

University of Colorado Law School

## Colorado Law Scholarly Commons

---

Colorado Supreme Court Records and Briefs Collection

---

5-18-1981

### Board of County Com'rs of Weld County v. Howard

Follow this and additional works at: <https://scholar.law.colorado.edu/colorado-supreme-court-briefs>

---

#### Recommended Citation

"Board of County Com'rs of Weld County v. Howard" (1981). *Colorado Supreme Court Records and Briefs Collection*. 2987.

<https://scholar.law.colorado.edu/colorado-supreme-court-briefs/2987>

This Brief is brought to you for free and open access by Colorado Law Scholarly Commons. It has been accepted for inclusion in Colorado Supreme Court Records and Briefs Collection by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact [rebecca.ciota@colorado.edu](mailto:rebecca.ciota@colorado.edu).

IN THE SUPREME COURT

OF

COLORADO

NO. ~~81~~SA261

FILED IN THE  
SUPREME COURT  
OF THE STATE OF COLORADO

JUN 18 1981

*David W. Beggs*

THE BOARD OF COUNTY COMMISSIONERS )  
OF THE COUNTY OF WELD, COLORADO; )  
POUDRE VALLEY RURAL ELECTRIC )  
ASSOCIATION, INC., a Colorado )  
corporation and NATIONAL FARMERS )  
UNION PROPERTY AND CASUALTY )  
COMPANY, )

Petitioners, )

vs. )

H. GORDON HOWARD, )

Respondent. )

PETITION - ORIGINAL  
PROCEEDING

Come now the undersigned, by and through their attorneys, and  
Petition to the Court for certain orders as hereinafter prayed, and  
as grounds therefor states as follows:

1. On or about September 26, 1938, H. Gordon Howard, 2570  
South Ivanhoe Place, Holly Hills, Denver, Colorado, 80222, took the  
oath as prescribed by law, subscribed the rolls of the Supreme Court  
of the State of Colorado, and was duly admitted and licensed by the  
Supreme Court of the State of Colorado to practice law within Colorado.

2. On or about August 21, 1961, Howard was disbarred from the  
practice of law by the Supreme Court of the State of Colorado, and  
his name was ordered stricken from the roll of attorneys. On September  
5, 1961, a rehearing in the disbarment matter pertaining to Howard  
was denied. (In Re Howard, 147 Colo. 50, 364 P.2d 380)

3. By "Complaint of the Attorney General" dated March 26, 1975,  
an action before the Unauthorized Practice of Law Committee of the  
Supreme Court of the State of Colorado was commenced against Howard.

4. On March 15, 1977, the "Report, Findings and Recommendations"  
of the Unauthorized Practice of Law Committee of the Supreme Court  
were issued in case number UPL 75-1, which was issued after extensive  
hearings, a copy of which is attached hereto as Exhibit 1, the  
Committee recommended:

A. That (Howard) be enjoined from appearing before any Court  
or administrative agency of the State of Colorado, in propria

persona as trustee for the Howard Land Trust or any similar such trust for which respondent may be trustee; and

- B. That the Order of the Supreme Court contain a warning that any violation of the injunction order will subject (Howard) to sanctions for contempt of the Court.

5. On October 23, 1977, the Supreme Court of the State of Colorado, En Banc, issued its Order in said case under case number 27728 approving, adopting and incorporating by reference the Committee's "Report, Findings and Recommendations", a copy of which is attached hereto as Exhibit 2.

6. On or about January 19, 1978, Howard filed Civil Action No. 78 F 0062, H. Gordon Howard, Plaintiff, Pro Se, v. The Board of County Commissioners, et. al., Defendants in the United States District Court for the District of Colorado. A copy of the Complaint for Injunctive, Declaratory and Damage Relief asking that a declaratory judgment be entered that the Weld County Zoning Resolution is unconstitutional and for a permanent injunction prohibiting enforcement of the Zoning Resolution and for damages in the amount of \$500,000.00 is attached hereto as Exhibit 3. Judge Sherman Finesilver, on May 5, 1978, entered a supplemental memorandum opinion which ordered that the matter be dismissed on the ground that Plaintiff Howard had previously challenged the Zoning Resolution in two (2) cases, Howard v. Board of County Commissioners, Civil Action No. C-5518, and Howard V. County of Weld, Civil Action No. C-3640. Howard appealed this decision to the United States Court of Appeals for the Tenth Circuit, and the Court of Appeals affirmed the lower court in an Order issued December 15, 1978.

7. On January 19, 1978, Howard filed Civil Action No. 78 F 0063, H. Gordon Howard, Plaintiff Pro Se v. The Board of County Commissioners of Weld County, Colorado in the United States District Court for the District of Colorado. A copy of the Complaint is attached hereto as Exhibit 4. Judge Sherman Finesilver, on April 10, 1978, dismissed the action, and no appeal was taken by Mr. Howard.

