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Attorney at Law Est. 1954

June 7, 2024

Via email

KNEISS LAW, PLLC
430 E. Lauridsen Blvd., Suite 210
Mailing: P.O. Box 1798
Port Angeles, WA 98362

RE: FOUR SEASONS PARK ("Four Seasons")
OLYMPIC PENINSULA MOTORCYCLE CLUB ("OPMC")

Dear Andrea:

Thank you for meeting me recently at the OPMC property, it was very useful to see the properties first-hand.

I also appreciate your research regarding OPMC's installation of certain gates that access the OPMC property. If you do find any OPMC records regarding the gates please provide those.

Unfortunately, it seems the situation is devolving, and your client's claims regarding Four Seasons' property, access to this property, as well as repeated trespassing on Four Seasons' private roads are seemingly heading this situation toward expensive litigation.

Access to Four Seasons Property

I understand OPMC may have information to confirm that it paid for the installation of various gates on roads that provide access to OPMC's property. However, there can be no question that Four Seasons continues to have the *unrestricted* right to pass through these gates to access Four Seasons' own roads and properties.

Historically, the parties have had shared access to their properties. Specifically, Four Seasons' resident and board member Rick White had a key to primary gate located next to Four Seasons pump house/well area located at the end of Maple Lane/Hemlock Lane cul-de-sac. Rick White

recently and suddenly passed away, so he was not able to pass down this information or key. Regardless, my understanding is that Rick and OPMC's John Baar had a good working relationship and although other issues may have come up over the years, there were *no issues* with either party accessing their respective properties through this gate. In addition, other Four Seasons board members recall hearing about Rick's multiple conversations directly with Tyson Baar after John passed away but before Rick passed away, the many of the issues identified in this letter were repeatedly brought up by Rick with Tyson. No specific agreements were reached, but the issues described in this letter are not new.

My understanding is that OPMC is now locking this gate and refusing to allow Four Seasons access through this gate. I completely disagree that a court would not award injunctive relief to my client should they wish to seek such relief from the court if that ultimately becomes necessary. In addition, my client is well within their rights to cut any lock installed by OPMC at this gate, and my client intends to do so imminently. While OPMC and Four Seasons share the desire to keep out undesirable and unauthorized people from gaining access to our clients' respective properties, this does not include preventing Four Seasons from accessing its own properties.

Adverse Possession and/or Prescriptive Easement

I understand that OPMC and/or you may believe that OPMC has a potential adverse possession claim for portions of Four Seasons properties that are contiguous with the OPMC property. Specifically, Four Seasons owns two parcels, one long narrow parcel (Parcel # 053017330025) and another smaller contiguous parcel (Parcel # 053017530395). Perhaps I have misunderstood your client's position, but I am confident that OPMC would not be successful in asserting adverse possession to either of these parcels, nor any portion thereof. Four Seasons members have regularly utilized these parcels for recreation, and Four Seasons members have also cut back plants and mowed areas of these parcels on occasion as well. As such, OPMC would not be able to establish the exclusivity element of adverse possession in this case, and a court would also likely find that any of the parties' use of one another's properties (if any) lacked "hostility" necessary to establish these claims, since any prior use was based on neighborly acquiescence under *Gamboa v. Clark*, 183 Wn.2d 38 (2015).

Further, I also understand that a sort of "loop" has been developed over the years whereby OPMC has been accessing portions of its property starting near the gate installed at the edge of the Little Property (Parcel # 053017530382) down through one of Four Seasons' property (Parcel # 053017330025). To the extent that OPMC may try to assert this portion of Four Seasons' property is subject to a prescriptive easement, the past conduct of the parties would again likely be characterized as neighborly acquiescence under *Gamboa*. Indeed the facts of this case are strikingly similar to the *Gamboa* case, particularly with regard to this "loop" access area.

Either way, in the event that an action for adverse possession (and/or quiet title) is pursued by Four Seasons or OPMC, I am confident that Four Seasons would substantially prevail in court, subjecting OPMC to a potential award of attorneys fees under RCW 7.28.083(3). This would not apply to any prescriptive easement claims, but of course these claims are substantially intertwined.

As a result, the idea that OPMC has the right to completely restrict Four Seasons' access to its properties, if premised on potential claims for adverse possession, is misplaced. Thus as stated above, my client intends to continue to use its primary access to its properties, over its own private road and private property, even if that means cutting the lock OPMC has unlawfully installed at this gate. In addition, my clients intend to, and are fully within their rights to, install fencing along the boundary line of their property as long as access to the OPMC property from Hemlock Lane/Maple Lane remains unrestricted. This could easily be resolved by our clients agreeing to joint access of this area for now, without locking the gate, particularly while we resolve ongoing legal issues between our clients. But to be clear, although Four Seasons recognizes OPMC's ingress and egress rights over its property (Parcel # 053017330025), which encumbers a narrow area of Four Seasons' property that directly extends from the end of Hemlock Lane/Maple Lane, Four Seasons does not acknowledge any other legal or prescriptive rights over its properties.

Damages to Hemlock Lane and Four Seasons

As you know, OPMC's deeded access for ingress and egress is over what is commonly referred to as "Hemlock Lane" under that certain express easement dated November 29, 1972 ("Hemlock Easement"). Hemlock Lane is a somewhat narrow and steep road that provides the primary access to the lower portion of OPMC's property that is contiguous with Four Seasons' properties that are the subject of these ongoing issues.

A few years ago, OPMC utilized this access to bring heavy equipment and conduct work at the OPMC property. This work included substantial tree removal and clearing of OPMC's property, but also included removal of multiple trees located on Four Seasons property, which constitutes a timber trespass under RCW 64.12.230. As you know, the remedy for timber trespass claims includes treble damages and attorneys fees and costs.

