

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0813**

William O. Bradley,
Appellant,

vs.

For Life Home Development LLC,
Respondent.

**Filed February 3, 2025
Affirmed; motion denied
Connolly, Judge**

Hennepin County District Court
File No. 27-CV-23-4220

John S. Jagiela, St. Paul, Minnesota (for appellant)

Daria Banerjee, The Baner Law Firm, Minneapolis, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Respondent, a property owner, was granted summary judgment against appellant, the holder of an easement on the property, on grounds of res judicata. Appellant challenges the grant of summary judgment, arguing that the circumstances have changed so that res judicata does not apply. Because we see no change in the relevant circumstances, we

affirm. We also deny respondent's motion to strike portions of appellant's principal brief and reply brief as moot.

FACTS

In 1946, a 44-foot-wide strip of land leading to a cul de sac was granted as a road easement to owners of property surrounding the cul de sac. It was later divided into two 22-foot-wide strips of land, Tract J on the west and Tract K on the east. In 1968, the owners of Tracts H, I, J, and L granted the owner of Tracts E and G an "easement of ingress and egress for road purposes and an easement for gas, sewer, and water facilities." The easement provided that "the parties hereto will cooperate in the maintenance in the 44-foot roadway to Tract E of the Grantee herein, and share the cost thereof on a proportionate basis."

In 1975, appellant William Bradley acquired Tracts E and G, together with the easement. Like the residents of the other tracts, he uses the roadway on Tracts J and K to get to and from his home. This is the third action he has brought against the successive owners of Tract J and the adjoining Subtract A.

In 2011, the Kelleys owned Tract J and Subtract A. They made alterations that appellant believed interfered with his easement rights and created a nuisance. Specifically, they erected a stone retaining wall around a tree, planted a second tree, erected a fence, removed some asphalt from the road, and covered parts of the road with dirt and grass seed. Appellant brought an action against them asserting trespass and nuisance claims (the *Kelley* case). Appellant moved for partial summary judgment, and the Kelleys sought summary judgment on appellant's trespass claim. The district court denied appellant's motion and

granted the Kelleys' motion, on the ground that appellant's easement gave him the right to use, not to possess, the land. The matter proceeded to trial, and a jury awarded appellant \$4,200 in nuisance damages. The district court denied the Kelley's posttrial motions for judgment as a matter of law or for a new trial, granted in part appellant's motion for injunctive relief by requiring the Kelleys to remove some obstructions they put on the easement and to replace asphalt they had removed, and denied appellant's request for attorney fees. Appellant challenged the dismissal and the denials of his motions on appeal, but did not challenge either the district court's holdings that the easement's reference to cooperative maintenance of a 44-foot-wide roadway was "obviously referencing the road purpose of the side-by-side easements granted for Tracts J and K" and that "the configuration of the road prior to October 2010, [which traversed or straddled both Tracts J and K] met [appellant's] rights as a dominant holder of the easement" or its determination that the wall was not a nuisance. This court affirmed the dismissal of appellant's trespass claim and the denials of his motions. *Bradley v. Kelley*, No. A13-0063, 2014 WL 3557922, at *1 (Minn. App. July 21, 2014) (affirming dismissal and denials), *rev. denied* (Minn. Sept. 24, 2014).

The Kelleys declared bankruptcy, and in 2015, the Haislets acquired Tract J and Subtract A. Appellant's attorney wrote to the Haislets, asking them to authorize the removal of a wall and a tree on the easement on Tract J and the installation of asphalt on the east 20 feet of the 22-foot-wide easement. The Haislets did not provide the requested authorization, and appellant brought an action against them, (the *Haislet* case), alleging private nuisance and seeking injunctive relief.

In 2020, the district court: (1) acknowledged that the Kelleys had reduced the usable portion of appellant's easement by building a wall, planting a second tree, removing some asphalt, and adding dirt and grass seed; (2) declined to reconsider the 2012 *Kelley* case holding that the retaining wall and the first tree were not a nuisance; (3) noted that appellant had been using the paved roadway on Tracts J and K for many years to access his property; (4) required the Haislets to remove some topsoil and replace some asphalt, which would restore the road to its October 2010 condition and give appellant the full use of his easement; and (5) denied appellant's request for an injunction permitting him to install an asphalt road over the easement.

