

**DSLextreme-cgrundke**

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**Sent:** Monday, August 21, 2006 9:19 PM  
**Subject:** SEAL BEACH COURT CASE

**A hearing has been scheduled for Monday, August 28, 2006 at 10:00 a.m. whereby Judge Ronald L. Bauer will hear a motion for reopening trial. This hearing will take place at the Orange County Superior Court, Annex Building Dept: CX-103. Please be advised this date and time is subject to change. Notification of any change will be listed under the comment section to this article.**

**No Resolution to Leisure World Fight to Inspect Records, Shelly Bobbins, Jan 22, 2006.**

**Justice Delayed is Justice Denied (continuation of Leisure World Case) Shelly Bobbins, March 22, 2006.**

**\*Legislation enacted after July 1, 2006 pertaining to disclosure of records as per Davis-Stirling Act, sec.1365.2 strengthens homeowner rights for residents of CIDs. This applies now to all community services, organizations and or entities within Common Interest Developments. In summary, it doesn't matter what a CID calls itself, foundation or association or whatever. However, CAI was successful in placing limitations upon the years of disclosure allowed, generally limiting disclosure of records to the last 2 years only. The Civil Codes prior to July 1, 2006 provided for inspection of the books and records though contained loopholes for GRF to base their claim, thus their argument that they are not an association. In spite of legislation being passed, homeowners are still limited with restrictions as well as non compliance by CIDs under the guise of "privilege." This continues to leave homeowners' with the only recourse being the legal system.**

**We have a serious problem taking place in this country within our Common Interest Developments worsened only when justice for homeowners cannot be obtained through our courts. Worse yet, is that homeowners are even placed in a situation at all to have fight for their basic rights, rights that are afforded those not living in a CID. This case is about a blatant disregard by Golden Rain Foundation at Leisure World for the Civil Codes that allow homeowners their few rights afforded them to inspect records under the laws that govern CIDs. Recalcitrant boards need to be held accountable. Fortunately, this case being made part of the public record through our legal system will not be allowed to just go quietly into**

**the goodnight.**

## **BACKGROUND INFORMATION**

**Case No: 04CC01285 (Consolidated with Case No. 04WS04753, 05WS00708 and 05WS00709)**

**Ten months after trial, Judge Ronald L. Bauer has continued to delay ruling on justice for seniors in the case of Franz et al vs. Golden Rain Foundation. Leisure World resident, David Lyons filed a motion on July 24, 2006 to reopen trial in order to supplement evidence obtained last month, previously withheld.**

**This law suit is a demonstration of how boards of directors, Golden Rain Foundation and their attorneys at this California retirement community have all thumbed their nose at the California Civil Codes that pertain to disclosure of financial records. What has happened here is an example of why many homeowner advocates are of the belief that as long as the association industry is allowed to continue to wield their power and influence that there will never be justice for homeowners.**

**At issue has been Leisure Worlds denial of the residents' access to financial books and records, access to records that is a right afforded to homeowners through the Civil Codes of the Davis-Stirling Act. This right was refused the seniors based upon the claim by Golden Rain Foundation (GRF) at Leisure World that they are a "Foundation" and not an "Association." \*The basis to this claim by GRF being that the Davis-Stirling Act did not apply to Common Interest Developments that are considered to be "Foundations."**

**The question is DID GOLDEN RAIN FOUNDATION PERPETRATE A FRAUD UPON THE COURT BY COMMITTING PERJURY?**

**On July 24, 2006 Leisure World resident David Lyons filed a motion to reopen trial in order to supplement evidence obtained this month, previously withheld. Lyons obtained the state and federal corporate income tax filings by GRF at Leisure World for the years 2004 and 2005. It is within these documents to the IRS that GRF identifies them selves to be a "Homeowner Assc." GRF has adamantly denied that they are nor have been an "Association." Records from the years 2001-2003 relevant to this law suit continue to be withheld from the residents based upon the claim of "privilege." As Lyons stated per the motion, "This continued withholding of those requested documents have suppressed the discovery of evidence relevant to this point."**

**The "transmogrification of this suit" that Judge Ronald L. Bauer refers to within his April, 2006 Minute Order is indeed an apt description of this case. The definition of transmogrification is to change the appearance or form of something especially in a grotesque or bizarre way. This case indeed appears to be a grotesque distortion of how justice is meant to serve.**

**THE CHRONOLOGY OF THIS CASE PRIOR TO TRIAL WAS AS FOLLOWS:**

**In 2004, after being denied access to the association's books and records by Leisure**

**World's board of directors, a group of seniors exercised their rights under the Davis-Stirling Act by filing independent small claims actions, 19 in all.**

**The residents prevailed in all 16 cases and Golden Rain Foundation/Leisure World was "court ordered" to turn over the books and records.**

