

DICK ZSCHEILE AND COUNTY OFFICIALS
DEFEATED BY AN ORACLE

October 25, 2008

Re: Update on protecting our and your property rights

Dear Neighbors –

We have won our battle with Dick and Judy Zscheile and the County of Santa Cruz Planning Department concerning protests over our legal fencing. We have not only protected our constitutional property rights; **we have protected yours**. As you know, Dick Zscheile and his Horizon Way Gang launched an unprovoked attack on our property. It began with a letter from Richard “DICK” Zscheile, dated February 28, 2006, to the County Planning Department requesting that our permit application be denied, claiming that our hedge was in violation of County Code. He and his cohorts then sent a total of **17 false complaints** to the County against our household; one from February 1, 2007, is enclosed. (Enclosure # 1) As part of our response, we provided the County with professional and accurate traffic engineering reports proving that we had surpassed all traffic safety and site distance standards, although not required for rural curved roads. (In fact, there is no legal pedestrian requirement for rural roads, including Ordinance 13.10.525, which was incorrectly used against us. Note that approach road Porter Gulch Road, a County road with higher speeds than Tolak Road, has no pedestrian paths.) In addition, we brought to the County’s attention several Constitutional cases in favor of our rights. We also uncovered County documents that demonstrated that the County was illegally violating its own codes.

After a nearly three-year battle, the County has capitulated. On October 15, 2008, the County expunged the illegal red tag they had placed on our property. The result of all of the fallacious complaints was that the County was unable to make even one “finding of fact” against us. We are now seeking financial compensation from the County for violating our Constitutional rights, including our 5th, 9th, and 14th Amendment rights, as well as violating California statutes.

During our three-year battle, we discovered that the County had violated several California laws. For example, the County does not have any authority over landscaping and fencing for agricultural zoned properties, and we are all zoned **residential agricultural** (“RA”). (See Map Enclosure #2) In the **California Building Code** that preempts County Code fences do not require a permit. County Ordinance 13.10.525 #3 provides, *“In agricultural zoned districts, fencing for agricultural purposes may have heights up to 6 feet in ALL yards without the need for Development Permit Approval.”* County Code 12.10.315 and previous Ordinance 4682 further “exempts fences less than 10 feet from permit requirements”, so the red tag the County placed on our property violated its own codes. In addition, the County has no legal authority over hedges or landscaping on agricultural properties. Our property has significant agriculture.

The County was also unlawfully hiding two **State mandated** citizen appeals boards since at least 1998. One is the Building and Fire Code Board of Appeals Commission and the other is the Housing Appeals Board Commission, the non-existence of which denied us access to our due process civil rights by robbing us of the opportunity to appeal the false claims made against us to an independent citizens appeal board. **“AppealGate”** has been well documented on a citizen’s web site, **straighttalknews.org**, which is helping many Santa Cruz County residents fight the County’s deliberate and corrupt practices. In addition, the people who placed the red tag are not

legally allowed to do so by the State and they were not properly licensed or certified. This is true of many of the Planning Department staff. Indeed, the Planning Department model is one of extortion and fraud, rather than lawful and respectful public service, making it easy for people, such as Dick Zscheile, to use it as a battering ram against innocent people, which is what took place here.

You should consider yourself fortunate that we have prevailed in our fight for the truth and our rights. If the outcome had been different, every household in the neighborhood would have become subject to the same Nazi tactics and a reduction of personal and property rights. We stood up so that your landscaping would not be cut down to 3 feet. Now Tom Gill, Vice President of the neighborhood road association (JTRA), may keep his landscaping at approximately 14 feet, and many other households may keep their vegetation well over 6 feet to 10 feet. Not only that, our stand against the County will keep them out of our neighborhood for other scandalous actions that they could have invented and chosen to inflict upon you. Unfortunately, very few neighbors have stood up for us during this time. We want to thank those of you who did, most particularly, Rev. Richard Juhl, who has resided in our neighborhood for decades.

