

JAMES A. STONEHOUSE
CERTIFIED SPECIALIST, PROBATE
ESTATE PLANNING & TRUST LAW
STATE BAR OF CALIFORNIA BOARD
OF LEGAL SPECIALIZATION

LAW OFFICES OF
STONEHOUSE & SILVA
SUITE 300
512 WESTLINE DRIVE
ALAMEDA, CALIFORNIA 94501
(510) 865-7350
FAX (510) 865-5754

GREGORY A. SILVA

**COPY TO
CLIENT**
10/7/02

October 4, 2002

Roger A. Brown, Esq.
38 North Washington Street
Sonora, CA 95370

Re: Odd Fellows Sierra Recreation Association and Boy Scouts of America

Dear Mr. Brown:

I am in receipt of your letter of September 27, 2002.

As your clients are aware there was extensive water to the Dan Beard building after a pipe broke on or about February 8, 2002. Because there was a mold problem, the mold damage was not completely finished until August 9, 2002. The insurance did not finish the claim until August 14, 2002. The contractor agreed to try and work us in around other obligations he already had and we were not able to complete the details of the work until September 30, 2002.

As you know, you locked out our contractor and all of our people on October 3, 2002. By this action you have prevented us from completing the repair of the Dan Beard building. You have further caused us to cancel Winter Camp for some four hundred scouts and their families. The revenue lost to the Council is approximately \$4,500.00.

You have yet to define what you perceive to be access to this property. As you know, the County road was abandoned with the concurrence of the Odd Fellows Association. With that consideration, we ask again, what in your view is our access to our property?

Very truly yours,

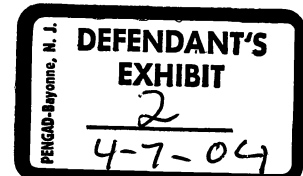
LAW OFFICES OF STONEHOUSE & SILVA

By _____

James A. Stonehouse

JAS:mcs

cc: Alameda Council Boy Scouts



0001

ROGER A. BROWN

Lawyer

38 North Washington Street

Post Office Box 475

Sonoma, California 95370

Phone (209) 533-7755

Fax (209) 533-7757

February 28, 2002

Boy Scouts of America
John Pearl, Scout Executive
P.O. Box 2246
Alameda, CA 94501

RE: Odd Fellows Sierra Recreation Association
County of Tuolumne

Dear Mr. Pearl:

The governing board of the Odd Fellows Sierra Recreation Association has asked me to write to you concerning the access they have permitted the Boy Scouts through the Odd Fellows property. As you may know, the Odd Fellows have voluntarily permitted visitors to the Boy Scout camp in the Sierra Village area of Tuolumne County to access the camp through the private roadways of the Odd Fellows property. We understand that some may erroneously believe that the Boy Scouts have acquired the "right" to use the Odd Fellows road for access to the Boy Scout Camp because of the many years the Odd Fellows permitted such access. My legal opinion is to the contrary and the board has asked me to share with you the reasons for my opinion.

The Odd Fellows have made the permissive nature of the access clear by posting signs at their gate and elsewhere alerting persons: "RIGHT TO PASS BY PERMISSION AND SUBJECT TO CONTROL OF OWNER, SECTION 1008, CIVIL CODE."

Since the Odd Fellows have title to their property and the roads within it, they have all the normal incidents of ownership, including the right to exclusive use and possession of the property. None of the roads in the Odd Fellows park have been dedicated to public use, nor will they be so dedicated. Neither the Boy Scouts nor anyone other than members and guests of the Odd Fellows Sierra Recreation Association have any legal right to pass over the streets, roads and common areas of the Odd Fellows Park, unless the Odd Fellows have consented to or permitted such access. Any such consent or permission may be revoked by the Odd Fellows at any time and for any reason or no reason.

The only way that the Boy Scouts could establish a "right" to pass over the Odd Fellows property to reach their camp is through the creation of an easement. I have concluded that no such easement has ever been created and the access over the years has been pursuant to a revocable license. A license is permissive and revocable at any time.

