

Admin.

ns55d
08/26/88

Third Supplement to Memorandum 88-59

Subject: Topics and Priorities for 1989 and Thereafter (Priorities)

Attached to this memorandum is a letter from P. Bogart of Western Land Bank, Inc., suggesting a revision of Business and Professions Code Section 110000 relating to real estate subdivisions. His concern is that the Business and Professions Code provisions governing regulation of subdivided lands should not be applied to subdivisions made before enactment of the provisions, since this results in payment of "yet another fee (and untold delays) before lots in an existing subdivision could be marketed."

The Commission has authority to study real property matters, including laws affecting title and use restrictions. However, the staff recommends against Commission involvement in this issue. It is primarily a political and regulatory concern. The matter appears to be within the jurisdiction of the Department of Real Estate, and the staff would refer P. Bogart to that department.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

Western Land Bank inc.

Main office (213) 465-6211

(714) 739-8137

(408) 292-5263 or 292-LAND

(415) 956-5263 or 956-LAND

6253 Hollywood Blvd., Hollywood, CA 90028

August 23, 1988

CA LAW REV. COMM'N

AUG 26 1988

RECEIVED

California Law Revision Commission
4000 Middlefield Rd Suite D-2
Palo Alto CA 94303-4739

Re: Marketable title of real property.

Gentlemen:

Your efforts relating to facilitating marketable title are well appreciated and are helpful. We do suggest, however, that an additional technical correction is desirable, as current law has led to much confusion.

We refer to the first clause of B&PC 11000:

11000. Subdivided lands; subdivision.

"Subdivided lands" and "subdivision refer to improved or unimproved land or lands divided ~~or proposed~~ to be divided for the purpose of sale or lease or financing, whether immediate or future, into five or more lots or parcels. ***

We suggest eliminating the misleading words "divided or proposed" as misleading - as this would infer an existing subdivision, which was established or "divided" in the remote past.

Thus, while the statute in Government Code §66412.6, dealing with subdivisions, makes it a conclusive presumption that subdivided lots created prior to 1972 are legally created and legally subdivided, no such provision exists in the Business & Professions Code which deals with the same subdivision issue. Unfortunately, the Gov't Code § 66412.6 provision limits its application to "this division" of the code.

Another clarifying technical amendment that would be helpful would be to strike "~~this-division~~" from Gov't Code § 66412.6

Although we believe that existing subdivisions are "grandfathered" and protected by the XIVth Amendment and California Constitution Art I § 1 - see also City of Memphis v. Greene(1981) 451 US 100, 101 S.Ct. 1584, 67 L.Ed2d 769 (Civil Rights Act of 1871, 42 USC 1981 et seq. guarantees the right to sell, hold and convey realty)- Chapman v. State (1957) 153 CA2d 421, 314 P2d 773 disregarded all vested constitutional rights and used the ambiguous language of "lands divided or proposed to be divided" to charge yet another fee (and untold delays) before lots in an existing subdivision could be marketed. In fact, if a home is built on 5 abutting lots, which are legally divided, it would be unsalable until the owner would once more pay for a subdivision report (\$1600. fee +++)

without doing any "subdividing" at all.

We submit that B&PC § 11000 casts a serious cloud on title to all existing subdivisions if one person or entity would come into possession of 5 or more lots in the same subdivision. And while it is claimed that the subdivision laws are to "protect the people", we find that our laws treat some sellers of subdivided lots as "more equal than others".

We refer to Business & Professions Code § 11010.6, which exempts all public agencies from the subdivisions report requirements alleged to "protect the public". For instance, the enclosed Notice of Sale from Modoc County contains more than 35 subdivided lots in the California Pines subdivision (Assessor's Books 035, 036 and 037). Certainly, these subdivided lots require the subdivisions report of B&PC 11000 et seq. And if a private developer would acquire and offer to sell more than 5 of these lots, then under the ambiguous language of B&PC 11000 he might be required to pay once more for "subdividing" the already legally subdivided lots.

(As a result of this fear, the majority of the 78 items offered by Modoc County were not picked up by private parties, leaving the County "stuck" with thousands of dollars of uncollectible property taxes)

With ever-increasing concerns for "affordable housing", the great costs of governmental permits are one of the prime obstacles to providing shelter at a reasonable cost. As government seeks to increase the "take" from taxpayers, the unreasonable repetitious "subdividing" charges should not be sanctioned by ambiguous language in the laws.

Thanks for your attention.

