


HON. JEFFREY H. LANGTON
District Judge, Dept. No. 1
Twenty-first Judicial District
Ravalli County Courthouse
205 Bedford Street, Suite A
Hamilton, Montana 59840-2853
Phone (406) 375-6780
Fax (406) 375-6785

FILED
PAIGE TRAUTWEIN, CLERK

OCT 18 2013


DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

DEBBIE THRALL,

Plaintiff,

vs.

DEAN VANCE and RAMONA VANCE,

Defendant.

Dept. No. 1
Cause No. DV-13-367

17

ORDER

The Court having been requested to enter its judgment for partitioning of real property in this action and notice of said pending action having been served on the Ravalli County Commissioners and Planning Department by the Plaintiff's attorney on October 16, 2013 and good cause appearing,

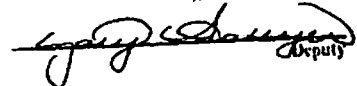
IT IS HEREBY ORDERED that the Ravalli County Commissioners shall have thirty (30) days from and after the date of this order to present written comment on the proposed division to the Court and Plaintiff's attorney, David T. Markette.

DATED this 18th day of October, 2013


HON. JEFFREY H. LANGTON, District Judge

cc: David Markette, Esq.
Ravalli County Attorney
Ravalli County Commissioners
Ravalli County Planning Department

I certify that I forwarded copies of this instrument to counsel of record (to Markette) to atty. & cc. copy. & to planning department. & to record. & to filed by 2013 and
Paige Trautwein, Clerk


Deputy

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HON. Jeffrey H. Langton
District Judge - Dept. No. 1
Twenty-First Judicial District Court
Ravalli County Courthouse
205 Bedford- Suite A
Hamilton, MT 59840
(406) 375-6780
Fax: (406) 375-6785

RECEIVED

OCT 21 2013

Ravalli County Commissioners

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MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

<p>DEBBIE THRALL, Plaintiff, vs. DEAN VANCE and RAMONA VANCE, Defendants.</p>	<p>CAUSE NO. DV-13-367 Dept. No. 1 (Jeffrey H. Langton) NOTICE OF PETITION FOR PARTITION OF REAL PROPERTY</p>
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TO: RAVALLI COUNTY GOVERNING BODY

Pursuant to Section 76-3-201(4) MCA, notice is hereby given that the Plaintiff in the above-captioned action filed a Petition For Partition of Real Property which involves a boundary line adjustment. A copy of said petition is attached hereto as Exhibit "A".

DATED this 16th day of October, 2013.

MARKETTE & CHOUINARD, P.C.


David T. Markette
Attorney for Plaintiff 3-110

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CERTIFICATE OF SERVICE

I, Sydney Sliper, legal assistant for David T. Markette, do hereby certify that on the 16th day of October, 2013, I did serve a copy of **NOTICE OF PROPOSED PARTITION OF REAL PROPERTY** by depositing copies thereof in the U.S. Mail at Hamilton, Montana with first class postage thereon and addressed to:

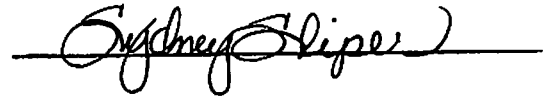
Dean Vance
PO Box 452
Stevensville, MT 59870 ✓

Ravalli County Planning Dept.
215 S. Fourth Street, Suite F ✓
Hamilton, MT 59840

Ramona Vance
PO Box 452
Stevensville, MT 59870 ✓

Ravalli County Commissioner's Office ✓
215 S. Fourth Street, Suite A
Hamilton, MT 59840

Ravalli county Attorney's Office ✓
205 Bedford Street, Suite C
Hamilton, MT 59840



1 David T. Markette
2 Dustin M. Chouinard
3 MARKETTE & CHOUINARD, P.C.
4 601 S. First Street
5 P.O. Box 515
6 Hamilton, MT 59840
7 (406) 363-1110
8 marklaw@cybernet1.com

9 Attorneys for Debbie Thrall

FILED
PAIGETRAUTWEIN, CLERK
SEP 05 2013

DEPUTY
MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

10 DEBBIE THRALL, 11 Plaintiff, 12 vs. 13 DEAN VANCE and RAMONA VANCE, 14 Defendants.	10 CAUSE No. <u>DU-13-367</u> 11 Dept. No. <u>L</u> JEFFREY H. LANGTON 12 13 PETITION FOR PARTITION OF 14 REAL PROPERTY
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15
16 COMES NOW Plaintiff, Debbie Thrall, by and through her attorney of record,
17 David T. Markette, and hereby files this Petition for Partition of Real Property.

18
19 **BACKGROUND**

20 1. Plaintiff (hereinafter Thrall) and Defendants (hereinafter Vances)
21 purchased a parcel of land described as:

22 Lot 1 Schiller Subdivision, Ravalli County Montana, according to the
23 official plat recorded August 5, 1997 as Instrument No. 423287.

