

State gives bluff-top residents a scare

By BOB SMITH

Imagine, after owning a home on the bluffs overlooking Seacliff State Beach for 30 years, perhaps even 50, and then getting a letter from the state of California, saying that you're trespassing on state property.

That is what happened last October to about 70 property owners along Seacliff and Coates Drive.

They got a letter from the Department of Parks and Recreation, saying that fences, patios, swimming pools, and — in six instances — parts of homes were built on state-owned land.

At first, the state wanted the land along the bluff top cleared of all improvements at once.

But state officials adopted a more conciliatory tone at a meeting with property owners Saturday in Aptos.

Residents were told Saturday that the state is now willing to grant emergency use permits in cases where immediate work is needed to stop landslides or other damage to homes. In other cases, when the surveys are completed, the residents can get easements, allowing them to use the state-owned land forever.

In any case, the residents can continue using the state land for the time being without worry that a state bulldozer is going to clear away their homes or their backyards.

"What brought all this about," said Robert Simpson, chief of the department's real estate section, was the decision to either remove the improvements because of what they might be doing to the cliffs or legalize their existence."

Simpson said there are four ways of handling the problem.

The first is to get off the land.

The more palatable alternatives are:

—A temporary use permit that allows the present owner to continue using the land in accordance with the terms of the permit.

—An easement that allows permanent use of the property.

—A quit claim deed giving the state property to the private property owner.

All of the alternatives have their advantages and disadvantages, Simpson indicated.

The problem is rooted in the history of Seacliff which was subdivided in the late 1920s.

Homesites were staked out along the clifftops, but a narrow strip of land along the bluffs was set aside as a private promenade for the people who bought lots in the subdivision.

Seacliff Beach was to be a private recreational beach for the property owners. The Great Depression ended that dream.

In 1931, the waterfront property and the promenade was acquired by the state and Seacliff State Beach was established.

Over the years, and particularly in the 1950s, homes were built on the privately owned lots along the bluffs.

Some of those homes, a state survey now indicates, were built astride the property lines with some of the structure on state land.

In other cases, the buildings were built on the private land, but the backyards — including swimming pools, decks, patios, flower beds and lawns, and fences — were on the state property.

Attempts were made by some residents a decade ago to resolve

the issue through state legislation, but the process became so complicated that it was dropped, residents said Saturday.

Others thought the land was theirs and landscaped their backyards accordingly.

The issue lay dormant until after the January 1982 storms.

A large chunk of the bluff fell during those storms, destroying a home on Las Olas Drive and carrying away a fence and some other bluff top improvements.

One property owner — state officials won't say who — wrote to the state Attorney General's office, threatening a lawsuit because the landslide supposedly damaged his property.

That threat prompted State Parks Area Manager Dick Menefee to order a survey crew to find the exact boundary between public and private property on the bluff top.

The surveyors found that the damaged "private property" was really state property.

Their results also showed that almost every house along the bluff top had some sort of encroachment on state owned land.

The Attorney General's office drafted a strongly worded letter that was sent to the property owners in October over then Parks Department Director Pete Dangermond's signature, telling them that they were trespassing on state land and ordering the improvements removed.

Some property owners say they need permission immediately to build a retaining wall or some other type of device on the state property to keep their property from eroding.

But without a state

permit, the county won't even talk about allowing retaining walls to be constructed, residents complained Saturday.

The property owners turned to State Sen. Henry Mello for assistance and the Saturday meeting was set up by the Seacliff Improvement Assn. — the local homeowners association.

"Permits are a good idea for people who need immediate help in protecting their property," said Mello aide Fred Civian.

"Easements and deeds are better for the long range solution," he added.

Simpson said his department is willing to process easements for those who desire them, but he has to wait until surveys are completed and legal property descriptions are available.

The surveys can't be finished until Seacliff State Beach is cleaned up in another month or so. Once the survey crews have finished their work, it will take "four to six weeks" to process the easements and get them approved by the Director of the Department of General Services, Simpson said.

The easements will be customized tailored to meet the needs of each property owner. Those easements can be recorded and they would be sold with the property. Fees for the easement would be based on the administrative time involved in

REFERENCE

[REDACTED]

preparing the documents, not on the value of the land, Simpson added.

The "ultimate" solution is a quit claim deed, Simpson said, but that requires special legislation.

Civian said Mello is ready to introduce a bill in the State Senate authorizing such action, but would like to do just one bill for the entire area because of the cost.

Unresolved, however, is the liability question. Two couples were concerned about the state transferring its liability for accidents or future landslides to the individual property owner.

Department officials and Civian, on advice of a department lawyer, were unwilling to discuss that issue Saturday.

Some residents hinted at the possibility of still filing lawsuits to gain title to what they believed, for decades, to be their property. That would frustrate the present efforts, state officials indicated Saturday.

"The state wants the problem resolved, one way or the other," Simpson said. "If it comes to an adversary solution, then the state will be doing what it can to bend you to our will. Of course, you will be doing what you can to make us lay off."

"The worst thing that could happen is for someone to start filing a lawsuit — the lawyers will make out pretty good, but everyone else will pay," Civian concluded.