Important facts Re: JTRA

It is now important for us to inform you of the misdeeds and unethical acts that were not only perpetrated on us, but also perpetrated on you. Dick Zscheile turned a false report over to the County of Santa Cruz to be used against us. Unfortunately, the County did not vet the report, which makes them as incompetent as the person who prepared it. We have enclosed the report, which has been withheld from the membership, including elected road committee members Juhl and Brown, since it was written, so you can see that the entire purpose of the report was to fuel

Zscheile's agenda to attack our household. Without ever even seeing the following report, on March 15, 2007, Richard Juhl wrote a letter to Mike Schwenne, Tom Gill, Roger Pase and Jim Brown, registering his protest of the unethical way in which the road report was obtained.

(Enclosure # 3) It is no surprise that the report turned out to be a sham. In our response to the report, you can see that not one statement from the road engineer, for whom you paid, has any truth in it. It was designed to be used against us, and you were tricked into believing a comprehensive community wide road report was going to be made.

When you read the Jeffrey letter (Enclosure #4) and our rebuttals below, you will see it is illegitimate and inaccurate for item #4 regarding our property. Not one true fact is stated or substantiated with engineering technical data, measurements or findings. No manuals of reference are stated.

Here are the entries from the Jeffery letter and our corrective responses for item #4:

Jeffrey: "County of Santa Cruz and general traffic engineering safety standards for sight distance are not being met at the intersection of Tolak Road and Horizon Way and creating an unsafe driving condition."

Response: The area where Tolak Road and Horizon Way meet is NOT an intersection as defined in traffic engineering standard terminology. It is correctly termed a "curve in the road, with a name change", per our two engineers. (This is easily seen from an overhead Google map, as one engineer stated). The traffic standards for a curve are entirely different from that of an intersection. Our engineer states, "Normal sight distance guidelines therefore are not applicable because there are no conflicts points as there would be at an intersection."

There were no unsafe driving conditions in place on March 20, 2007, when this walk through visit took place by only a small biased group. No accidents in 28 years have ever occurred on this area. In addition, the double yellow line striping was in place, extensive signage and reflectors were present, a protective guiding curb exists, and the road is exceptionally wide. (Roads as narrow as 12 feet are allowed next to homes.) The cause of any unsafe driving condition was (prior to the double yellow line striping) due to Horizon Way residents driving either in the middle or the oncoming, wrong side of the curve, at speeds beyond what the radius of the curve can safely handle. We have five witness sightings of Dick Zscheile driving on the left oncoming lane exiting Horizon Way onto Tolak Road, prior to the yellow line delineation.

One of the witnesses was a road traffic engineer who was present on Horizon Way near the end of our property line when Dick Zscheile drove through the large curve entirely on the oncoming wrong half of the road.

Jeffrey: “This appears to be mostly created by tall hedges that are untrimmed to the required height of three foot (feet).”

Response: First, the required height is NOT three feet. In the County code 13.10.525, which was the code falsely used to justify the red tag, it allows for hedge/fence permit heights of three feet, six feet and eight feet. In FACT, our application, which we found out we did not need in the first place, was for a Level III Six Foot Height Development Permit. Ordinance 4682 and 12.10.315 allow fences of 10 feet in height without a permit. There is no requirement for a 3-foot height limit.

Jeffrey: “I don’t believe I have ever witnessed something like this in my 30 plus years of traffic engineering.”

Response: A former manager at Code Compliance for Santa Cruz County said our road was much safer than his road, and his is a County road. His inspector found no safety hazards around our property and road area while he was manager, and he rejected the complaints.

Jeffrey: “This lack of shrub maintenance is dangerous as the apparent speed of vehicles attempting to turn the corners is 15-20 miles per hour and the hedges create a sight distance of less than 100 feet, which is not adequate for this speed and conditions.”

Response: Given the radius of the curve, the maximum speed limit for the is well below 15 mph, per the formula supplied in *A Policy on Geometric Design of Highways and Streets, 4th Edition, 2001, by the American Association of State Highway and Transportation Officials*. The stopping distance for these speeds is below 76 feet. **Adequate sight distance exists for both driveways with the present landscaping in place. In fact, we exceed the sight distance requirement measurements.** The County does not need to require any changes. A highly reputable engineer in Santa Cruz County (former County employee) test drove the road area with a former Code Compliance Manager multiple times. The practical and recommended speed is 10 mph. The road cannot be safely or comfortably driven at 15-20 mph as suggested above, per road tests actually performed. The radius of the curve will not change the sight distance or speed. **No clearing of vegetation would increase the speed ability, as it is constrained by the physical radius of the two curves. The double yellow line guides vehicles to stay on their half, which additionally forces vehicles to slow down. We have also enclosed factual DMV driving rules.** (Enclosure #5)

Jeffrey: “This further restricted as the roadway width is reduced from the “normal” of 22 feet of the rest of the road to about 18 feet at the subject corner which has been striped with double yellow lines. Additionally, it is County custom and practice not to stripe narrow roadways of less than 20 feet.”

