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Developers win another court case over resident-run metro district

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(<https://businessden.com/2023/09/05/developers-win-another-court-case-over-resident-run-metro-district/granby-ranch-2012-dp/>)

Granby Ranch, a subdivision in the Grand County town of Granby, is seen in 2012. (*Denver Post file photo*)

In another legal victory for the state's subdivision developers, a judge in Grand County has thrown out a lawsuit by a resident-run metropolitan district after years of pricey litigation.

It's the latest in a series of losses for reformers of metro districts, who have harbored hopes (<https://businessden.com/2023/01/03/lawsuits-could-force-changes-to-metro-districts-in-2023/>) that judges and juries will side with them over developers. To date, they have not (<https://businessden.com/2022/12/19/judge-throws-out-eagle-county-metro-district-lawsuit-against-vail-resorts/>).

Metro districts are quasi-governmental entities run by elected boards that have the power to tax. They are set up by developers, who run the boards when a subdivision is created. Those boards then enter into contracts that can force residents to pay developers millions of dollars.

Granby Ranch, a ski-and-golf community that is home to about 800 people, was created in 2003 by Marise Cipriani (<https://www.skyhine.com/news/conversation-with-marise-cipriani/>), a Brazilian heiress and businesswoman. Granby Ranch Metro District was formed to collect fees and

taxes from its residents. Headwaters Metro District

(<https://www.denverpost.com/2021/03/28/metro-district-granby-property-developers/>) was formed to spend that money on improvements and repay developers for past improvements.

Developers controlled both metro district boards until 2016, when homeowners won control of the Granby Ranch Metro District in an election. In what has become a trend, those residents then scrutinized agreements that had been entered into in the past.

Granby Ranch Metro District questioned a contract that required it to collect amenity fees from residents and send that money to Headwaters, which would use it to buy the ski area and golf course at Granby Ranch for residents. Specifically, it took issue with Headwaters' decision to renege on that (<https://coloradosun.com/2020/09/03/granby-ranch-sale-owners-deal-terminated/>) deal and let a new buyer own the ski area and golf course.

As the resident-run board saw it, homeowners should either get their \$6.1 million in fees back or ownership of the ski area and golf course. So, over the objections of some residents, Granby Ranch Metro District sued Headwaters and developer GR Terra in early 2021.

Thirty months later, Grand County District Court Judge Mary Hoak dismissed Granby Ranch Metro District's case on July 30. She pointed to a 2017 contract between the district's board — by then controlled by residents — and Headwaters that terminated the earlier deal to buy the ski area and golf course. A foreclosure in 2020 also nullified their purchase agreement.

Hoak's ruling was a complete loss for Granby Ranch Metro District, though it may appeal.

"We never wanted this litigation," said Bob Glarner, a developer with St. Louis-based GR Terra, which bought Granby Ranch in 2021. He told BusinessDen that his company "had no choice but to vigorously defend against these frivolous claims to protect our investment."

"GR Terra and Headwaters have spent millions of dollars in defense of GRMD's claims, funds that could otherwise have been devoted to continued investment in Granby Ranch," he said.

Headwaters lawyer JoAnn Sandifer, from the St. Louis firm Husch Blackwell, said she will seek a court order forcing Granby Ranch Metro District to pay her client's attorney fees. Sandifer said that "a handful of property owners who harbor misplaced hostility toward Headwaters and the current developer" propelled a lawsuit lacking in "legal or factual foundation."

Back at Granby Ranch, the judge's ruling has spurred passionate public discussion.

The resident-run metro district board, which usually meets a handful of times a year, gathered three times in three weeks last month to consider its options and get an earful from angry neighbors. Several called for board members to apologize and resign in disgrace.

“We lost because a few people decided to pursue what I believe to be personal vendettas instead of acting in our best interest,” said resident Debbie Volz. “People were fooled.”

The board had a supporter in resident Tom Young, who urged it to appeal Hoak’s ruling.

“I am really, really worried as a homeowner ... that the golf course is now going to be developed into lots. I also believe that the ski area might be affected,” he testified Aug. 8.

Resident Denise Link, testifying at an Aug. 10 hearing, demanded the board not appeal.

“The thought that someone would spend millions of dollars to improve amenities,” she said of GR Terra’s recent enhancements around Granby Ranch, “and then turn around and shut them down is nonsensical and borders on what I believe is paranoia and delusion.”

The four-person metro district board voted Aug. 29 to form a committee that will weigh whether to appeal Hoak’s decision. The board also voted 4-0 to reject an offer by GR Terra to settle their legal disputes. The offer called for it to pay the developer \$885,000 and not appeal; in exchange, GR Terra would stop suing the district for \$125,000 in another case (<https://www.granbyranchmetro.org/view/litigation-re-capital-facility-fees.aspx>).

Charles Wolfersberger, a Denver accountant who manages Granby Ranch Metro District and several other resident-controlled districts in Colorado, declined to comment.

Meanwhile, 150 miles away, another resident-run metro district faces its own headaches.

Residents of the Flying Horse neighborhood in north Colorado Springs grew frustrated with (https://gazette.com/news/government/local/flying-horse-residents-concerned-about-60-million-in-debt-classic-homes-questioned/article_e74a4602-b536-11ed-a731-575878f4953b.html) the \$58 million in debt that developer Classic Homes left them with, so they won control (https://gazette.com/government/north-colorado-springs-residents-poised-to-take-control-of-taxing-district-board-from-classic-homes/article_e94f3ea8-e9ed-11ed-8ef6-732986ef50b1.html) of two of three district boards this year. They were sued Aug. 15 by the third, a developer-run district, which accuses them of not handing over fees they collect from residents.

“Flying Horse Metropolitan District Nos. 2 and 3 are aware of the recently filed complaint but have not yet been served,” said the defendants’ attorney, Paul Rufien with Rufien Law, who often represents resident-controlled boards. “There is no comment at this time.”

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