

# ALAN HARUNAGA

This is an update on the lawsuit against the Board of Directors and President Hoffman and VP Finley. The person suing is Nicole Craig – who by the way lives in her own home in HPP and splits her time between here and California to be with her grandkids and elderly mother. This has now been proven in court and whoever tells you that she is not an HPP resident is lying to you.

As you may or may not know, the lawsuit claims:

- 1) That the deed to the mailbox properties is being violated because they are restricted for use ONLY for “park, recreation, playground or school”. The Board is using them for mailbox complexes and cell phone towers.
- 2) That 421J does not apply to HPP. The Board wants it to apply because it gives them more power than what they have in our Bylaw. But HPP does not qualify as a “planned community” because one of the requirements to be a “planned community” is that there are restrictions in your deed called CC&R’s. At least two thirds of the deeds in HPP have no such restrictions.
- 3) That annual road maintenance fees are being used to build the mailbox complexes when the Bylaws forbid the use of road maintenance fees for anything other than road maintenance.

AND

- 4) That Jeff and Kari have knowingly violated the deeds, misused the funds, and lied to the membership about what they were doing and what gave them the authority to do it.

At the very beginning of the case Ms. Craig asked the Court to order the Board to stop building on the mailbox complexes until the deed issue was sorted out. It is extremely rare to win this sort of motion. You have to prove that there is no way the land can be put back the way it was

Attachment 6  
pg. 14

before the building was done. The judge decided NOT to order the Board to stop building, but told them that HE COULD ORDER THEM TO TAKE IT ALL DOWN AT THE END IF THEY LOST AND RETURN THE LAND TO ITS ORIGINAL STATE. The Board has not told you this, have they?

The Board then filed a motion to dismiss the entire case. In fact, Jeff Finley was telling members on Facebook that the “case would soon be over”. After reading the written briefs and hearing arguments from both sides, the judge denied the Board’s entire motion to dismiss and ordered the case to go forward. In other words, the judge found that Ms. Craig has a legal basis for her lawsuit. It is not “frivolous” as the Board, and particularly Jeff, has said publicly, or the judge would have dismissed it.

The judge told the two sides that they should go to mediation while the case is going forward. Mediation just means that you pay someone 500 dollars an hour to talk to both sides in separate rooms, and go back and forth to point out what weaknesses each side might have and the risks that come with taking the case to trial. The mediator does NOT make any determination about who is right. There is no verdict, and there is nothing reported back to the judge other than that the two sides did not reach an agreement. In fact, everything that is discussed in mediation is confidential.

It looks like the Board is looking at whether or not to appeal the judge’s decision not to dismiss the case because they have asked for a transcript of the hearing on the motion. There really is no valid reason for an appeal, and the Board will almost certainly lose, wasting money and time. The Board, Kari and Jeff are doing anything to avoid having to answer questions that can be asked during litigation, having their depositions taken, and having to produce documents. Ask yourselves, WHY???

If the Board decides to appeal, then the case will stop until the case is heard by the appellate court. When the appeal loses, then the case keeps going. The two sides will exchange information, and eventually the case will go to trial in front of a jury of twelve people. People, by the way, who are very leery about runaway HOA Boards...

I hope that this helps explain where everything is in this lawsuit. I would encourage you that, if you legitimately want to know more about it, please reach out to Nicole through her "GoFundMe" site at by searching for Nicole Craig. Although the Board's legal fees are being paid by their insurance company, every expense on the other side is being paid for by Ms. Craig out of her pocket, and through the generous support of people who donate funds...Litigation is expensive, and part of what the Board counts on is that you, the members, will not challenge their abuses because it is too expensive to file a lawsuit. Please do what you can. There may be some questions that she is not able to answer because of the ongoing litigation, but she will do her best.

Thanks for listening.