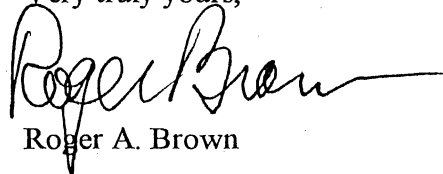
Boy Scouts of America
John Pearl, Scout Executive
February 28, 2002
Page 2

Long term use of the property of another can sometimes lead to the creation of a prescriptive easement, but the elements required to create such an easement are not present here. In general, a prescriptive easement may be created by the open, notorious, hostile and continuous use of the property of another under a claim of right, for a period of five years or more. Where the use has been permissive and consensual, the element of "hostility" is missing and the five year period never begins to run. I am informed that the Odd Fellows have always consented to the Boy Scouts' access over their roads and thus, the elements of prescription cannot be established.

The Odd Fellows have no present intention of revoking their consent for the Boy Scouts and their guests to use the Odd Fellows roads for access to the Boy Scout camp. However, we would like to clarify any misunderstandings which may exist about the legal nature of that access. Therefore, if you or your lawyers disagree with our analysis of the legal rights of the parties, please contact me so we may resolve any such issues at the earliest possible time. If there is any evidence or legal authority which is contrary to my understandings and analysis, I would be pleased to receive and consider it.

The Odd Fellows have always been good neighbors, will continue to be good neighbors and they look forward to many more years of pleasant association with the Boy Scouts.

Very truly yours,



Roger A. Brown

RAB/hs

cc: Del Wallis, President, Odd Fellows Sierra Recreation Association, Inc.

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ALAMEDA COUNCIL, BOY SCOUTS OF AMERICA

"Serving the Youth of Alameda for Over 75 Years"

1714 EVERETT STREET
P.O. BOX 2246
ALAMEDA, CALIFORNIA 94501
TEL: (510) 522-2772
FAX: (510) 522-1148

June 25, 2002

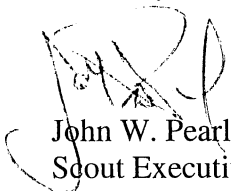
Mr. Roger A. Brown, Lawyer
38 North Washington Street
P.O. Box 475
Sonora, CA 95370

Dear Mr. Brown:

I have been instructed by the leadership of Alameda Council, Boy Scouts of America and the Alameda Scout Foundation to respond to your letter of February 28, 2002. After much consultation we have concluded that we respectfully disagree with your conclusion that we have no "right" to pass over the Odd Fellows property to reach Camp Cedarbrook. We feel the right was and has been established over the prior seventy-two years of camp operation.

While we will take whatever legal action necessary to reaffirm our position, it is our desire to work harmoniously to resolve our differences. Thank you for your attention to this matter.

Sincerely,



John W. Pearl
Scout Executive

CC: James A. Stonehouse
Steven Andrews
Richard R. Anderson
Nord Yamauchi
Del Wallis

0004

ROGER A. BROWN

Lawyer

38 North Washington Street

Post Office Box 475

Sonoma, California 95370

Phone (209) 533-7755

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July 22, 2002

John Pearl, Scout Executive
Alameda Council,
Boy Scouts of America
P.O. Box 2246
Alameda, CA 94501

RE: Odd Fellows Sierra Recreation Association
County of Tuolumne

Dear Mr. Pearl:

This is to respond to your June 25, 2002, letter which was a belated reply to my February 28, 2002, letter concerning access to the Odd Fellows Sierra Recreation Association roads. The Boy Scouts and their guests have been using the Odd Fellows' roads to gain access to Camp Cedarbrook for many years with consent and permission of the Odd Fellows. In your reply, you contend that you have the right to continue using the road because you have used it for the prior seventy-two years. You also state that you will take whatever legal action is necessary to reaffirm your position.

I sincerely hope you discuss the elements of prescriptive easements with your attorney before you decide whether to file an action to "reaffirm" your position. You will find that you cannot establish a permanent right to use another's real property if your prior use was consensual. As you know, the Odd Fellows have always permitted the Boy Scouts and their guests to use the road because they were good neighbors. Thus, since your use has always been permissive, you cannot establish the elements required to prove the existence of a prescriptive easement.

