

HOMEWOOD HOMEOWNERS' ASSOCIATION (HHOA)

December 16, 2011

Newsletter

Further negotiators with Placer County: As you may recall, the Association was negotiating with Placer County regarding our ownership rights to the beach parcels for the purpose of acquiring buoys for Association members. In late 2010 these negotiations resulted in a proposed Memorandum of Understanding (MOU) between the County and the Association. In its initial form, the MOU was rejected by your board at our 14 April 2011 meeting, in part due to the recommendation by Curt Sproul, an attorney who has been involved with Homewood issues for more than 30 years and who drafted our Bylaws. After reporting that result to the County, the County Counsel responded by indicating that it may be possible to modify the MOU so as to overcome the Association's objections. Although it has now taken another eight months to reach agreement on a text of the MOU that is acceptable to the County, the negotiations have resulted in a substantially revised MOU that appears to be in the Association's best interests to finalize. The full MOU is attached for your review.

The MOU can be summarized as follows:

- 1) The County does not dispute that the HHOA has littoral rights of ownership to our Beach Parcels that lie between Fern, Oak, Trout, Silver, and South Streets (on the west) and the low water line of Lake Tahoe (on the east).
- 2) The MOU does, however, acknowledge the public rights that exist between high and low water. This public trust was created by the California Supreme Court and Court of Appeal in the 1980s (The *Fogerty* Cases) and the decisions state that the public has rights to that area between high and low water throughout the California side of Lake Tahoe. The MOU does not restate those rights, but rather refers the reader to the court decisions establishing the Public Trust Doctrine.
- 3) The County acknowledges that it has no interest in any part of "Lake Avenue", i.e., the land lying in front of lakefront owners' parcels down to the low water line.
- 4) The MOU, if adopted and executed with the County would acknowledge a right in the public to walk across the HHOA Beach Parcels to get to the Public Trust Area. No other uses of the Beach Parcels by persons who are not Homewood owners and residents are permitted above high water. The County agrees to not publicize this MOU or encourage public awareness of the access to the lake via the HHOA parcels.

Curt Sproul has recommended that the Association execute this MOU. His letter to the HHOA outlining the reasons for his recommendation is also attached. In short, he feels that the MOU will make it much more difficult for the TRPA to decline to acknowledge that all the beach front property owners have littoral rights for buoys, piers, etc, subject only to whatever TRPA Shorezone Ordinances are ultimately approved. He also points out that TRPA usually follows the County's lead on these sorts of issues. In

addition, he feels that the Association is not acknowledging anything other than the status quo as to the access to the Lake.

Please look over the MOU and Curt's letter, and reply to me or directly to the board and Beach Parcel Committee (i.e., those in the Cc: section above) with any comments you wish to make. The Board and Committee will be meeting in late January or early February to make a final determination on the MOU so I encourage you to return your comments by January 15, 2012. Thank you.

Homewood Mountain Resort: The final environmental reports and Master Plan for the Ski area improvements were approved unanimously by the Placer County Board of Supervisors on November 15 and approved unanimously by the TRPA Board of Governors on December 14. These steps represent the final approval of the project. Detailed engineering drawings will now be started and the current plan is to start construction in 2014. See:
<http://www.rgj.com/apps/pbcs.dll/article?AID=2011112150313> and
<http://www.sierrasun.com/article/20111215/NEWS/111219966/1066&ParentProfile=1051>

The bottom lifts at the ski area will open tomorrow, December 17. The upper lifts are waiting for your snow dances.

Happy Holidays!

Dave Powell
President