

Lawsuit halts water to Cedarpines Park

-- 6/3/2010

Gail Fry
Staff Writer

The Alpenhorn News discovered that a local Cedarpines Park resident has filed a lawsuit over water pipelines against the Cedarpines Park Mutual Water Company (CPMWC), thereby stopping the water supply to the Cedarpines Park County Park.

The lawsuit, filed in the San Bernardino County Superior Court on November 5, 2009, claims that on or about August 2008, when the resident was in the final stages of preparing a parcel map to subdivide his property in Cedarpines Park, he discovered that CPMWC maintained a waterline beneath the surface of his property and that there was no easement or other right of way granted to permit or authorize it.

The local resident's complaint says that CPMWC demanded that he grant an easement to them as a condition of the water company providing the county the approval or consent for him to record his parcel map.

The resident says that without adequate consideration he will refuse to grant CPMWC an easement. The resident says that CPMWC is trespassing on his land without his consent and demands CPMWC pay for and obtain an easement or remove the waterline from his property.

The lawsuit says that CPMWC has threatened to continue trespassing on the resident's land, causing irreparable harm, depriving him of access to the land, resulting in an easement across his land while posing a threat to the resident's good and marketable title to his property.

Represented by Best, Best and Kreiger, CPMWC answered the resident's complaint, denying each of his allegations and any liability. The answer included several defenses to the resident's claims, stating he was under constructive notice of the waterline when he purchased the property, did nothing to lessen his damages or losses, the causes of action were barred by the statute of limitations, the responsibility for any damages belong to the resident, the resident has unclean hands and unreasonably delayed filing the lawsuit.

The water company filed a cross complaint to obtain a prescriptive easement and to quit title. CPMWC says the waterline crosses the resident's property, but claims that it has been on the property in an "open, notorious, hostile, and continuous manner for well over five (5) years, thereby creating a prescriptive easement." CPMWC claims that their prescriptive easement is prior or superior to the resident's interest to the land where the water pipeline is located. The resident answered the cross complaint, denying the water company's position.

Cedarpines Park's County Park is located down Devil's Canyon Road, passing the resident's property. The contested water line is to provide water to the county park for its facilities. In the meantime, there is no water for the restrooms, fire hydrants or water fountains at the county park. As a temporary fix, the San Bernardino County Special Districts Department (SDD) has had to incur extra cost by providing porta-potties in place of the permanent restroom facilities.

The county park improvements completed in 2004 feature new playground equipment for the children, restrooms, barbeque pits and picnic tables. The dispute has long delayed the grand opening of the park.

SDD Engineering Manager Jim Oravetts said, "We are working on a private easement for the water service from the local resident that would be separate from the legal dispute. The resident wants to wait until the dispute is resolved with CPMWC, but we want to move forward and are preparing a document to review with the local resident for his signature."