

Darin J. Taylor

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March 18, 2005

Calvin McDonald
Reflection Lane HOA Secretary
8819 Reflection Ln.
Middleton, ID 83644

Re: Legal Opinion

Dear Mr. McDonald:

Thanks for your letter. The verbal quote for services was \$125 *per hour*, estimated to be at \$125 for the first subject and \$75 for the second subject. Answering the questions exceeded my estimates a little bit, but I think there were more questions submitted than what we discussed on the phone. Paying the Total Due is understandable, however the association is welcome to pay the Attorney's Fees Due. The difference is because of the limit set in your letter, since I did not call you first. I was pretty focussed on the issues and drafting answers, and did not recognize the time until I finished the project.

I have reviewed your February 12, 2005 letter and have provided you my professional legal opinion based on the questions and information you provided.

"Judgment #1:"

Q To what extent, if any, is the HOA responsible for periphery weed control?

A Weed control on the periphery of the pond on Lot 42B is the lot owner's responsibility, unless the weeds interfere with the HOA's responsibility to maintain the water available for the pressurized irrigation system. See First Amendment to CC&Rs, Article III, Paragraph E. 3.

Q To what extent, if any, is the HOA responsible for algae control?

A Algae control in the pond on Lot 42B is the lot owner's responsibility, unless the algae interferes with the HOA's responsibility to maintain the water available for the pressurized irrigation system. See First Amendment to CC&Rs, Article III, Paragraph E. 3.

Q To what extent, if any, is the HOA responsible for general water quality?

A The HOA is responsible to maintain the pond in a manner that does not frustrate that Common Facility's purpose – to provide water for the pressurized irrigation system. The HOA is responsible to maintain the water received in the same or similar condition until it is delivered to the pressurized irrigation system. See First Amendment to CC&Rs, Article III, Paragraphs E. 1. and E. 3.

Q To what extent, if any, is the HOA responsible for liability insurance on the pond?

A The pond is a “facility common to all parcels” – a Common Facility, therefore the HOA may, but is not required to carry liability insurance on the pond. Likewise, the owner of Lot 42B may, but is not required by the HOA to carry liability insurance on the pond.

Q To what extent, if any, is the HOA responsible for maintaining the level of the pond water?

A Using “water available for the pressurized irrigation system,” the HOA is responsible to maintain the pond in a manner so that the water is delivered to the pressurized irrigation system. Otherwise, the HOA is not responsible for maintaining the level of the pond water.

Q To what extent, if any, is the HOA responsible to supply an external source of water to the pond should the groundwater level and/or normal pumping of the pond water result in a water level in the pond that drops below that needed by the pump to deliver water?

A The HOA is responsible for maintaining Common Facilities, i.e., the pond and private road. Those facilities must be maintained in a manner so that the facilities perform their intended functions. For the pond, this means that available water can be delivered to the pressurized irrigation system. The HOA may, but is not responsible, to supply an external source of irrigation water to supplement groundwater in order to achieve a certain level in the pond.

Q Do the property owners have the right to apply chemicals to the pond at their own discretion without notifying the HOA members?

A If the owners of Lot 42B would like the pond maintained beyond what is necessary “for the maintenance of the water available for the pressurized irrigation system, then “yes” they can apply chemicals to the pond at their own expense and discretion as long as the chemicals do not interfere with the HOA’s responsibilities regarding the pond, and parcel owners at their sole expense shall immediately correct damage caused by the chemicals. See First Amendment to CC&Rs, Article III, Paragraph E. 2.

Q What access rights do HOA members have to the pump-house and pond which are both on private property? Should the HOA take any proactive measures to ensure accessibility to the pump house/pond and/or to restrict modifications that could restrict water delivery?

- A HOA members have access on the 60' roadway and on the 15' irrigation easement along the west boundary of Lot 42B. The Record of Survey, Inst. No. 200112481, does not show the location of the pond or well house, so additional access may be desirable depending on where those Common Facilities are located.

The question about proactive measures to "restrict modifications that could restrict water delivery" is unclear, but the HOA should take proactive steps that enable the HOA to perform its legal obligations. The HOA's Board of Directors may adopt, as part of the Association's Bylaws, additional rules or regulations that are consistent with the CC&RS pertaining to the Common Facilities. See First Amendment to CC&Rs, Article III, Paragraph E. 2.

"Judgment #2:"

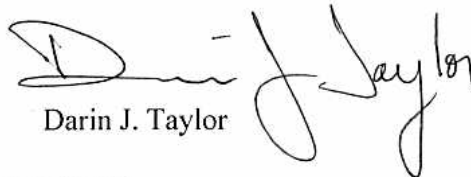
- Q How wide is the roadway, who owns it and where exactly are the boundaries in relation to our lots and the pavement?

- A The roadway is a parcel separate from any of the residential parcels and is owned by the HOA as a Common Facility. Residential-lot boundaries end at the boundary for the roadway. The roadway is 60' wide from Lansing Lane and wider at the partial cul-de-sac turn around at the eastern terminus of the roadway. The paved portion of the roadway is not identified on Record of Survey Inst. No. 200112481.

Locating the property boundaries for the roadway and residential lots will require an on-site survey crew. Without those boundary pins being located, it is impossible to identify where those boundaries are in relation to the pavement. My experience is that there are so many pins in the ground that, just because you find one, does not mean it is the one you are looking for. Surveyors/Engineers are needed to interpret the meaning of pins or other surveying markers.

I hope this has been helpful. Thank you.

Sincerely,


Darin J. Taylor

Enclosure: Statement for services rendered

Copy:

STATEMENT

REMIT TO:
Darin J. Taylor
518 Meadow Ct.
Middleton, Idaho 83644
Phone: (208) 585-3819

BILL TO:	Reflection Lane HOA c/o Calvin McDonald, Secretary 8819 Reflection Lane Middleton, ID 83644	INVOICE DATE:	February 17, 2005
		TERMS:	Upon Receipt

PROJECT: Provide legal opinion on two subjects, comprised of nine questions.

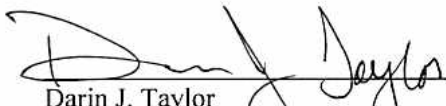
PERIOD: _____ 2005 – March 17, 2005

TASKS COMPLETED: Reviewed CC&Rs, Reflection Lane roadway deed, and Record of Survey. Telephone call to Skinner Land Surveying regarding roadway.

Hourly Fee: \$ 125.00
Hours: 2.5
Costs Due:
Attorney Fees Due: \$312.50

TOTAL DUE: \$ 250.00

Authorized By:


Darin J. Taylor
Please contact me if you have questions about this Statement.