



# Big Bear GRIZZLY

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## Marina Point developer sues 3 Forest Service employees

By KATHY PORTIE

Marina Point Development Associates filed a lawsuit in U.S. District Court Nov. 3 alleging three employees of the U.S. Forest Service violated the federal Racketeer Influenced and Corrupt Organizations Act (RICO) by attempting to illegally stop the Marina Point project to advance their own interests.

According to the lawsuit, Gene Zimmerman, Scott Eliason and Robin Eliason abused their governmental offices as employees of the U.S. Forest Service to create a conspiracy to stop the Marina Point Development project. The project includes 133 condominium units and a marina located on 12.5 acres along the North Shore of Big Bear Lake in Fawnskin. Sandy Steers of Fawnskin and member of the environmental group Friends of Fawnskin, and several unknown defendants labeled as John Does are also named in the suit.

The U.S. Forest Service and other government agencies are not named in the suit. "The government agencies were defrauded as much as we were," said S. Wayne Rosenbaum, attorney for Marina Point Development Associates.

The lawsuit, which was filed in Los Angeles, accuses the three Forest Service employees of knowingly and willfully abusing their offices. "They misrepresented their personal opposition as official U.S. Forest Service positions, plotted and conspired with other people who had a financial interest in the project's demise, improperly shared government information that was not public, and withheld information that my client was entitled to have under the Freedom of Information Act," Rosenbaum said. "On top of these illegal acts, the defendants then attempted to destroy evidence on their government-issued computers."

Ruth Wenstrom, public affairs officer at the San Bernardino National Forest supervisors' office, confirmed reports the Eliasons and Zimmerman have asked for legal assistance from their employer. "There is a process for the request and they are now in that process," Wenstrom said. "(Forest Service) attorneys will have to look at all the facts and evidence in the case before deciding whether or not to represent them."

Wenstrom said the three Forest Service employees were not available to comment on the lawsuit. She confirmed the Eliasons live in Fawnskin and are members of the Friends of Fawnskin group. Zimmerman owns property in Sugarloaf south of Big Bear Lake.

The Marina Point project began in 1981 when developers purchased the property then known as Cluster Pines. Investors planned to build a 133-unit resort and a marina. The project was approved by the county of San Bernardino in 1983, then redesigned in 1989. In 1991, a revised plan was submitted to the Army Corps of Engineers, and permits and a final subdivision map were recorded at the county office in 2000.

Construction began in July 2002, but has been halted several times for a variety of reasons, in part by legal action from Friends of Fawnskin and the Center for Biological Diversity. In May, a federal court granted a preliminary injunction on the endangered species claim brought forth by a Friends of Fawnskin lawsuit against the developer.

It was this lawsuit that enabled the developer to discover documents that form the basis of the new allegations, Rosenbaum said.

The lawsuit claims the Eliasons and Zimmerman plotted with Steers to confuse other government officials and lead to stopping the project, allowing the Forest Service to then purchase the land below fair market value.

“The group was willing to support the U.S. Forest Service in giving 300 acres of public land in exchange for the 68 acres that adjoins Marina Point Development, which could, in turn, allow U.S. Forest Service to cut off the water supply to my client and force him out,” Rosenbaum said.

According to Wenstrom, the Forest Service did make an offer for the land in 1999. “A number of years ago we received letter after letter from concerned members of the community,” Wenstrom said. “We did an appraisal of the property and made an offer based on a fair market value of the current use. We were a long ways apart from what the developers wanted. They declined our offer and we fell out of negotiations.”

Wenstrom said the Forest Service can only offer to buy property based on the current use fair market value. The developers wanted to sell based on their plans for its future use, Wenstrom said.

Everett DeLano, attorney for Friends of Fawnskin and the Center for Biological Diversity in the suits against Marina Point developers, calls this latest turn a form of harassment. “I can’t speak for Ms. Steers or the Forest Service employees,” DeLano said, “but from an informed perspective it seems that what is happening now ... is the old ‘If I can’t win on merits, we’ll start mudslinging.’”

DeLano said there are cases pending against the developers in both state and federal court. “Both cases are winding through the process,” DeLano said. “The federal judge ordered an injunction against them, which I think is a good indication there are some environmental concerns there.” The federal case is slated to begin May 17, 2005.

Rosenbaum said the developer’s suit is not a countersuit. “We believe that everybody has the right to petition the government,” Rosenbaum said. “What is not protected is criminal acts to advance their personal interests. That’s very different. Federal employees are barred from providing private consultations while working on the same issue for the public.”

The lawsuit also alleges Robin Eliason ignored official U.S. Forest Service data on bald eagle habitat and circulated misleading information without disclosing her personal interest or that the opinions contradicted actual Forest Service data. It also alleges Scott Eliason sent misleading communications to the Army Corps of Engineers and U.S. Fish & Wildlife Service employees concerning endangered plants and animals at the project site.

The Friends of Fawnskin lawsuit gave Rosenbaum access to documents previously denied to the developers. “Once we were finally able to get the documents we had sought under the Freedom of Information Act, we found clear evidence of the conspiracy we thought existed, but had not been able to prove, even though the various players claimed that the information could not be found or, in some instances, tried to destroy it,” Rosenbaum said. “Had they not sued us we would not have been able to obtain in discovery the computer hard drive.”

Phone calls to Steers were not returned prior to press time. Rosenbaum said the defendants have 20 days after the filing date to answer or file a motion in response