

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-11-00650-CV

Chisholm Trail Elks Lodge No. 2659, Appellant

v.

MT Falkin Investments, L.L.C., Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 126TH JUDICIAL DISTRICT
NO. D-1-GN-11-001473, HONORABLE JOHN K. DIETZ, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

On April 27, 2012, we granted appellant Chisholm Trail Elks Lodge No. 2659's (Chisholm Trail) motion to abate this appeal pending our disposition of a separate but related appeal in cause number 03-11-00888-CV. We subsequently issued an opinion in that case, in which we affirmed the trial court's final summary judgment in favor of Chisholm Trail. *See MT Falkin Inv., LLC v. Chisholm Trail Elks Lodge No. 2659*, __ S.W.3d __, No. 03-11-00888-CV, 2013 WL 1876503, at *8 (Tex. App.—Austin May 2, 2013, pet. filed). Per our abatement order, this appeal was automatically reinstated.

Chisholm Trail has filed a status report in which it informed this Court that appellee MT Falkin Investments, L.L.C. (MT Falkin) has filed a petition for review with the supreme court from this Court's judgment in cause number 03-11-00888-CV. Chisholm Trail requests that we

continue to abate this appeal pending the supreme court's disposition of that case because that disposition may render this appeal moot. MT Falkin does not oppose the abatement. Therefore, we will treat Chisholm Trail's request as an unopposed motion to abate this appeal.

Accordingly, in the interest of conserving judicial resources, we grant the motion to abate. *See* Tex. R. App. P. 2. We hereby suspend all appellate deadlines and abate this appeal until further order of this Court or until mandate issues in cause number 03-11-00888-CV. Chisholm Trail shall submit a status report no later than fifteen (15) days following the issuance of mandate or other act of this Court reinstating this appeal.

Before Justices Puryear, Goodwin and Field

Abated

Filed: July 24, 2013