Response: This is not a County road, it is a private road. The road is mostly 22 feet wide or more as Tolak ends with a large bulb in the road where Tolak and Horizon Way Roads meet. Regarding striping for any road, the *Manual on Uniform Traffic Control Devices Latest Edition* recommends, per our engineers: “...striping as an option for road widths of 16 feet or more

where deemed appropriate to improve the safety of the road. Indeed the “*Manual*” even allows consideration of smaller widths under special circumstances”.

Jeffrey: “I am almost certain that all of the above are in the subject right-of-way of the Road Association and all apparently placed without authorization of the association.”

Response: The area around our house has an easement per our Deed and does not have a right-of-way. In fact, our utility boxes sit in front of our hedge, not behind it, further demonstrating that we are not blocking the use of any utilities, with the safe position of our fence/hedge five to eight feet back from the road edge. Our engineer states, “Your current landscaping sits behind the utility boxes and fire hydrant so it does not pose any access issues to those facilities.”

JTRA members do NOT need authorization of the association for their landscaping or signage. We have covered in our previous 2007 member letter that we have no encroaching and no overhanging vegetation. Our road engineer states, “The combination of striping, signing, good pavement condition, speed reducing geometry and extremely low volumes make this a very safe facility.”

Further, Michael Schwenne, Thomas Gill and Glenn Weyhausen sent on behalf of the JTRA, dated March 2, 2007, (Enclosure #6) to our District Supervisor Ellen Pirie and two members of the County of Santa Cruz Planning Department making false claims about JTRA membership, including that there was a unanimous vote of the 35 homeowners. **They had the audacity to request that we “reduce the height of our entire hedge to 3 feet.** Dick Zscheile and his cronies have poisoned whatever peace had existed in our neighborhood. Many neighbors are no longer even interested in attending JTRA meetings, since they have become a battleground for Dick’s agendas. The JTRA bylaws state that a membership meeting is to take place within each calendar year, with 21 days notice, and for 2008 that has not yet occurred.

Finally, the JTRA should not misappropriate dues for personal agendas that are outside the bylaws. Any money that was misappropriated must be fully refunded. Further, our household should be exempt from any road dues for the next 10 years to compensate us for what we have been through financially and emotionally protecting our and your property rights. And we highly recommend that Dick and Judy Zscheile never again be allowed to be a board member of either the JTRA or its road committee.

Please be reminded that the JTRA does not have any authority per the Bylaws and Deed Governing Policies to supersede any County ruling on this matter and does not have any authority on its own regarding fences and landscaping. The JTRA's standing is only to repair and maintain the road and collect dues. **The JTRA cannot vote for anything regarding member personal property landscaping, vegetation, signs and road painting. The JTRA or any individual does not have any authority regarding our non-encroaching and non-overhanging landscaping and road area around our property.** Notably, overhanging trees should be trimmed to a height no less than 14'6" above the road (Enclosure #7). The committee and JTRA Board should also note the unsafe road condition that exists on Horizon Way due to the poor management of not repairing the road before it was sealed. (Enclosure #8)

“The natural rights are these: first, a right to life; second to liberty; third to property; together with the right to support and defend them in the best manner they can.” Samuel Adams, 1772

It is time for harmony to return to our neighborhood. We have asked for this in two previous letters.

We remain truthful and in peace,

Rev. Oracle and Spouse

The above letter and enclosures are to inform the neighborhood of our opinion and is based upon our experience, and is not meant to contain any defamatory statements. Truth is an absolute defense to defamation. *Long v. Vertical Tech., Inc., 113 n. C. App. 598, 603, 439 S.E. 2d 797, 801 (N.C. App. 1994); N.C. Gen. Stat. S15-168 (2007).*

No enclosures are included for this posted story that contains a few minor edits from the original.