


STAFF REPORT

TREES AND VIEWS COMMITTEE

Project Back View Claim / 230 Glen Drive
View Claim TRP 10-170

Public Hearing Date September 13, 2010

Staff Alison Thornberry, Assistant Planner 

REQUEST

Hold a fact finding meeting and make an advisory decision for restoration of the water view from 230 Glen Drive.

PROJECT INFORMATION

**Claimant(s)/
Address** Nicole Back, representing D. Duncan Trust
230 Glen Drive (APN 065-141-09), (see **Exhibit A** for vicinity map)

**Tree Owner(s)/
Address** Richard Dodder Jr. and Suzanne Lempke
240 Glen Drive (APN 065-141-44)

Authority Section 10.12.040.B.4 of the Municipal Code authorizes the Trees and Views Committee to make a Fact Finding and Advisory Decision regarding view claims.

**Environmental
Review** The subject application is categorically exempt from the California Environmental Quality Act (CEQA), in accordance with Section 15301 of the CEQA Guidelines.

PROJECT DESCRIPTION

The Claimant, Nicole Back representing the D. Duncan Trust, requests the Trees and Views Committee to conduct a fact finding meeting and make an advisory decision in favor of the restoration of an unobstructed water view for the property located at 230 Glen Drive. According to Ms. Back, restoration of the view would entail the crown reduction of several California Bay trees (*Umbellularia California*) located on the property at 240 Glen Drive.

As documented in the materials submitted by Ms. Back (see **Exhibit B**), she has undertaken the following steps in an effort to reach a solution for the alleged view obstruction:

- Initial Reconciliation per Section 10.12.040.B.1,
- Mediation per Section 10.12.040.B.2, and
- Arbitration per Section 10.12.040.B.3.

Since these steps have not resulted in a solution for the alleged view obstruction, Ms. Back has requested the Trees and Views Committee to conduct a fact finding meeting and make an advisory finding.

An Arborist Report was performed by Certified Arborist, Ted Kipping, on February 9, 2009, where the Arborist was asked to determine whether the current views from 230 Glen Drive had been diminished from established views as a result of the growth of California Bay trees located on the

adjacent Property at 240 Glen Drive. The Arborist was not permitted access to 240 Glen Drive, and observed the subject trees from the public right-of-way. He observed a group of California Bay trees located on the properties of 240 Glen Drive and 69 Cazneau Avenue. The Arborist found a number of California Bay Trees located in the view line of 230 Glen Drive, all of which appeared healthy. The Arborist recommends the owners of 240 Glen Drive allow the owner of 230 Glen Drive to resume seasonal view maintenance, pruning and crown reduction of the California Bay trees located at 240 Glen Drive at the historical pruning height. The Arborist's report is provided as Attachment 11 of the Claimant's submitted materials (see **Exhibit B**).

PUBLIC NOTICE AND CORRESPONDENCE

At least 10 days prior to the hearing date, on September 2, 2010, notice of this View Claim was posted and was mailed to all residents and property owners within 100 feet of the subject parcel.

No correspondence has been received on the project as of September 9, 2010.

RECOMMENDATION

Staff recommends the Trees and Views Committee to conduct a fact finding meeting and make an advisory decision regarding the view claim submitted by the owner of 230 Glen Drive in regard to the trees located on 240 Glen Drive. The decision of the Trees and Views Committee must:

- Address findings with respect to the following standards as detailed in Sections 10.12.040.C.3 and 4 (see **Exhibit C** for the full text):
 3. Standards for Resolution of Claims
 - a. The character of the view; and
 - b. The character of the view obstruction; and
 - c. The extent of benefits and/or burdens derived from the growth in question;
 - d. Restorative actions shall be limited to the following; and
 - e. Each type of restorative action shall be evaluated based on the Findings and with consideration given the following factors; and
 - f. All restorative actions shall be undertaken with consideration to the following factors.
 4. Implementation of Decision
- Recommend restorative actions (if necessary)
- Recommend allocation of costs (if necessary)

Alternatively, the Trees and Views Committee may:

- Recommend the services of other experts either or both of the parties; or
- Continue the public hearing to obtain additional information.

EXHIBITS

- A. Vicinity Map
- B. Claimants Submitted Materials, date stamped July 7, 2010
- C. Findings and Standards for View Claims
- D. DRAFT Resolution

Vicinity Map

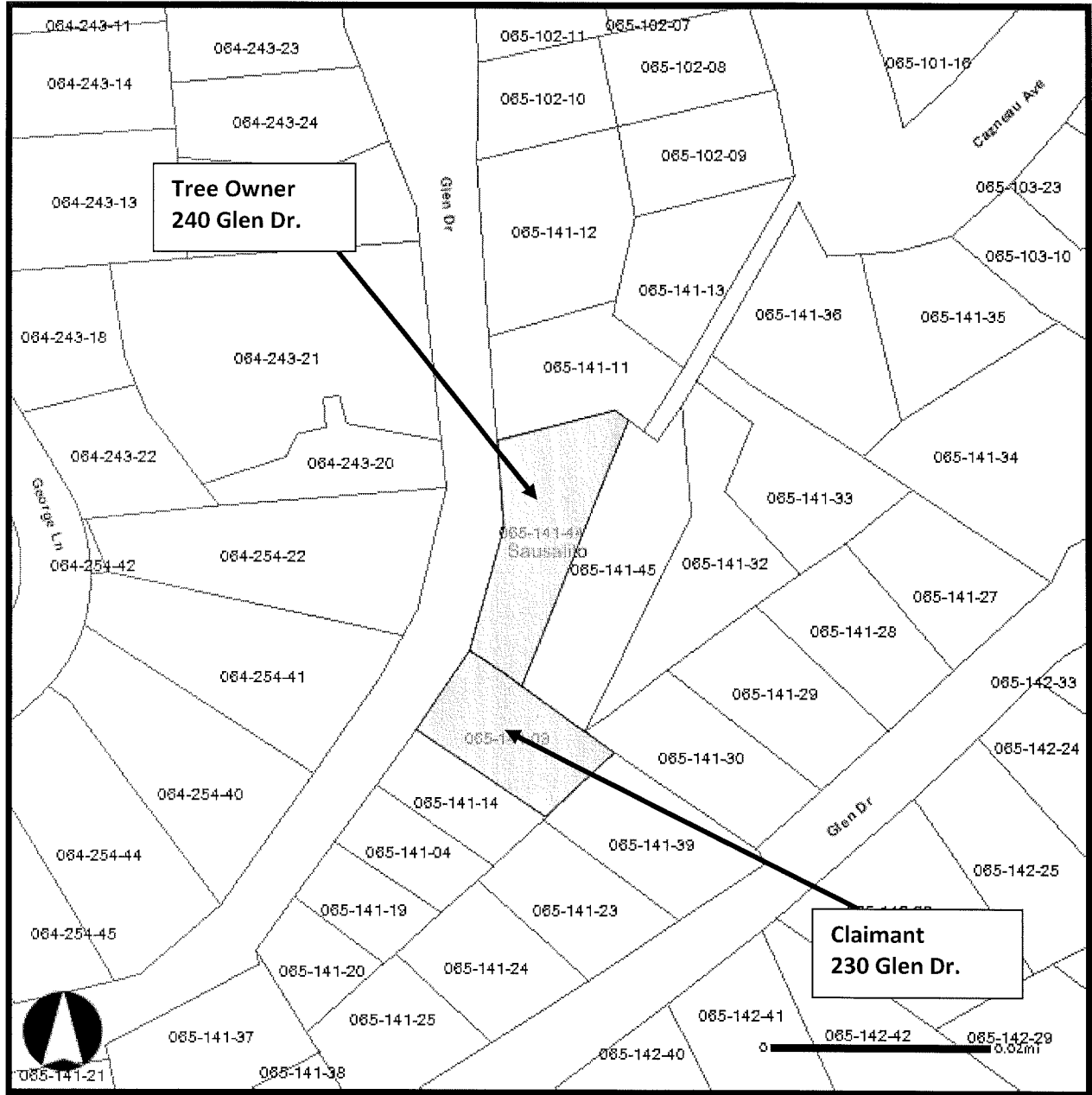


Exhibit A

BLANK

Sausalito July 2, 2010

Mr. Grant Colfax, Chair
Sausalito Trees and View Preservation Committee
Community Development Department
City of Sausalito
410 Litho Street
Sausalito CA 94965

RECEIVED

JUL -7 2010

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

Re: Water View restoration Claim for 230 Glen Drive - Sausalito
Claimant : D. Duncan trust, Nicole Back trustee
Tree Owners: Susanne Lempke and Richard Dodder, tenants in common.
Address: 240 Glen Drive, Sausalito

Dear Mr. Colfax, Chair and Members of the Trees and View Committee

The D. Duncan Trust seeks an advisory opinion from the Sausalito Trees and View Preservation Committee regarding the restoration of its unobstructed water view regarding its property located at 230 Glen Drive. This entails crown reduction of several California Bay trees, located at 240 Glen Drive.

The preliminary steps required by the Sausalito T&V Preservation Ordinance 11.12.040-B Procedure, 1 and 2, have been attempted without results: Initial reconciliation over the course of several years have failed, numerous letters, were sent, personal discussions, invitations to our property were refused. (Claim Exhibits#8 through 10) An arborist report was submitted to owners of 240 Glen Drive on February 20 2009 (Claim Exhibit#11). A 30 day notice of offer to mediate was submitted May 16 2009 and ignored (Claim Document. Exhibit #12). Supporting documents are contained in the view Claim package attached herewith. I also wish to reserve my right to supplement this submission with additional documentation.

Please confirm that the preconditions for requesting a Fact Finding Advisory hearing have been met, and if a hearing could be scheduled as early as July 21, 2010.

Visit(s) of the site and interior of the 240 Glen Drive home are hereby authorized provided 48 hours minimum notice is given, to inform tenants of entry. Please use the contact information below for communications.

Thank you for your attention to the matter.

Sincerely



Nicole Back
Trustee D.Duncan Trust

31 Bulkley Ave#5
Sausalito
CA 94965
tel: (415) 332 45 95
e-mail nxb4595@earthlink.net

RECEIVED

JUL -7 2010

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

Sausalito July 2, 2010

Mr. Grant Colfax, Chair
Sausalito Trees and View Preservation Committee
Community Development Department
City of Sausalito
410 Litho Street
Sausalito CA 94965

Re: Trees at 240 Glen Drive Obstructing Water View From Neighboring Property

View restoration Claim

Claimant: D. Duncan trust, Nicole Back trustee

Address 230 Glen Drive, Sausalito

Tree Owners: Suzanne Lempke and Richard Dodder, tenants in common.

Address: 240 Glen Drive, Sausalito

By this Claim, Claimant seeks an advisory opinion from the Sausalito Trees and View Preservation Committee regarding its property located at 230 Glen Drive and the restoration of its unobstructed water view. This entails reducing the height, back to their 1951 historic pruning level, of several California Bay Trees, located at 240 Glen Drive.

230 Glen Drive, the Duncan Trust property was purchased in 1951. The architectural features of the upper level, such as floor to ceiling panoramic windows, sliding glass doors leading to a full length deck, were designed to maximize the spectacular Richardson and San Francisco Bay water views. Those views included Tiburon Drive to the North East, Belvedere, and Sausalito's Pelican Harbor to the South East. The lower level East Bedroom's casement and picture windows enjoyed water views including Belvedere and Pelican Harbor, so did the Master Bath. Since 1951 the California Bay trees located on both 69 Cazneau and 240 Glen Drive adjoining properties have been regularly crown reduced, in order to preserve the water view described above.

As the California Bay Trees located on neighbor's properties grew into the water view, they were regularly reduced in height, in order to preserve the established water views. The properties whose Tree growth impact the 230 Glen Drive water views are 240 Glen Drive and 69 Cazneau Ave.

In October 2002, Ms. Back contacted Tree Owners Mrs. Lempke and Mr. Dodder, the subjects of this Claim. She informed them that pruning of their California Bay Trees was necessary because they had grown into the 230 Glen Drive water views. Ms. Back explained that pruning had been regularly done, with the permission of successive 240 Glen Drive property owners including Elizabeth Gillespie, deceased, from who's estate they had purchased the property. (See attached Exhibit#1 Elizabeth Gillespie's written permission to cut 240 Glen Drive Trees)

Ms. Nicole Back further explained that 69 Cazneau tree owners had also granted permission to trim their trees. for view preservation. (see attached

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Exhibits#2#3, 1981 City of Sausalito Tree permit with permission of Owner, 1993 letter from Nicole Back to Lisa Schuller, e-mails from L. Balok).

The 240 Glen Drive Tree Owners agreed to the routine pruning which was done at the usual historic cutting level on both 69 Cazneau and 240 Glen Drive trees. Ms. Back paid for the for the work performed by 240 Glen Drive's Owners arborist.

In May 2004, 230 Glen Drive was partially destroyed by fire. Ms. Back was absorbed by the insurance claim, the City of Sausalito permit process and the reconstruction, which lasted until Summer 2007. Minor modifications to the house were made, an existing upper deck was partially enclosed, a lower deck directly under the top one was created and the top floor enclosure was continued down to the lower level.

