

# 'Secret' convention center deal may cost S. Tahoe \$1.8 mil.

By Kathryn Reed

South Lake Tahoe officials have always claimed there is no city money involved in the failed convention center project. Depending on the outcome of a lawsuit in El Dorado County Superior Court, that statement could prove to be wrong to the tune of approximately \$1.8 million.

This is because on March 9, 2007, then City Manager Dave Jinkens along with the city's outside redevelopment attorney, Stacey Sheston, signed an indemnity agreement that puts the defunct Redevelopment Agency, which is now the city because it's the successor agency to the Redevelopment Agency – on the hook for this amount. The original indemnity was for \$3 million, but the difference involved two other properties that are not part of this lawsuit.



Concrete and rebar -- it's what South Lake Tahoe locals call The Hole. Photo/LTN

Jinkens was acting as executive director of the South Tahoe Redevelopment Agency at the time he signed the document. He

wore two hats, as did councilmembers – they were the City Council and the board of directors for the Redevelopment Agency.

The agreement protected Placer Title Company and Stewart Title Company on loans of more than \$3 million that were brokered by Z Loan & Investment and Lake Tahoe Development Company that involved three assessor's parcels numbers.

Z Loan is considered a hard-money lender. A hard-money lender provides a "bridge loan" and is usually used when traditional financing cannot be secured. This is what Randy Lane and John Serpa, who ran Lake Tahoe Development Company, were in need of to acquire all of the property to build what was supposed to be a more than \$400 million hotel-convention center project on the eastern edge of South Lake Tahoe at the state line.

Lane told *Lake Tahoe News* the need for this type of lender was necessary because traditional financing wasn't possible because of what he intended to do with the property – acquire buildings and tear them down.

"A lot of [traditional loan] agreements say you won't do anything that adversely affects their collateral," Lane explained.

In addition to needing money to buy the properties, Lane was borrowing against the properties before he owned them.

"For the city to say that it never had any financial exposure on the project is just untrue," attorney David Becker told *Lake Tahoe News*.

Bankruptcy has since left the more than 11-acre site a pile of rebar and concrete whose integrity is in question after years of exposure to the elements, with not all of the 19 parcels foreclosed on, and Owens Financial – who has the most money on the table – proposing retail along Highway 50 and nothing behind it.

According to Julie Regan at the Tahoe Regional Planning Agency, "The convention center permit has an approved construction schedule which is valid at least through October 2016."

### **Pending lawsuit**

The lawsuit that could saddle South Lake Tahoe with the \$1.8 million bill involves Harry Segal and Janice Halpern-Segal suing Fidelity National Title Company.

"The Segal family is suing to prove that Randy Lane's loan should not have been made against their property before the Segals actually sold their property to Mr. Lane. The lender (Z Loan) made their loan to Randy Lane six months prior to the Segals agreeing to sell their property to Mr. Lane," David Becker, the Segals' attorney, told *Lake Tahoe News*.

Becker was not their attorney at the time they were selling their property.

The Segals carried the paper for the sale to Lane. However, Lane and the title companies contend the Z Loan lien takes priority over the Segal lien, even though Lane did not own the property he pledged as security.

"The artificial title, made possible by the city's indemnity, created a false appearance that Mr. Lane owned the title. Had the city properly publicized the back-door deals, somebody may have caught how risky it was for the Segals to sell their property to Mr. Lane," Becker said.

This was at a time when Jenny Lane, Randy Lane's daughter, worked for Stewart Title.

Dina Reed (no relation to this reporter) was Jenny Lane's assistant when this was taking place. She is now manager of the Stateline branch of Stewart Title. She says there is nothing illegal or unethical about a client's daughter working

on her dad's paperwork, and that multiple eyes would be on the documents.

Reed said indemnity agreements like this occur with any type of construction deals, even for a residential house.

Debbie Landerkin, manager of Placer Title, deferred all comments to her legal counsel.

Jody in Placer Title's legal department wouldn't provide her last name. She was more curious about how *LTN* obtained the document than answering questions.

"That document would not be something I could discuss with you because it is not a public document," Jody said.

