

DISTRICT COURT, LARIMER COUNTY, COLORADO Larimer County Justice Center 201 La Porte Avenue Suite 100 Fort Collins, CO 80521 970-494-3500	DATE FILED: June 8, 2017 9:45 AM CASE NUMBER: 2016CV31096
Plaintiff: CITY OF FORT COLLINS, a Colorado municipal corporation; and Poudre Fire Authority, a Colorado public entity, v. Defendant: KEITH GILMARTIN, an individual.	▲ COURT USE ONLY ▲
	Case No.: 16CV31096 Div.: Ctrm: 3C
ORDER GRANTING TEMPORARY RESTRAINING ORDER	

THIS MATTER comes before the Court on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction ("Motion"). A hearing was held on the Motion's request for temporary restraining order at 9 a.m., June 8, 2017. The Court, having reviewed the Motion's request for a temporary restraining order, having considered testimony, evidence, and argument presented at hearing, and being fully informed in the premises, hereby finds that:

1. Plaintiffs have standing to seek a temporary restraining order.
2. Defendant received notice of Plaintiffs' Motion.
3. Plaintiff Poudre Fire Authority (the "Authority") operates a Training Center located at 3400 West Vine Drive in Fort Collins, Colorado ("Training Center"). On January 15,

1991, Defendant and his parents, in exchange for the sum of \$4,669.00, granted, sold, and conveyed to the City and its successors and assigns an easement (the "Easement") described as follows:

a perpetual easement and right-of-way to install, operate, maintain, repair, reconstruct, replace, inspect and remove, at any time and from time to time public improvements (including without limitation, street, utilities, sidewalk and drainage), together with a right-of-way for access on, along, through and under the [Gilmartin Property].

4. There is an immediate threat of irreparable harm to Plaintiffs and the general public absent a temporary restraining order because Defendant has repeatedly interfered with persons using the Easement in a hostile and dangerous manner, even after this litigation was commenced.

5. The threat of irreparable harm is exacerbated by the fact that the Authority is hosting a family night for the Authority's staff and family members on June 9, 2017. All of the attendees will need to cross the Easement from West Vine Drive to the Training Center, and Defendant's actions in interfering with the Easement threatens the attendees' physical safety.

6. Absent an order enjoining Defendant from interfering with the use of the Easement, Defendant's actions pose a significant risk to the health, safety, and welfare of the general public.

7. A temporary restraining order will maintain the status quo between the parties while the Court has an opportunity to hold a hearing on Plaintiff's Motion for Preliminary Injunction.

THE COURT hereby GRANTS the Motion for Temporary Restraining Order and ORDERS that Defendant is enjoined, at all times on all days, from interfering with Plaintiffs'

rights under the Deed of Easement, including but not limited to, enjoining Defendant from: (1) interfering with any person using the Easement to access the Training Center; (2) placing anything whatsoever within the Easement (Mr. Gilmartin is allowed to use his property within the easement as long he does not interfere with the use of the use of the easement); (3) placing any sign, barrier or other object that interferes with the use and enjoyment of the Easement; (4) engaging in threatening, intimidating or harassing behavior directed at people using the easement, such as shouting, cursing or making threatening gestures; (5) encouraging, inciting, or securing other persons to interfere with Plaintiffs' rights under the Deed of Easement;

PURSUANT TO THE AGREEMENT OF THE PARTIES THE COURT ALSO ORDERS that any communications from Mr. Gilmartin with plaintiffs related to this action, except in the event of an emergency, shall be directed to counsel of record;

THE COURT FURTHER ORDERS that no security is necessary and that this Temporary Restraining Order shall be effective immediately and shall continue until such time as the Court rules on Plaintiffs' Motion for Preliminary Injunction or until the Court orders otherwise PROVIDED HOWEVER, that this order shall expire after 14 days unless plaintiffs have scheduled a hearing in Division 3C of this Court within that time.

SO ENTERED this 8th day of June, 2017.

BY THE COURT:



District Court Judge