In 2007 the 240 Glen Drive California Bay Trees had obstructed a portion the established water view from the lower level N.East bedroom. Ms. Back contacted the 240 Glen Drive Owners to obtain permission to routine prune their trees. The 240 Glen Drive Owner asked to postpone the pruning due to their own construction project. Ms. Back believed that Tree maintenance work was merely being deferred and that Tree owners would have no objections to the water view reestablishment before time came to re-rent the property. Ms. Back continued to prune the 69 Cazneau trees. (see attached Exhibits# 3, e-mail exchange with 69 Cazneau Owner L. Balok)

In August 2007 , the 240 Glen Drive Owner Mrs. Lempke, interrupted the 69 Cazneau pruning by claiming that a certain portion of the canopy which was about to be trimmed belonged to her. She further indicated that there had been "a land swap" between 69 Cazneau and 240 Glen with no further detail.

Ms. Back was not aware of any lot line adjustment. After researching the issue, Ms. Back found that it had occurred in 1998 (see attached Exhibit #4 boundary survey), between the former owner of 240 Glen Drive, Elizabeth Gillespie and the present owners of 69 Cazneau, the Balok's. Both of which had given permission to trim the trees on an ongoing basis, before and after the adjustment. The view having been established, a written request to trim the Trees , dated August 23, 2007 was sent to the Tree Owners.(See attached Exhibit # 5 letter from N. Back to S. Lempke and R. Dodder)

The lot line adjustment is not relevant. The view is established regardless of who owns the property. Both 240 Glen Drive and 69 Cazneau owners had given permission to trim their trees, before and after the lot line adjustment.

October 8, 2007 a written Invitation to meet at 230 Glen drive was sent to the Tree Owners with a copy of the Trees and Views Ordinance.(See attached Exhibit#6 letter N. Back to S. Lempke and R. Dodder) October 2007, Ms. Lempke requests proof of of preexisting water view. (See attached Exhibit# 7 letter of Mrs. Lempke to N. Back) .

Those records had to be searched for in photo albums located in Europe.

Early 2008, during chance encounters with 240 Glen Drive Tree Owner, Ms. Back extends several oral invitations to meet at 230 Glen Drive to review the documents previously requested by Tree Owner. The latest invitation was rejected by Suzanne

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Lempke via voice mail, 12 April 2008 (See attached Exhibit #8, Suzanne Lempke voice mail message transcript)

From one delay to another it became apparent to Ms. N. Back that the Owners of 240 Glen Drive were not going to give permission to trim their trees for view restoration. Following the guidelines set forth in the Sausalito T&V Ordinance, several written requests asking permission for an arborist to access their property to prepare his report were ignored. (See attached Exhibits#9+, letter and e-mail from N. Back to S. Lempke).

After numerous unsuccessful attempts at Fedex and certified mailings(See attached Exhibits#10+ + proof of certified mailing, FEDEX), the arborist report, dated February 9, 2009 prepared by Ted Kipping of Tree Shaper's(See attached Exhibit#11, Arborist report) was served on Mr. R. Dodder on February 20, 2009 by personal delivery. (see attached Exhibit#10 proof of service). The tree Owners did not respond. On March 16, 2009 a 30 day offer for Mediation was served. (See attached Exhibit #12, letter from N. Back to S. Lempke and R. Dodder including proof of service) The mediation proposal has been ignored. Early 2010, Mr. Dodder and Mrs. Lempke plant a row of bamboo along the property line. (See attached Exhibit# 12a Letter of L&L Property Management)

On June 3, 2010 a last effort to resolve the matter was attempted. A written permission to trim the 240 Glen Drive Trees was sent to Tree Owners and ignored.. (See attached Exhibit# 13 letter from N. Back to S. Lempke and R Dodder).

Ms. Back, trustee of the D. Duncan Trust has made every effort to resolve the 240 Glen Drive California Bay Tree issue, without success.

Based on Section 11.12.040.(4)(c)(3)(a)-(f) of the Sausalito trees and Views Ordinance, the following findings can be made to support the restoration of the view established since 1951.

a) Character of the view: The view was an unobstructed water view from the following vantage points:

- From the upper floor open living space water views included Belvedere Island and Pelican Harbor. From the full length deck(now partially enclosed) water views included Tiburon, Belvedere Island and Sausalito's Pelican Harbor. (see attached Exhibit#14, Historical pictures of Living Room water views and Exhibit #18 Historical pictures of Upper Deck)
- From the lower level N. East Bedroom, water views included Belvedere Island and Pelican Harbor. The MAster Bath also enjoyed water views of Belvedere and Pelican Harbor.(See attached Exhibit#15 and #16 Historical pictures of N. East Bedroom water view, Exhibit #17 for Master Bathroom)
- The Property was acquired in 1951. This Claim pertains to a water view restoration. The existence of the water view is supported by historical photographs, correspondence referring to tree trimming, written permission to cut trees by the City of Sausalito, property Owners of 240 Glen Drive and 69 Cazneau. All documents point to regular tree trimming of trees for water view preservation

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b) The View Obstruction.

- Lower level: The water views described above are presently obstructed 100% from the N.East bedroom and bathroom. (See attached Exhibit #15 and #16, Pictures of water view loss progression from N. Eat Bedroom and Exhibit #17 for water view loss from Master Bathroom)
- Upper Level: The established water view is presently obstructed 30% from a standing position and 50% obstructed when sitting. The water view will soon be 100% obstructed if the 240 Glen Drive California Bay trees are not trimmed. The upper deck will also lose its water view in a few years if those trees are not trimmed. (See attached Exhibit#14, Pictures showing the progression of the Living room water view loss and Exhibit#18 for the upper deck water view loss.)
- The tree growth provides no benefits for 230 Glen Drive. The burden of the water view loss reduces the enjoyment of the 230 Glen Drive property to a drastic extent. Also, if the water view is lost, a decrease in property value, estimated between 15% and 35 %, will affect 230 Glen Drive. (See attached Exhibit#19, letter dated June 30, 2010, from Mr. Curth Thor, North Bay Real Estate Appraisals, to N. Back)

c) The 240 Glen drive trees which obstruct the 230 Glen drive water views are average California Bay Tree specimens, with no particular focus as part of a landscape plan. The trees grow 2 to 3 feet a year. They do not provide the most effective window to window screening between 240 Glen Dr. French doors and 230 Glen Dr.

- The privacy benefits the 240 Glen Drive Tree Owners derive from the growth of #1#2 and #3 California Bays appears minimal. In season, the red Leaf Plum (*Prunus Carasifera "Pissardii"*) provides screening form the two properties and the shoots off the trunk of the large California Bay Tree #4, which have grown considerably in the past year and a half will provide the most effective window to window screening for the 240 Glen Drive French doors. (See attached Exhibit# 22, pictures of 240 Glen Drive California Bay tree#4 trunk shoots growth progression)
- The tree owners privacy concerns should be weighed in light of the following observations:

1)The new deck of 230 Glen drive serves bedrooms which are not ordinarily used for social gatherings. It is located immediately underneath an existing deck with established water views and established views of the French doors. The new openings (one of which created by partially enclosing an existing deck) are located +/- 60 feet away from 240 Glen Drive's only visible opening facing 230 Glen Drive. (See attached Exhibits #21 Pictures taken from lower and upper deck showing 240 Glen Drive barely visible French doors and Exhibit #22 Pictures showing California BAY #4 trunk shoots in relation to French Doors)

2) 240 Glen Drive's Owners have allowed windows located only a few feet away from the curb to remain unscreened. Those openings directly face automobile and pedestrian traffic. (see attached Exhibit #22, letter of former 240 Glen Drive tenant, K. Oliver concerning 240 Glen Drive unscreened windows and 230 Glen Drive water views, and Exhibit#23 Historic pictures of unscreened 240 Glen Drive windows facing the road and facade of 240 Glen Drive).

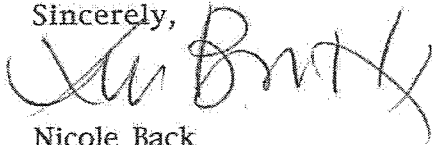
The Duncan trust requests that the Sausalito Trees and Views Committee make findings requiring:

1) The restoration of the 230 Glen Drive established water views by topping and /or crown reduction of 240 Glen Drive California Bay trees #1, #2 and #3 .

2) The installation of an appropriately deep and solid root barrier between the newly planted Bamboo and 230 Glen Drive.

Thank you for your consideration.

Sincerely,



Nicole Back

Trustee D. Duncan Trust
31 Bulkley Ave #5
Sausalito
CA 94965

Tel: (415) 332 45 95
e-mail: nxb4595@earthlink.net

**230 GLEN DRIVE WATER VIEW CLAIM
INDEX OF EXHIBITS**

- Exhibit#1 Elizabeth Gillespie's 1993 written permission to cut 240 Glen Drive Trees
- Exhibit#2, 1981 City of Sausalito Tree and 69 Cazneau. Owner permit to cut trees at 69 Cazenau,
- Exhibits #3 1992 Letter from tenant requesting water view restoration , 1993 thank you letter from Nicole Back to Lisa Schuller Owner of 69 Cazneau after view restoration
2005-2007 e-mail exchanges with 69 Cazneau latest Owner, Ms. Linda Balok
- Exhibit #4 Record of Survey, Lot Line adjustment 69 Cazneau-240 Glen Drive
- Exhibit #5 August 23, 2007 Letter N. Back to S. Lempke requesting permission to trim 240 Glen Drive trees.
- Exhibit#6 October 8, 2007 Letter N.Back to 240 glen tree Owner S. Lempke
- Exhibit #7 October 14, 2007 Letter S. Lempke To N. Back
- Exhibit #8 April 12, 2008 Suzanne Lempke voicemail transcript
- Exhibits#9 Letter and e-mail from N. Back to 240 Glen Drive tree Owner requesting permission for arborist to access to their property .
- Exhibit#10 Attempts to mail Arborist report, proof of of service
- Exhibit#11 Arborist report prepared by Ted Kipping of Tree Shapers
- Exhibit #12 30 Day Notice proposal for mediation
- Exhibit #12a Letter L&L Property Management to 240 Glen Drive Owners regarding recent Bamboo planting
- Exhibit #13 Letter N. Back to 240 Glen Drive Tree Owners, last request to trim their trees.
- Exhibit #14 Historic Pictures of Living Room existing water view and progressive water view loss
- Exhibits #15 Historic Pictures of N.East Bedroom existing water view and progressive water view loss
and #16
- Exhibit #17 Historic Pictures Master Bath existing water views and progressive water view loss
- Exhibit #18 Historic Pictures of Upper Deck existing water view and progressive tree growth
- Exhibit #19 Letter Mr. C. Thor, North Bay real Estate Appraisals. Consequence of Water View loss on 230 Glen Drive property value.
- Exhibit # 20 Pictures Most effective Window to Window screening by California Bay Tree #4
- Exhibit #21 View vs. Privacy. Pictures of 230 Glen Drive upper deck and enclosure and new lower deck and S. W. bedroom vantage points.
- Exhibit #22 Letter K. Oliver confirming existing 230 Glen water views and 240 Glen Dr. lack of privacy from road.
- Exhibit #23 Pictures of 240 Glen Drive unscreened windows facing road and 240 Glen Dr. S.W facade.

(FORM B)

PERMISSION TO ENTER FOR THE
PURPOSE OF CUTTING TREES ONLY

THIS PERMISSION FORM MUST BE ON THE SITE DURING TIMES
WHEN WORK IS BEING PERFORMED

(Please type or print all information)

I hereby grant permission to Nicole Back And
Luigi Heave or other certified arborist (name of tree worker)

to enter my property at 240 Glen drive
for the purpose of cutting trees as may be approved by the City of
Sausalito Trees and Views Committee, and subject to the following
additional conditions (if none, enter "none"):

Granted by: E. Gillespie
(Signature of property owner)

3/14/93
(Date)

Property owner's name: Isabelle Gillespie

Property owner's telephone number: _____

11 May 1981
date

MICHAEL BAKER has my permission to
trim + top trees on my property at
(trim, top, remove, etc)
69 Cowman St.
(address of tree)

I attach the following conditions.

As usual be to a - at trees of Anthony/Harding

(Signed) Michael B. Baker
Baker Bros Land Care

Date: 6 May 1981

CITY OF SALITO - TREES & VIEWS COMMITTEE

Application & Permit - Private property

Renter: _____ Phone: _____ Business: _____
Residence: _____

Owner: BACK/DUNCAN Phone: _____ Business: _____
Name Residence: 3324595

230 61EN DRIVE
Address

call early morning please
Assessor's Parcel Number & Address of _____

DRAW SKETCH ON REVERSE SIDE OR ON SEPARATE SHEET

- 1. Size tree: _____
- 2. Number of trees: 10/15
- 3. Species of tree(s): _____
- 4. Describe work to be done: PRUNE + TOP
(plant, remove, top, prune)
- 5. Reason for request: DAYLIGHT + SUN + VIEW + ETC...!
CAUSES EXCESSIVE HUMIDITY DAMAGING HOUSE
(DRY ROT ETC...)

PERMIT

Application is hereby approved/~~denied~~ per the following conditions:

Signed: Dave Green
Trees & Views Chairman

See Ordinance 812 for particulars

Effective date: 5-11-81

Permit expires on: 8-11-81

Post by street on or before

Permit must remain until work is completed

We recommend for your own protection you use a tree company that has adequate insurance coverage

2.1.92

Mr Bob Cao
% Active Property

Dear Mr Cao:

When I moved into 230 Glen Drive in October, I was told by Linda Bruno, the previous tenant, that when she moved in, 4 years earlier, there was a lovely clear bay view. Since then, the trees near the deck have grown up to block most of the view, especially if the tenant is small, as I am.

I wonder if you would please ask the owner whether she would give her permission to very gently and subtly top some of the trees, to restore the view?

Enclosed is an estimate from a local, reputable, insured tree co. He says the treetops can be rounded, to maintain a natural look.

