

## WSAMA *Amicus Curiae* Team Assists Town of Rockford in Washington Appellate Court

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*Foster Garvey Newsroom*

Foster Garvey municipal attorneys Andrea Bradford and Kinnon Williams partnered with the [Washington State Association of Municipal Attorneys](#) (WSAMA) to serve as *amicus curiae* in support of the Town of Rockford in an appellate court case examining the application of Washington’s Nonuser Statute, RCW 36.87.090.

On May 18, 2023, consistent with the arguments presented in the team's [amicus brief](#), the Washington Court of Appeals reversed the trial court's summary judgment in the plaintiffs' favor and remanded with directions to enter judgment in favor of the Town of Rockford. The decision referenced the *amicus* team's work, noting that the legal argument advanced by both the appellant Town and WSAMA was “dispositive”:

“The town of Rockford continues to advance both arguments presented to the trial court. *It is supported in its argument that the nonuser statute applies to only “county” roads by amicus curiae, the Washington State Association of Municipal Attorneys. The legal argument that the nonuser statute does not apply proves dispositive.*”

Additionally, the decision explained:

“The town of Rockford appeals a summary judgment entered in favor of Harold Messersmith and Lisa Bryant, which quieted title to allegedly undeveloped roads and an alleyway dedicated by a plat for Waltman’s Addition recorded in 1889. Mr. Messersmith and Ms. Bryant relied on the terms of Washington’s nonuser statute as it existed between 1890 and 1909 to argue that the roads, having gone unopened for public use for more than five years, had reverted to their predecessor in interest. The nonuser statute imposes a time limit for opening only county roads. The

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roads and alleyway in Waltman's Addition ceased to be subject to the nonuser statute in 1890 when the town of Rockford was incorporated and Waltman's Addition was annexed and became part of the town..."

The WSAMA team also included Dan Lloyd (City of Vancouver), Darcey Eilers (City of Kirkland) and Duncan Greene (Van Ness Feldman LLP).

Read the [full opinion](#) by the Washington Court of Appeals, Division III.