

Jeff Moss

From: Jeffrey A. Moss [mossesq@comcast.net]
Sent: Wednesday, April 08, 2009 1:21 PM
To: 'Wallace M. Tice'
Subject: RE: Grabisch v. LMPOA

You client's email has left no choice but to consider his motivations. As you know, on April 1 we discussed Mr. Grabisch's offer to settle the case. The Association would grant various releases, agree to obey the law and Mr. Grabisch would pay the Association's fees. In light of the fact that Mr. Grabisch could simply dismiss without paying any fees, his offer was a gift that should not require much if any thought and certainly not more fees. Our every effort to initiate settlement discussions has either been ignored or greeted with the likes of Mr. Katz's email.

In any event I met with Mr. Grabisch today, and in light of Mr. Katz's tirade, the offer to pay the fees is withdrawn. We welcome any discussions meant to resolve this case, and the fee issue may be able to be revisited, but under no circumstances will there be a payment in excess of \$10,000. Any additional fees incurred will be Mr. Katz's responsibility.

Jeffrey A. Moss, Esq.
Law Office of Jeffrey A. Moss
454 Las Gallinas Ave., #310
San Rafael, Ca 94903
Tel: 415.456.2566
Fax: 415.472.6677
Email: mossesq@comcast.net
Web: www.jeffmoss.com

-----Original Message-----

From: Wallace M. Tice [mailto:WTice@lgglaw.com]
Sent: Wednesday, April 08, 2009 10:20 AM
To: Jeffrey A. Moss
Cc: Glenn H. Youngling
Subject: RE: Grabisch v. LMPOA

Mr. Moss,

As represented, I will be assuming representation of the Larkspur Marina Property Owner Association in the two lawsuits that you have filed. I have received Substitution forms from Mr. Youngling, but I did not have an opportunity to send them to the POA's authorized officer before I left town on Monday. I will return to the office tomorrow, and will transmit them as soon as possible to the Court and to you upon filing.

Otherwise, I appreciated your courtesy in postponing Mr. Barry's deposition, and I thank you for your patience as I become oriented to claims that you have obviously lived with for many months. I will do my best to evaluate the settlement proposals that you have presented on behalf of your clients, and to provide my recommendations. I do not believe that it enhances the settlement prospects to comment on "motivations" any further.

Please let me know of any further questions. Thank you.

Wally Tice

Wallace M. Tice, Esq.

Lynch, Gilardi & Grummer
A Professional Corporation
475 Sansome Street, Suite 1800
San Francisco, CA 94111
Ph: (415) 397-2800
Fax (415) 397-0937
Web: www.lgglaw.com

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-----Original Message-----

From: Jeffrey A. Moss [mailto:mossesq@comcast.net]
Sent: Wednesday, April 08, 2009 5:20 AM
To: Glenn H. Youngling; Wallace M. Tice
Subject: Grabisch v. LMPOA

I received a call from Mr. Tice last week representing that he had been retained by the Association in this matter. Based on that representation I continued Mr. Barry deposition, but I have still not received a substitution of attorney. Please advise me of the status of Mr. Tice's position vis a vis the Association.

As you know, I have made repeated attempts to try to initiate discussions about settlement and this case in general, and have made two settlement proposals to start that process. My one discussion with Mr. Tice included a representation that Mr. Grabisch would pay for the Association's fees. I do not know if you approved of Mr. Katz's email or if the settlement information was communicated to Mr. Katz or he is just lying to the Members, but perhaps he could be persuaded that his particular style of communication is not conducive to resolution of this case.

I have never had so much difficulty getting a defendant to agree to obey the law in exchange for it being paid its attorneys fees in full before. It makes me wonder about the motivations behind all this posturing.

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Fax: 415.472.6677
Email: mossesq@comcast.net
Web: www.jeffmoss.com

-----Original Message-----

From: cart4fun@aol.com [mailto:cart4fun@aol.com]
Sent: Tuesday, April 07, 2009 10:15 AM
To: mossesq@comcast.net

Subject: Fwd: Message from Steve Katz, the LMPOA President...

Received this AM and am just forwarding to you.

-----Original Message-----

From: Linda Hearne <lindahearne@comcast.net>

To: Linda Hearne <lindahearne@comcast.net>

Sent: Tue, 7 Apr 2009 9:51 am

Subject: Fw: Message from Steve Katz, the LMPOA President...

