



Jury orders city of Whitefish to pay property owner over street project

*By CHERY SABOL
The Daily Inter Lake*

A jury Wednesday ordered the City of Whitefish to pay a property owner more than \$161,000 for property used to build part of 13th Street seven years ago.

With interest and fees, the city will owe K & R Partnership about \$400,000, according to Whitefish attorney Sean Frampton.

He represented the partnership, which owns the property at the intersection of U.S. 93 and 13th Street. Frampton's father, Kent Frampton, is managing partner for the building which houses Best Bet Casino and Dos Amigos restaurant. The same partners own the casino and lease the restaurant space.

When the city built the 13th Street cut-across from U.S. 93 to Baker Avenue, it took more than 7,000 feet of the property. It paid the business \$130,000, gave it another piece of property and paved it as a parking for K & R.

The jury was not told about that payment.

Frampton said the partnership agreed to the payment as "severance damages" awarded to landowners to cover the financial damage the owner suffered because of the loss of property. What wasn't resolved was the actual value of the property itself, he said.

Frampton said the business benevolently agreed to the partial payment so that work could proceed on 13th Street. The city benefited by having immediate access to property, he said. The state paid to install lights at a four-way intersection, he said. If the property owners had delayed, the city would have had to carry the cost of the light because the intersection would be only three ways until the property matter was settled.

Negotiations stopped after the \$130,000 payment, Frampton said.

There was conflicting testimony at trial about the value of the property.

Appraisers set the value at \$8 per foot, comparing it to property on Baker Avenue. K & R

Partnership put the value at \$25 per foot, saying highway frontage is much more valuable. The jury apparently agreed.

After about two hours' deliberation, they returned a verdict, saying the city owns the partnership about \$161,000. They also awarded about \$16,000 for breach of contract. That has to do with drainage problems on the paved parking lot. The city will have to pay 10-percent interest for the last seven years. That amounts to about \$120,000, Frampton said. Attorney fees and expenses will be about \$100,000, he said.

Frampton was a city attorney for Whitefish until 2002. He was a prosecutor and did not handle civil matters.

The city was represented by William Driscoll of Helena.

City attorney John Phelps said the city council will discuss the verdict in executive session Monday. It would take council approval for the city to appeal the judgment.