

Capt Kidd Association

Documentation on ownership of littoral and frontage of the peninsula from Megan O'Dowd, land use attorney for Lyons O'Dowd, spring 2022

From: Megan O'Dowd <megan@lyonsodowd.com>
To: Bill Flerchinger <bflerch1@aol.com>
Sent: Thu, Mar 3, 2022 2:24 pm
Subject: Idl Application

Hi Bill,

As discussed, Mike Ahmer and I discussed the ownership around the peninsula and he understand that the deeds for these four lots included the shoreline on the eastern edge, and the northeastern 60' as well for the northern lot.

He would like a modified map from the dock builders clearly showing that the Capt Kidd Association is not including the littoral frontage along the eastern edge of the peninsula pertaining to the 4 lots (this should total about 160' of frontage), as well as the northeastern 60.40 feet. NOTE the Capt Kidd Association continues to own the littoral frontage along the 55' +/- along the northwest portion of the peninsula as well as the entire western boundary of the peninsula (plus the remaining shoreline). After removing that frontage he would also want modified calculations to remove the docks associated with the 4 peninsula properties and new totals.

This will mean that the other lot owners will need to apply for their own encroachment permits, and could use the plans that Harrison Dock Builders had previously submitted on behalf of the The Capt Kidd Association I believe they will need to waive any objection to each other's dock locations since it would not be the 10' setback.

Please let leek now if you have any questions.

Thank you,
Megan

Megan O'Dowd

From: Megan O'Dowd <megan@lyonsodowd.com>
Subject: Captain Kidd
Date: January 25, 2022 at 3:06:30 PM PST
To: mahmer@idl.idaho.gov
Cc: Ginger Florian <ginger@lyonsodowd.com>

Hi Mike,

Thanks again for chatting with me last week. As discussed, our Firm represents the Captain Kidd Association with respect to their docks along their common association property. The Association is seeking confirmation from IDL that the docks located along the eastern edge of W. Peninsula Drive should be vested with the 4 homeowners along the peninsula since they are the record owners of the

littoral rights located along the eastern edge thereof. I believe the attached documentation should confirm the same.

I mentioned an unrecorded survey during our call. I was hopeful that this could resolve everything but after further review it became clear that document does not appear to be an accurate scaled depiction of the land and was in conflict with other of-record surveys, such as Instrument No. 1771380 (attached). While it may not accurately depict the peninsula, it does include all the calls for the properties at issue and shows the original intent of the developer to have two sets of lots on the peninsula. I have included it solely for purposes of those depictions but not as an accurate representation of the size and layout of the lots themselves.

To demonstrate the littoral ownership of the eastern boundary of the peninsula lots, I am attaching the following:

1) A copy of the assessor's map which includes the calls that make tracking the various descriptions very useful;

TAX PARCEL 10746

2) Instrument Number 1491220 is a Warranty Deed from the original developers Art and Susan Fall to Leroy and Phyllis Knox for what used to be known as Lot A (the portion of Tax Number 10746 east of the road easement). This was the original vesting deed and includes the "appurtenant shore lands" for the northeast section of the lot as well as the eastern edge and is banded to the west by a road easement. These appurtenances to the shoreline are not included in the descriptions on the western lot (the cottage lot 4).

2) Warranty Deed for 1261 W. Peninsula Drive (instrument number 1517420). The description contained in Exhibit A again vests the owner with the littoral rights along the 60.4' along the north-eastern edge of the lot, as well as the 41.12' along the eastern shoreline.

TAX PARCEL 10747

3) Instrument Number 1227424 is a Warranty Deed from the original developers Art and Susan Fall to Beck Dry Well for what used to be known as Lot B (the portion of Tax Number 10747 east of the road easement). This was the original vesting deed and includes the "appurtenant shore lands" along the eastern edge and is banded to the west by a road easement.

4) Instrument Number 1842673 is an easement from the State of Idaho granting Tax Parcel #10747 (1251 W. Peninsula Dr.) with the use rights of the land below the ordinary high water mark to the adjacent property owner. This recognition by the State is an acknowledgment that Tax Parcel 10747 abuts the lake on the eastern side.

TAX PARCEL 10748

5) Instrument Number 1275450 is a Warranty Deed from the original developers Art and Susan Fall to the Gusas describing what used to be known as Loc C (Tax Parcel 10748 east of the road easement). This was the original vesting deed and includes the "appurtenant shore lands" and is banded to the west by a road easement.

6) Instrument Number 1771380 is a record of survey for Tax #10748 (1237 W. Peninsula Drive). There is a typo in the heading which references a Tax Parcel 10745—there is no such parcel. The calls of this description match the description for Tax #10748. This recorded survey also shows that the eastern boundary of this parcel is adjacent to Lake Coeur d'Alene, and the western boundary adjacent to a portion of the common area held by the Association.

TAX PARCEL 10547

5) Instrument Number 1356403 is a Warranty Deed from the original developer Sue Fall after Art Fall had passed away. This description again describes two parcels. The full length of the northern boundary of this parcel spans 107.74'. The southern boundary of the adjacent lot immediately to the north (Tax Parcel 10748) is 107.75' which extends into the waterway as shown on the attached record of survey meaning that the northern boundary of Tax Parcel 10547 would also extend into the waterway.

6) KC mapping tools allow for measurements—the length of the southern boundary of this parcel would also extend into the Lake CDA as shown below.

Please review the attached information and let me know a good time to talk it over with you.

Thank you in advance for your consideration.

Megan O'Dowd

Other images included in the message besides the instrument #



Along the shore as follows:

South 52°40'15" East, 60.40 feet; thence

South 09°30'50" West, 41.12 feet; thence

Leaving the shore North 76°18'30" West, 58.64 feet to the true point of beginning, including appurtenant shore lands and subject to a road easement along Westerly 10 feet.