My client is still willing to try to accommodate your needs, but wants to formalize the relationship in writing. Thus, Odd Fellows would be willing to provide you with a written license agreement which would extend a permissive right for the Boy Scouts and their guests to use the road for access purposes for the foreseeable future. However, the license agreement would not be transferrable or assignable by you. Thus, if you decide to sell your property, the new owner would have to negotiate a separate agreement with the Odd Fellows.

The Odd Fellows will leave this offer open until October 1, 2002. If you do not accept the offer by that date, then Odd Fellows will change the access code to the locks on the gates and will no longer provide you or your guests with access along the Odd Fellows' road.

John Pearl, Scout Executive

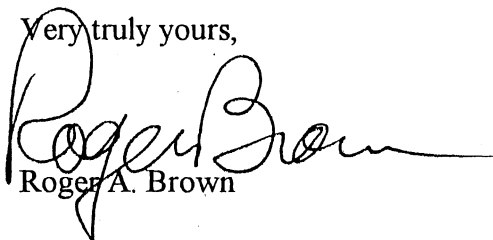
July 22, 2002

Page 2

If you wish to accept this offer, you must communicate your acceptance directly to my office or to Mr. Del Wallis, President of the Odd Fellows Sierra Recreation Association. In any event, the deadline is firm and it will not be extended.

We do hope that we can reach an acceptable compromise with you and avoid unpleasant and expensive litigation over the issue. We believe the proposed solution provides you the access you want without unnecessary loss to the Odd Fellows. Furthermore, the solution will preserve and protect the legitimate property rights of everyone. We look forward to hearing from you soon with your acceptance of our proposal.

Very truly yours,

A handwritten signature in cursive script that reads "Roger A. Brown". The signature is written in black ink and is positioned above the printed name.

Roger A. Brown

RAB/hs

cc: Del Wallis, President, Odd Fellows Sierra Recreation Association, Inc.

0006

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GREGORY A. SILVA

September 4, 2002

Roger A. Brown, Esq.
38 North Washington Street
Sonora, CA 95370

Re: Odd Fellows Sierra Recreation Association and Alameda Council Boy Scouts of America

Dear Mr. Brown:

The undersigned represents Alameda Council Boy Scouts of America. Please be advised that independent contractor construction work is being carried out at this time on the Boy Scout property at Camp Cedarbrook. The work is expected to extend through the entire months of September and October, and even potentially into November.

Any disruption by your clients of this contract will necessarily result in a need to recover damages from your client. Further, please be advised we stand ready to seek a restraining order to protect our access until such time as there is a total resolution of that question.

In your letter of July 22, 2002, you summarily dismissed the 72 year history of this Camp, which to the best of our knowledge predates your clients ownership. Please be assured we are continuing to explore all avenues to resolve proper access to our property. As we are not in a position to acknowledge your claimed superior right, a present agreement to a limited license is inappropriate.

Please direct any further questions or comments to the undersigned.

Very truly yours,

LAW OFFICES OF STONEHOUSE & SILVA

By _____

James A. Stonehouse

JAS:mcs

cc: Alameda Council Boy Scouts

0007

ROGER A. BROWN

Lawyer

38 North Washington Street

Post Office Box 475

Sonoma, California 95370

Phone (209) 533-7755

Fax (209) 533-7757

September 17, 2002

James A. Stonehouse
Stonehouse & Silva
512 Westline Dr., Ste. 300
Alameda CA 94501

RE: Odd Fellows Sierra Recreation Association and Boy Scouts of America

Dear Mr. Stonehouse:

This is to respond to your letter of September 4, 2002, in which you informed us that the Boy Scouts have hired independent contractors to do some work on their property and warned my clients not to prevent them access through the Odd Fellows property. I have discussed your demands with my clients and they have authorized me to inform you that they will proceed as outlined in my July 22, 2002, letter to John Pearl, Scout Executive of the Alameda Council of the Boy Scouts of America.

I am informed that your contractors have alternative access to the Boy Scouts property and accordingly, the Odd Fellows gate and road is not the only access. There will be no irreparable injury to the Boy Scouts if they must use their other access and thus, it is unlikely that a court would issue the restraining order you threaten to obtain. Further, since your contractors have alternative access, my client's actions will not interfere with their access, your contract, nor any other legitimate aspect of your relationship with these contractors.

