

DAVID F. BUSH  
GEORGE H. ACKLEY

BUSH & ACKLEY  
ATTORNEYS AT LAW  
FIRST NATIONAL BANK BUILDING  
OAKDALE, CALIFORNIA  
TELEPHONE 3711

July 13, 1949

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Mr. Herbert M. Kearns, President,  
Oddfellows Sierra Recreation Association,  
739 East Lindsey Street,  
Stockton, California.

Re: Oddfellows Sierra Recreation  
Association Subdivision.

Dear Mr. Kearns:

The writer and Mr. Milich spent the afternoon of Tuesday, July 12th in Sonora in conference with Mrs. Evelyn Hawley and J. C. Webster, her attorney, and also saw the secretary for Attorney Vilas, and two assistants of L. A. Storch, the County Surveyor, who surveyed the subdivision property.

I am enclosing herewith copies of letters to Attorney Webster and to Mr. Storch, which will assist you in appraising the present status of things.

In the conference with Mrs. Hawley and Attorney Webster, they orally agreed that if the subdivision as presently laid out did not include any part of the meadow, and if the acreage in actual lots and subdivision roads was approximately 100 acres, they had no objection to such subdivision (they would agree that it was all in one piece) and Mrs. Hawley would give a deed of partial reconveyance covering all of the subdivided lots and subdivision roads, but excluding the meadow, upon payment to her of \$10,000.00.

In checking at the County Surveyor's office I found that it will still be at least two weeks, and I think more likely closer to one month before we will be able to get the final map. I have done everything possible to hurry along the completion of such map, but it will still be more time than we first anticipated before we get it.

Attorney Vilas is still not back at his office but is expected this weekend. I am leaving on my vacation and will be away from my office for about one month, but Mr. Bush and Mr. Milich will be familiar with this case and will carry on during my absence. Mr. Milich will contact Mr. Vilas as soon after Vilas' return as possible to make sure that everything

Herbert M. Kearns

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is understood and agreed upon between our two offices.

You understand, of course, that we cannot get the subdivision officially approved before we have the final map to submit to the State Real Estate Commissioner's office, and until we have the written agreement from Mrs. Hawley for the reconveyance, by proper legal description, of the property included within the boundaries of the subdivided lots and subdivided roads. All sales of lots in the meantime, and all agreements for sale of such lots, and all deposits made toward the purchase of lots is of no actual legal effect. In fact all of the above is strictly forbidden under the provisions of the applicable state law relative to subdivisions. However, since the association has already engaged in committing lots for sale and taking deposits on same, and since this is apparently the only means of raising the necessary funds with which to pay Mrs. Hawley the payment required by her, as a practical matter I presume that there is nothing else the association can do but continue as you have been doing in the past and just hope that everything works out alright. The directors must understand, of course, that in the event things should not work out, and the subdivision should not be finally approved, by the State, or Mrs. Hawley should for some reason refuse to reconvey the property, then all moneys received from prospective lot purchasers would have to be refunded to them, and the association and its directors might also be liable for penalties for infractions of the law applicable to subdivisions. Section 11541 of the Business and Professions Code provides that any offer to sell, contract to sell or sale of lots, contrary to the law, is a misdemeanor and is punishable by fine of not less than \$25.00 nor more than \$500.00, or imprisonment in the county jail for not more than 6 months. I do not anticipate that your association or the officers or directors thereof will be called on the carpet for having committed lots for sale, or even if you should be I would think the fine would be nominal.

I also found out from Mrs. Hawley and Mr. Webster that title to the property you have purchased was originally in the estate of E. O. Sylvester. Sylvester died about 3 years ago leaving a will in which all of his property went to his sister, Mrs. Graves. The will gave her power to sell all or any part of the estate she might desire, for her support and maintenance during her lifetime, and if anything remained in the estate at her death such remainder went to a Mr. King, who, I believe, lives in Sacramento.

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The Sylvester estate was probated in Sonora and has been closed. The property you purchased was distributed to Mrs. Graves and under the decree of distribution she was given power to sell or dispose of it, and if anything was left at her death it was to go to King. After the decree of such distribution Mrs. Graves deeded this property to Mrs. Hawley in return for services rendered by Mrs. Hawley. Thereafter Mrs. Hawley deeded the property back to Mrs. Graves. Thereafter Mrs. Graves sold the property to a Mr. Ward. Thereafter Mrs. Hawley again acquired title to the property by purchasing from Mr. Ward. Mrs. Hawley then sold the property to your association.