Thank you for your help - This would both add to the value of the property, and make me delighted.
Yours,
Karen Bruno

Ed + Lisa, Seller
69 Carnean Av
Sawalito - CA 94965

April 18th 1993

Dear Ed + Lisa!

I would like to say that both my tenants and myself are ecstatic in having recovered half the view we used to enjoy - When funds allow, I will do more turning in order to recover the other half - Thank you so much for your cooperation and I will no doubt be in contact with you again over the matter of trees in the future -

Thank you again for your cooperation -
Best regards,

Nicole

N. BACK
31 Bulkeley Ave
Sawalito - CA 94965

From: Balok, Linda <lbalok@steefel.com>
To: nicole back <nxb4595@earthlink.net>
Date: Thursday, May 12, 2005 10:34 PM
Subject: RE: Tree Trimming

Nicole

Thank you for the flowers. What a nice gesture. I hope your view is restored and fabulous. They did a professional job from what I can tell. I am sorry I was in such a rush the other day. Story of my life, unfortunately. All the best. Linda

Linda M. Balok
Steefel, Levitt & Weiss
One Embarcadero Center, 30th floor
San Francisco, CA 94111
415-403-3367 (direct line)
415-788-0900 (fax)

From: "Balok, Linda" <lbalok@steefel.com>
Date: August 12, 2007 12:48:31 PM PDT
To: "nicole-back" <nxb4595@earthlink.net>
Subject: RE: tree trimming

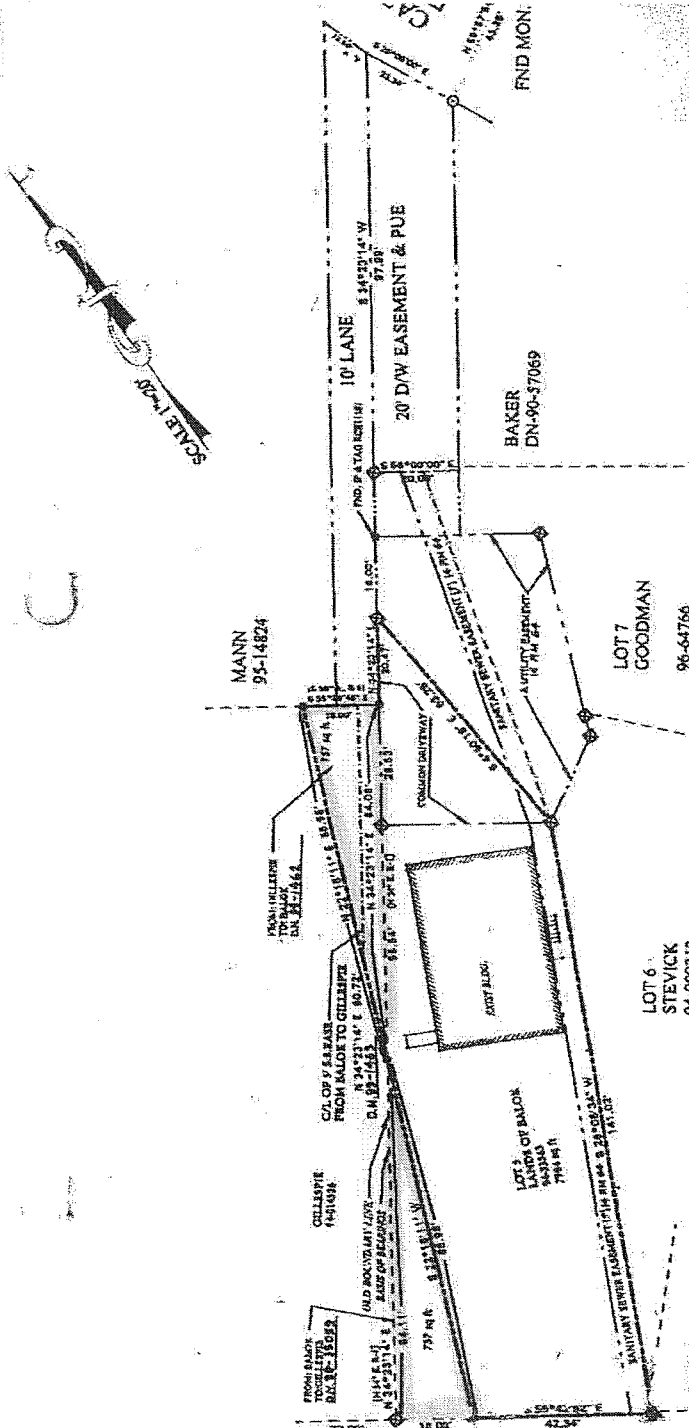
Nicole - Thank you for the beautiful flowers. They are stunning! Ramon did a fine job of cleaning up the branches. I appreciated his diligence and thank you again for your thoughtfulness.

Linda

Linda M. Balok, Esq.
Steefel, Levitt & Weiss
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, California 94111
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lbalok@steefel.com
www.steefel.com

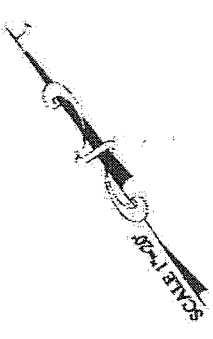
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**RECORD OF SURVEY
LOT LINE
ADJUSTMENT
OF THE LANDS OF
BALOK
D.N. 94-033563**

BENCH LOT 5
OF THE GLEN
SUBDIVISION
MARIN CO RECORDS
R.M. Bk. 14- Pg- 64
& GILLESPIE D.N. 94-14526
SAUSALITO
MARIN CO. CALIFORNIA
APN 065-141-31&10



MANN
95-14824

BAKER
DN-90-57069

LOT 7
GOODMAN
96-64766

LOT 6
STEVECK
94-009312

14 R.M. 64

JONES
945-088098



DURCAN
1770-OR-314



FOR'S STATEMENT,
CORRECTLY REPRESENTS A SURVEY
MADE UNDER MY DIRECTION IN
ACCORDANCE WITH THE REQUIREMENTS OF
THE SURVEYING ACT OF THE
STATE OF CALIFORNIA.

DATE OF SURVEY
1978

BEARING FOR THIS SURVEY
WAS OBTAINED BY MEASUREMENTS
ON (See Map)

THIS AREA IS IN PART OR COMPLETELY THEREOF
OF CATHYVAU AVE. BY 20' & 10' WIDENING
ENTY ARE PER 14 N.M. 44

THEY'S STATEMENT
I HAVE EXAMINED IN ACCORDANCE
WITH THE REQUIREMENTS OF THE
SURVEYING ACT OF THE STATE OF CALIFORNIA
AND I CERTIFY THAT THE SAME IS
CORRECT AND ACCURATE.

DATE OF SURVEY
1978
IN BOOK 1220 OF MAPS
AT THE REQUEST OF THE COUNTY
CLERK OF PUBLIC WORKS.

APPROVED
1978

Suzanne Lempke
240 Glen Drive
Sausalito
CA 94965

Tree Trimming / view maintenance

Sausalito, August 23 2007

Dear Suzanne,

Thank you for informing me the other day of the property line/land swap and precisely pointing out which are your trees and which are Linda's. I apologise for not having contacted you but I had no idea the branches Ramon was about to cut did not belong to Linda's "great tree". I was only aware of the other (closer to your house) which we have not touched in years and as a result has grown a lot.

As you know, the previous owners never opposed the trimming of their trees and we are hoping that you will allow us to maintain the view we have enjoyed for so many years.

I am hoping that after having had time to think matters over, you and Rick, will allow Ramon Pullido to trim those branches to the same "view level" as the "great" Linda tree canopy.

It seems that there could be other natural screening possibilities, more in the "line of vision" you wish to secure than those few branches.

I would be happy to meet with you again and go over your concerns.

Sincerely,

Nicole Back
Trustee D. Ducan Trust

31 Bulkely Av#5
Sausalito
CA 94965

Suzanne Lempke
240 Glen Drive
Sausalito
CA 94965

Tree Trimming / view maintenance

Sausalito, October 8, 2007

dear Suzanne,

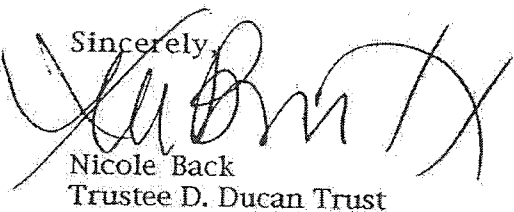
I have still not heard back from you regarding my August 23 (copy enclosed) letter requesting your permission to trim your trees to maintain a view we enjoyed for sixty years.

This is my last request to amicably resolve what I believe to be an unreasonable obstruction of a well established view (Tree and Views preservation ordinance 11.12.040). I am enclosing a City of Sausalito form B formal authorisation to trim on private property which I am hoping you will agree to sign and return to me promptly.

Again, as stated on numerous occasions, I would be happy to meet with you and show you our vantage point and the impact the growth of your tree has on our view and how little it seem to accomplish regarding your privacy.

Should I not hear back from you by Monday October 15 at the latest, with your authorisation to trim the obstructing trees, I will start the proceedings as set forth in the Sausalito Tree and View Preservation ordinance. A copy is enclosed for your review.

Sincerely,



Nicole Back
Trustee D. Ducan Trust

31 Bulkely Av#5
Sausalito
CA 94965

Tel: (415) 332 45 95

Encl/ City of Sausalito tree and view preservation ordinance
copy letter dated Augut 23 2007

FORM B. Permission Letter

October 14, 2007

Ms. Nicole Back
31 Bulkley Ave
Sausalito CA 94965

Dear Nicole,

We received your letters. We understand that you want to cut the trees on the southern edge of our property. We've given your request considerable thought.

As you may have noticed, we have been pruning and removing diseased trees on our property. With those changes, our concern is to protect our privacy from the new construction on your property. There are 6 large uncurtained windows in the new building that face our living room, office and kitchen.

Your concern is to protect the view for your future tenants, and your letter states that you have enjoyed the same view for sixty years. Please provide us with proof of that statement.

Thank you for your consideration.

Sincerely,

Suzanne Lempke
Rick Dodder

Voicemail message left by Suzanne Lempke to Nicole Back

12 April 2008

" Hi Nicole,

its Suzanne, your neighbor at 240 Glen, and Rick and I talked about, it first of all thank you for inviting us over, Rick and I talked about it and you know we are doing a lot of work on the yard right now and we really just don't want to do any cutting of any trees at this point at all. Probably postpone it for a year. Were going to do some landscaping in over in that area next year once this deck, if it ever gets finished and then I think it is a better time, because .. step back and look at the whole yard and see if trimming needs to be done, we have done a whole lot of cutting and we just dont want to do any more cutting right now.

I'm sorry if that disapoints you right now, that's where we are and call me if you have any questions

Suzanne Lempke
240 Glen Drive
Sausalito
CA 94965

April 14, 2008

Tree Trimming/ for established view maintenance of 230 Glen drive

Dear Suzanne,

I am sorry that you and Richard have decided against coming over as invited, this past weekend.

Since October I have tried my best to work with you. I have agreed to each of your requests for postponement to either meet or view the documents, Now the bay trees are about to block the top floor view as well. I am sorry you are no longer willing to consult the documents you requested I show you. I will include them in the package for the Sausalito tree Committee, should we not be able to resolve the issue before.

Had you been willing to come over you would have seen that no matter how tall they grow, the trees will not provide a screen between your house and ours. You would also have been able to see that you are mistaken when you write that we have six new uncurtained windows. That is incorrect. I will have a licensed arborist prepare a report, based on those documents and a field survey.

Please let me know if you would be willing to allow access on your property to enable the professional to prepare the report including your vantage point.

Sincerely

Nicole Back

31 Bulkley Ave #5
Sausalito
CA 94965

From: nicole back <nxb4595@earthlink.net>
Date: October 30, 2008 7:00:25 PM PDT
To: Lempke Suzanne <suzannelempke@hotmail.com>
Subject: 240 Glen trees

Hello Susan,

Please let me know if you and Richard would be willing to authorize our arborist to enter your property in order to asses the tree issue from your vantage point.

His Report, is the first of several requirements governing the settlement of disputes in the City of Sausalito regarding tree and view matters.

If you have changed your mind and are willing to allow us to trim, no more no less than in the past, his report will not be necessary.

Thank you for your cooperation,

Sincerely,

Nicole Back

Suzanne Lempke and Richard Dodder
240 Glen Drive
Sausalito
CA 94965

Certified#7006 0810 006 0632 1808

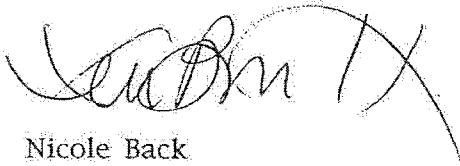
Sausalito February 20, 2009

Dear Suzanne and Richard,

Please contact me once you have reviewed the report prepared by Ted Kipping of Tree Shapers and let me know if you are willing to proceed in the recommended manner.

Thank you for your prompt attention to this matter.