Sincerely yours,



P. BOGART

Legal Notices

LEGAL NOTICE

PUBLIC AUCTION NOTICE OF SALE ON AUG. 23, 1988 OF TAX-DEFAULTED PROPERTY FOR DELINQUENT TAXES

Whereas, on May 18, 1988 I was directed by the Board of Supervisors of Modoc County, State of California, and there was received by me and filed in my office an authorization of the State Controller, dated June 8, 1988, to sell at public auction certain tax-defaulted properties which are subject to the power of sale, public notice is hereby given that unless said properties are redeemed before the close of business on the last business day prior to the date the sale begins, I will, commencing on August 23, 1988 and continuing from day to day thereafter as necessary, at the hour of 10 o'clock a.m. in Room 101, Courthouse, in the City of Alturas, in the County of Modoc, California, sell the said properties at public auction, to the highest bidder for cash in lawful money of the United States or negotiable paper, for not less than the minimum bid set forth in this notice.

If the properties are sold, parties of interest, as defined in Section 4674 of the California Revenue and Taxation Code, have a right to file a claim with the County for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds. If excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law.

If redemption of the property is not made according to law before the property is sold, the right of redemption will cease.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Linda Dee Monroe
Modoc County Tax Collector

Executed at Alturas, California
Modoc County on July 1, 1988

PARCEL NUMBERING SYSTEM EXPLANATION

The Assessor's Parcel Number, when used to describe property in this list, refers to the assessor's map book, the map page, the block on the map, if applicable, and to the individual parcel number on the map page or in the block.

A parcel number, such as 46-523-13-21, is analyzed as follows:

46 would be the map book number, 523 would be the map page 52, and block 3 (if the "3" were a "0", that page would not contain a block), 13 is the parcel number, and 21 is a coded suffix to the parcel number denoting the interest held in parcel 13.

The suffixes used in conjunction with the parcel number are as follows:

- 11 Total ownership of interest and rights
- 21 Multiple ownership
- 31 Multiple ownership

The maps referred to are available for inspection in the office of the assessor.

The Real Property that is the subject of this Notice is situated in the County of Modoc, State of California, and is described as follows:

Item No.	Parcel No.	Last Assessor	Minimum Bid
1.	005-403-08-11	Holdeman, Gerald & Lisa JT	\$1000.00
2.	013-052-15-11	Colla, Peter S. & Ruth McNeil, Butchie Ruth	\$500.00
3.	013-053-06-11	Taylor, William R. & Jytte E. JT	\$500.00
4.	013-054-26-11	Gonzales, Dolores B.	\$500.00
5.	013-054-27-11	Gonzales, Dolores B.	\$500.00
6.	013-055-01-11	Inskip, Darrell K. & Carolyn JT	\$500.00
7.	013-052-12-11	Wielenga, Henry K. 1/2	\$1250.00
8.	013-195-04-11	Hedstrom, Evelyn K. 1/2	\$875.00
9.	013-113-03-11	Borber, Maryanne D.	\$1075.00
		McEuen, Ora A.	
		c/o Vivian Van Fleet	
10.	013-126-01-11	Gage, Jo Ann	\$875.00
11.	013-134-24-11	Esquivel, John	\$425.00
12.	013-185-04-11	c/o Rodriguez, Yolanda	\$700.00
		Austin, Joe L.	
13.	013-183-07-11	Austin, Margaret Ann	\$700.00
		Austin, Margaret Ann	
		Austin, Joe L.	
14.	013-183-06-11	Austin, Margaret Ann	\$700.00
		Austin, Joe L.	
15.	013-185-09-11	Austin, Joe L.	\$700.00
		Austin, Margaret Ann	