On appeal, appellant challenged the determinations that there was no nuisance, the scope of the injunctive relief, the exclusion of expert testimony with the related denial of a motion for a partial new trial, and the denial of attorney fees. This court (1) affirmed the district court's decision declining to reconsider the 2012 determination as to the first tree and the retaining wall on grounds of res judicata and collateral estoppel, (2) affirmed the findings and conclusions as to easement rights generally, (3) remanded for findings and conclusions on the second tree and parked vehicles, (4) affirmed the district court's decision not to address appellant's right to drive over Tract K, (5) affirmed the district court's order for limited injunctive relief, (6) determined that the district court did not abuse its discretion by precluding expert testimony or denying appellant's motion for a partial new trial, and (7) affirmed the denial of appellant's request for attorney fees. *Bradley v. Haislet*, A20-1207, 2021 WL 2793723, at *7-14 (Minn. App. July 6, 2021), *rev. denied* (Minn. Sept. 30, 2021).

In September 2021, the house on Subtract A was destroyed by fire. A year later, respondent For Life Home Development, LLC, acquired Tract J and Subtract A. Appellant moved for an order to vacate the 2020 judgment. He also requested, in a letter, that respondent authorize clearing obstructions and installing asphalt so appellant could experience “full use and enjoyment of his [e]asement.” Respondent refused authorization. Appellant then brought this action, in which he: (1) alleges interference with easement; (2) seeks injunctive relief, enjoining respondent from actions that interfere with appellant’s full use and enjoyment of the easement, in particular his right to install asphalt; (3) seeks declaratory relief, authorizing him to remove grass and dirt and install asphalt; and (4) seeks damages of \$10,000. Both parties moved for summary judgment. The district court granted respondent’s motion and denied appellant’s motion on the ground that appellant’s claims were barred by res judicata.

Appellant challenges the denial of his motion for summary judgment and the grant of summary judgment to respondent, arguing that, because there has been a change in circumstances, res judicata does not apply. Appellant requests a remand to the district court for findings of fact on the new house built on Subtract A; respondent moves to strike portions of appellant’s brief and reply brief, and appellant in his opposition to that motion reiterates his request for a remand.

DECISION

I. Summary Judgment

Summary judgment is reviewed de novo to determine “whether there are genuine issues of material fact and whether the district court erred in its application of the law.”

Montemayor v. Sebright Prods., Inc., 898 N.W.2d 623, 628 (Minn. 2017). The application of res judicata is a question of law that is reviewed de novo. *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004) (quotation omitted).

Appellant raised three claims: (1) interference with an easement; (2) injunctive relief enjoining respondent from interfering with appellant's ability to install asphalt on the road surface of the easement on Tract J; and (3) declaratory relief, i.e., a declaration authorizing appellant to remove grass and dirt and to install asphalt on the road surface of Tract J. The district court agreed with respondent that these "claims are barred in their entirety by res judicata."

Res judicata requires (1) an earlier claim involving the same set of circumstances, (2) the earlier claim involving the same parties or their privies, (3) a final judgment on the merits, and (4) that a full and fair opportunity to litigate the matter was available to the estopped party. *State v. Joseph*, 636 N.W.2d 322, 327 (Minn. 2001). "When these four requirements have been satisfied, res judicata bars claims regarding matters actually litigated and every matter that might have been litigated in the prior proceeding." *Schober v. Comm'r of Revenue*, 853 N.W.2d 102, 111 (Minn. 2013).

The only disputed requirement is the first: the set of circumstances. The unchanged circumstances here are that appellant has always wanted and continues to want to apply asphalt to most of Tract J; he has unsuccessfully sued the two prior owners of that tract in an effort to get an injunction enabling him to do this. Appellant now argues that the circumstances are not the same because of the demolition and removal of the house that burned on Subtract A and the clearing and excavating of land on Subtract A and Tract J.

The district court, having reviewed the district court decisions and this court's decisions in the *Kelley* and *Haislet* cases, "conclude[d] that the circumstances are identical warranting the application of res judicata."

The district court's conclusion is based on the fact that appellant's complaints in the *Haislet* case and this case are virtually identical. Although the *Haislet* complaint stated a claim for private nuisance and this complaint states a claim for interference with easement, both complaints seek removals of items that prevent asphalt from being installed on Tract J and an injunction authorizing appellant to install asphalt on Tract J. The *Haislet* court denied an injunction, and this court affirmed:

[Appellant] urges us to reverse the district court's denial of his request for an order requiring the Haislets to authorize the removal of various obstructions and the paving of almost all of Tract J. . . .

. . . We review a district court's decision regarding injunctive relief for an abuse of discretion. . . .

