

IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT
AT ANCHORAGE

FRIENDS OF THE STEWART PUBLIC)
TRAIL, INC., an Alaska Non-profit)
Corporation,)
)
Plaintiff,)

vs.)

FRANKLIN D. PUGH, Jr.,)
OKSANA V. PUGH, CHRISTOPHER)
MATTHEW CAVANAUGH, and all)
other persons or parties unknown)
claiming a right, title, estate, lien, or)
interest in the real estate described in)
the Complaint in this action,)

Defendants.)
_____)

Civil Action No. 3AN-19-5746 CI

AFFIDAVIT OF SUSANNE DIPIETRO

Susanne DiPietro, being first duly sworn, deposes upon her oath and states:

1. My name is Susanne DiPietro. I am a resident of Anchorage, Alaska. I have lived in Anchorage since September of 1987.

2. I am familiar with the travel route in the South Anchorage Hillside area known as the "Stewart Homestead Road" or the "Stewart Trail." I am very familiar with the well-defined location of the Stewart Trail on the ground.

3. I first began using the Stewart Trail for non-motorized purposes in the early-to-mid 1990's. I have used it for exercise and recreation, and to gain access to McHugh Peak in the Chugach State Park.

4. I used the Stewart Trail occasionally from the early-to-mid 1990's until it was blocked against pedestrian access by the gate at the end of Steamboat Drive in approximately 2015. Specifically, a journal of some of the hikes I took between 2005 and 2014 shows that I used the Stewart Trail to access McHugh Peak in May of 2005, June of 2006, June of 2007, September of 2007, September of 2008, May of 2009, and September of 2012 (these records are not complete, but they are otherwise accurate). My earliest record of using the Stewart Trail to access McHugh Peak was August of 1995, although I believe that was not the first time I did so.

5. My uses of the Stewart Trail have included all of the following: hiking, running, and berry picking.

6. I have sometimes used the Stewart Trail for recreation and exercise in the company of my husband, my husband's family, and friends.

7. Before the Stewart Trail gate at Steamboat Drive was blocked against pedestrian uses around 2015, I had never been prevented or obstructed from using the Stewart Trail by any of the landowners whose land is crossed by the trail.

8. My uses of the Stewart Trail have always been overt and direct, and have never been secretive or clandestine. I have never tried to conceal my uses of the Stewart Trail from any landowner or any other person.

9. When using the Stewart Trail for recreation and Chugach Park access, I have never asked or received the permission of any landowner whose land is crossed by the Stewart Trail. I have always considered the Trail to be a public access route, meaning that no grant or denial of landowner permission would apply, until it was first blocked and gated by a landowner in 2015. My understanding that Stewart Trail was a public access route was reinforced by the many other users I saw on the trail: hikers, dog walkers, bikers, runners.

10. After the trail was blocked in 2015, I once or twice accessed Baldy and McHugh via the trail that enters the brush immediately to the east of the gate; however, I used the trail less frequently.

11. In providing the above information in the form of this Affidavit, I consider myself to be a member of Friends of the Stewart Public Trail, Inc. I support its efforts to obtain a court declaration that the Stewart Trail is a non-motorized public easement by prescription. I consent to the use of my Affidavit to document the position of Friends of the Stewart Public Trail, Inc. in this lawsuit.

12. I believe that each of my statements made above is true, factual and complete, to the best of my personal knowledge.

