

Hondo Land Grant federal lawsuits at standstill

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It may still be months before a decision is made in a federal lawsuit aimed at clearing title to properties in the historic Arroyo Hondo Land Grant.

A cloud was put over an estimated 3,000 properties after members of the Arroyo Hondo Land Grant Board filed a warranty deed and other documents with the Taos County Clerk more than a year ago. The deed purported to pass ownership of the 20,000-acre grant, located a few miles north of Taos, to the board and to the unnamed heirs of the grant's original settlers.

A similar deed was filed for the 22,000-acre Cristóbal de La Serna Land Grant in December. It was nullified by a judge after the town of Taos filed a lawsuit in April.

In the Hondo case, the wheels of justice are moving much slower. Attorneys for the title companies have made repeated motions to spur a speedy decision in the case with no success. They've presented affidavits from members of the real estate community expressing an urgent need to have the deeds revoked so sales and refinances of properties can resume. A judge with the U.S. District Court for New Mexico canceled a scheduling conference Monday (Oct. 31) that would have set deadlines for discovery. The judge canceled the conference to make a ruling on those motions.

Last week, a joint update was filed on the case outlining the arguments from both sides. The update says the title companies simply want the court to decide whether the Arroyo Hondo Land Grant Board has the right to claim title to all lands within the grant. The attorneys are asking that the documents be declared null and void, and expunged from the county clerk's record. They also ask that the court enjoin the defendants from claiming any ownership of land based on the grant's century-old land patent.

Attorneys for the title companies call the deeds "frivolous documents" that are meant to "undo over a century's worth of good-faith real estate transactions." They point out that members of the Hondo board have already acknowledged that the deeds themselves are of no legal effect.

The plaintiffs are also asking a judge to invalidate a set of bylaws that were filed with the New Mexico Secretary of State in 2009. The bylaws purport to give the board "sweeping powers," including the right to "repossess, by all means necessary ... all private, common, county, state or federal lands" within the grant boundaries. The title company attorneys call the bylaws "fanciful documents" that were filed by a "self-declared, self-appointed, and unelected board" and have absolutely no legal grounds.

Albuquerque attorney Santiago Juárez, who agreed to defend the Hondo board, counters that title companies “overlooked the legitimacy of the Arroyo Hondo grant patent #159” that was approved by Congress in 1910. The patent, signed by President Theodore Roosevelt, describes the land encompassed by the grant using landmarks like labeled granite stones and the property owned by “settler Pablo Córdova.” The patent states that the land is given to “Nerio Sisneros and the forty-four families with him (the original settlers), and to their heirs successors and assigns forever.”

While the Hondo board has interpreted this phrase to mean that the land can never be transferred to non-heirs, “assigns” is widely accepted to mean those to whom land is legally sold. Title companies explain that the patent simply serves as a foundation of land ownership but does not preclude land from changing hands.

Juárez also contends that the title companies own no property within the grant, and therefore have no legal standing to bring a suit.

Meanwhile, a separate lawsuit filed by a sister of several Hondo board members is still in limbo in state district court in Taos. Palmela Reed-Ortiz claims her 101-year-old father, Manuel Ortiz Sr., gave her a small piece of property and house in Arroyo Hondo that is under a cloud because of the land grant deed. The Hondo land grant deed is signed “Manuel Ortiz, Sr.,” but a deposition by Reed-Ortiz’ attorney suggests that the signature was forged. Juárez also came to the defense of the board in that case, which is in the hands of District Judge John Paternoster.