

Subj: FW: ALA LETTER OF MAY 25, 2012
Date: 5/26/2012 7:46:43 P.M. Pacific Daylight Time
From: awolen@earthlink.net
To: awolen@earthlink.net, WagnerNeta@aol.com
Raiphy:

I need your help. Awhile back there was a dispute between ALA and AWAC over jurisdiction along the shoreline. There was a resolution involving a recognition of ALA's sole authority as I recall.

Subsequently, toward the end of last year, after years of no involvement with AWAC following our change of our CCRs to eliminate their jurisdiction over 20 years ago, we had a situation involving contractors and lot owners applying of approval to cut down trees in Point Hamiltair, where authority was granted by AWAC. I wrote a letter advising them they had no authority in Point Hamiltair and as a result of their settlement with ALA we understood they also had no authority over the shoreline strip. We asked that they not provide nor act on applications in Point Hamiltair.

Things were quiet until we received a letter from Stacey a couple of days ago, saying they acknowledge they have no more authority over construction, but

what kind

show the Deed

"... we retain a Deed over all of the trees within Arrowhead Woods, including Point Hamiltair. If you feel your restrictions supersede this Deed, please provide documentation and I will forward it to our legal counsel for review.

"As of now, we believe that approval from AWAC is required for all tree trimming and removal within your association. I have enclosed the applications and procedures for your review. ..."

So, you will remember many moons ago, I went through all the old deeds and other docs when we were working on the ALA position on the dispute with LACSD over limits on withdrawals of water from the lake. I drafted up the following pretty much from memory about the ALA strip history. Would you look the following over. I know it needs work, but I wanted to create something to start with. Please give me a call or better, come on over, and let's see if PH can respond with something to the following effect:

PRELIMINARY ROUGH DRAFT FOLLOWS:

Stacey:

We have reviewed your letter of May 25, 2012 with respect to whether AWAC may have jurisdiction over trees in Point Hamiltair. As you may know, Point Hamiltair was a part of Parcel 7?, known as the Hamilton Ranch prior to its subdivision into tracts constituting Hamiltair and Point Hamiltair.

Parcel 7 historically was wholly outside of the ownership of the Arrowhead Mutual Service Company (AMSC) and predecessors. AMSC is the entity that executed the Corporation Quitclaim Deed which you enclosed and upon which AWAC relies for its claim of entitlement to make rules for tree trimming and removal.

By definition, a "quitclaim" deed transfers to the grantee "all right, title and interest" of the grantor to the deeded property. To the extent that the grantor has no interest the property described, the deed simply operates as a release by the grantor of any claim of interest to the specified property.

Subj: **ALTERNATIVE RESPONSE TO AWAC**
Date: 5/27/2012 10:06:56 P.M. Pacific Daylight Time
From: awolen@earthlink.net
To: WagnerNeta@aol.com

ALTERNATIVE DRAFT FOLLOWS:

Stacey:

We have reviewed your letter of May 25, 2012 with respect to AWAC's assertion of jurisdiction over trees in Point Hamiltair.

In support of your assertion, you have submitted a quitclaim deed executed by Arrowhead Mutual Service Company (AMSC). In relevant part, the quitclaim deed recites that it conveys all of AMSC's right, title and interest with respect to existing trees and trees hereafter growing upon "those portions of the lands and real property *surrounding and adjacent* to Lake Arrowhead". You may be aware that all of the parcels of real property in Point Hamiltair "surrounding and adjacent to Lake Arrowhead" are owned by the Arrowhead Lake Association (ALA), which together comprise a strip of land encircling the lake's shoreline.

As to Point Hamiltair, these parcels owned by ALA run between the shoreline and the property line where the Point Hamiltair lots begin. Accordingly, to the extent that there is some validity to jurisdiction over trees arising from the quitclaim deed upon which your claim rests, it would involve the ALA strip based on the express wording of the quitclaim deed you rely upon. Parcels within Point Hamiltair are not "adjacent" to Lake Arrowhead. Additionally, you are certainly aware that you have recently entered a settlement agreement with ALA under which, I understand, you essentially relinquished your claims to authority over construction and tree maintenance on the ALA strip. Thus, it would not appear that the quitclaim deed you furnished as authority for your jurisdiction has any applicability to trees in Point Hamiltair, as lots in Point Hamiltair may adjoin the ALA strip but are not "adjacent to Lake Arrowhead". And, as you have relinquished any authority over the trees on the ALA strip in your settlement agreement with ALA, and AWAC was deleted as our Association's architectural committee well over a decade ago, AWAC has no jurisdiction in Point Hamiltair or on the ALA strip bordering with Point Hamiltair.

