

May 26, 1974

TO: MEMBERS OF ODD FELLOWS SIERRA RECREATION ASSOCIATION

You as lot owners of Odd Fellows Sierra Camp Subdivisions are aware that the ownership of each lot has been subject to certain restrictions imposed thereon in the Declarations of Restrictions filed in the Office of the Tuolumne County Recorder. By virtue of the terms of the recorded Declarations, these limitations will expire February 17, 1975. No provision in the recorded documents has been made for extending or continuing the existing restrictions. Should the lot owners desire to continue the restrictions this may be done by agreement of all lot owners and the filing of a new Declaration of Restrictions signed and acknowledged by each and every lot owner.

Although rules and regulations as to the use of camp facilities, water service, etc., may be imposed by a majority rule of the Association members, the subjecting of a lot to continued restrictions beyond February 17, 1975, requires the consent and written agreement of the individual lot owner.

The purpose of inviting your attention to these facts is that upon the expiration of the restrictions on February 17, 1975, several possible problem areas can and most probably will occur. The following are but a few of these areas: (1) The minimum requirements on building construction will no longer apply; (2) Set back and commercial or business use of a lot would depend entirely upon the applicable county zoning ordinances and possible variances; (3) The sale of a lot to other than a member of the Association.

Under the present restrictions Section 12 provides as follows:

"All lots in said subdivision shall be sold to and shall be owned by only a duly and regularly constituted lodge of the Independent Order of Odd Fellows or by duly qualified members of the Odd Fellows Sierra Recreation Association, a non-profit corporation, or in the event of the death of a duly qualified member owner, then by the members of his or her immediate family. To be a duly qualified member of said non-profit corporation, a person must be a member in good standing of either a subordinate lodge of the Independent Order of Odd Fellows, or of a lodge of Rebekah's. The immediate family of duly qualified members shall mean and include the wife, husband, son, daughter, mother and father of such duly qualified members."

Whether this restriction is now enforceable appears to be in doubt in light of recent California decisions in connection with the restraint of transfer of property. It now appears that a restriction upon the use that may be made of land must be distinguished from a restriction upon who may use it. That is, apparently the Courts will not declare the particular restriction void unless there is an attempt to enforce the restriction on a transfer from a lot owner to a third person not a member of the Association.

In further connection with Item No. 3 above, there are further considerations that must be resolved, namely: (1) Water service; (2) The use of camp facilities; (3) Assessments. That is, upon the sale of a lot to a person other than a member of the association, upon what basis is the new lot owner entitled to water and use of camp facilities? The furnishing of water to a non-member has the possibility of forcing the Association into becoming a Public Utility or Mutual Water Company. Conversely upon what basis may the association enforce the payment and collection of assessments upon non-members of the Association?

Without the consent of 100% of the lot owners joining in an extension of the current restrictions, an alternate form of operations must be established to resolve the problem area. In what form would this alternative be set up? Without attempting to detail all purposes and objects, the operation most probably would be in the nature of an incorporated improvement association, subsidiary to the present Association with interlocking management.

The members of the Board of Directors and Officers of the Association have devoted many hours and effort to the review and resolution of these factors. It is at this time that your officers and directors must know the feelings and intentions of all of the individual property owners in order to properly plan and execute the business operations of the Association rather than be faced with immediate problems as of February 17, 1975.

For your convenience, attached hereto is a statement to indicate the individual lot owner's decision with reference to the continuance of current lot restrictions. Please make your choice, date and sign the same and immediately return the statement to the Association secretary.

Respectfully submitted,

The Officers and Directors of the
Association