Landerkin's signature is on supplemental joint escrow instructions involving the Segal property. So are Jinkens and Lane's. That was signed two days prior to the indemnity agreement being signed. At that time Landerkin was dating Bruce Budman who was South Lake Tahoe's finance director.

The city could have indemnified itself and had Lake Tahoe Development Company take the risk instead of potentially jeopardizing taxpayer money – as might be the case depending on the outcome of the lawsuit.

"Everything that could go wrong in the Segal-Lane transaction did go wrong. And it all started with the city's indemnity," Becker said.

South Lake Tahoe City Attorney Patrick Enright told *Lake Tahoe News*, "If there was a judgment against the agency, it would be a liability of the South Tahoe Redevelopment Successor Agency, not the city of South Lake Tahoe."

What he failed to add is that the current City Council acts as that successor agency – so the city is liable.

Enright said he became aware of the lawsuit in August 2011.

A trial date for the Segal case is expected to be picked Oct. 29.

At this time it is not public how much money the Segals have received, if any, from Lane. They owned a business on land owned by a different party. The parcel was obtained by eminent domain, which was orchestrated through the city.

However, the Segals told *Lake Tahoe News*, "The money for our retirement was lost as well as the future financial security of our children."

### **Who knew what**

In 2004, when Marriott Corp. was contemplating being the convention center developer the hospitality company and the city agreed neither wanted to indemnify the project because they did not want to subject themselves to potential legal claims.

But things clearly changed three years later, but no one in power remembers or knew about that change.

Jenkins emailed *Lake Tahoe News*, "I do not recall the agreement specifically and because I retired in August 2010, I do not readily have access to city records. I speculate, but I am not certain by memory, that the agreement had something to do with the RDA's use of eminent domain to acquire a few (2-4 properties??) of the 29 parcels needed for the convention center project and the requirement that of the title company to verify that the city has a right to acquire the property before the property was transferred to the developer. I am sure that before any documents were signed by city officers that the city's then legal counsel approved their use."

*Lake Tahoe News* asked the city for the documents and provided Jenkins with a route to obtain them to jog his memory. It has been more than a month and he has not gotten back to *LTN* for further comment.

Cathy DiCamillo was the city attorney at the time. She did not respond to *Lake Tahoe News*' inquiries about the matter. But at that time Jinkens was using outside counsel, including special redevelopment attorneys. Jinkens and DiCamillo had such a rocky relationship that they required a "therapist" to help them work together so it's possible DiCamillo did not know about the transaction. However, her job before working for the city was as an attorney in the same office as Lew Feldman – who was Randy Lane's attorney throughout this process.

The City Council at the time was comprised of Bill Crawford, Jerry Birdwell, Ted Long, Kathay Lovell and Mike Weber. All responded to *LTN* except for Weber. The four who responded have no recollection or knowledge of any indemnity agreement entered into by Jinkens.

Current councilmembers – Claire Fortier, Tom Davis, Bruce Grego and Angela Swanson – did not respond to *Lake Tahoe News*' questions so it is not known what they know and when they learned about it.

One question was: Why was an owner participation agreement used for this project and not a development agreement?

Councilman Hal Cole answered only that question. He wrote, "In response to your series of questions about the Chateau project I want to add the following. I was hoping Patrick Enright would fill in the blanks for you on all the legal questions as I could only answer what I had firsthand knowledge of. He did not address the OPA issue. My understanding of a Disposition and Development Agreement (DDA) is it is a contract between a developer and a redevelopment agency that involves the sale of agency owned land. This is what we did for the gondola project. We assembled the land, made the map changes and sold the parcels. An Owner Participation Agreement is a contract between a property owner and the redevelopment agency to allow the development of property owned by the owner/developer. It was the city's expectation that Randy [Lane] would acquire and

assemble the land (new map and all) and then use redevelopment financing for the public areas (convention center space, open space and walkways)."

Cole and then City Councilman John Upton served on the committee tasked with negotiating the agreement with Lake Tahoe Development Co. They were the only two councilmembers who ever read the market study that the city hung its hat on saying a convention center was desirable, though the study doesn't come to that conclusion.

Enright told *LTN* of the 2007 council, "The city or agency is not aware of when, if ever, individual board members became aware of the agreement. There is no record that the agreement was ever discussed in closed or open session by the Redevelopment Agency board of directors."