

LAW OFFICES
JOHN E. DAUBNEY
ATTORNEYS AND COUNSELORS AT LAW
700 AMHOIST TOWER
FOURTH AND ST. PETER STREETS
ST. PAUL, MINNESOTA 55102

JOHN E. DAUBNEY
JANET C. FESLER

(612) 224-4345

*ALSO ADMITTED IN WISCONSIN

April 30, 1987

Councilman Robert D. Peterson
4354 Circlce Drive
White Bear Lake, MN 55110

Re: City of White Bear Lake v. Various Homeowners

Dear Councilman Peterson:

I am writing in response to your request, and the request of many homeowners in Cottage Park, who have inquired about the status of the title to Park A, in relation to their property under the alternative methods of registration. Is it better to personally retain the title and ownership to the property as a part of their deed, or is it in their best interest to cause a separate entity (a homeowners association) get the title.

A letter of June 7, 1983, from Mr. William Manley, Deputy Examiner of Titles for Ramsey County, states the following:

"Secondly, any restrictions on easements should not run in favor of a temporary homeowner's association. Since such an 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."(Emphasis added.)

This advice is as valid today as it was then. Thousands of non profit organizations, incorporated with a clause for perpetual existence, dissolve every year. The dissolution need not be formal, they just cease to exist. This is how the original homeowners association lost the land in the first place.

Another disadvantage of not retaining the title with your property is that it could result in a substantial decline in your home values. Merely because some association has title to this piece of land, and you can join that group

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does not cure this problem. It would be similar to having a home on a private golf course [just because you live by it does not mean you can play on it unless you can afford the membership].

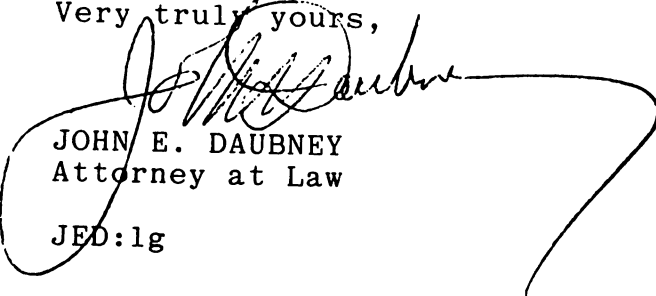
Another problem posed by not retaining title personally, but having a corporation hold title, is that you must assume this corporation will be exempt from tax forever! Tax laws change constantly; it was the failure of the former homeowners' association to pay real estate taxes that resulted in this lawsuit.

These potential problems could be eliminated by retaining title on your separate individual home deeds and holding a perpetual easement over Park A in your individual titles.

Finally, you inquire whether the homeowners' rights who did not join in the suit have been extinguished because they did not personally enter an answer to the initial lawsuit. The answer to that is No. Since the final agreement has not yet been filed there is still time to correct these problems.

I will await the instructions of the homeowners prior to taking any further action with respect to filing any documents with the City.

Very truly yours,



JOHN E. DAUBNEY
Attorney at Law

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