. . . [T]he district court indicated that it needed to "balance the competing rights" of the Haislets as owners in fee simple against [appellant's] "entitlement to the full use and enjoyment of the easement" in order to construct an equitable remedy that gives necessary assurances to the current and future owners of the subject property. [Appellant] argues that the district court misapplied the law because there is no balancing test in the case of an express easement

[This] argument rests on the mistaken premise that any obstruction upon the tract is per se a nuisance. More importantly, [appellant] ignores the fact that Minn. Stat. § 561.01 codifies an equitable cause of action; consequently, it implicitly recognizes a need to balance the social utility of defendants' actions with the harm to the plaintiff. Given the equitable nature of a private nuisance action, the district court

did not err by balancing the Haislets' interests as owners in fee simple against [appellant's] interest as an easement holder.

Haislet, 2021 WL 2793723, at *12 (emphasis omitted) (citation and quotation omitted).

Appellant also argued in the *Haislet* case that the district court's balancing test violated his equal-protection rights. This court disagreed:

[Appellant's] equal-protection argument likewise fails. The Minnesota Constitution provides, "No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers." Minn. Const. art. 1, § 2. [Appellant] contends that there are "no Minnesota [c]ases or other authorities which have allowed the Fee Simple Owner of Property subject to an Express Written Deed of Appurtenant Easement to maintain permanent obstructions on the easement which block the use of the easement for its intend purposes." As set forth herein, the district court properly declined to reconsider whether the first tree and retaining wall were nuisances, and [appellant] fails to support his assertion that the remainder of the Haislets' lawn substantially interferes with his easement rights. . . .

The district court did not abuse its discretion in deciding the appropriate scope of injunctive relief as to the alleged nuisance conditions it expressly addressed. We therefore decline to reverse on these grounds.

Id. at *12-13.

Appellant again seeks an injunction permitting him to install asphalt on Tract J, arguing that the absence of asphalt deprives him of the "full use and enjoyment" of his easement. "Generally, injunctions are granted only in cases where an interference with or obstruction of the easement substantially changes or unreasonably interferes with the owner's use of its easement." See, e.g., *Minneapolis Athletic Club v. Cohler*, 177 N.W.2d

786, 790 (Minn. 1970) (construction of skyway over alley did not interfere with right-of-way easement to use alley). The district court here noted that:

The *Haislet* court did not award injunctive relief because it held that even with removal of the nuisance conditions, there was no unreasonable interference warranting injunctive relief. Now, even though the site conditions appear to be less of an impediment to construction, the *Haislet* decision still applies. The current condition does not unreasonably interfere with [appellant's] [e]asement.

....

... Finally, the *Haislet* appellate court outright rejected [appellant's] argument that any interference with any portion of his Easement is unreasonable.

(Emphasis omitted.) Thus, the district court did not err in applying res judicata to appellant's request for injunctive relief because appellant's claims are based on the same set of circumstances as appellant's earlier claim in the *Haislet* case.

Appellant also argues, as he argued in *Haislet*, that because the current road runs over both Tract J and Tract K and he has no easement over Tract K, the current road is not adequate for his access. In that appeal, this court noted that “the [*Haislet*] district court declined to amend its finding that the record did not support [appellant's] claim that he was prohibited from driving on the road on Tract K,” and quoted the *Haislet* district court's statement that “whether [appellant] has a legal right to drive down Track K is not properly before the Court, and in any event is not ripe for adjudication.” *Haislet*, 2021 WL 2793723, at *5.

The district court here concluded that:

The true gravamen of [appellant's] Complaint is [respondent's] refusal to allow a road over Tract J. And [appellant's] true issue with the prior litigation is that he believes it is flawed on this point. The *Kelley* Court held that [appellant's] [e]asement rights were fully satisfied by his access to the current road that straddles Tracts K and J. He attacked this outcome in *Haislet* by arguing that he has no easement right over Tract K and therefore the access to his property that his Easement protects cannot possibly be protected by his access to the current road. He made this argument in *Haislet* and he has made it in the instant matter.

. . . [I]t is an argument that was fully litigated in *Haislet*
....

. . . [G]iven that res judicata applies, this Court must conclude as the *Haislet* Court did: [appellant's] [e]asement is not unreasonably interfered with by either the current condition of Tract J or by [respondent's] refusal to authorize the construction of an asphalt road over Tract J. And consequently, [appellant] is not entitled to either the injunctive or declaratory relief that he seeks.

We agree and therefore conclude that the district court's application of res judicata in granting summary judgment for respondent was not erroneous.

II. Respondent's Motion to Strike

Because we are affirming the grant of summary judgment to respondent, we deny the motion to strike as moot.

Affirmed; motion denied.