



Sno-King Environmental Protection Coalition

BSRE Headed to Court Over Who Owns Point Wells Property

And Maybe Gives Up On Development??

While there has been no news yet from Snohomish County concerning BSRE's most recent development application, there have been some interesting legal actions taking place over the last few months. Much of the information below is gathered from legal filings made since February.

A little history

To understand the current legal action we have to go way back to May 7, 2010 when Paramount of Washington, then owner of Point Wells, entered into a purchase and development agreement with the current owner, BSRE. The purchase agreement sold the Pt. Wells property to BSRE for \$19.5 million, but it also included a development agreement obligating the two parties to cooperate in the development and approval of a detailed plan for a mixed-use residential project designed to enhance the value of the property with the goal of maximizing proceeds from a future sale. BSRE was to lead the process of obtaining approval of the detailed plan including a development application and an Environmental Impact Statement. This agreement resulted in the original development application submitted by BSRE in early 2011.

The development agreement also gave Paramount a 10-year license to continue its petroleum business on the site while requiring Paramount to pay BSRE an additional \$1.7 million a year to help pay for the development of the detailed plan. In return for these payments, the agreement stated that BSRE and Paramount would share in the profits if the plan was approved and the property was sold to a firm who would complete the construction. BSRE was to use its best efforts to obtain approval for the plan. If the property was finally sold, Paramount was responsible for clearing the site and cleaning up the contaminated soil using the proceeds from the sale. It should be noted here that back

in 2010 both Paramount and BSRE were controlled by the same owner so it was a friendly deal.

Back to today

So here we are 10 years later. In the intervening years the former owner ran into financial trouble and had to sell off various parts to other owners, so Paramount and BSRE are now controlled by two different owners. And Paramount's 10 year license period runs out on June 1st this year.

In anticipation of this date, BSRE sent Paramount a letter in early January asking them to have the site cleared and decontaminated by the June 1 date. The two parties met to discuss this on February 4th but did not come to an agreement as to how to proceed. After another exchange of letters but still no agreement, BSRE filed suit demanding that Paramount be forced to remove their equipment and clean the site. Paramount then counter sued saying there is no detailed plan approved, there is no sale, there are no profits to share, so they can't be forced to do any cleanup. In a further twist, Paramount claimed BSRE failed to "use its best efforts" to get the plan approved and demanded that the court invalidate the 2010 purchase agreement and return ownership of the property to Paramount.

Does BSRE finally admit defeat?

We found a very interesting allegation in Paramount's counter suit. Paramount contends that "at the February 4th meeting, the BSRE representatives stated that BSRE did not expect to ever receive approval of a detailed plan, and that it was instead **actively marketing the Property to third parties for industrial or other non-residential use**". In a later reply, BSRE admitted that it stated that "it was uncertain that local government authorities would approve an economically viable detailed plan and that it was also considering other options."

Maybe BSRE has finally given up the idea of building a small city at the end of a two-lane road?? A big dose of caution here: we've seen multiple other instances in the long Point Wells saga where the parties did not agree on what was said in a meeting, but we can certainly hope this statement is accurate. It would be great news for the neighborhood.

The case will be heard in Snohomish County Superior Court. It should be entertaining to hear the arguments. No date has been set yet.

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