Sincerely,



Nicole Back

31 Bulkley Ave#5
Sausalito
CA 94956

7006 0810 0006 0632 1808

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 11.00
Certified Fee	\$ 2.70
Return Receipt Fee (Endorsement Required)	\$ 2.00
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 45.70

Postmark Here: SAUSALITO CA 94965 FEB 20 2009

Sent To: Ms ANNE LEMPKER / RICHARD DODDER
Street, Apt. No., or PO Box No. 240 Glen Drive
City, State, ZIP+4: Sausalito - CA 94965

PS Form 3800, June 2002 See Reverse for Instructions

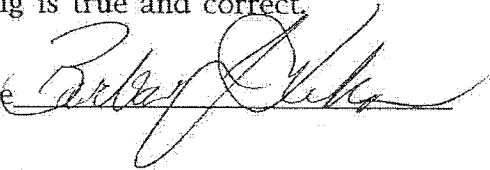
Proof of service

I, the undersigned, being at least eighteen (18) Years of age, served the afore letter and Tree Shapers Arborist Report, of which this is a true copy, on the above person(s) , in the manner indicated below

- I personally delivered a copy to Richard Dodde
at 240 Glen Drive Sausalito- CA on 2-20-09, at 4:45 o'clock am pm
- the person was absent from his or her residence. I personally delivered a copy to a person of suitable age and discretion at 240 GLEN Drive Sausalito CA, on _____ at _____ o'clock am _____ pm and mailed a copy addressed to S. Lempke- Richard Dodder at his and her place of residence.
- There being no person at the premises, I affixed a copy of the document in a conspicuous place at their residence on _____, at _____ o'clock am. _____ pm. and mailed a copy to Suzanne Lempke/Richard Dodder.

I declare under penalty of perjury under the laws of the state of California, that the foregoing is true and correct.

Signature



Date

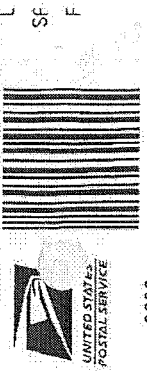
2-20-09

Name

Barbara J. Luhrs

Address

212 Caledonia St.
Sausalito, CA 94965



94965

0000

First Class Mail

7006 0810 0006 0632 1808

W. Braek
37 Bulkeley Ave #5
SANTA ANITO - CA 94965

N/C

2/29/09
3/26
3-31-09
A.T.S.

RETURN RECEIPT REQUESTED

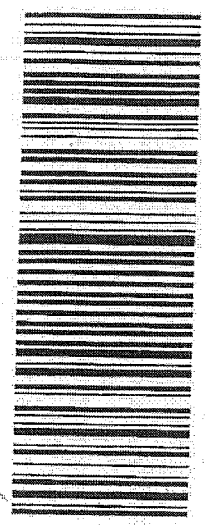
~~Suzanne Campbell~~
~~Richard Fodder~~
240 Glen Drive
SANTA ANITO - 94965

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Suzanne Campbell Richard Fodder 240 Glen Drive SANTA ANITO - CA 94965</p>		<p>B. Received by (Printed Name) C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7006 0810 0006 0632 1808</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>3. Service Type:</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

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We tried to deliver a shipment of 1 pieces at 12:40 on 13FEB09
We'll return before 19:00
1 of 1
Rt#: 349

Pos: 1
Emp#: 474149
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16FEB09
Last Delivery Attempt.
NO RLS/INDIRECT
Attempted Delivery: 08:54
Rcpt Addr: 240 GLEN DR
1 of 1
Rt#: SIA

Box 17
Hold

FedEx
Requested Delivery: 10:30 on 25FEB
Rcpt Addr:
CUST REQ
18FEB09 14:16
Emp#: 15228
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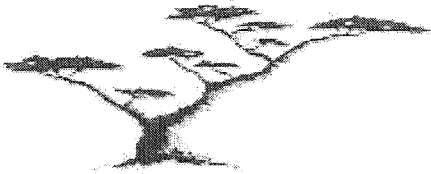
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HOLD
Weekday





TREE SHAPERS, LLC

TED KIPPING (WC-ISA #0301) and PHIL DANIELSON (WC-ISA #5021) Certified Arborists
Members, Bay Area Arborist Cooperative, Inc. • License No. 707545
257 Joost Avenue, San Francisco, CA 94131 • (415) 239-2420 • (415) 239-7465 FAX

Bruce W. Blakeley
591 Redwood Highway - Suite 2275
Mill Valley California 94941

Re: View Loss 230 Glen Drive - Sausalito, CA 94965

San Francisco, February 9, 2009

ISSUE:

In the instant case, I was asked to determine whether the current views from 230 Glen Drive had been diminished from established views as a result of the growth of California Bay Trees/*Umbellularia California* located on the adjacent property at 240 Glen Drive.

OBSERVATIONS:

My observations are based upon my inspection from 230 Glen Drive, as well as from the public right of way. I also examined photographs of the 230 Glen Drive property supplied by the owner that provided me with an historical context and informed my observations and conclusions. I was not permitted access to 240 Glen Drive.

From the public right of way (Fig.1) I observed a group of California Bay trees which are located on 240 Glen Drive and 69 Cazenau properties. These Bay Trees appeared healthy in all respects. From left to right (Fig.1), the first group of California Bay Trees (#1#2#3 on the sketch map) on the 240 Glen drive property, showed vigorous new growth projecting 8 to 10 feet (+-) above the rest of the canopy. I am informed that those trees were last trimmed in October 2002. Of the second grouping of the Bay Trees I observed shoots projecting 5 feet (+/-) above the rest of the canopy, I am informed that those Bay trees were last trimmed in 2005. The remainder of the Bay canopy, grows from California Bays located primarily on the 69 Cazenau property. I am informed the Bay Trees on the Cazenau Property were last trimmed in August 2007. Those Bay Trees have grown approximately 1-2 feet (+/-) since the last seasonal pruning.

Without entering either the 69 Cazenau or 240 Glen Drive properties, I next viewed the 240 Glen Drive California Bay trees from beneath their canopy. From this vantage point, I observed large topping cuts (Fig. 2) some of which are 8 to 10 inches across and resemble pollards. This indicates to me that these cuts are several decades old, at least, dating back to 1970. The new shoot growth described in the previous paragraph originates epicormically from the perimeter of these old cuts and provides further evidence of topplings and crown reductions having occurred over many pruning cycles.

I next observed, in conjunction with historical pictures, the view from inside 230 Glen Drive home where I looked out of all windows and glass doors that faced East.



TREE SHAPERS, LLC

I examined a 1998 photograph that showed the extent of the water view from the master bedroom including Pelican Harbor and Belvedere Island. (Fig 3). I compared the view evidenced in the 1998 photograph to the current view from that same vantage point. The California Bay Tree shoots of 240 Glen Drive currently block approximately 90% of the established view (Fig. 4). I attribute this to the fact that they have grown above all previous topping cuts.

Thereafter, I also examined another 1998 photograph that showed the extent of the water view from the Master bath window (Fig. 5) including Pelican Harbor and Belvedere Island. Currently, the 240 Glen Drive California Bay Tree shoots block 100% of the water view.(Fig.6). I attribute this to the fact that they have grown above the previous pruning cuts.

I also examined 1975 and 1982 photographs that showed the extent of the water view from the living room including Pelican Harbor and Belvedere Island (Figs. 7-8) The current water view from this same vantage point will soon be blocked if the Bay trees on 240 Glen Drive are not subject to routine pruning (Fig.9).

CONCLUSIONS:

The Sausalito Trees and View Preservation Ordinance("STVPO") sets forth provisions designed to protect views of a property owner that existed at the time he purchased the property. The ordinance specifically prohibits the unreasonable obstruction of those views. Chapter 11.12.040 provides that : "A tree, a shrub, hedge or other vegetation shall not be maintained in such manner as to unreasonably obstruct the view from or the sunlight from reaching other property." The Ordinance also provides that views are maintained by way of routine pruning, a term defined in Section 11.12.020 ("seasonal maintenance pruning, trimming, [...] necessary for view maintenance."). In case of view loss, the STVPO allows for restorative actions in order to to restore the status quo ante. (Chapter 11.12.040 VIEWS. C. 3 d).

Water, Pelican Harbor and Belvedere views enjoyed by 230 Glen Drive are established views, maintained over many decades by routine pruning the California Bay trees on both the 240 Glen and the 69 Cazenau properties at the same height. The new shoots growing from the 240 Glen Drive California Bays block 230 Glen Drive's established views. These fast growing Bay Trees are adding 2-3 feet of growth per year and are fully capable of continuing to sustain regular view maintenance pruning.

RECOMMENDATION:

Allow owner of 230 Glen drive to resume seasonal view maintenance pruning and crown reduction of the California Bay trees located at 240 Glen drive(see Fig 10. site sketch Bay trees # 1 #2 and #3) at the historical pruning height shown by overlay lines on Figs.1- 4- 6.

