

EXHIBIT C

Plaintiff Bayfield County's Brief in Opposition to Defendant's Motion to Dismiss,

Bayfield County v. Bristol, No. 17-CX-1, Wis. Cir. Ct. Bayfield County,

filed by Attorney Linda Coleman, July 7, 2017

STATE OF WISCONSIN

CIRCUIT COURT

BAYFIELD COUNTY

BAYFIELD COUNTY, a political subdivision of the State of Wisconsin,

vs. Plaintiff,

FILED
Office of Clerk of Courts
BAYFIELD COUNTY

Case No. 17 CX 1

LINDA BRISTOL,

JUL 07 2017

Defendant.

May R. Cederberg

PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

COMES NOW the plaintiff, Bayfield County, by its attorneys, Spears, Carlson & Coleman, by Linda I. Coleman, and submits this brief in opposition to the Defendant's Motion to Dismiss.

FACTS

In 2016, the defendant Linda Bristol purchased a parcel of real estate known as Lot 8 of the Cliff Pointe Subdivision, which is located in the Town of Russell, Bayfield County (hereinafter the "Property"). Prior to Linda Bristol, Janette and Tracy Nelson owned the Property. Mr. and Mrs. Nelson are not tribal members, while Linda Bristol is a member of the Red Cliff Band of Lake Superior Chippewa. *See* Affidavit of Linda Coleman, submitted contemporaneously with this brief.

The Property now owned by Ms. Bristol is part of the Cliff Pointe Subdivision in Bayfield County (hereinafter the "Subdivision"). In 1990, the original developers of the Subdivision, the then-current owners of the lots in the Subdivision and the Tribe had a dispute about the development of the lots in the Subdivision which resulted in litigation in the Red Cliff Tribal Court. To resolve that case, all of the parties (including the Tribe) entered into a Development Agreement (hereinafter the "Agreement"). A fair and accurate copy of that

This motion by the defendant can essentially start and end with the Agreement and Declaration, which run with Ms. Bristol's Property and are binding upon her. Under the terms of those documents, Ms. Bristol is obligated to get all permits required by Bayfield County for development of her property and has also consented to the jurisdiction of the Bayfield County circuit court. The Tribe, as well, which the defendant characterizes as a necessary party that cannot be subjected to this court's jurisdiction, bound itself to the jurisdiction of the circuit court in relation to this parcel of real estate and agreed that parcel owners would need to obtain necessary permits from Bayfield County.

Even if the Agreement and Declaration did not exist, the Supreme Court has already ruled that fee simple properties within reservation boundaries, even if owned by a Tribe, are subject to state jurisdiction. While the *City of Sherrill* case pertained to real estate taxes under state law, the Court found that the fee simple parcels were subject to the tax partly because, if they weren't, the Tribe might also try to assert that the parcels were also not subject to state zoning laws. Even the dissenting justice found that notion to be nonsensical. The *City of Sherrill* case was decided after the 9th Circuit case upon which the defendant relies, and clearly the Supreme Court precedent prevails. The Court wisely pointed out that a checkerboard of alternating state and tribal government would seriously burden administration of state and local government and adversely affect neighboring landowners. These same considerations apply in the case at issue. Linda Bristol is the current owner of a fee simple parcel that has been owned and may in the future be owned by non-tribal members. The alienability of the parcel has taken it out of the jurisdiction of the Tribal government. If the parcel is placed into trust, Tribal jurisdiction will be restored. Until that time, Bayfield County maintains zoning authority over the property.

Dated this 21st day of June, 2017.

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