24 2. A Warranty Deed was executed and filed with the Ravalli County Clerk
25 and Records Office on March 13, 2006 as document number 568628. A copy of the
26 Warranty Deed is attached hereto as Exhibit "A".

27 3. Vances own property adjacent to Lot 1 Schiller Subdivision to the north
28

Petition for Partition of Real Property

EXHIBIT
"A"

Page: 1 of 4

1 and west. Certificate of Surveys # 423287 and #638459-R show the location of Lot 1
2 Schiller Subdivision and the surrounding parcels. Copies of Certificate of Surveys are
3 attached hereto as Exhibit "B".

4 4. Thrall and Vances purchased Lot 1, Schiller Subdivision with the mutual
5 agreement and understanding that a boundary line relocation would subsequently be
6 requested whereby Vances would acquire the northern portion of Lot 1, Schiller
7 Subdivision and Thrall would acquire the southern portion. This would be
8 accomplished by filing for a Subdivision Exemption to relocate a common boundary.
9 Once the relocation was approved, Thrall would become sole owner of the southern
10 portion and Vances would own the northern portion which would become added to
11 their adjacent parcel.

12 5. In early 2009, a Subdivision Exemption Application was filed in Ravalli
13 County to relocate the boundary lines for Lot 1, Schiller Subdivision. Applebury Survey
14 generated a proposed Amended Subdivision Plat. A copy of the proposed Amended
15 Subdivision Plat is attached hereto as Exhibit "C".

16 6. The Subdivision Exemption Application (SEA-09-15) was approved and
17 an extension to file the final plat and associated documents was granted. The
18 deadline to file the plat was April 2, 2011. A copy of the Subdivision Exemption
19 Application (SEA-09-15) is attached hereto as Exhibit "D".

20 7. A disagreement between Thrall and Vances prevented the filing of the
21 appropriate documents by the deadline and the Subdivision Exemption has expired.

22 8. Vances, subsequent to the Subdivision Exemption for Lot 1, Schiller
23 Addition, filed another Subdivision Exemption for their adjacent parcels. This
24 subsequent Exemption resulted in Certificate of Survey #638459. See Exhibit B.

25 9. The new Certificate of Survey #638459-R altered the configuration of the
26 proposed Amended Subdivision Plat for the Schiller Subdivision. Lot 1A on the
27 Amended Subdivision Plat is now Parcel B Certificate of Survey #638459-R.

28

1 10. Thrall wishes to sell her portion of the property and requires that the
2 property to be divided as per the original agreement and proposed division shown on
3 the draft Amended Subdivision Plat. Vances have resisted the division and partition
4 and have not honored the verbal agreement and understanding of the parties at the
5 time the property was purchased.

6 11. Thrall is seeking to have this Court order that the property be partitioned
7 according to the 2009 boundary relocation as shown on the proposed Amended
8 Subdivision plat in relation to Lot 1, Schiller Subdivision. Thrall would receive sole
9 ownership of what is shown as Lot 1B on the proposed Amended Subdivision Plat.
10 The Vance portion of Lot 1, Schiller Subdivision would be incorporated into Parcel B of
11 their subsequent boundary relocation recorded as Certificate of Survey #638459-R.

12 12. Alternatively, if a boundary relocation cannot be made, Thrall requests a
13 partition of the real property into two separate lots based upon the configuration and
14 size shown on the proposed Amended Subdivision Plat. Thrall would receive sole
15 ownership of the parcel shown as Lot 1B and Vances would become sole owners of
16 the remainder portion of the original Lot 1 Schiller Subdivision.

17 WHEREFORE, Plaintiff Debbie Thrall, respectfully prays for judgment as
18 follows:

19 A. The entry of a judgment for the partition of real property as proposed in
20 the boundary relocation shown on the Amended Subdivision Plat created in 2009.
21 Thrall would receive sole ownership and clear title to Lot 1B, and Vances would obtain
22 clear title to the remainder of the original Lot 1 Schiller Subdivision which would be
23 incorporated into and become part of Parcel B, Certificate of Survey #638459-R, and
24 in the matter provided by law.

25 B. Alternatively, if a boundary relocation cannot be made, Thrall requests an
26 entry of judgment that partitions the real property described as Lot 1 Schiller
27 Subdivision, into two separate lots based upon the configuration and size shown on
28

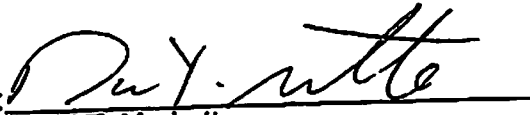
1 the proposed Amended Subdivision Plat. Thrall would receive sole ownership of the
2 parcel shown as Lot 1B and Vances would become sole owners of the remainder
3 portion of the original Lot 1 Schiller Subdivision.