Respectfully

Ted Kipping

Ted Kipping

Certified Arborist WC-ISA - #0301

Consulting Arborist ASCA



TREE SHAPERS, LLC

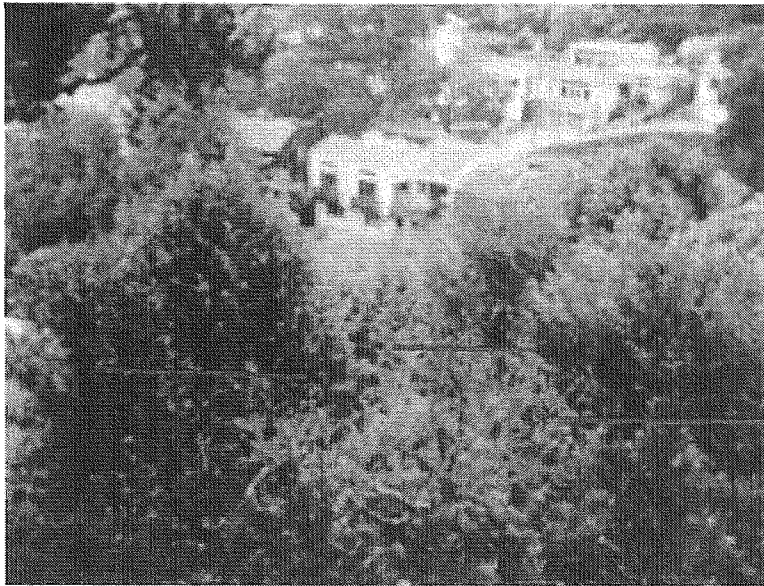


Fig. 1 - Current curb view of Bay Trees at 240 Glen

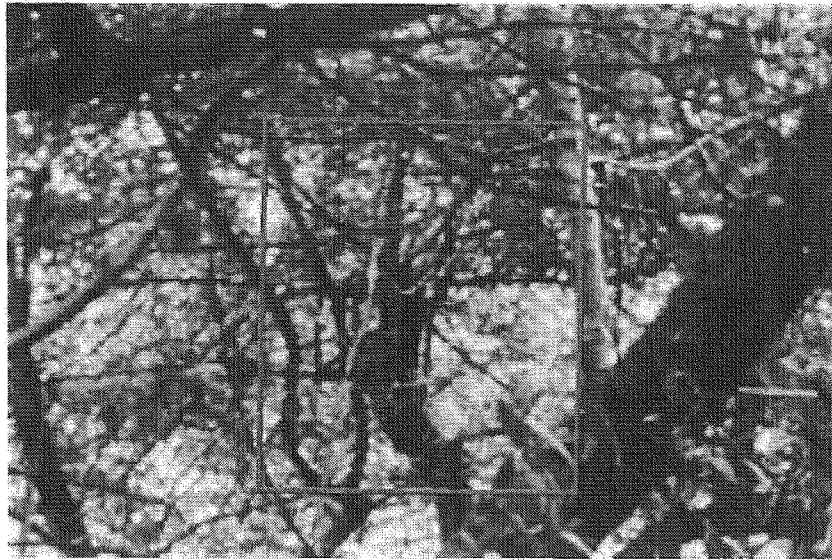


Fig. 2 - 240 Glen Drive Bay Tree- Old Topping cuts



TREE SHAPERS, LLC

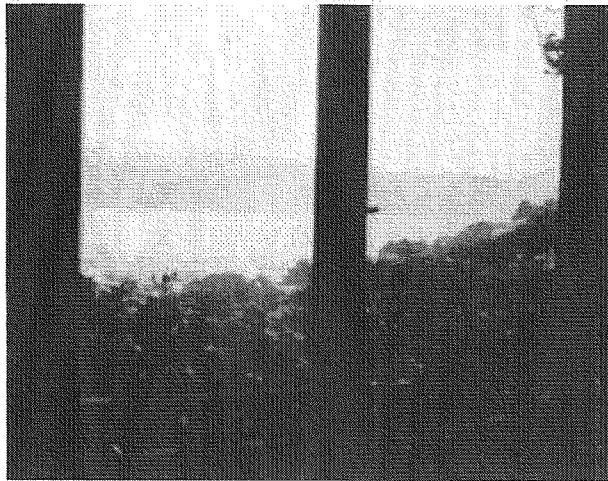


Fig. 3 - Master Bedroom 1998

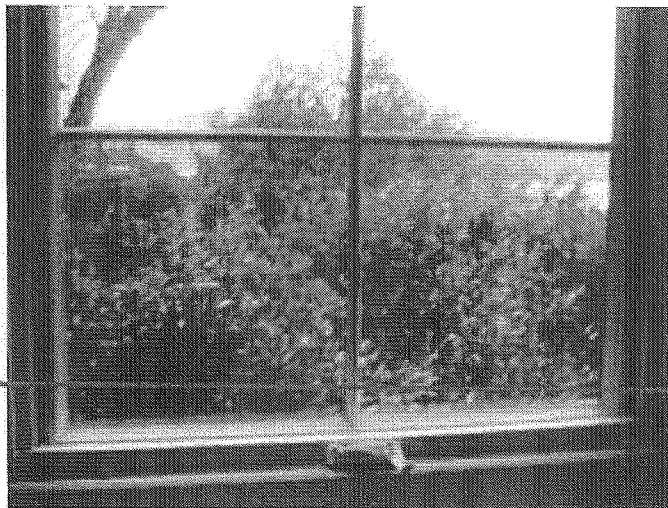


Fig. 4 - Current Master Bedroom



TREE SHAPERS, LLC

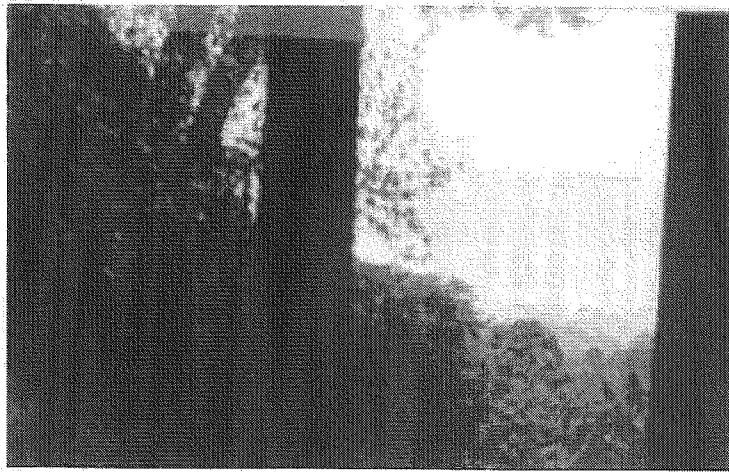


Fig. 5 - 1998 view from Master Bath



Fig.6 - Current Master Bath loss of view



Fig. 7 - 230 Glen Living Room - 1975

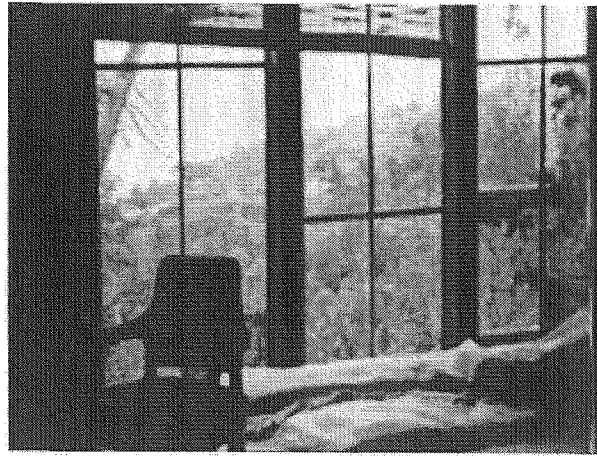


Fig. 8 - Upper level Living Room 1982

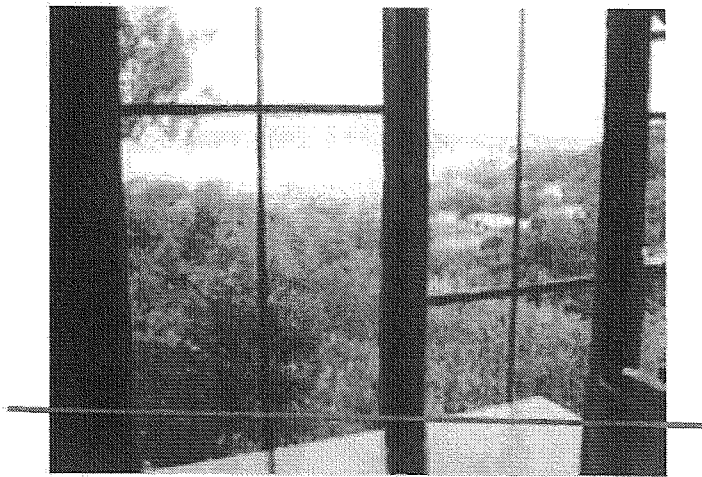


Fig. 9 - Living Room view (soon to be blocked)

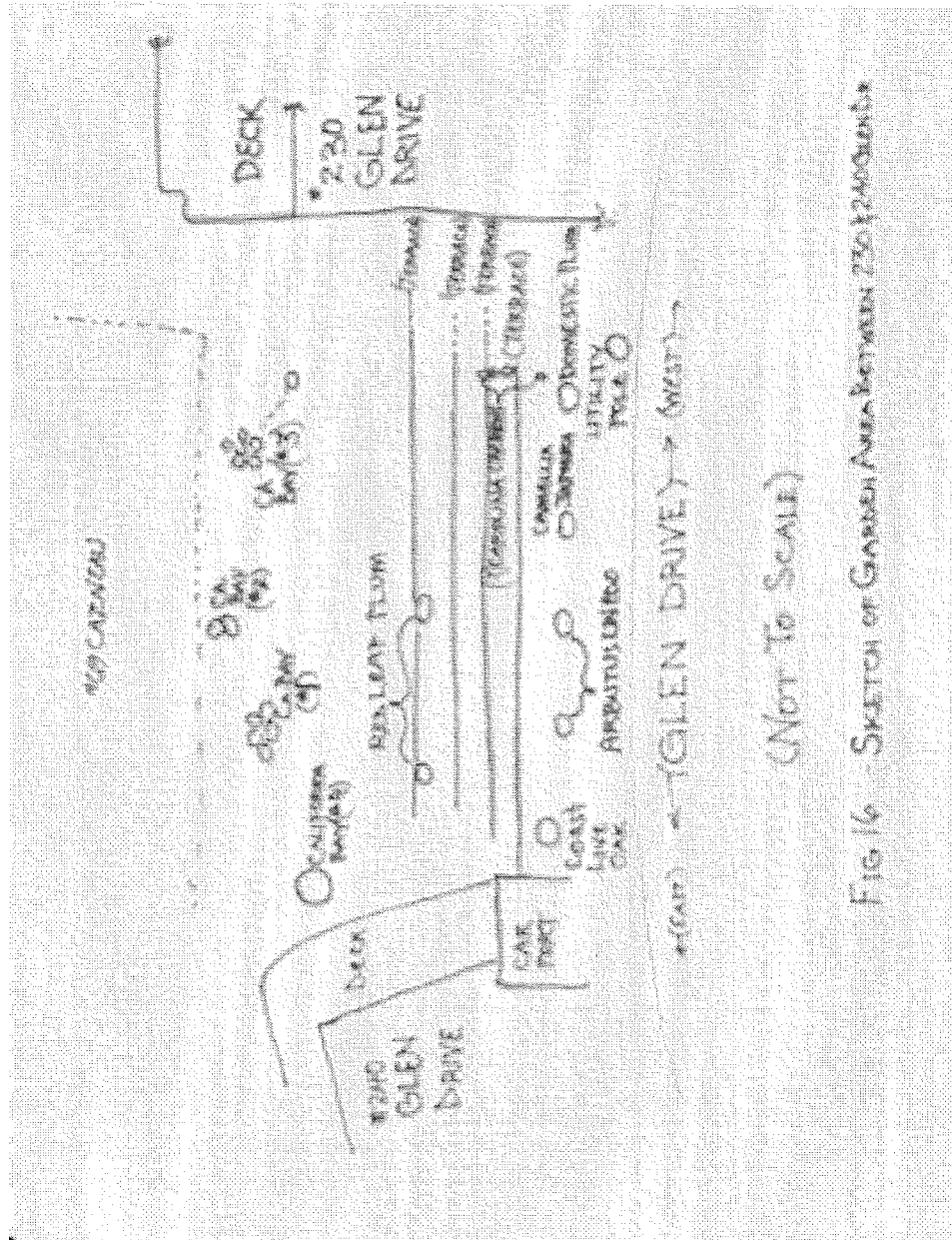


Fig.10 Sketch of terraced garden between 230 and 240 Glen Drive

Suzanne Lempke and Richard Dodder
240 Glen Drive
Sausalito
CA 94965

Re/240 Glen Drive : Unreasonable Obstruction of View

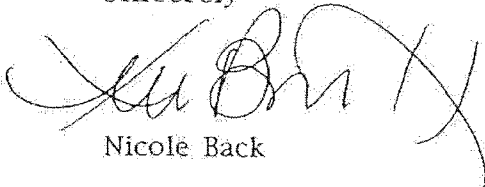
Sausalito March 16 2009

Dear Suzanne and Richard,

As you know I desire to have our 230 Glen Drive water view restored as it has been blocked by the growth of your trees. Unfortunately, I have not heard back from you since you received the Arborist report on February 20, 2009. I am forced to conclude that all my attempts at Initial Reconciliation, required by the Sausalito Tree and View Preservation Ordinance 11.12..040 B.1, have failed.

Please notify my attorney, Bruce W. Blakely, in writing within 30 days from your receipt of this letter if you agree to mediation (SMC 11.12..040 B.2). Following that agreement, we must mutually agree on a mediator within 10 days.

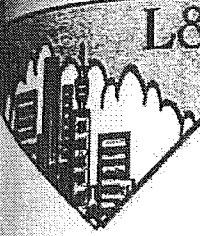
Sincerely



Nicolé Back

Bruce W. Blakely
Attorney at Law
Shelterpoint Business Center
591 Redwood Highway, Suite 2275
Mill Valley
CA 94941

*please turn over
for
proof of service
→*



FILE COPY

the 30 day
in the

Richard Dodder
2009

February 25, 2010

Richard Dodder and Suzane Lempke
240 Glen Drive
Sausalito, CA 94965

and a copy
Sausalito

pm
and her

Re: Bamboo at 230-240 Glen Drive Property Line

Dear Richard and Suzane:

it in a
lock
holder.

L&L Property Management is the property management firm managing the property located at 230 Glen Drive.

min

We have recently observed bamboo, which you or your gardener has planted, growing on the property line at 230 and 240 Glen Drive.

2009

As you may know, pursuant to the Sausalito Trees and Views Ordinance, bamboo, or any other hedge, can not exceed six feet in height. Therefore, please make certain this bamboo is maintained so that it does not exceed six feet. In addition, "normal, seasonal maintenance pruning, trimming, shaping or thinning is necessary to its health." You may also be aware, "a tree, shrub, hedge or other vegetation shall not be maintained in such manner as to unreasonably obstruct the view from or the sunlight reaching other property." Bamboo can be very invasive and even the roots themselves propagate. As there are drain and sewer lines which may be damaged as a result of this bamboo, you will be responsible for any damage which may be caused by their roots.

Thank you, in advance, for your attention to managing and maintaining your bamboo.

Sincerely,

Luhrs Property Management, Inc.
dba L&L Property Management

Suzanne Lempke and Richard Dodder
240 Glen Drive
Sausalito
CA 94965

Re/240 Glen Drive : Unreasonable Obstruction of existing View

Sausalito June 3 , 2010

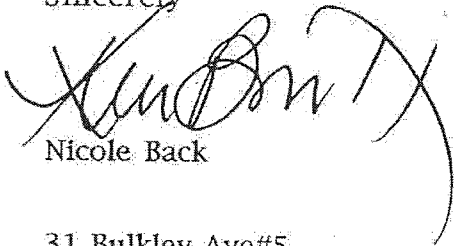
Dear Suzanne and Richard,

On June 14, around 8:30 am, my arborist will be trimming trees at 69 Cazenau . As you know, and as set forth in the arborist report, dated February 9, 2009, which I sent to you last year, several of your Bay trees are adversely impacting the water view from 230 Glen. Therefore, I write to propose that you be available that day and allow the arborist to also trim your Bay trees to restore our water view. This will ensure that you can give the arborist your input in "real time." .

Enclosed is a standard form I request that you and Richard sign and return on or before June 12, 2010. I am also enclosing a copy of the 1993 tree cutting permit signed by Elizabeth Gillespie, from whom you purchased the 240 Glen drive property. Both 69 Cazenau and 240 Glen Drive trees were regularly trimmed for our view maintenance before and after the 1999 Gillespie/Balock landswap.

Should I not receive your permission to allow the arborist and his crew to enter your property for the purpose of trimming your trees for water view restoration, I will be forced to initiate a View Claim as provided for in the Sausalito Tree and Views Ordinance. I sincerely hope that we can reach a reasonable accomodation of this matter without resort to such drastic measures. I can be reached at (415) 332 45 95, and look forward to hearing from you soon.

