

J. L. E. MANLEY, DEPUTY

JUDD S. MULALLY, DEPUTY

Mr. John E. Daubney
Attorney At Law
304 Degree of Honor Building
Fourth and Cedar Streets
St. Paul, Minnesota 55101

Re: Torrens Case 11953

Dear Mr. Daubney:

The copy of the correspondence from the City of White Bear Lake is too ambiguous to give you any definite answers as to what must be included in your proposed stipulation. I can only advise you along the following principals.

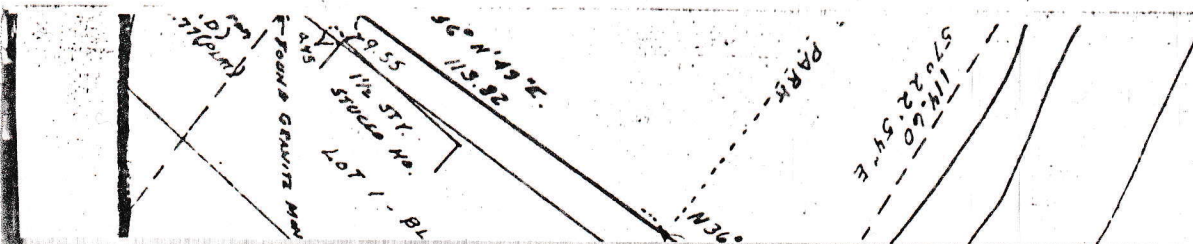
Evidently the land being registered is being divided into 3 parts. One part is designated as a nature preserve, one part is designated as a ten-year use piece, but no designation was given for the remainder of the land. I would assume, therefore, that the balance of the land is to be registered free of all restrictions and encumbrances on the city's title.

Based on that assumption, it will be necessary that any agreement or stipulation describe with certainty those parts of the land being registered which are to be set apart for restricted use. There is not enough information contained in the city's correspondence to you nor on the attached drawing of the area from which a valid description could be prepared. I would definitely recommend that when you arrive at a proposed description for said portions of the land you submit them to this office so that we can ascertain it's validity and definiteness.

Secondly, any restrictions or easements granted should not run in favor of a temporary homeowner's association. Since such association is not the owner of the parcels benefited, it should not be the recipient of the rights. The rights should be retained by or granted to the lots or parcels of land which are to be benefited.

Thirdly, I think that the most expeditious manner of setting forth the limitations or encumbrances on the land would be for the city to execute an agreement or declaration setting forth which portions of the land are subject to the restrictions and setting forth in detail what those restrictions or limitations are and then record that instrument with the County Recorder. Once recorded, reference can be made to it by its recording data and anyone interested in it can obtain the copy from the County Recorder. This is an easier and more accessible procedure than actually setting forth in the Decree the limitations and descriptions of the parcels involved as stated in a stipulation filed in the court proceeding.

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John Daubney

June 7, 1983

Of course, after such a instrument is recorded, the answering defendants would have to file a stipulation in the court proceeding to the effect that the recorded instrument correctly sets forth their rights, that their answers are thereby withdrawn and that the case can proceed as a default case.

Yours truly,

William E. Manley
William E. Manley
Deputy Examiner

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