

CROSBY S. NOYES JR.

v.

SUSAN M. DOUGHERTY et al.

Submitted on Briefs May 30, 2013

Decided August 8, 2013

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, GORMAN, and JABAR, JJ.

#### MEMORANDUM OF DECISION

Crosby S. Noyes, Jr. appeals from a summary judgment entered in the Superior Court (Hancock County, *A. Murray, J.*) in favor of Susan M. and Daniel P. Dougherty and Nadine E. Sutherland concerning a dispute involving title and easement rights to proposed, unaccepted ways, i.e., paper streets, depicted on a subdivision plan. *See Brooks v. Carson*, 2012 ME 97, ¶ 1 n.1, 48 A.3d 224. Contrary to Noyes's argument, the court did not err in concluding that an earlier judgment collaterally estopped Noyes from arguing that his predecessor-in-title validly reserved title to the Sorrento subdivision's paper streets at issue in this dispute. *See* 33 M.R.S. § 469-A(2) (2012); *Portland Water Dist. v. Town of Standish*, 2008 ME 23, ¶ 7, 940 A.2d 1097; *Macomber v. MacQuinn-Tweedie*, 2003 ME 121, ¶¶ 22, 25, 834 A.2d 131.

The court also did not err in applying 33 M.R.S. § 469-A(6) (2012) to declare that the parties own to the center line of the disputed paper streets abutting their properties throughout the relevant portion of the subdivision. Nor did the court err by concluding that, because Noyes failed to serve all of the subdivision owners pursuant to 23 M.R.S. § 3033 (2012), the private rights to the ways in

question had not been terminated. *See Brooks*, 2012 ME 97, ¶¶ 24-25, 48 A.3d 224. Finally, the court did not commit an error of law or abuse its discretion by declining to adjudicate the question of public rights on this record. *See* 14 M.R.S. § 5963 (2012); 23 M.R.S. §§ 3031(1), 3032, 3033 (2012); *Waterville Indus., Inc. v. Fin. Auth. of Me.*, 2000 ME 138, ¶¶ 24, 25, 758 A.2d 986.

The entry is:

Judgment affirmed.

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**On the briefs:**

Stephen Collier, Esq., Collier Law Offices, Ellsworth, for appellant Crosby S. Noyes, Jr.

Chris Neagle, Esq., Troubh Heisler, P.A., Portland, for appellees Daniel and Susan Dougherty and Nadine Sutherland