Sincerely



Nicole Back

31 Bulkley Ave#5
Sausalito
CA 94965

(FORM B)

PERMISSION TO ENTER FOR THE
PURPOSE OF CUTTING TREES ONLY

THIS PERMISSION FORM MUST BE ON THE SITE DURING TIMES
WHEN WORK IS BEING PERFORMED

(Please type or print all information)

I hereby grant permission to Nicole Back And
Swift the one or other certified arborist (name of tree worker)

to enter my property at 240 Glen drive
for the purpose of cutting trees as may be approved by the City of
Sausalito Trees and Views Committee, and subject to the following
additional conditions (if none, enter "none"):

Granted by: E. Miller
(Signature of property owner)

3/14/93
(Date)

Property owner's name: Elizabeth Gilman

Property owner's telephone number: _____

ATTACHMENT TO
CITY OF SAUSALITO
TREE CUTTING PERMIT APPLICATION

(FORM B)

CITY OF SAUSALITO
TREE CUTTING PERMIT

PERMISSION TO ENTER FOR THE
PURPOSE OF CUTTING TREES ONLY

THIS PERMISSION FORM MUST BE ON THE SITE DURING TIMES WHEN
WORK IS BEING PERFORMED

(Please type or print all information)

I hereby grant permission to

MARIN TREE SERVICE - Lic # 648230

(Name of tree worker)

to enter my property at 240 GLEN DRIVE
for the purpose of cutting trees as may be approved by the City of Sausalito Trees and
Views Committee, and subject to the following additional conditions: (if none, enter
"none")

Granted by: SUZANNE LEMPKE - RICHARD DODDER
Signature of property owner

Date: _____

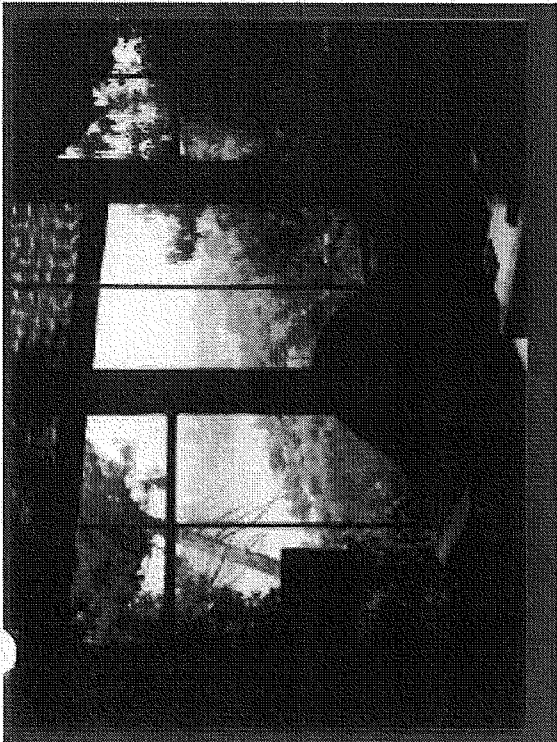
Property owner's telephone number: _____

230 GLEN DRIVE
PROGRESSION WATER VIEW LOSS



6/28/2010

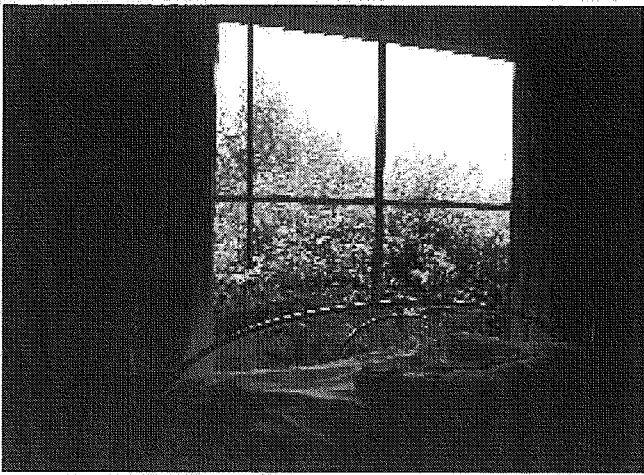
9/16/ 2006



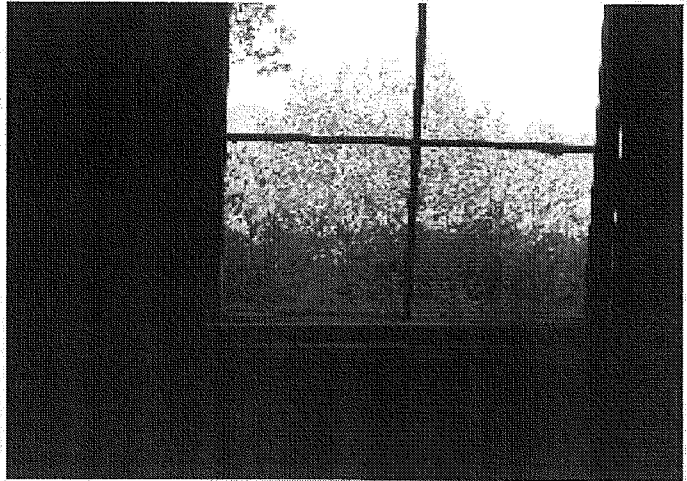
1975

LIVING ROOM

230 Glen Drive Progression View Loss
N, East Bedroom

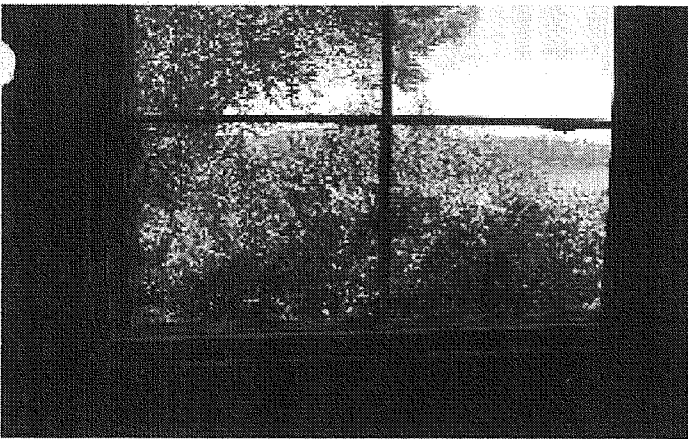


6/4/2010



East Window

9/10/2007



8/21/2006



1998

AFTER THE FIRE THE
DOUBLE CASEMENT WINDOW WAS
REPLACED BY A DIVIDED LIGHT
WINDOW

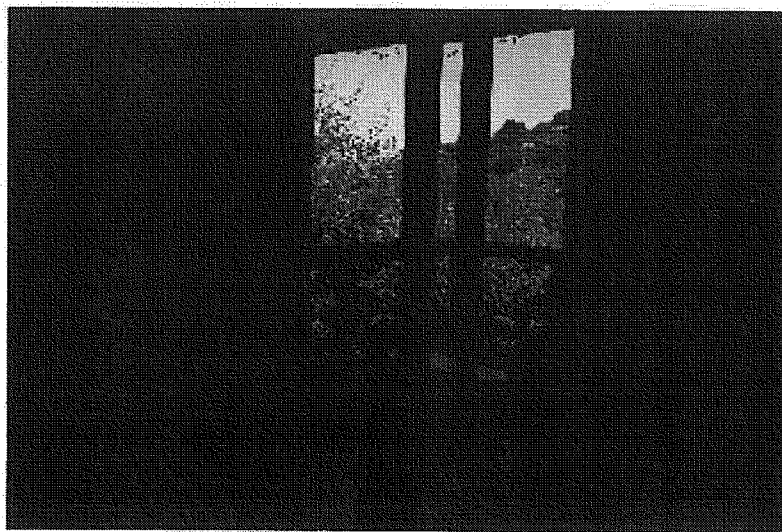
LOWER LEVEL N-EAST BEDROOM
TRIPLE CASEMENT WINDOW WAS
REPLACED BY DOORS



1998

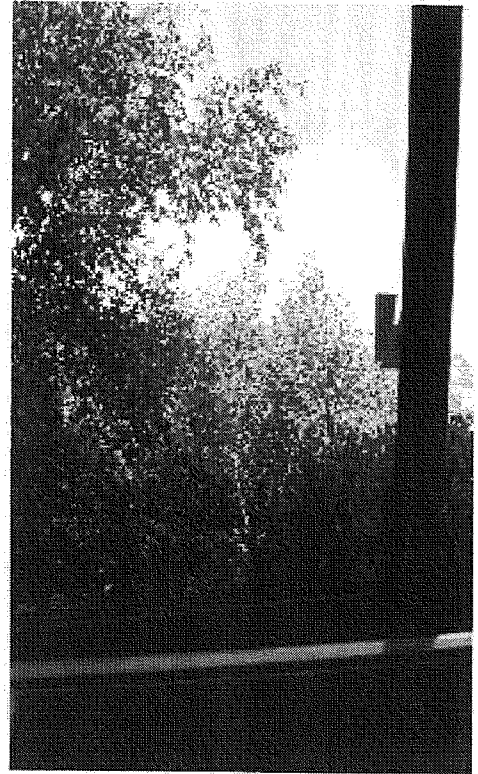
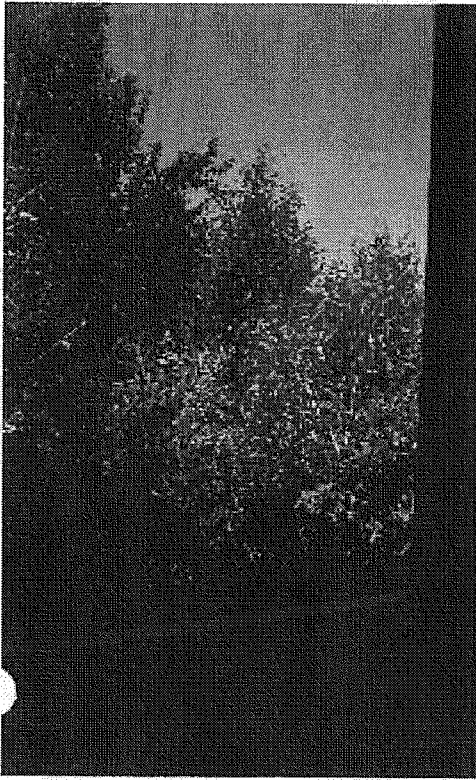
Lower level East BR-South East

4/24//2007



June 2010

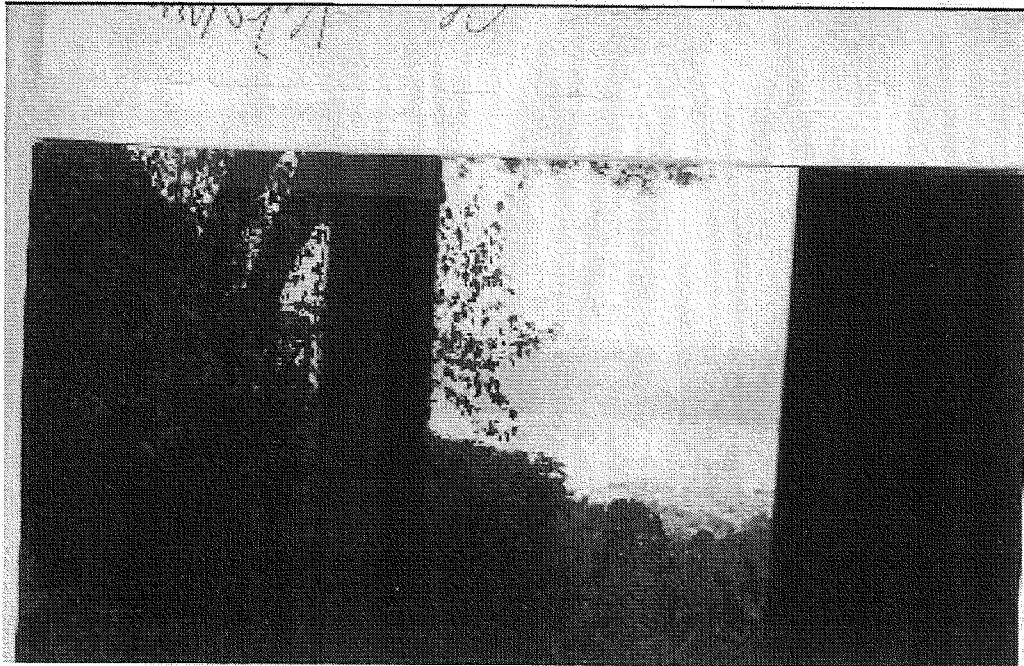
230 Glen Drive
Progression View Loss Bathroom
LARGE DOUBLE CASEMENT WINDOW
WAS REPLACED BY SINGLE
SMALLER WINDOW



2010

100% water view loss

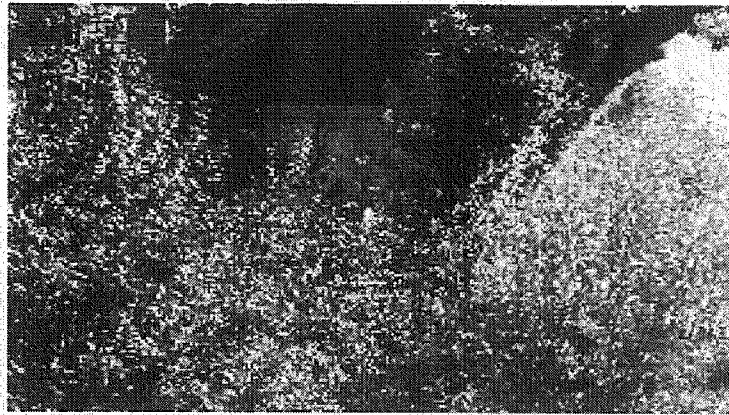
2007



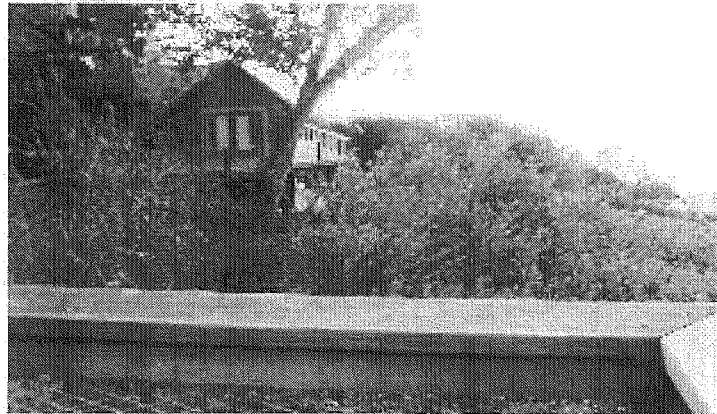
1998

Established water view since 1951

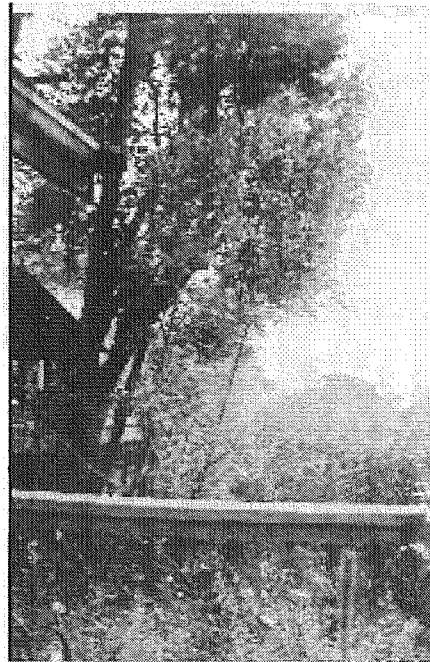
West facade of 240 Glen Drive
Growth progression



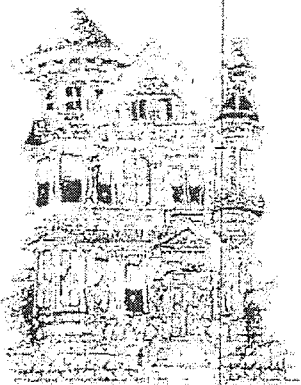
06/28/2010



11/07/2008



1993



NORTH BAY REAL ESTATE APPRAISALS

588 Atherton Avenue, Novato Ca 94945

*O 415-892-1914 - *F 415-898-8343

appraisals@northbayreal.com

CURTIS A THOR, JR.
Owner/Appraiser
Calif. Cert. #AR009814

June 30, 2010

Duncan Trust
Attn: Ms. Nicole Back
31 Bulkeley Avenue, #5
Sausalito, CA 94965

RE: Consulting Assignment in regards to the residential property owned by Jane Dorothy Duncan Trust and Nicole Back Trust at 230 Glen Drive Sausalito, CA 94965, A.P.N. 065-141-09 (noted as Subject Property) And value impact from the loss of view caused by the tree growth at its neighboring property at 240 Glen Dr. Sausalito, CA 94965.

