

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00049-REB-MJW

211 EIGHTH, LLC, a Colorado limited liability company, and
PRINCE CREEK CONSTRUCTION, INC., a Colorado corporation,

Plaintiffs,

v.

TOWN OF CARBONDALE, a Colorado home-rule municipality,
NANCY BARNETT, in her official capacity as Acting Town Manager for the Town of
Carbondale, Colorado, and
JOHN PLANO, in his official capacity as the Building Official for the Town of Carbondale,

Defendants.

FINAL JUDGMENT

This **Final Judgment** is entered pursuant to Fed. R. Civ. P. 58(a) and in accordance with the **Order Re: Cross-Motions for Summary Judgment** [#101] entered by Judge Robert E. Blackburn on February 11, 2013, which order is incorporated herein by this reference.

THEREFORE, IT IS ORDERED as follows:

1. That **Defendants' Motion for Partial Summary Judgment and Memorandum Brief in Support Thereof** [#50], filed November 16, 2012, is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. That the motion is **GRANTED** concerning the claims of the plaintiffs for alleged violation of their rights under the United States Constitution brought pursuant to 42 U.S.C. § 1983: specifically, the claims for violation of the guarantees of equal protection and substantive and procedural due process under the Fourteenth

Amendment and for violation of the Just Compensation Clause of the Fifth Amendment; and

b. That in all other respects, the motion is **DENIED AS MOOT**;

2. That **JUDGMENT IS ENTERED** on behalf of defendants, Town of Carbondale, a Colorado home-rule municipality; Nancy Barnett, in her official capacity as Acting Town Manager for the Town of Carbondale, Colorado; and John Plano, in his official capacity as the Building Official for the Town of Carbondale, Colorado, and against plaintiffs, 211 Eighth, LLC, a Colorado Limited Liability Company; and Prince Creek Construction, Inc., a Colorado corporation, on plaintiffs' claims brought pursuant to 42 U.S.C. § 1983; provided,

a. That the dismissal of and concomitant judgment on plaintiffs' claims for violation of the Just Compensation Clause **ARE WITHOUT PREJUDICE**; and

b. That the dismissal of and concomitant judgment on plaintiffs' remaining federal claims under the Fourteenth Amendment **ARE WITH PREJUDICE**;

3. That as prevailing parties, defendants are **AWARDED** their costs to be taxed by the clerk of the court under Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1; and

4. That this case is **REMANDED** to the District Court of Garfield County, Colorado (where it was filed originally as Case Number 2011CV166).

DATED at Denver, Colorado, this 12th day of February, 2013.

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler
Edward P. Butler
Deputy Clerk