4 C. A judgment in favor of Plaintiff, Debbie Thrall, for all costs associated
5 with this request for partition including, but not limited to, all attorney fees, survey fees,
6 county filing requirements and fees, document fees, title insurance or any other fees
7 and costs for breach of agreement.

8 D. For any other such relief that the Court deems necessary including an
9 award of attorney fees and costs.

10 DATED this 5th day of September, 2013.

11 MARKETTE & CHOUINARD, P.C.

12
13 By: 
14 David T. Markette
15 Attorney for Debbie Thrall
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STATE OF MONTANA RAVALLI COUNTY
RECORDED: 03/13/2006 3:07 WARRANTY
Nedra P. Taylor

568268

Page 1 of 2

CLERK AND RECORDER BY: S. Jatsubana

FEE: \$14.00

AND WHEN RECORDED MAIL TO:
Dean Vance, Ramona Vance, Debbie Thrall
PO Box 452
Stevensville, MT 59870
Filed for Record at Request of:
First American Title Company

Space Above This Line for Recorder's Use Only

Order No.: 153645-R
Parcel No.: 404810

WARRANTY DEED

FOR VALUE RECEIVED,

Clara Schiller

hereinafter called Grantor(s), do(es) hereby grant, bargain, sell and convey unto

**Dean Vance and Ramona Vance as joint tenants as to an undivided one half interest and
Debbie Thrall as to an undivided one half interest, all as tenants in common**

whose address is: **PO Box 452, Stevensville, MT 59870**

Hereinafter called the Grantee, the following described premises situated in Ravalli County, Montana,
to-wit:

Lot 1, Schiller Subdivision, Ravalli County, Montana, according to the official plat recorded August
5, 1997 as Instrument No. 423287.

SUBJECT TO covenants, conditions, restrictions, provisions, easements and encumbrances apparent or of
record.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said Grantees and to
the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said
Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all
encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations,
restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant
and defend the same from all lawful claims whatsoever.

nm

EXHIBIT
"A"

**Sanitation in Subdivision Exemption Application
Ravalli County, Montana**

Landowner Information - Property Owner(s)

Fee (\$100) Receipt # _____

Tract/Parcel/Lot # Lot 1 & Remainder Schiller Subdivision Tax ID# 404800 & 404810
Certificate of Survey # _____; Geocode # _____
Legal Description: NW Section 26; Township 9 N; Range 20 W
Property Owner Name: Dean Vance, Ramona Vance & Debbie Thrall
Address: P.O. Box 607 (Montana Westgate)
City/State/Zip: Stevensville, MT 59870
Phone: Debbie 777-0057

Please provide the REQUIRED information for each exemption, e.g., copy of court order, mortgage documents, life estate records, agricultural lease, right-of-way or copy of septic system permit for MCA 76-4-125(2)(e)(ii) and copy of previous DEQ approval for ARM 17.36.605(2)(b).

Attachments:

1. Provide a copy of the Certificate of Survey or Plat that clearly shows the boundary of the property and any new boundary lines. Label boundary lines as "old or existing" and "new or proposed".
2. Provide a copy of the subdivision exemption letter from the planning department, if applicable.

Type of Exemption Requested (check all that apply):

- Lot 1B is exempt from sanitation review by the Department of Environmental Quality pursuant to M.C.A. 76-4-125 (2)(e)(i) as a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer because the remainder is served by public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or M.C.A. Title 76, Chapter 4.
- Lot 1A is exempt from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605 (2) (a) as a parcel that has no existing facilities for water supply, wastewater disposal, or solid waste disposal, if no new facilities will be constructed on the parcel.

M.C.A. 76-4-122 (2) (c) Any person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption.

Each exemption must be stated on the survey for each tract, lot, or parcel numbers.

All Owners for the tracts/parcels/lots on the Certificate of Survey or Plat that are claiming exemptions must sign:

Full Name: <u>Dean Vance</u>	Signature: _____
Full Name: <u>Ramona Vance</u>	Signature: _____
Full Name: <u>Debbie Thrall</u>	Signature: _____





Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406.375.6530
Fax 406.375.6531
planning@ravallicounty.mt.gov

OG-10-32-83

February 16, 2010

Applebury Survey
Ann-Terry-Nelson
914 US Highway 93
Victor, MT 59875


RE: One-year extension - Subdivision Exemption Application (SEA-09-15)
Parcel # 404800 and # 404810

Dear Mr. Nelson:

We have reviewed your request for a one-year extension to the above-mentioned subdivision exemption application and have granted an approval. Please be advised that the survey must be filed with the County Clerk and Recorder by April 2, 2011. When submitting materials for filing, be sure to include the original of this letter.

If you have any questions, please do not hesitate to call.

Sincerely,


Danielle High
Office Manager

Cc: Subdivision Exemption Application File SEA-09-15
Outgoing Mail File
Dean & Romona Vance and Debbie Thrall, PO Box 607, Stevensville, MT 59870

EXHIBIT
"D"