Dear Ms. Back,

Pursuant to your request I have inspected the subject property, the home and the grounds located at 230 Glen Drive, Sausalito, CA 94965, aka Assessor's Parcel Number (APN) 065-141-09 on 06-22-10.

The purpose of the inspection was to form an opinion as to whether or not the trees on the neighboring property, 240 Glen Drive, Sausalito have limited the view from the subject and determine what impact on the value of the home this may have. As you have stated this opinion is to be used to mediate the issue. The function of this letter is to assist in seeking a resolution between the owners of the respective properties.

Based on the visual inspection from the subject property, which is summarized in this letter, it is this Appraiser's opinion that the tree growth at the neighboring property has a significant impact on the subject's views and the market value of the subject property.

I have, at this preliminary stage, and in agreement with you, developed a range of value loss attributed to the obstructed views.

At the time of my inspection of the Subject Property, I reviewed photos which the owner supplied of the former views from this property, before the trees blocked the views. The home had included elevated Richardson Bay views from both levels of the home. The property once had very open views across Richardson Bay and overlooks a Sausalito Boat Harbor, Belvedere and Tiburon, which has nearly all been lost, due to the tree growth without regular trimming. The noted views have been completely lost on the lower floor. The once expansive field of views from the upper floor of the property is becoming lost from the growing trees on the neighboring property. These trees are consuming the views and changing the lighting and overall once open feel (open miles of water views to the now close tree views) from the subject improvements. The water views were afforded from the entry, kitchen, living room, deck, family room and other smaller vantage points of this level. The loss of the views is more apparent from a sitting position and with time and natural growth of the trees,

without trimming will very likely completely remove the water views from all living areas of the subject property. I am not a tree expert and confirmation with a tree expert to confirm typical growth of the trees in question is recommended to substantiate my layman claims. The home is situated in such a manner as to appreciate the water and open panoramic views, which is apparent in its floor plan and window placement. Note that the owner provided me with several past photos of the water views from lower and upper floor rooms and deck areas. I reviewed these photos and considered the current loss of views and also considered the anticipated continued loss of views that the property will likely encounter, if the trees are not trimmed. Without favorable documentation relating to the future trimming of trees over the neighboring property, the subject property has already impacted a value loss due to the loss of the ability to maintain the views which the property has historically had in the past. Property disclosure relating to the current fully restricted trimming of these trees would need to be disclosed to future buyers of the subject property. The loss of water and former views and the continued loss of these views and changing natural lighting to the subject property have a current value impact and changing future value impact to the subject property.

Homes in this area with similar views can represent 15% to 35% of the value of a home. I utilized many recent sales and created a matched pair analysis of these sales in order to extract current view value allocations, between view properties and non-view properties. This is a typical and recognized method used by appraisers to assist in determining specific value allocations attributable for different attributes of properties. Also note that I have considered many aspects of the view amenities and its market contribution will be related to not only how expansive the view but as to what visible elements are in the view. The matched pair analysis which is part of my appraisal file considers all aspects of each of the properties in comparison to one another within the paired analysis to extract the view amenity differences. I have only provided a rough value range and have not developed a report with a definitive value based on an exact date, at this time. This letter and rough estimate was made to assist in providing clarity to the parties involved and to ultimately mediate the tree trimming issue.

From the subject property, the subject's views were an appealing and elevated Richardson Bay view, which overlooks some of the Sausalito hillsides, over the Boat Harbor areas, Richardson Bay and out to Belvedere, Tiburon and more.

The impacted, loss of views from the subject property are substantial and now have almost eliminated the once appealing bay views from the improvements. The loss of market value for the subject property is considered substantial and between 15% and 35% of the market value.

If you have any questions after reviewing this letter, please feel free to contact me at your convenience.

This Appraiser certifies that he has no undisclosed interest in the Subject Property or any bias for or against any parties involved in the situation discussed herein. His employment was not contingent upon a minimum or maximum value, a direction in consideration, a predetermined result, nor upon anything other than the delivery of this letter which represents a summary of his conclusion in this consulting assignment.

Sincerely,



Curtis A. Thor, Jr.
Owner / North Bay Real Estate Appraisals

240 Glen Drive
Most effective Screening



Fig.1

October 2008
240 Glen Drive California Bay

The vegetation growth which will provide the most effective West facing French Doors blocking for 240 Glen Drive will grow from the trunk of the large California Bay tree located by the deck. Owners of 240 Glen Drive should be encouraged to allow trunk sprouts to fill in, so as to achieve privacy for their French doors. Strategically placed planter(s) on their deck could provide immediate screening from the West facing opening towards 230 Glen Drive.

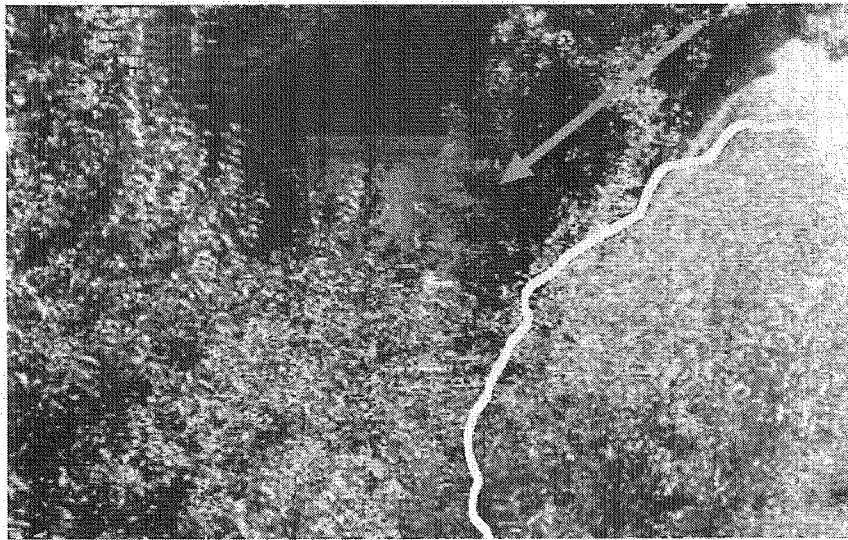
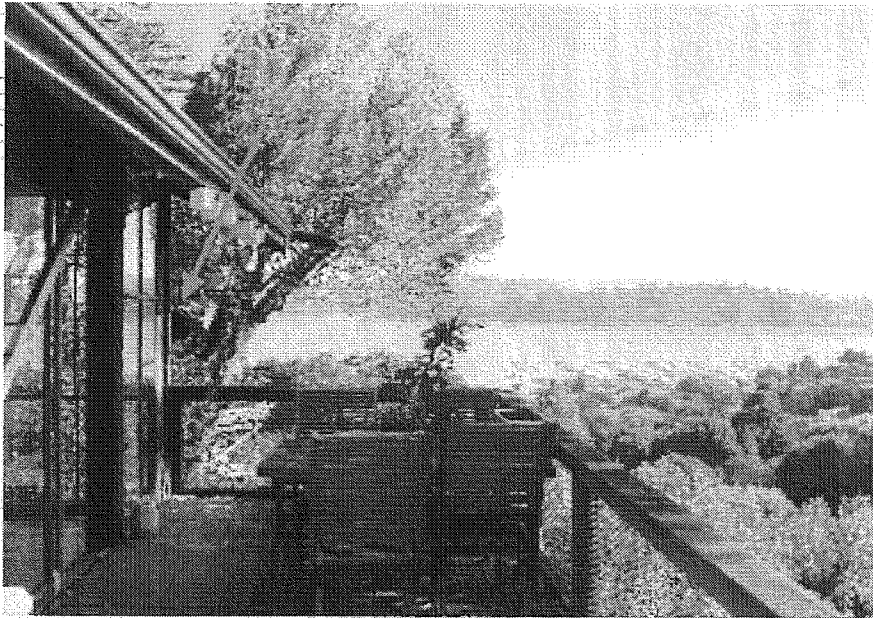


Fig.2

June 2010
240 Glen Drive California Bay Trunk Sprouts shown by red arrow.
Historically topped California Bays are in the foreground
outlined in yellow

230 GLEN DRIVE
WATER VIEW LOSS VS.
240 GLEN DRIVE
PRIVACY CONCERNS

240 GLEN DRIVE HOME
Located at Red Arrow
Privacy Concerns

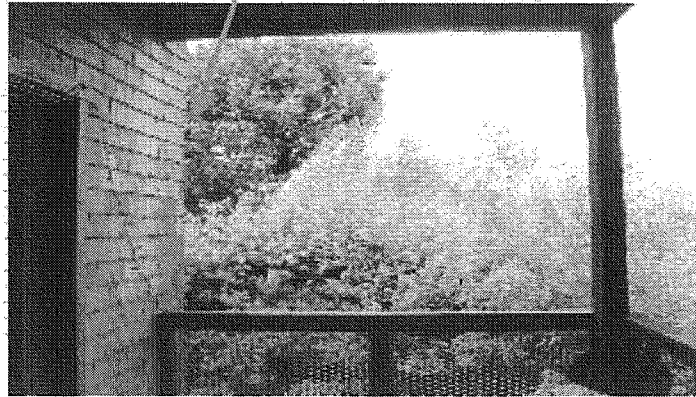


Existing 230 Glen Drive Upper deck 2006



Enclosed upper deck 2010

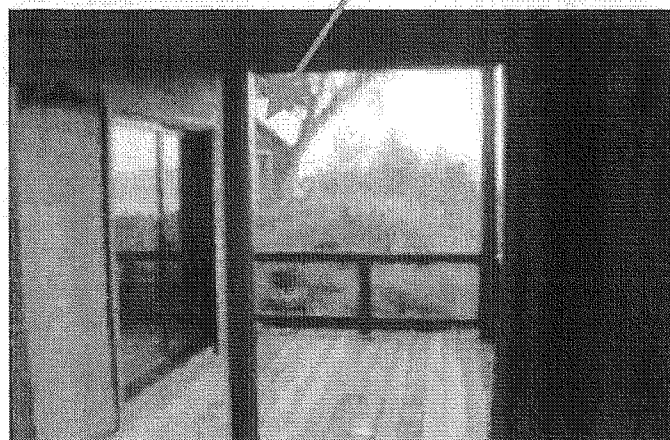
240 Glen Drive
is located behind Prunus at Red arrow



New Lower level Deck 2010



New Lower Level Interior West Bedroom 2010



October 2008

Sausalito Trees and Views Committee
Community Development Department
City of Sausalito
410 Litho Street
Sausalito
CA 94965
June 30, 2010

To whom it may concern.

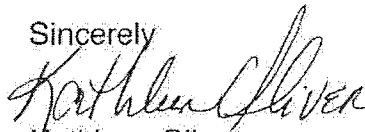
From April 1977 to April 1, 1982, I lived at 240 Glen Drive.

I frequently visited my neighbor, Mrs. Duncan, at 230 Glen Drive. During her lifetime, from both floors of the house, I could see the unobstructed water view of the bay, from Belvedere to Pelican harbor.

After her death, I regularly returned to 230 Glen Drive when Ms. Nicole Back handled tenant turnovers or repairs. At each visit, from both floors, I was able to see the expansive water views including Belvedere and Pelican harbor.

Also, because I live on Cazneau, I regularly walk past my "old home" at 240 Glen Drive. Facing the street, there have been for many years, and still are today, uncurtained window openings which allow a direct view into the kitchen and the breakfast nook.

