

MEMORANDUM

TO: MEMBERS, CANYON LAKE PROPERTY OWNERS ASSOCIATION

FROM: BOARD OF DIRECTORS, CANYON LAKE PROPERTY OWNERS ASSOCIATION

DATE: AUGUST, 2009

RE: DISCLOSURE OF SELECTED LITIGATION MATTERS

The Association has determined certain claims made against or by the Association in various pending matters may be material to the interests of the Association's members. This memorandum advises the members of the existence of these claims. This memorandum does not disclose cases brought against the Association which are considered minor (typically, small-claims or limited-jurisdiction matters). It also does not disclose most cases brought by the Association (typically, assessment and covenant-enforcement actions) unless significant cross-claims have been advanced against the Association. The lawsuits reported on herein, as well as other lawsuits in which the Association is a party, are a matter of public record available for review at the courthouse where the case is venued.

PENDING MATTERS

1. **Bolanos vs. Canyon Lake Property Owners Association, et al.** (former Los Angeles County Superior Court Case No. BC 358584, current Riverside County Superior Court Case No. RIC 468434). In a Complaint filed September 15, 2006, Mr. Bolanos, a non-member of the Association, asserts that the Canyon Lake reservoir is open to the public. Mr. Bolanos also named the Elsinore Valley Municipal Water District (the Association's landlord and the fee owner of the reservoir), the State Water Resources Board, the County of Riverside, the City of Canyon Lake, and Barton Protective Services as defendants. The Association's insurers have accepted the defense of the Association subject to reservations of rights.

In addition to seeking declaratory relief and injunctive relief regarding various claims Mr. Bolanos advances related to the alleged rights of the public to use the reservoir, the Complaint seeks monetary damages (compensatory and punitive) on behalf of Mr. Bolanos for alleged violations of his civil rights and an alleged false arrest of the plaintiff. The Association denies all the plaintiff's claims.

On January 9, 2007, Los Angeles County Superior Court Judge Mel Red Recana granted the motion jointly brought by all defendants, except the

State of California, to change venue in the above-entitled action to Riverside County Superior Court.

A motion by plaintiff to change venue out of Riverside County was denied by the Superior Court on June 11, 2007. Demurrers by all defendants, other than the State Water Resources Board, were denied on June 25, 2007; the State's demurrer was sustained in part, but the plaintiff elected not to amend his Complaint.

On May 8, 2008, the plaintiff voluntarily dismissed the State Water Resources Board from the case.

The plaintiff's summary adjudication motion was denied July 3, 2008. The plaintiff had sought an order that the public agency defendants had a duty to provide public access to the reservoir. The court in a ruling by Judge Mac Fisher held that plaintiff's motion failed to prove any such duty.

The County of Riverside was voluntarily dismissed by plaintiff on September 11, 2008.

A defense motion for summary adjudication, seeking a ruling that Elsinore Valley Municipal Water District, the fee owner of the reservoir subject to the Association's lease, has no duty to provide the plaintiff access to the reservoir for recreational use, was granted on December 19, 2008, by Judge Mac Fisher.

Following the Superior Court's determination of no duty to provide public access to the reservoir, the plaintiff voluntarily dismissed the balance of his claims. After initially dismissing without prejudice, plaintiff Bolanos' initial appeal was dismissed by the Court of Appeal due to the lack of a final trial court judgment. On May 28, 2009, Bolanos filed a dismissal with prejudice in the Superior Court and then filed another appeal. The appeal is pending, but a motion has been made by codefendant EVMWD to dismiss that appeal as well. We currently await the appellate court's determination of that motion.

2. **Canyon Lake Property Owners Association vs. Pardee Homes, et al.** (Riverside County Superior Court Case No. RIC 513176). In a Complaint filed November 18, 2008, the Association asserts that Pardee Homes breached its contract with the Association by failing to pay for and install a property line fence between the Association and Pardee's subdivision after Pardee had removed the then-existing perimeter fence to perform grading work for its subdivision. No trial date has been set.
3. **Sesma, et al. vs. List, et al.** (Riverside County Superior Court Case No. RIC 515447). In a Complaint filed December 17, 2008, plaintiffs allege they

were assaulted and injured in connection with a New Year's Eve party at a private residence located within the Canyon Lake development. The alleged assault was committed by third parties. The Association denies any responsibility or liability for plaintiffs' damages. The Association is being provided a defense by its insurer. No trial date has been set. It would be premature at this stage to predict an outcome.

MATTERS THAT HAVE BEEN RESOLVED

4. **Orr vs. Canyon Lake Property Owners Association, et al.** (Riverside County Superior Court Case No. RIC 483653). In a Complaint filed October 22, 2007, plaintiff Orr alleges she was injured in a 2005 trip-and-fall accident on the Association's private street. The Complaint asserts theories of premises liability and negligence against the Association. The Association denies these claims. The Association was defended by its insurer. That case was settled, and a dismissal with prejudice was filed on July 14, 2009.

Because the pending cases are in litigation and/or administrative proceedings, Association directors, officers and managers have been advised not to comment publicly on these issues. The Association will endeavor to keep members further advised in writing as circumstances warrant.