In our letter advising AWAC not to accept or purport to approve applications with respect to Point Hamiltair, we indicated that we otherwise supported your efforts in Arrowhead Woods. To the extent, however, that you continue to claim any authority to deal with improvements or trees or otherwise with respect to Point Hamiltair, you may force us to fully challenge AWAC's authority. We believe this may yield results adverse to other AWAC positions on jurisdiction.

In this latter regard, you may be aware that, by definition, a "quitclaim" deed means that the transferor simply "quits" any claim to the property being deeded, and provides the recipient only with "all right, title and interest" of the transferor in the deeded property. In the simplest terms, the transferor is saying to the extent I have any interest in the following property, I transfer it to you. Unlike a grant deed or warranty deed, the transferor is not saying it actually has any interest in the property to transfer, but only that to the extent such an interest exists or is claimed, the transferor is providing the recipient with all the transferor's "right, title and interest" in the designated property. If the transferor has no interest in the property described, a quitclaim deed simply operates as a release by the grantor of any claim of interest to the specified property.

From a legal perspective, it is quite a jump from a quitclaim deed which by definition simply transfers whatever interest the quitclaiming party has to the recipient, to attempt to impose obligations on a recipient that was already a landowner of property in which AMSC had no interest. Indeed, while we believe the facts recited above are dispositive with respect to the

absence of AWAC authority in Point Hamiltair, we question generally whether the transfer of property rights in a quitclaim deed with a purported reservation, can through such reservation impose on an existing landowner of other property, obligations to deal with a non-existent to be appointed "Archifectural Committee" whenever created. It may well be that compliance with the rule against perpetuities where property must by its terms vest within a defined period, and with other conveyancing requirements needed to create binding restrictions and obligations, may not have been observed. There are also issues with regard to whether AWAC is the successor appointed committee referred to in the quitclaim deed to deal with tree removal and trimming, even assuming the reservation has validity.

However, there is no need to address such issues here, as (i) AMSC appears to have had no interest in Point Hamiltair properties, including its trees, which would allow it to convey and reserve any right by its quitclaim deed, and (ii) AMSC's quitclaim deed expressly applies to trees on land "surrounding and adjacent to Lake Arrowhead", which defines the parcels owned by ALA, at least with respect to Point Hamiltair. Thus, AMSC's quitclaim deed to lake adjacent parcel owners, at least as to Point Hamiltair, appears to have conveyed and reserved nothing, and to the extent that AWAC actually lawfully succeeded to any rights created by AMSC's reservation in its quitclaim deed, AWAC also succeeded to nothing with respect to Point Hamiltair

Although nothing herein should be construed as an admission or limitation of our defenses, we also point out that our Association has exercised sole jurisdiction over tree trimming and removal in Point Hamiltair since the amendment to the our Declaration of Restrictions in 1998 eliminating authority of AWAC in Point Hamiltair. Our Association's own active Architectural Committee, with professional advisors, regularly inspects all trees in Point Hamiltair, and takes action as deemed appropriate for preservation of this resource and safety of the community. During the devastating drought and bark beetle infestation several years ago, Point Hamiltair protected and retained more trees than any other area in Arrowhead Woods. There is no need for an additional layer of rules, charges, applications, inspections and determinations.

Accordingly, as we previously requested in writing, please do not accept applications with respect to lots in Point Hamiltair, or otherwise attempt to assert jurisdiction in Point Hamiltair. Again, we thank you for your anticipated cooperation.

Richard Jenkins, President

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MEMO

26 July 2012

TO: ALA Board of Directors
John Rutledge

FROM: Ralph Wagner 

SUBJECT: The 1964 Agreement of Settlement and Compromise

I have heard people question both the standing and purpose of the 1964 Agreement under present-day conditions.

Neither the plaintiff nor the defendants are now in existence. I believe that ALA has succeeded to both positions (plaintiff and defendant).

I believe that, besides any three owners of lots in Arrowhead Woods, ALA is the only party remaining with the responsibility, standing and power to see that the provisions of the 1964 Agreement are observed and carried out. And I believe that ALA pretty well does that now, especially with any matters involving boats and docks, and Reserve Strips and Reserve Strip Additions.

The County is now responsible for maintaining most of the roads, at least those that meet County Standards. The trees were quit-claimed to the owners of property, but AWAC controls the removal or cutting of trees, except on ALA property. The golf course is now irrigated with recycled water, and not water transferred from Lake Arrowhead.

The 1964 Agreement also set the boundaries of Arrowhead Woods. More than anything else, I believe it is paramount for ALA to preserve those boundaries set in the 1964 Agreement.

Cc: Jim Grant
Laura Dyberg
James Bellis