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CLERK OF THE DISTRICT COURT TERRY HALPIN

2022 JAN 19 P 1:43

MONTANA THIRTEENTH JUDICIAL DISTRICT, YELLOWSTONE COUNTY FILED

BY DEPUTY Cause No. DV 19-1444

GARY McDANIEL, SUSAN McDANIEL, on behalf of themselves and all others similarly situated. Plaintiffs, CITY OF BILLINGS, Defendant.

PARTIAL SUMMARY JUDGMENT (COUNT I)

On January 5, 2022, the Court entered a Decision and Order on the Plaintiffs' Motion for Partial Summary Judgment Regarding the Legality of City Ordinances and SIA Provisions Imposing "Franchise-Fees" (Count I) (Ct. Doc. 99). The Court granted Plaintiffs' Motion for partial summary judgment and ruled that Plaintiffs are entitled to a partial summary judgment providing for (1) a declaration that the "franchise fees" are unlawful; (2) a declaration that any provisions in the SIA relating to Plaintiff's property and purporting to obligate Plaintiffs to the SIA is an illegal sales tax and unenforceable; and (3) an injunction prohibiting the City from imposing these taxes in the future on Plaintiffs. Based upon the Court's Decision and Order, the Court enters the following partial summary judgment:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 1. Partial Summary Judgment is entered in favor of Plaintiffs Gary McDaniel and Susan McDaniel and against Defendant City of Billings on Count I of Plaintiffs' Complaint according to the following paragraphs.

2. The “franchise fees” which are the subject of this lawsuit are unlawful.

3. Any provisions in the Subdivision Improvement Agreement relating to Plaintiffs’ property and purporting to obligate Plaintiffs to pay an illegal sales tax are unenforceable.

4. Defendant City of Billings, its officers, agents, servants, employees, or persons in active concert with any of them, are ENJOINED from imposing these illegal sales taxes in the future on Plaintiffs.

5. Pursuant to Rule 54 M.R.Civ.P., this is not a final judgment.

Dated January 19, 2022.



Hon. Mike Salvagni
Presiding Judge

cc: Matthew G. Monforton
Doug James
Bryce Burke

MONTANA, THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

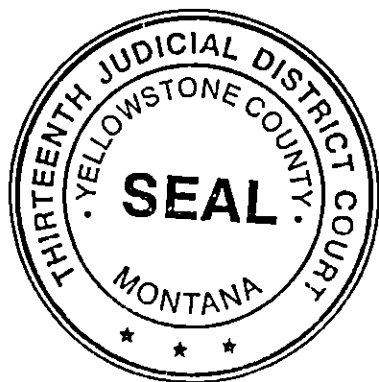
Gary McDaniel, et al.)	Case No. DV 19-1444
)	
Plaintiffs,)	
)	Judge Michael Salvagni
)	
Vs.)	
)	
City of Billings,)	CERTIFICATE OF SERVICE
)	
Defendant.)	

On this 19th day of January 2022, the Clerk of District Court certifies that a true and correct copy of the Partial Summary Judgment (Count I) Pursuant to Mont.R.Civ.P56 under seal was mailed, first class, postage paid, to the following parties:

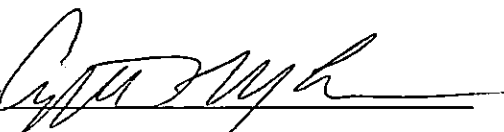
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