Larkspur Marina Property Owners Association

Message from the President

Dear friends and neighbors,

I am happy to report that our Annual Meeting on March 7th in City Hall Council Chambers was a standing room only event. In case you missed it, I'd like to take this opportunity to repeat an outline of the challenges we faced when our Board began its work just over one year ago, what has been accomplished, and what remains to be done.

I think it's fair to say the "State of Larkspur Marina" is in better shape as a result of the efforts of many individuals. We can look to a repaired relationship with City departments as one example, the new By-Laws as another. We have safer sight lines and improved and improving landscaping. Our gardener now has proper insurance and his team's weekly and monthly schedule is not only clear but carefully monitored by the landscape committee. As I write this, there are newly planted crepe myrtle trees in the entry islands with colorful native plants to be added any day now. We've had exceptional volunteer work on our committees, including hospitality, lagoon, legal, long range planning, and, let me not forget, the beautiful Larkspur Marina website. We've extended the permits to give us an extra year before starting construction on the outlet gate and we've been diligently working toward a solution to the deterioration of the Doherty fence.

And as something for everyone, we have new management handling Marina business and a completed reserve study to guide planning and budgeting in the years ahead.

As I see it, we stand at a threshold as a community. I like to think of it as the beginning of a new phase in the life of the Marina. A more beautiful and more highly valued neighborhood is within sight. We have so much to look forward to together. Within the next year, the fence and landscaping along Doherty and at the entry will be completed. Together we will have passed an amended set of CC&Rs that correct the oversights, ambiguities, and out of date provisions of our original documents. As a community, the outlet gate project will be funded and built guided by tight agreements with the City. Working together the lagoon wall and cap initiative will be underway, assuring an enduring solution.

I firmly believe what awaits us when these long deferred projects are finally handled is a community with much to celebrate while we attend to the simple tasks of landscaping and water quality, and the more complex issue of flood control. The hum in the real estate world will be, "the Marina has its act together and is a can-do community."

But with all the good news also comes two items that trouble me and which must be shared as part of this comprehensive report. The two are the lawsuit filed against the Association and the chilling impact it has had on potential new Board members.

One neighbor, Mr. Alfred Grabisch, has sued the Association, and the City of Larkspur, in regards to the completed inlet gate project; this despite the fact that 94 out of 96 lagoon homeowners paid the final special assessment of \$766. Promising to pay all costs, he has persuaded others to join him, including, Mike Massoletti, Brenda Bercun, Ina and Maurice Mink, Bonita Clifton, and Inez D'Arcy. .
Motions by his attorney to restrain the Association from paying Larkspur what we owed and against the City from accepting payment were both denied by the court. Even after the City was paid in full his legal actions continue against the City and us.

Legal defense fees for the Association are now close to \$10,000 and climbing. This amount, and any additional amount taken from reserves, must be reimbursed as a matter of California law by the membership in this calendar year. You can expect an extraordinary assessment within the next few months. As destructive as this matter is in sapping our financial resources and in forcing the Board to spend an unimaginable amount of time focused on our defense, it has also created a climate in which the ability to sustain a viable Board of Directors has been jeopardized.

Angela Curley, who had been confirmed as the Vice President of the Board subsequently resigned once she discovered the lawsuit against the Association. Linda Levi declined once Angela stepped down. Don Wilson has agreed to stay as Treasurer. In an emergency situation, Don and I, under the authority of the By-Laws, appointed Louise DeVries to the Board on a temporary basis until others step up.

I want to state clearly and irrefutably that the Board worked non-stop to establish and carry forward a positive agenda in 2008. We inherited some issues that we did our very best to reconcile in a fair manner. We counted every penny the City received from us and communicated with our whole community about our decisions at every meeting. For a project (the inlet gates and pipes) that was completed to a high standard, that has given us clearer and cleaner lagoon water than we've seen in 15 years, and which is expected to outlive most of us living in the Marina, I find this lawsuit to be toxic to the fabric of our community and expensive to each of us individually. There is no judicial solution that will even begin to compensate us against the exorbitant and ongoing costs. I therefore, am calling on one and all to stand together in asking Mr. Grabisch to drop, in their entirety, his lawsuits.

Finally, I am once again calling on those who share the vision of "a Marina with its act together" to step forward to serve on the Board.
The vision I've shared with you needs YOU!

Sincerely,

Steven Katz, President

LMPOA

Message from the President

Dear friends and neighbors,

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