Since we informed the Boy Scouts of our intentions many months ago, it was imprudent and unreasonable for the Boy Scouts to wait until now to schedule this work if they require the use of the Odd Fellows' gate and roadway. It is also unreasonable for you to wait until a few weeks before the gate codes are to be changed to inform us of your contract schedule.

As you know, I outlined the Odd Fellows' legal position in my February 28, 2002, letter to John Pearl. In that letter, I asked the Boy Scouts to provide whatever facts or analysis they might have to contradict my conclusion that the permissive nature of the Boy Scouts use prevented them from acquiring a prescriptive right to continue using the Odd Fellows' roads. The only response I received was a belated letter dated June 25, 2002, from John Pearl in which he simply concludes that he believes the Boy Scouts have the right to continue using the Odd Fellows' roads because they have done so for many years and threatening legal action.

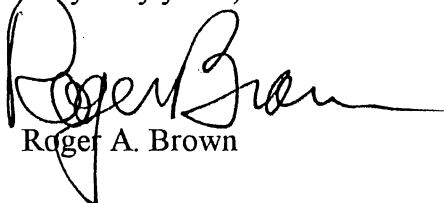
James A. Stonehouse
September 17, 2002
Page 2

In my July 22, 2002, letter, I clearly stated that, "Odd Fellows is still willing to try to accommodate your needs, but wants to formalize the relationship in writing" by the execution of a written license agreement. We left that offer open until October 1, 2002, after which, if there is no acceptance, Odd Fellows will change the gate access codes and will prohibit the Boy Scouts and their guests and invitees from further access. Your September 4, 2002, letter seems to reject this offer. If that remains your position, then you may expect that the gate codes will be changed on October 2, 2002, as promised.

The Boy Scouts have still never provided me with any facts, evidence or legal analysis supporting their claim of right. If you have any such information, please provide it and I will gladly review it to see if I agree or disagree with your position. However, a bare claim of right, unaccompanied by any evidence or legal analysis, will not prevent Odd Fellows from taking the legitimate actions we have indicated to protect their legal interests.

If you insist on seeking a temporary restraining order or any other legal action against the Odd Fellows, you may serve my office as I am authorized to accept service on their behalf. If the Boy Scouts decides to agree to the license proposal, please let me know far enough in advance of October 1, so I may prepare and present a written license agreement for their execution and return to my office before the October 1, 2002, deadline. In any event, my clients will not consent to any extension of the deadline and they will change the access codes unless there is a fully executed license agreement in my office by that date.

Very truly yours,



Roger A. Brown

RAB/hs

cc: Del Wallis, President, OFSRA

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JAMES A. STONEHOUSE
CERTIFIED SPECIALIST, PROBATE,
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ALAMEDA, CALIFORNIA 94501
(510) 865-7350
FAX (510) 865-5754

GREGORY A. SILVA

September 20, 2002

Roger A. Brown, Esq.
P.O. Box 475
Sonora, CA 95370

Re: Alameda Council Boy Scouts of America and Odd Fellows Sierra Recreation Association

Dear Mr. Brown:

I am in receipt of your letter of September 17, 2002. You referenced alternative access to the Boy Scout property. Please immediately identify to us the access to which you refer.

As your clients are aware, the damaged building that is being repaired by our contractors, after an insurance settlement, is only accessible by using Jordan Way to cross the creek. We are unaware of any other access.

With reference to the legal issues there are a number of points to consider. 1) What documents do you have to show that your clients have given permission for access to the property? Further, what documents do you have to indicate that the property and the access thereto, was not already in use prior to your clients acquisition? Our review of county records indicates one E.O. Silvester owned the entirety of both camp Cedarbrook and the Odd Fellows Sierra Recreation property. This leads to legal consideration of an easement by necessity to access the portion surrounded by your property.