8. On or about February 5, 1979, Howard filed Civil Action No.

79 K 115, H. Gordon Howard, Plaintiff, v. Steve McNamara, et. al., in the United States District Court for the District of Colorado. A copy of the Complaint filed therein is attached hereto as Exhibit 5. A Pre-Trial Conference was held June 16, 1981, and no further proceedings have occurred. Mr. Howard is presently represented by Claude C. Wild, a Denver Attorney.

8. On or about April 2, 1979, Howard filed Civil Action No. 79 CV 210, Howard's Pine Lake Resort and Campground, and H. Gordon Howard, Owner, Plaintiff Pro Se, v. Weld County Department of Social Services, et. al., Defendants, in the District Court of Weld County, Colorado. A copy of the Complaint is attached hereto as Exhibit 6. The matter is now pending a Motion to Dismiss filed by the Defendants. Mr. Howard has filed a Motion requesting that all Judges in Weld County disqualify themselves. An attempt was made to have a Pre-Trial Conference, but it was disrupted by Mr. Howard. The Pre-Trial Conference has not yet been rescheduled.

9. On or about October 16, 1979, Howard filed Civil Action No. 79 K 1408, Howard's Pine Lake Resort and Campground, and H. Gordon Howard, Owner thereof, v. The Board of County Commissioners of the County of Weld, Colorado; and the Weld County Zoning and Planning Commission; and The Weld County Department of Inspection in the United States District Court for the District of Colorado. Howard filed an "Amended Complaint as of Course Pursuant to Rule 15 of F.R.C.P." adding Poudre Valley Rural Electric Association, Inc. as a Defendant on November 2, 1979. A copy of said Amended Complaint is attached hereto as Exhibit 7. After dismissal of the action by Judge John L. Kane, Jr., on February 1, 1980, Howard appealed to the United States Court of Appeals for the Tenth Circuit in Case No. 80-1208. By Slip Opinion dated August 4, 1980, said action was reversed and remanded to the District Court. On November 3, 1980, Judge Kane, after trial, dismissed the Amended Complaint. Howard appealed to the United States Court of Appeals for the Tenth Circuit in Case No. 80-2188. By Howard's Motion to Dismiss, Poudre Valley REA, Inc., was dismissed as a Defendant by the Circuit Court on

December 12, 1980. Said appeal is still pending before the Circuit Court.

10. On February 19, 1980, Howard filed Civil Action No. 80 Z 177, Howard's Pine Lake Resort and Campground and H. Gordon Howard, Owner Thereof, v. The Board of County Commissioners of the County of Weld, Colorado, And The Weld County Zoning and Planning Commission, And The Weld County Department of Building Inspection, and Cathy E. Carter, and Tom Hahn, And The Poudre Valley R.E.A. Inc. in the United States District Court for the District of Colorado. A copy of the Complaint is attached hereto as Exhibit 8. Said Complaint was purportedly amended by "Amendment As of Course Pursuant to Rule 15 of F.R.C.P. For The United States District Courts" dated February 10, 1980. All Defendants have answered as of March 25, 1980, and a preliminary pre-trial conference was held by United States Magistrate Hilbert Schauer on July 15, 1980. No trial has been scheduled and no further proceedings are pending.

11. On or about June 13, 1980, Howard filed Civil Action No. 80 Z 756, Howard's Pine Lake Resort and Campground and H. Gordon Howard, Owner Thereof, Plaintiff, Pro Se v. Board of County Commissioners of Weld County, et. al., Defendants in the United States District Court for the District of Colorado. A copy of the Complaint is attached hereto as Exhibit 9. Judge Zita Weinshenk denied a temporary restraining order sought by Mr. Howard to prohibit the enforcement of the Weld County Health Regulations on July 2, 1980. In the same order Judge Weinshenk ordered that no further action should be taken on this case until Mr. Howard exhausted his state remedies, including his rights to judicial review. Mr. Howard has appealed this matter to the United States Court of Appeals for the Tenth Circuit in Case No. 80-1719, and no further proceedings are pending.

12. On or about June 13, 1980, Howard filed Civil Action No. 80 K 762, H. Gordon Howard, Plaintiff, Pro Se v. Rodney Bottoms, Steve McNamara, et. al., Defendants in the United States District Court for the District of Colorado. A copy of the Complaint is

attached hereto as Exhibit 10. Upon a Motion to Dismiss filed by the Defendants the action was dismissed without prejudice and Mr. Howard was directed to proceed against all Defendants by amendment in Civil Action No. 79 K 115 or 79 K 1777.

13. On or about November 4, 1980, Howard filed in Civil Action No. 80 CV 1334, Howard's Pine Lake Resort and Campground, and H. Gordon Howard, Owner Thereof v. The Board of County Commissioners of the County of Weld, Colorado; and The Weld County Zoning and Planning Commission, and The Weld County Department of Building Inspection and The Poudre Valley R.E.A. Inc., a Colorado corporation in Larimer County District Court, a "Complaint For Damages, Based On Tort and Contract Violations, and Deprivation of Constitutional And United States of American Civil Rights by Means of Collusions and Conspiracies." A copy of the "Complaint" is attached hereto as Exhibit 11. All Defendants have answered as of December 8, 1980. No trial has been scheduled and no further proceedings are pending.

