

[REDACTED]

From: [REDACTED]
Sent: Monday, May 9, 2022 12:38 PM
To: [REDACTED]
Subject: Fw: Three Arch Bay Association / [REDACTED]
Attachments: Complaint for Easement (2).docx; Untitled

----- Forwarded Message -----

From: Kanesaka, Sheri <sher.i.kanesaka@fnf.com>
To: [REDACTED]
Cc: [REDACTED]; Jackson, John <john.jackson@fnf.com>; Herriot, Elizabeth <elizabeth.herriot@fnf.com>
Sent: Thursday, April 28, 2022, 04:52:52 PM PDT
Subject: RE: Three Arch Bay Association [REDACTED]

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Dear [REDACTED],

As you know, we retained a title expert (John Hebda) to review the title documents for your property and the surrounding area to determine whether any easement over the two roads to your property have been recorded to benefit your property. We also asked him to review who owns the private roads as we understand that Three Arch Bay ("TAB") represented to you that it owned the roads. The roads were previously dedicated to the public/county by the developer but the County has not accepted the dedication.

Based on his research, the title expert confirms that no express easement has been recorded over the roads. The title expert also confirms that the County has not accepted the dedication. The title expert additionally concludes that TAB does not own the roads; rather, the common interpretation for a title examination would be that each owner of a parcel that fronts a street owns up to the center of the street in front of their property. More importantly, the title expert concludes that you have legal access to your property pursuant to an implied easement. Mr. Hebda's findings are attached here. Although not addressed by Mr. Hebda, you also have legal access pursuant to a prescriptive easement to use the roads. This all aligns with our analysis of implied easements created in this fashion under California law.

[REDACTED]

To provide you with additional comfort, I checked with our underwriting department. They advised me that should you need to refinance or sell the property, the insurance company would insure the property and legal access to the property. This is a common practice for the title insurer in circumstances where implied easements exist under the law.

Please note that should you wish to file a lawsuit, you would need to sue every owner with a property that fronts the streets and their lenders. Not only would your neighbors be upset since they are not blocking you from using the roads, but it would also be difficult for you to find an attorney who would not have a conflict given the number of owners/lenders you would have to sue.

Feel free to contact me if you have any questions or concerns about these positions above.

Thank you,

Sheri M. Keneseke, Esq.

VP / Trial Counsel

Southwest Region

FIDELITY NATIONAL LAW GROUP

4 Executive Circle, Suite 270

Irvine, CA 92614

The Law Division of Alamo Title Insurance Company, Chicago Title Insurance Company,

Commonwealth Land Title Insurance Company and Fidelity National Title Insurance Company

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