2) There is the possibility of proving a prescriptive easement as recently as 1987-88. The Scouts built a new building on the property across the creek. Notice was given to homeowners as part of the planning process. No objection was raised to that building alleging there was no access. Arguably then even after the Boy Scouts acquired a lease hold interest, there actions were open, notorious, and hostile to the interest of Odd Fellows Sierra Recreation Association. 3) Even if you can show the existence of a license we would argue the license became irrevocable as the only access to the dinning hall and other buildings on the far side of the creek, come from the continued use of Jordan Way. The Scout council has invested significant funds in building and maintaining those structures, and exclusion from their use and maintenance creates a severe economic impact.

Finally, the council will be forced to consider a slander of title action as your clients appear to be attempting to restrict the validity and value of our property ownership. Your president has discussed with the scout executive the possibility of purchasing the scout land,

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Roger A. Brown, Wsq.
September 20, 2002
Page 2

while at the same time you are proposing to grant a license which is non-transferrable therefore restricting the ability of the council to sell to anyone other than your clients.

Instead of lawyer saber rattling and the attendant expense of following through with the various threats, I suggest your clients make a fair offer for the purchase of the property so the negotiation process can begin.

Very truly yours,

LAW OFFICES OF STONEHOUSE & SILVA

By


James A. Stonehouse

JAS:mcs

cc: Alameda Council Boy Scouts of America

0011

ROGER A. BROWN

Lawyer

38 North Washington Street

Post Office Box 475

Sonoma, California 95370

Phone (209) 533-7755

Fax (209) 533-7757

September 27, 2002

Sent by Fax to 510-865-5754

Original Will Follow by US Mail

James A. Stonehouse

Stonehouse & Silva

512 Westline Dr., Ste. 300

Alameda CA 94501

RE: Odd Fellows Sierra Recreation Association and Boy Scouts of America

Dear Mr. Stonehouse:

This is to respond to yours of September 20, 2002. I understand that you have hired a contractor to do some work on the Boy Scouts' cabin, but the amount of time you want my clients to continue their access seems excessive. What work is being done and how extensive is it that it requires several months' access, through November? That is enough time to rebuild the cabin several times over.

Your clients know full well they have alternate access to their camp. Once at the camp, your members and guests have full pedestrian access to the cabin. Your clients have no right to drive over my clients' property to achieve vehicular access to a lone cabin on their grounds. If you wish to provide vehicular access to the cabin, perhaps you should build a road or driveway from the main part of the camp.

Next, you suggest several possible types of claims which your clients might assert to compel their continued access across my clients' property. Then, you threaten a damages action for slander of title against my clients. If you practice real estate law, you must know that my clients have all the proof they need to establish their own position by their deed. The deed shows my clients own the property. If your clients have a claim, they have the burden of proving it by a preponderance of the evidence. Accordingly, as we have stated several times before, if you have any such proof, please provide it to us and we will review it to see whether we agree with your conclusions.

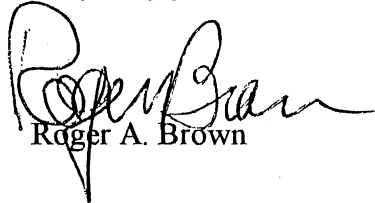
Further, we have reviewed Fish and Game Code sections 1600-1603 and we believe that it is unlawful for your clients, or anyone, to drive through the creekbed, disturb the creek bottom, and make any other alterations in the natural condition of the creekbed, creek banks or the water quality without a permit from the Department of Fish and Game. If the Boy Scouts has such a permit, we would appreciate receiving a copy of it. Further, if it is unlawful to cross the creek with vehicles, then the Boy Scouts certainly could not have acquired a valid "right" to do so whether such "right" is prescriptive, by necessity, by implication or in any other manner.

James A. Stonehouse
September 27, 2002
Page 2

You suggest that the Odd Fellows are somehow trying to depress the value of the Boy Scouts property to damage them or to get a better price for themselves. You are mistaken. My clients did not approach the Boy Scouts to purchase the property. My clients have not made an offer to purchase and have no present intent to do so. We do not even know whether the property is for sale. Under these circumstances it is silly to suggest that the Odd Fellows are somehow trying to affect the marketability and value of the property.

Unless you can provide me with some evidence or authority to change my mind, the Odd Fellows are not inclined to relax their timetable for changing the codes for entry at their gate.

Very truly yours,



Roger A. Brown

RAB/hs

cc: Del Wallis, President, OFSRA

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