hall, Esq., P. O. Box 3948, Reno, NV 89505; Ronald Alling, Esq.,
19 P. O. Box 3390, Lake Tahoe, NV 89449; Thomas Perkins, Esq., (hand
20 delivered).

21 

22 **CERTIFIED COPY**

23 The document to which this certificate is attached is a
24 full, true and correct copy of the original on file and of
25 record in my office.

26 DATE: August 25, 2005
27 B. Reed Clerk of the Judicial District Court
28 of the State of Nevada, in and for the County of Douglas,
By Shappell Deputy

SEAL