This is all the information I have been able to gather up to the present time. We will keep you informed of future developments.

Yours very truly,

George H. Ackley  
FOR BUSH & ACKLEY

GHA:nh

Copy to: Loren W. Hosmer, Secretary,  
Oddfellows Sierra Recreation Association,  
616 Virginia Avenue,  
Modesto, California.

Gene Bianchi,  
P. O. Box 96,  
Oakdale, California.

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Mr. J. C. Webster,  
Attorney at Law,  
Sonora, California.

Re: Oddfellows Sierra Recreation  
Association - Evelyn M. Hawley.

Dear Mr. Webster:

After leaving your office yesterday afternoon I called at the County Surveyor's Office, and while Mr. L. A. Storch, the County Surveyor, was not in I was able to talk with two of his assistants who have been helping him with the survey on the subdivision for Oddfellows Sierra Recreation Association. These gentlemen advised me that the subdivision, as shown on the map, and as laid out on the ground does not include any part of the meadow. They also said that on the basis of a rough estimate the meadow itself comprises from 50 to 70 acres and the subdivision lots and roads probably do not exceed 100 acres.

They further advised me that the final map of the subdivision will not be completed for at least another 2 weeks. In fact, I believe it will be closer to one month before such map is completed.

As the result of our conference in your office I take it that, since there are no subdivision lots in the meadow, and since the entire acreage in lots and roads is about 100 acres, Mrs. Hawley will deliver a deed of partial reconveyance, covering all subdivision lots and roads, but excluding the property in the meadow, upon payment to her of \$10,000.00 by the association. Such deed of partial reconveyance will be escrowed with the title company there in Sonora for delivery to the association when the \$10,000.00 is paid. The association will, of course, secure approval of the subdivision by the State Real Estate Commissioner as soon as the final map is available to submit to such Commissioner. It is further understood that the association is also to pay Mrs. Hawley by September 1, 1949 any balance then

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remaining due on the \$17,500.00 payment called for on that date, together with the interest then due. This means that in case the association pays Mrs. Hawley \$10,000.00 for the deed of partial reconveyance prior to September 1, 1949, the balance due Mrs. Hawley on September 1, 1949 will be \$7,500.00 principal, plus approximately \$1,350.00 interest, or a total of \$8,850.00. If the association makes no payment to Mrs. Hawley prior to September 1, 1949 then the payment due her on that date will be \$17,500.00 principal, plus \$1,350.00 interest, or a total of \$18,850.00.

I left word at the County Surveyor's Office for them to furnish us with a legal description, by metes and bounds, of the property included in the subdivision itself, being all lots and roads within the subdivision, but not including the meadow. We will have to have this description to be used in Mrs. Hawley's making the deed of partial reconveyance. I wish you would get in touch with the surveyor and assert such pressure as you can and have him prepare this description as soon as possible, and also to have him complete the final map. Every day's delay is to the prejudice of Mrs. Hawley as well as the association, because the sooner we are able to have the subdivision finally approved, and get the above deed of partial reconveyance, the more secure will be the position both of Mrs. Hawley and the association.

I am leaving on my vacation and will be gone for about a month, but both my partner, Mr. Bush and our associate, Mr. Milich will be familiar with this case, so please get in touch with them, and they will get in touch with you, on all problems which arise during my absence. Attorney T. R. Vilas, of Sonora, is also counsel for the association and he should be consulted in all phases attending the winding up of this matter.

Assuring you of our desire to cooperate in every way in getting this completed agreeably to all parties, I remain,

Yours very truly,

George H. Ackley  
FOR BUSH & ACKLEY

GHA:nh

Copy to: Herbert M. Kearns, President,  
Oddfellows Sierra Recreation Assn.,  
739 East Lindsey Street,  
Stockton, California.

Gene Bianchi,  
P. O. Box 96,  
Oakdale, Calif.

Loren W. Hosmer, Secretary,  
Oddfellows Sierra Recreation Assn.,  
616 Virginia Avenue,  
Modesto, California.