

# Appeals court reverses trespass decision

The Oregon Court of Appeals has reversed a lower court decision regarding a strip of property at the corner of Main Avenue and Locust Street that has been a bone of contention for several years.

The property in question is a 25-foot strip of land, part of a lot owned by Dave and Sandy Marlow of Sisters. The City of Sisters in 2009 widened Main Avenue, put in diagonal parking, and built sidewalk on the property.

The appeals court found that both the Marlows and the City thought at the time that the property belonged to the City, which means there was no unauthorized entry in the building of the sidewalk and other work. Therefore, the appeals court ruled, "the trial court erred when it denied defendant's (City of Sisters) motion to dismiss plaintiff's (Dave and Sandy Marlow) trespass claim."

The City and the Marlows signed a reimbursement agreement in January 2011, requiring the property-owner to reimburse the City for the improvements at the time of

the sale or development of the property. The parking and sidewalks would have benefitted the property-owners if the property had been developed, trial court Judge Alta Brady noted.

Tax assessor maps proved to be in error regarding ownership, leaving the improvements to be made on Main Avenue based on what the court called "a mutual mistake."

According to the Marlows, the mistake was discovered several years ago when the Marlows were planning to do some improvements on the property. Sandy Marlow told *The Nugget* that the City administration at that time was not responsive and sent the matter into the courts.

The City removed the parking and sidewalk in January of 2014.

The reversal relieves the City of the obligation to damages, costs and pay attorney's fees.

The Marlows have in the past indicated a willingness to sell the property to the City at fair market value.

## Commentary...

# What's a little rain?

By Liam Hughes  
Guest Columnist

On October 15, some of my old college friends and I went to cheer on our Oregon State Beavers football team as we do many weekends this time of year. When we got there we were amazed how many people had stayed home.

The stands were half empty, including the very expensive seats up under the cover. The concept that people would not use tickets they had paid good money for just because of a little rain was fairly comical to us. Over the years we had been on many camping trips in driving rain, wind, and occasional snow. We had never let the weather change our plans, just our choice of clothing.

My initial thought was how soft these people must be to not be willing to endure a little adverse weather to cheer on their team, but my thoughts started to drift to what this says about our society and our future. I started to think about all the families that had stayed home, and the lesson this was teaching our next generation. Instead of putting their kids in rubber boots and continuing with their Saturday plans, parents who made the decision to stay home were teaching their kids that you should quit at the first sign of adversity and choose an easier option.

As a fairly young man, it is very possible that I will

still be a manager when those 10-year-olds who sat at home by the fire instead of going to the football game are of working age. So my mind started to ponder if in 10 years' time I would have people calling in to say that they can't come to work today because it's raining.

Then I realized we had already reached that point.

Almost three years ago, I was at a conference in Seaside when a freak snowstorm blanketed the state with snow, including a few inches on the beach. In Sisters, the snow was deep and immobilizing, but in the Valley it was a few inches at best, and manageable in even the flimsiest of two-wheel-drive cars. However, half the speakers who were contracted to attend at this conference did not show up, citing weather concerns.

Having driven across half the state in the snowstorm, I had a very low opinion of people who chose to not fulfil their commitments due to a couple of inches of snow on their one-hour drive from Portland to the Coast. However, I also saw the best of people that weekend, as the staff of the Special Districts Association of Oregon, who had all managed to make it there through the snowstorm, picked up the speakers notes and taught session after session, filling in for those that did not show up.

We all remember our grandparent's stories about

walking seven miles to school in the snow uphill, both ways. I have made jokes about this for years, but have slowly started to realize that there is a lot of truth behind statements like this. Our ancestors felled huge trees with hand-saws, farmed the land using only beasts of burden, and sailed through great storms in small wooden sailboats. I am willing to admit that I myself definitely fall way short of the strength and resolve of the greater generations that came before me, but I aspire to be a little closer to their level of resilience than I currently am.

So if you are one of my neighbors who sees me walking through Tollgate in the snow on a -10 degree evening, come join me, I guarantee you will be glad you got out of the house. If you have plans to go hiking, and the weather report is unfavorable, obviously make sure you have all the gear you need to be safe, but go on that hike anyway; I am sure you will not regret it. Most of all, help your kids to enjoy all the weather Mother Nature throws at us, put on your child's rubber boots and let them go jump in puddles, let your kids play slip-n-slide in the mud, or make snow angels, even if it means a little more laundry for you. Your kids feed off your cue, if you keep your commitments and face foul weather with an up-beat can-do attitude, your kids will learn this from you.

### Glorious...



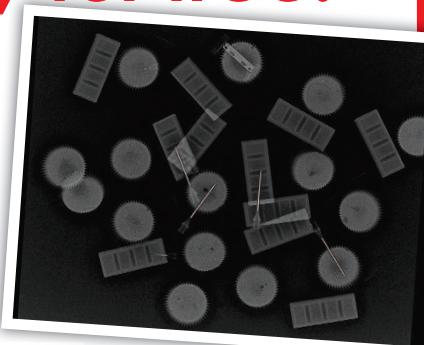
PHOTO BY GARY MILLER

Sisters has had a fine and picturesque fall season.

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