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Airport owners file suit to lift building restrictions County Counsel Douglas Maloney: "This is not a public interest lawsuit."

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Editor

A lawsuit seeking to lift development restrictions on a 41-acre parcel in north San Rafael has been filed by the property's owners against the City and County; while the property's owners claim the covenants should not apply, the County's chief attorney plans to ask a judge to dismiss the suit.

The suit was filed August 17 by Novato attorney Robert Levy, on behalf of developers William Bielser and Joe Shekou, and Westland Housing Corporation. Westland Housing, who became partial owners of the property during a complicated option arrangement, is comprised of landscape contractor Tom Cagwin of Mill Valley, owner of Cagwin and Downard in Novato; restaurateur Al Dabalo of Novato; and the San Rafael contracting firm of Messera and Chalfont.

The disputed parcel, portions of Martin Ranch Airport, is part of a 90-acre plot located off Smith Ranch Road near Madras Park and the Marina Lagoa subdivision. Restrictions on the property, signed by the City,

County and the property owners, limit any future use to airport-related projects, roadways, open space, and private and public recreation.

County Counsel Douglas Maloney said the City and County were named in the suit because the development restrictions benefit both jurisdictions, although the airport is in San Rafael City limits.

Citing the kind of restrictions placed upon the property and the wishes of the property's owners to develop, Maloney said, "This is not a public-interest lawsuit."

The evolution of this airport property's ownership is lengthy and complex. The first National State Bank of New Jersey originally owned much of the land that stretches north of the Civic Center to Smith Ranch Road and west of Highway 101 to the Bay. Many of the parcels were sold to Shekou. Shekou sold land to South-west Diversified, who built the Marina Lagoa subdivision; and to Embassy Suites, who is building the hotel adjacent to the Civic Center.

Shekou kept the land fronting Highway 101, where he plans to build an office building and restaurant.

Shekou was one of the developers who recently and successfully fought the Marin Municipal Water District's moratorium on new hookups, citing the need for water for his proposed projects. Although a Marin County Superior Court Judge ruled in the developer's favor, MMWD has appealed the decision.

In 1981, the bank agreed to grant an option on the airport property to the Las Gallinas Valley Sanitary District, who planned to build an effluent pond. In 1983, the development restrictions were signed by the bank. The option was subsequently purchased from the Sanitary District by Bielser; Shekou and Westland Housing for \$500,000.

Maloney said he plans to ask a judge to dismiss the suit, because the property owners have not provided enough of a reason to lift the restrictions. San Rafael City Attorney Gary Ragotham said although he has not yet studied the case, he will likely coordinate the City's legal efforts with the County.

"It's a question of equity," Maloney said. "The property owners agreed to these restrictions because

they wanted more density at another project." The higher densities were granted by the City to the hotel and office properties near Highway 101.

Maloney said the property owner's argument is a technicality. They contend the bank agreed to the restriction after they granted the option to the Sanitary District. The new owners — Bielser, Shekou and Westland Housing — feel restrictions were subject only to the option between the two previous parties, and should no longer apply.

Bielsel, former City Manager of San Rafael and now principal owner of San Rafael-based Capital Investment Resources, declined to comment on the suit when reached by the *NewsPioneer*. Bielser said all of the plaintiffs agreed they would refer all questions to their attorney, Levy, who could not be reached by the *NewsPioneer* on August 26.

When reached at his Novato office, Cagwin said he also would not comment on the suit. Plans for the property, although not finalized, may include a small shopping center, condominiums, and possibly a golf course. continued on page 14

China Camp for public TV

Airport

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The San Rafael General Plan's Northgate Policies says the property may not be developed unless the restrictions are lifted or modified by the City, County and the property owners. Should the restrictions be lifted, the land may then be developed for low- to medium-density residential uses, a neighborhood shopping center, a marina or golf course, and possibly a park for Northgate-area residents.

Traffic allocations in the General Plan would allow up to 375 housing units and up to 73,000 square feet of neighborhood commercial use.

San Rafael Senior Planner Jean Freitas said Bleser met with City officials and neighborhood groups during the General Plan revision process in 1988. The plan's residential and commercial designation for the property was

written following those meetings.

According to the plan, two major roads must be built before the airport is developed — the Lincoln-Los Ranchos connector, which has been built, and the controversial McInnis Parkway. The latter road, proposed to be an arterial connector between Highway 101 and Highway 37, currently dead-ends at Martin Lagoon. To continue to the airport, the road must cut through wetlands areas.

Karin Urquhart, executive director of the Marin Conservation League, said the League is adamantly opposed to the construction of McInnis Parkway because of the potential loss of wetlands. For that reason, she added, the League would be "very opposed" to any lifting of the airport property's development restrictions.

"It would seem a real shame," Urquhart said. "There were reasons for those covenants. It does not bode well for the pro-

cess."

Jean Starkweather, a longtime environmental activist who lives in Terra Linda, said, if the restrictions are lifted, the public will distrust all covenants in the future. "Who can you trust," she said, "if two or more entities agree to the restrictions?" Starkweather, who chairs the Marin Conservation League's Bayfront Committee, said the restrictions are a "reasonable" use of the land.

"Let's keep to it," she said. The airport property was the subject of recent citizens' complaints about the amount of landfill dumped there by a landscape contractor. People living in Santa Ynezia, Captain's Cove, and other nearby areas told the San Rafael City Council the level of fill was too high. The use permit for the property is due to expire, and a new one is currently being processed by the San Rafael Planning Department.



pa and Soviet participants in the Global Environmental Exchange 2 film crew during a conservation demonstration at China Camp near San Rafael. Handle With Care, a new series about North Bay efforts to preserve wilderness. The show will air on Thursday, September 13, at 7:30

Liveaboards

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mornings," he said. "Action needs to be taken now."

Bad Lovric, owner of Lovric's Yacht Harbor, cautioned the City against taking too tough a stance. His harbor does contain a few liveaboards, he said, but he has shower and sewage facilities. Lovric, who feels the live-board problem is not growing, suggested forming a committee made up of City staff

and Waterways, requires all liveaboards in County waters to be hooked up to sewer lines. Most marinas lack those facilities.

Brown said. The proposed amendment, slated for completion in two weeks, is designed to facilitate enforcement. Sausalito special harbor-master Andy Anderson, a member of the County committee drafting the new amendment, said the new laws will affect all boats in unincorporated County waters. "All boats in Marin waters can no longer dump

enforcement is virtually "useless," Anderson said.

The County will perform random checks on boats in County waters. If the seal is broken, a \$500 fine will be levied against the boat's owner. The sealing procedure will cost approximately \$10. Boat owners who have returned from outside the three-mile inland waterways will have to have their Y-valves sealed again, Anderson said. The city of Sausalito is also expected to adopt the new

WF GOVERNMENT RELATIONS

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