Sincerely



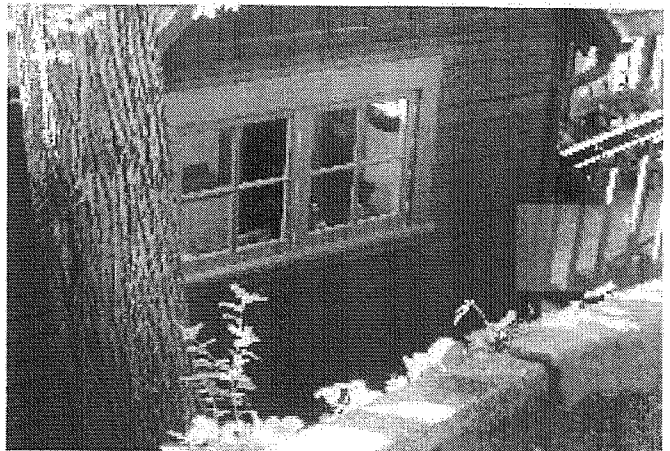
Kathleen Oliver
89 Cazneau Ave
Sausalito, Ca. 94965

240 Glen Drive no privacy from Street Curb



10/11/2007

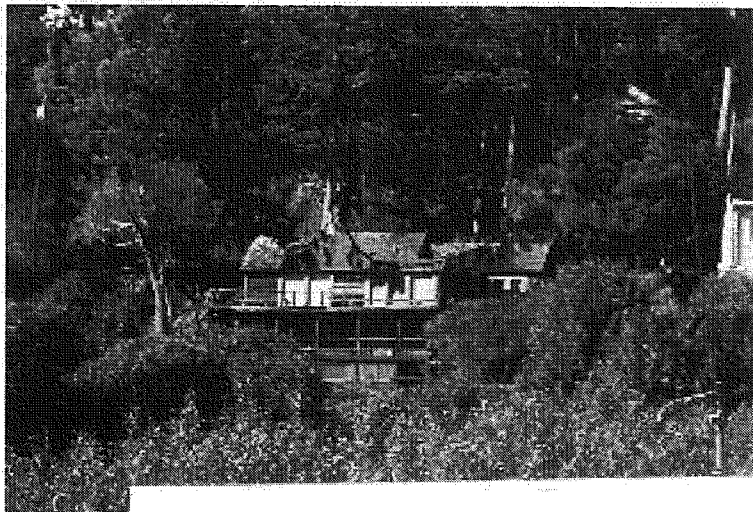
240 Glen Drive Kitchen window seen from street curb



6/28/2010



6/28/2010 Breakfast nook from street curb



240 Glen Drive Openings South facade

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Findings and Standards for View Claims
Municipal Code Sections 11.12.040.B.4 and C.3-4

Section 11.12.040.B.4 of the Sausalito Municipal Code

... "The Trees and Views Committee shall submit a written Advisory Decision to the parties. The Decision shall include the Trees and Views Committee's findings with respect to the Standards listed in subsection C-3 and 4 of this Section [11.12.040] and recommended restorative actions as well recommending allocation of costs for the same." ...

Section 11.12.040.C.3-4 of the Sausalito Municipal Code

"3. Standards for Resolution of Claims in Arbitration

The Tree Committee shall, as a group, inspect the premises of both claimant(s) and tree owner(s) to verify the nature and extent of the alleged view obstruction. For purposes of this section, the Tree Committee and/or any involved Arborist may enter upon the property of either or both parties. The Tree Committee shall evaluate the Standards set forth below based on the site visit, the property file on record at City Hall, the submitted data and the public meeting.

- a. The character of the view:
 - 1) The vantage point from which the view is sought.
 - 2) The extent to which the view might be diminished by factors other than growth involved in the claim.
 - 3) The extent of the view that existed at the time claimant(s) purchased the property. (Is the party attempting to create, enhance or restore a view?).

- b. The character of the view obstruction:
 - 1) The extent of the alleged view obstruction as a percentage of the total view (estimate).
 - 2) The impact on the beneficial use, economic value and enjoyment of the claimant's property caused by the growth.

- c. The extent of benefits and/or burdens derived from the growth in question:
 - 1) The visual quality, including but not limited to species, size, growth, form and vigor.
 - 2) Location with respect to overall appearance, design and/or use of the tree owner's property.
 - 3) Visual, auditory, wind screening and privacy provided by the growth to the owner and the neighbors.
 - 4) Effects on neighboring vegetation provided by the growth.
 - 5) The impact of the beneficial use, economic value and enjoyment of the tree owner's property caused by the growth.

- d. Restorative actions shall be limited to the following:
 - 1) No action.
 - 2) Thinning to reduce density e.g., open windows.
 - 3) Shaping to reduce height or spread, using thinning cuts only (drop crotch).
 - 4) Heading or topping.
 - 5) Tree removal with necessary replacement planting.

- e. Each type of restorative action shall be evaluated based on the above findings and with consideration given the following factors:
 - 1) The effectiveness of the restorative action in restoring the view.
 - 2) Any adverse impact of the restorative action on the benefits derived from the growth in question.
 - 3) The cost of the restorative action as obtained from the view claim. The Tree Committee may determine that additional estimates are required.
 - 4) The effects upon privacy of the tree owner. Values of quiet and privacy should receive equal consideration with values of view and sunlight.

- f. All restorative actions shall be undertaken with consideration given to the following factors:
 - 1) All restorative actions must be consistent with subsection C-3, subparagraphs "d" and "e" of this Section.
 - 2) Restorative actions shall be limited to shaping, thinning, and/or heading of branches where possible.
 - 3) When shaping and/or thinning of branches is not a feasible solution, heading or topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, growth pattern or health, or otherwise constitute a detriment to the tree in question (arborist's advice required).
 - 4) Tree removal shall only be considered when all other restorative actions are judged to be ineffective. Replacement planting can be required on the property of the parties.
 - 5) An Arborist's report is required in determining the nature and cost of replacement plant materials, installation of such plant materials, and time required for such plant materials to become well established.
 - 6) In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening, wind screening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to removal; notwithstanding the provisions of subparagraph "e" above, the tree owner may elect tree removal with replacement planting as an alternative to shaping, thinning, heading or topping.
 - 7) All shaping, thinning, heading, topping and tree removal required under this Chapter must be performed under the daily supervision of an Arborist.

4. Implementation of Decision

Within thirty (30) days of the arbitration decision, the tree owner will obtain at least three bids for the prescribed work from Arborists and shall present all bids to claimant. Within fifteen (15) days after presentation of the bids, the claimant shall deposit with the tree owner an amount equal to the percentage of the lowest bid deemed appropriate by the Tree Committee. The tree owner shall, at his sole discretion, choose the company by which he wishes the work done and shall order the work done within fifteen (15) days after receiving the claimant's deposit. The tree owner shall pay the difference between the deposit amount and the bid amount of the company he has chosen. The authorized work of correction shall be done by an Arborist under the sole direction and control of the tree owner.

I:\CDD\Boards & Committees\TVC\Admin\View Claim Findings for SR's

**SAUSALITO TREES AND VIEWS COMMITTEE
RESOLUTION NO. 2010-XX**

**FACT FINDING AND ADVISORY DECISION FOR RESTORATION OF A WATER
VIEW FOR 230 GLEN DRIVE (TRP 10-170)**

WHEREAS, on July 7, 2010 an application was filed by the Claimant, Nicole Back representing the D. Duncan Trust, requesting the Trees and Views Committee to make a Fact Finding and Advisory Decision on restoration of a water view from 230 Glen Drive ((APN 065-141-09) that entails the crown reduction of several California Bay trees (*Umbellularia California*) located on the Tree Owner's property at 240 Glen Drive. (APN 065-141-44); and

WHEREAS, the Trees and Views Committee conducted a duly-noticed public hearing on September 13, 2010, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Trees and Views Committee has reviewed and considered the claim and applicant submitted material, date stamped received July 7, 2010; and

WHEREAS, the Trees and Views Committee has considered all oral and written testimony on the subject application; and

WHEREAS, the Trees and Views Committee has reviewed and considered the information contained in the staff report dated September 13, 2010 for the claim; and

WHEREAS, the Planning Commission finds that the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines; and

NOW, THEREFORE, THE TREES AND VIEWS COMMITTEE HEREBY RESOLVES:

The California Bay trees located on the Tree Owner's property at 240 Glen Drive shall be [describe manner of trimming, if appropriate] within [list number, if appropriate] days of this decision in order to restore a view from the Claimant's property at 230 Glen Drive. The Tree Owner shall be responsible for [list percentage, if appropriate] of the total costs of trimming and the Claimant shall be responsible for [list percentage, if appropriate] of the total costs of trimming. This decision is based upon the Findings provided in Attachment 1 and subject to the conditions of approval provided in Attachment 2.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Trees and Views Committee on the __ day of _____, 20__, by the following vote:

AYES: Committee Member:
NOES: Committee Member:
ABSENT: Committee Member:
ABSTAIN: Committee Member:

Exhibit D
[5 pages]

Jeremy Graves, AICP
Community Development Director

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval

I:\CDD\PROJECTS - ADDRESS\G\Glen Drive 230\TR 10-170 \TVCRESO 09-13-10

TREES AND VIEWS COMMITTEE RESOLUTION

September 13, 2010

TRP 10-170

230 Glen Drive

ATTACHMENT 1: FINDINGS

VIEW CLAIM FINDINGS

In accordance with Municipal Code Section 11.12.040.B.4, the Trees and Views Committee makes the following findings with respect to the view claim from 230 Glen Drive of the trees located at 240 Glen Drive.

11.12.040.C.3 Standards for Resolution of Claims

- a. The character of the view:
 - 1) The vantage point from which the view is sought.
 - 2) The extent to which the view might be diminished by factors other than growth involved in the claim.
 - 3) The extent of the view that existed at the time claimant(s) purchased the property. (Is the party attempting to create, enhance or restore a view?).
- b. The character of the view obstruction:
 - 1) The extent of the alleged view obstruction as a percentage of the total view (estimate).
 - 2) The impact on the beneficial use, economic value and enjoyment of the claimant's property caused by the growth.
- c. The extent of benefits and/or burdens derived from the growth in question:
 - 1) The visual quality, including but not limited to species, size, growth, form and vigor.
 - 2) Location with respect to overall appearance, design and/or use of the tree owner's property.
 - 3) Visual, auditory, wind screening and privacy provided by the growth to the owner and the neighbors.
 - 4) Effects on neighboring vegetation provided by the growth.
 - 5) The impact of the beneficial use, economic value and enjoyment of the tree owner's property caused by the growth.
- d. Restorative actions shall be limited to the following:
 - 1) No action.
 - 2) Thinning to reduce density e.g., open windows.
 - 3) Shaping to reduce height or spread, using thinning cuts only (drop crotch).
 - 4) Heading or topping.
 - 5) Tree removal with necessary replacement planting.
- e. Each type of restorative action shall be evaluated based on the above findings and with consideration given the following factors:
 - 1) The effectiveness of the restorative action in restoring the view.
 - 2) Any adverse impact of the restorative action on the benefits derived from the growth in question.

- 3) The cost of the restorative action as obtained from the view claim. The Tree Committee may determine that additional estimates are required.
 - 4) The effects upon privacy of the tree owner. Values of quiet and privacy should receive equal consideration with values of view and sunlight.
- f. All restorative actions shall be undertaken with consideration given to the following factors:
- 1) All restorative actions must be consistent with subsection C-3, subparagraphs "d" and "e" of this Section.
 - 2) Restorative actions shall be limited to shaping, thinning, and/or heading of branches where possible.
 - 3) When shaping and/or thinning of branches is not a feasible solution, heading or topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, growth pattern or health, or otherwise constitute a detriment to the tree in question (arborist's advice required).
 - 4) Tree removal shall only be considered when all other restorative actions are judged to be ineffective. Replacement planting can be required on the property of the parties.
 - 5) An Arborist's report is required in determining the nature and cost of replacement plant materials, installation of such plant materials, and time required for such plant materials to become well established.
 - 6) In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening, wind screening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to removal; notwithstanding the provisions of subparagraph "e" above, the tree owner may elect tree removal with replacement planting as an alternative to shaping, thinning, heading or topping.
 - 7) All shaping, thinning, heading, topping and tree removal required under this Chapter must be performed under the daily supervision of an Arborist.

TREES AND VIEWS COMMITTEE RESOLUTION
September 13, 2010
TRP 10-170
230 Glen Drive

ATTACHMENT 2: CONDITIONS OF APPROVAL

These conditions of approval apply to the view claim submitted on July 7, 2010.

None

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. In accordance with Municipal Code Section 11.12.040.C.4 (Implementation of Decision), within thirty (30) days of the arbitration decision, the tree owner will obtain at least three bids for the prescribed work from Arborists and shall present all bids to claimant. Within fifteen (15) days after presentation of the bids, the claimant shall deposit with the tree owner an amount equal to the percentage of the lowest bid deemed appropriate by the Tree Committee. The tree owner shall, at his sole discretion, choose the company by which he wishes the work done and shall order the work done within fifteen (15) days after receiving the claimant's deposit. The tree owner shall pay the difference between the deposit amount and the bid amount of the company he has chosen. The authorized work of correction shall be done by an Arborist under the sole direction and control of the tree owner.
2. An encroachment permit shall be obtained from the Department of Public Works prior to use of the public right-of-way for non-public purposes (e.g., materials storage, debris box storage) including any and all tree removal activities.
3. Pursuant to Municipal Code Section 12.16.140, the operation of construction, demolition, excavation, alteration, or repair devices and equipment within all residential zones and areas within a 500 foot radius of residential zones shall only take place during the following hours:
Weekdays – Between 8:00 a.m. and 6:00 p.m.
Saturdays – Between 9:00 a.m. and 5:00 p.m.
Sundays – Prohibited
City holidays (not including Sundays) – Between 9:00 a.m. and 7:00 p.m.

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