Item No.	Parcel No.	Last Assessor	Minimum Bid
16.	013-195-05-11	Modoc Recreational Est.	\$1000.00
		c/o Scott, J.H./Smith, Wm. D.	
17.	013-196-06-11	Modoc Recreational Est.	\$1000.00
		c/o Scott, J.H./Smith, Wm. D.	
18.	013-196-07-11	Modoc Recreational Est.	\$1000.00
		c/o Scott, J.H./Smith, Wm. Jr.	
19.	013-202-06-11	Thole, Carl J.	\$1000.00
		c/o Stearna, Mrs. Violet	
20.	018-240-43-11	Chesley, Robert R.	\$5000.00
21.	018-240-44-11	Chesley, Robert R.	\$5000.00
22.	018-240-60-11	Glanerakin, Robert M. & Adele M. JT	\$5000.00
23.	018-291-14-11	Loveless Logging, Inc.	\$5000.00
24.	018-471-10-11	Nelson, Alice C. & Irena, Frances E.	\$1000.00
25.	018-471-11-11	Nelson, Alice C. & Irena, Frances E.	\$1000.00
26.	018-471-62-11	Boyle, Dennis & Sybil	\$1500.00
27.	028-280-02-11	Smith, Margaret M.	\$5500.00
		Commerce Dev. Co./Brennan, J.	
28.	035-021-07-11	Addington, Marius T.	\$2500.00
29.	035-033-05-11	Sagers, Gary L.	\$2250.00
30.	035-035-04-11	Calif. Pines Rec. Est.	\$2250.00
		c/o Grossman, Sheila C.	
31.	035-035-15-11	Marriam, Charles & Therese c/o Diane Belchiff	\$2250.00
32.	035-083-11-11	Young, Tupolo A. & Anita J. JT	\$2500.00
33.	036-111-07-11	Salacup, Pedro L. & Edna M. JT	\$2500.00
34.	036-121-01-11	Peterson, Anne J. & Spangrud, Glenn & Pamela JT	\$2250.00
35.	036-161-26-11	Noggle, L.C./Hazel c/o Hazel Hutchinson	\$2250.00
36.	036-233-12-11	Leisure Industries, Inc.	\$2250.00
		c/o Billeau, Charles L.	
37.	036-253-03-11	Florie, Alex G. & Carmen JT	\$2375.00
38.	036-361-13-11	Leisure Industries, Inc.	\$2500.00
		c/o Meadows, Donald/Linda	
39.	036-361-14-11	Leisure Industries, Inc.	\$2500.00
		c/o Meadows, Donald & Linda	
40.	036-402-01-11	Rice, Bill & Jeanne	\$2500.00
41.	036-032-16-11	Jones, Mary Jo	\$1750.00
42.	036-046-06-11	Leisure Industries, Inc.	\$1750.00
		c/o Avelos, John G.	
43.	036-061-04-11	Leisure Industries, Inc.	\$1750.00
		c/o Christensen, Dennis	
44.	036-064-01-11	Mahon, Ramon C.	\$1750.00
45.	036-071-09-11	Jones, Mary Jo & Lester F. JT	\$1750.00
46.	036-083-08-11	Maler, Albert & Mary Y. JT	\$1750.00
47.	036-152-22-11	Rudkin, Roger Lee & Alia JT	\$2500.00
48.	036-192-35-11	Garay, Carmen & Tellex, Porfirio	\$2125.00
49.	036-261-04-11	Hawthorne, Joe L. & Zella Ann JT	\$2500.00
50.	036-271-14-11	Garcia, Jesus U. & Margarita	\$2500.00
51.	036-281-13-11	Rumsey, Frances J.	\$2500.00
52.	037-091-07-31	Hulka, Raymond D./Clarence E. Quimby, Larry	\$2500.00
53.	037-091-08-11	Leisure Industries, Inc.	\$2500.00
		c/o Hulka, L. Duane	
54.	037-091-29-11	Leisure Industries, Inc.	\$2500.00
		c/o Crawford, Lyle R.	
55.	037-103-22-11	Miller, Daniel	\$2000.00
		c/o Miller, Sharon E.	
56.	037-123-06-11	Nandine, Henry R. & Naomi L. JT	\$2500.00
57.	037-263-03-11	Jones, Betty S.	\$2500.00
58.	037-362-17-11	Rogers, Kent C. & Madeen V. JT	\$2500.00
59.	037-361-43-11	Cutler, Harold & Dorina JT	\$2500.00
		c/o Schoder, M.W.	
60.	037-404-14-11	Cordonier, Darrell E. & Jerry K.	\$2500.00
61.	037-461-38-11	Downs, Richard B.	\$2500.00
62.	037-461-51-11	Ditto, Barry R.	\$2500.00
63.	037-473-18-11	O'Dell, Dorothy	\$2500.00
64.	037-481-34-11	Leisure Industries, Inc.	\$2500.00
		c/o Jones, H.	
65.	037-513-54-11	Kallogg, Walter L.	\$2500.00
66.	038-082-06-11	Pendleton, DeWitt M.	\$2500.00
67.	038-181-20-11	Krocker, Charles Dennis & Lynne Carol JT	\$2500.00
68.	038-182-45-11	Ortiz, Victor M. Roy & Hernandez, Samuel JT	\$2500.00
69.	038-202-04-11	Seiber, Jane E./Joseph F.	\$3503.00
70.	039-212-01-11	Stockl, Glenn D.	\$3525.00
71.	040-121-19-11	Anderson, William E. & Beatrice A. JT	\$2221.00
72.	040-171-24-11	Kings Bay Escrow Co.	\$2221.00
		c/o Kaufman & Broad	
73.	041-083-05-11	Nakamura, Hoo & Yoko JT	\$2250.00
74.	041-481-04-11	Nelson, Ronald M.F. & Violet JT	\$2125.00
75.	041-481-05-11	Nelson, Ronald M.F. & Violet JT	\$2125.00
76.	041-481-06-11	Nelson, Ronald M.F. & Violet JT	\$2125.00
77.	041-481-07-11	Nelson, Ronald M.F. & Violet JT	\$2125.00
78.	041-481-08-11	Nelson, Ronald M.F. & Violet JT	\$2125.00

(ST July 21, 28, Aug. 1 1988)