**Golden Rain Foundation failed to turn over the books and records and appealed all of the 16 adjudicated claims. Of the 19 cases filed against GRF, the more recent 3 cases were transferred for consolidation from Small Claims to Superior Court.**

**In essence, GRF at Leisure World after loosing in Small Claims turned around and sued these seniors forcing them into Superior Court whereby the seniors required legal council to defend them selves. One resident, David Lyons filed a cross-complaint against GRF.**

#### **THE CHRONOLOGY OF THIS CASE FROM THE TIME OF TRIAL IS AS FOLLOWS:**

**In October 2005 closing arguments took place in Superior Court by the attorneys representing both the seniors and Golden Rain Foundation at Leisure World.**

**Three months after trial in January 2005, still without a decision, Judge Bauer published a Minute Order calling for the attorneys to return to court and argue this case again.**

**In February 2006, attorneys for both sides returned to court and reargued their cases.**

**In April 2006, Judge Bauer produced another Minute Order without any final ruling on this case. Instead, the attorneys for each party were ordered to submit additional briefs.**

**In May 2006, the briefs were submitted and ten months after trial everyone continues to await a decision. On July 24, 2006 a motion was submitted by a Leisure World resident to reopen trial.**

**Lest it not be forgotten in all of this that these seniors in fighting for their basic rights are paying dearly for their courage. They are now most likely amongst the many other advocates that have found themselves stuck having to contend with the wrath of many of their neighbors, a board of directors that despises them, association attorneys that are out to get them and management that can conspire to make anything they can worse for those that have challenged them. These forces combine together to make life for those living in associations and fighting for their rights, a living hell. The common mode of operandi to many community associations faced with owners that challenge them is rooted in vengeance. The goal being to punish the "dissidents" and teach them a lesson they will not forget.**

**These seniors could never have predicted that this is how they would be spending their sunset years. They thought they would find justice in the courts only to find their case gone haywire spiraling into a bizarre and twisted legal quagmire. Their time and energy depleted and exhausted in litigation and delays by this judge. The concept of a leisurely retirement community has taken on a whole new meaning for these seniors. "Leisure World" has turned into a type of emotional, physical and financial "Seizure World" for this group of**

residents.

**The "transmogrification" as uttered by Dan Browns character, Robert Langdon in The Da Vinci Code of Constantine's fusion of the vestiges of pagan beliefs into Christian tradition gives rise to the lack of sensibilities in how this case has been allowed to have transgressed to this stage. Judge Ronald Bauer does not play an innocent role in this morphology. The interrelationship between the homeowner, the association industry, their attorneys and our courtrooms is an ever pervasive cycle bringing ultimate harm to owners that stand up for their rights who live in deed-restricted properties.**

**The CAI has transmogrified their common interest developments into perverted deviations from the very origins of these communities. Homeowner associations were intended to be self-run communities. Instead they appear to be in business to support the CAI vendors at the expense of the homeowner. They in fact are now described by the Chief Executive Officer of CAI- Tom Skiba, as just that, a business. Dwellings in CIDs are no longer homes for the deed-restricted property owner but have become ruthless businesses for these vendors to do with what they will. Often the egregious tactics used by these "businesses" pit neighbor against neighbor and create so much conflict that it is not unheard of for boards to call for police back-up in homeowner meetings. One association called in a priest to attend their annual meetings. I hope this was not for the last rites. Sadly, disputes generated in some CIDs have resulted in violence and even death.**

**Many of these associations in turn have proceeded to transmogrify any homeowner that dares to challenge the very injustices that are taking place. All one needs to do is to look at the May-June cover of the magazine called "Common Ground" to look at how CAI has transmogrified the homeowner (the monster like cartoon of a homeowner advocate with trash coming out of their mouth) to see that something has gone terribly, terribly wrong. For every finger the CAI points at advocates, there are thousands of fingers pointing back at CAI and their very attorneys. And the greatest sin of all is that some of our courtrooms have simply perpetuated this continued transmogrification for owners of these deed-restricted properties. This transmogrification is not complete without the influence of CAI upon our legislators in the warping of any proposed legislative bills that might possibly aid homeowners. The CAI specializes in transmogrification.**

**No matter the outcome, these seniors have helped expose an injustice that will remain a permanent part of the public record. It is the culmination of all these records together from CIDs across the United States that paint a picture of wide spread problems taking place. The multitude of these types of cases as part of the public records, are able to discount the misleading notion by the CAI that these "irresolvable problems" that advocates keep reporting, are simply "anecdotal" accounts.**

**This law suit and what has transpired is one more case that propels advocates in their cause to continue to fight for justice for homeowners. The ultimate tragedy is in the emotional, physical and financial toll this takes on not just these seniors but all the homeowners that have so courageously fought for their rights through our legal system. We stand united in this fight for justice with more homeowners joining forces each day. AHRC reports the number of hits on their web site per month now being 2.6 million and growing.**