14. On or about November 4, 1980, Howard filed Civil Action No. 80 C 1658, H. Gordon Howard, Plaintiff, Pro Se v. The Sheriff of Weld County, Colorado, Defendant in the County Court of Weld County, Colorado. A copy of the Complaint is attached hereto as Exhibit 12. An answer was filed by the Defendant, and Howard dismissed the action as a result of the one year statute of limitations, §13-80-103, C.R.S., 1973.

15. On November 7, 1980, Howard filed in Case No. 5981, Howard's Pine Lake Resort and Campground, and H. Gordon Howard v. The Poudre Valley R.E.A. Inc., a Colorado corporation in the Colorado Public Utilities Commission a formal Complaint, a copy of which is attached hereto as Exhibit 13. Trial on the Complaint was held April 27, 1981, and a decision was entered on May 5, 1981, a copy of which is attached hereto as Exhibit 14.

16. On or about December 2, 1980, Howard filed a Petition Before the Colorado State Electrical Board entitled Howard's Pine Lake Resort and Campground and H. Gordon Howard, Owner Thereof,

Complainant, Pro Se, v. The Poudre Valley R.E.A. Inc., of Fort Collins, Colorado, and The Weld County Commissioners, et. al., Respondents. On December 30 , 1980, the Director of the Colorado State Electrical Board advised Mr. Howard that the Board had no authority or jurisdiction to hear his Complaint. A copy of the Complaint is attached hereto as Exhibit 15.

17. On February 19, 1981, Howard filed in Civil Action No. 81 CV 194, H. Gordon Howard v. Duane Ritchie, and The Poudre Valley R.E.A. Inc., a Colorado corporation, and John Doe, on "Action For Slander and Damages Resulting Directly Therefrom," a copy of which is attached hereto as Exhibit 16. The Defendants answered the "Action" on March 11, 1981, and no further proceedings have occurred.

18. On or about June 8, 1981, Howard filed in the United States District Court for the District of Colorado, Civil Action No. 81-919, Howard's Pine Lake Resort and Campground, and H. Gordon Howard, Owner Thereof, Plaintiff, Pro Se, v. Duane M. Ritchie; and J. E. Jarvis; and James E. Smith; and The Poudre Valley R.E.A., Inc.; and The Board of County Commissioners of the County of Weld, and State of Colorado; and Robert Foree, Defendants, a Complaint, a copy of which is attached hereto as Exhibit 17. The Defendants have answered the Complaint and no further proceedings have occurred.

19. Each of the above lawsuits contain the same or similar allegations of fact and are couched in the same or similar allegations of violation of law. Poudre Valley Rural Electric Association, Inc., and its insurer National Farmers Union Property and Casualty Company, and Weld County (which is self-insured) have expended attorneys fees and costs in defending the above actions, and have expended expenses for employees and others in the investigation and preparation of such defense.

20. The multiplicity of cases, and the duplicative nature of the actions have and will interfere with the functioning of all the Courts and administrative agencies of Colorado. H. Gordon Howard's conduct brings him within the circumstances of Shotkin v. Kaplan, 116 Colo. 295, 180 P.2d 1021 (1947). See also, People v. Spencer, 195 Colo. 377, 524 P.2d 1084 (1974), Board of County Commissioners

v. Barday, \_\_\_\_\_ Colo. \_\_\_\_\_, 594 P.2d 1057 (1979), and People v. Dunlap, \_\_\_\_\_ Colo. \_\_\_\_\_, 623 P.2d 408 (1981).

WHEREFORE, the undersigned request that the Court enter an Order as follows:

- A. That H. Gordon Howard be enjoined from appearing before any court or administrative agency of the State of Colorado, pro se or in propria persona; and
- B. That all actions presently pending before any Court or administrative agency of the State of Colorado be abated for a period of one month to enable H. Gordon Howard to obtain counsel, and in the event counsel is not obtained, that such actions be dismissed with prejudice.
- C. That the Order of the Supreme Court contain a warning that any violation of the Order will subject H. Gordon Howard to sanctions for contempt of the Court.

Dated:

WELD COUNTY ATTORNEY

By: Thomas O. David  
Thomas O. David  
P. O. Box 1948  
Greeley, Colorado 80632

CROSS, CHRISTENSEN, PRICE & STARR

By: Randolph W. Starr  
Randolph W. Starr, #3183  
Attorney for Poudre Valley Rural  
Electric Association, Inc.  
215 East 7th Street - P.O. Box 642  
Loveland, Colorado 80537  
Telephone: 667-1029

WARBERG & MAST, P.C.

By: D. Chet Mast  
D. Chet Mast #191  
Attorney for National Farmers Union  
Property and Casualty Company  
P. O. Box 526  
Fort Collins, Colorado 80522  
Telephone: 484-8110