Shortly after this work, a portion of Hemlock Lane began to sluff off on a perilous area of this access, which forced Four Seasons to move road barriers further inward narrowing the width of a portion of Hemlock Lane. In addition to OPMC's obligation to share in maintenance costs of Hemlock Lane under Washington law and the Hemlock Easement, OPMC is also responsible for repairing any damages it caused to Hemlock Lane.

Although Hemlock Lane remains passable and might not normally be so problematic if the parties were in agreement, the issues with Hemlock Lane are now more imminent because many of OPMC's members are essentially unable to use Hemlock Lane to access OPMC's property with their larger vehicles and trailers. In addition, Four Seasons has noticed a substantial increase in the scope of use of Hemlock Lane and/or OPMC's property more generally, resulting in a sort of "over burdening" of Hemlock Lane. As a result, OPMC will need to do what is necessary to repair, maintain, and/or improve Hemlock Lane if its members want to continue accessing the OPMC property with their larger rigs, such as RVs and/or trailers.

Trespassing and Damages to Four Seasons

There are a number of ways in which OPMC is trespassing on Four Seasons' private roads and/or Four Seasons' private property.

First, while making my recent site visit, there is what we assume is an OPMC truck/camper that is clearly parked within the Four Seasons property (Parcel # 053017330025). This OPMC truck has been parked there for a little more than one year. My client hereby demands that OPMC remove this truck from its property immediately, and if it is not removed within thirty (30) days of this letter, Four Seasons will have this truck towed onto OPMC's property.

Second, OPMC has recently placed a porta potty on Four Seasons' property (Parcel # 053017330025). Again, my client hereby demands that OPMC remove this porta potty from its property immediately, and Four Seasons will be contacting the vendor that owns this porta potty to inform them it is located on Four Seasons' property without permission. In the past, OPMC has also installed a dumpster within Four Seasons' property, which Four Seasons does not give permission for.

Third, OPMC has disturbed and/or removed multiple survey pins that Four Seasons paid to have placed on the boundaries of its property. These actions constitute a gross misdemeanor under RCW 58.04.015, and create liability to Four Seasons for the cost of reestablishment of these survey pins. Furthermore, this also creates civil liability to Four Seasons under RCW 4.24.630, including Four Seasons' investigative costs, and reasonable attorneys fees and costs and other litigation related costs.

Finally, although I understand OPMC has instructed its members not to use Four Seasons' private roads (other than Hemlock Lane which connects to a small portion of what is now called Maple Lane) to access the OPMC property, OPMC continue to use Four Seasons' private roads and flaunt their use in both dangerous and inciting ways. OPMC seems to also be under the impression that recent actions or disagreements from Four Seasons are somehow the result of new leadership at Four Seasons, this is incorrect. Four Seasons has received many complaints from its members about OPMC's use of Four Seasons' private roads, including but not limited to:

1. *RV/Trailers/Motorcycle Haulers repeated use of Cottonwood Lane, including driving over the speed limit*
2. *Four Seasons members walking on their private roads have come close to being hit OPMC member vehicles.*
3. *Four Seasons members driving in and out of Cottonwood Lane have been run off the road due to size of RVs or have come close to accidents at bottom of the hill near the maple tree.*
4. *Four Seasons members have expressed concert about the nature of OPMC's parties, loud noises, music, and bonfires well into the night in violation of local noise ordinances, necessitating multiple calls to the local Sheriff.*
5. *OPMC members riding quads and motorcycles both around and into Morse Creek, which is a violation of various environmental regulations and prohibited by Department of Fish and Wildlife. This is also occurring well into the night, again violating local noise ordinances.*
6. *OPMC placed garbage bins on Four Seasons property for OPMC members to dispose of rubbish when they leave, although this appears to have stopped sometime in 2023.*

7. *Riding motorcycles on Hemlock Lane, which is expressly prohibited in the Hemlock Easement.*
8. *Four Seasons members concerned about the size of large bon fires and risk of forest fires.*
9. *The overburdening use of Four Seasons bridge over Morse Creek by OPMC members with heavy RVs and trailers that add significant wear and tear on the bridge which Four Seasons privately maintains.*


The most recent event held by OPMC over memorial day weekend was no different, although this is not one of the larger events OPMC holds at its property. Attached with this letter is a video showing an example of an OPMC member driving their RV through Four Seasons private roads (including their private bridge) to gain access to the OPMC property, which is not authorized by Four Seasons. Four Seasons has notified OPMC of this repeatedly, and apparently even OPMC has instructed its own members not to continue trespassing. In addition, there are large clearly labeled signs at points of entry into Four Seasons private roads which make clear that OPMC is not authorized to use Four Seasons private roads. Note also that any vendor/service trucks that OPMC utilizes for delivering items to the OPMC property are also using Four Seasons' private roads.

This letter shall serve as additional clear written notice from Four Seasons that OPMC and its members and its vendors are NOT authorized to use Four Seasons' private roads other than Hemlock Lane and a portion of Maple Lane at the end of Hemlock Lane. Any further use of Four Seasons private roads by OPMC is prohibited. As such, any OPMC members' continued use of Four Seasons private roads constitutes both a private trespass, and a criminal trespass, and as Four Seasons is able to document this trespassing by OPMC members, Four Seasons intend to contact law enforcement given the OPMC does not seem to be able to control its own members.

Conclusion

I still believe there is a path that we could come to an agreed upon resolution of these issues between our clients. Although a boundary line adjustment is one potential solution to a few of these issues, it will not address all these issues, and we may need to consider alternative dispute resolution as one effective method for addressing several legal issues that must be addressed. If we're unable to proceed more amicably, including Four Seasons gaining immediate and unrestricted access to its properties, my client has instructed me to file legal proceedings to get the court involved.

Sincerely,



Matthew Lind