

# Deal ends Rolling Hills landslide dispute

**Melissa Pamer Los Angeles Newspaper Group, 8-30-10**

It's been more than five years since a chunk of hillside in gated Rolling Hills crashed 100 feet onto a curving street below, blocking the roadway and leaving eight multimillion-dollar homes landlocked and a guesthouse hanging precariously above the landslide.

Now, attorneys have finally reached a settlement on the contentious litigation that ensued. But it wasn't easy, in part because the Poppy Trail slide crossed the boundaries of three property owners.

Nobody wanted to take responsibility - not the city, not the private community association that owns the roads in the exclusive enclave, not the nearby residents and, least of all, not the shadowy homeowner, who has since disappeared and whose hillside crumbled, starting the whole conundrum.

And certainly nobody wanted to pay the cost of repairs.

"The problem was like a puzzle, and it was a question of taking all the puzzle pieces and putting them in the right place," City Attorney Mike Jenkins said.

After months of negotiations that followed years of expensive litigation, the city, the homeowners, the community association, everybody's insurers, two banks and dozens of lawyers all came to an agreement: the landslide will be repaired, Poppy Trail rebuilt, an abandoned \$3.4 million home razed, and the property subdivided into two lots and eventually sold.

Proceeds from the sale will pay for most of the work and some of the legal costs - which for the city's insurer alone amount to about \$750,000.

The settlement was approved in April. This month, the Planning Commission began processing an application to let the extremely complicated deal go forward.

"Everybody wins here," City Manager Anton Dahlerbruch said. "It's good to get it behind us."

Equestrian-friendly Rolling Hills, an all-residential city of about 1,900 on the Palos Verdes Peninsula, is one of the wealthiest communities in the country. But its municipal government has little income aside from property tax revenues and fees levied on residents. Its annual operating budget of about \$1.6 million provides for just four full-time employees.

The roads are privately owned by the Rolling Hills Community Association, which is funded by residents.

Neither has the funds to repair a landslide and continue normal operations.

Nonetheless, they were confronted with just that scenario - plus a number of unexpected wrinkles - on a Saturday night in March 2005, following a winter of heavy rain that saw flooding across the Los Angeles area.

A nearly 300-foot stretch of rocks and dirt collapsed from a steep hillside onto Poppy Trail, destroying a retaining wall and leaving the roadway covered in some 20 feet of debris.

"It was a huge mound of dirt, a huge mound, that blocked off the access to ... homes. That was the sole access that they had. Our first concern was public safety at that time," said Mayor Godfrey Pernell, who has been on the City Council for about 35 years.

Directly above the slide hung a guesthouse that belonged to Hui-Tse Sheen, the owner of 1 Poppy Trail, where most of the landslide occurred.

"You looked at it and your thought was, oh my God, this thing is going to topple down the hill. It was a precipice. Looking up at it, you could see the earth falling away from beneath it," Jenkins said.

With bulldozers, the city built a temporary road over the landslide, compacting it. Poppy Trail residents needed all-terrain vehicles to get to and from their homes.

The city formally asked Sheen to repair the hillside. Through an attorney, he refused. When Rolling Hills declared the property a nuisance and prepared to demolish the guesthouse, Sheen sued the municipality and the community association, blaming them for the disaster.

On the demolition, a judge sided with the city, allowing razing to go forward. The city put up plastic sheeting and mesh to stabilize and "winterize" the hillside.

At the same time, the community association built a steep new paved roadway that curved around the slide, next to a new concrete retaining wall.

Both parties spent about \$500,000 each, Jenkins said.

Sheen's lawsuit went forward. Soon the other Poppy Trail homeowners sued the city and the community association as well. They were unhappy with the poor quality of the new roadway and said the scarred hillside, visible from some of their homes, would damage property values. They wanted damages.

"As these things evolved, it looked like it was getting more and more complex even to the point of sometimes having estrangement of some the residents because their inconvenience and all," Pernell said.

"It was very understandable. When you're dealing with residents who have high-end homes that have to use golf carts to get to them ... feelings run high."

Countersuits were filed. Things started to get ugly.

"For a long time, it was very bitter," Jenkins said.

Ed Richards, an attorney who represents the city's insurer, the California Joint Powers Insurance Authority, said everybody wanted to do the repair, but no one had the money.

"When the landslide occurred, there really were multiple victims. Not only were the homeowners victims, the city was a victim, the association was a victim," Richards said. "Everybody was stuck."

Then Sheen vanished.

His six-bedroom, white brick home, which had been empty since the slide, attracted thieves and vandals, not to mention kids who skateboarded in the pool, Dahlerbruch said.

Individuals involved in the lawsuit said they knew virtually nothing about Sheen. Jenkins said he appeared only once for a deposition that was never finished.

"We have no idea where he is and where he disappeared to," Jenkins said. "He's got a lawsuit on file and at that point he's no longer even prosecuting the lawsuit."

Court records show a \$20million judgment had been entered against Sheen in bankruptcy court just two months after the slide, and two banks held mortgages on the Poppy Trail home.

Now there really was no one who Rolling Hills and the community association could get to foot the bill for landslide repairs.

Though Sheen had been dismissed from the lawsuits - which had been combined - more lawyers became involved, including representatives of the banks that owned the notes on Sheen's home. The banks - Far East Bank and Washington Mutual, which became Chase - were not about to foreclose.

"What bank wants to own a landslide? They have no idea what it's going to cost to fix it," Jenkins said. "They don't want to have any potential liability down the road."

In the meantime, the city had learned unexpectedly that it owned a piece of the property that was part of the landslide. Another sliver was owned by a construction company that had hoped to build an investment home on 10 acres.

The lawsuit headed toward trial, but it became clear to Richards and Jenkins that a judgment or a settlement might not result in getting the landslide fixed.

Then officials from the city and their insurer - known as the JPIA - had an unusual idea.

The banks would foreclose on the Sheen property. The insurance authority, which provides pooled coverage to mostly small cities in Southern California, would buy the home for just \$500,000.

Then they'd tear it down.

The city, along with the construction company that owned a wedge of the slide area, would contribute land to create a nearly 7.5-acre area that would be subdivided into two new, vacant lots.

Two new driveways would be built, leading to the now-empty Sheen building pad and a new pad where Sheen's tennis court once stood.

The community association would meanwhile reconstruct the road to the liking of neighbors, who would get about \$40,000 each in damages, Jenkins said.

After six months of negotiations, everyone agreed to the deal.

"It was a miracle," Richards said.

Ron Sommer, who has lived on Poppy Trail for about 35years and was a party to the lawsuit, said he felt the mess could have been avoided if the repairs had been done after the slide occurred. Nonetheless, he said he was relatively happy with the agreement.

"I guess the city is going to be in the development business," Sommer said. "It's not anticipated that we'll have to go back to our golf carts as we did several years ago. ... We're sorry we had to go through all of this."

(Dahlerbruch stressed that the JPIA is the owner of the Sheen property, not the city.)

Kristin Raig, manager of the Rolling Hills Community Association, said she could not comment on the specifics of the lawsuit, but she was pleased. The association's attorney, Sidney Croft, could not be reached.

"We're definitely happy with the settlement ... with the result and that it's been resolved," Raig said.

Dahlerbruch and Jenkins both praised the JPIA, which bought the former Sheen property at a foreclosure sale earlier this month.

When the home was first posted for sale, there was a "flurry of activity" from potential buyers, Richards said. But no one showed up to bid.

"The property has no value unless the landslide is fixed," Richards said.

Repair of the landslide and demolition of the home will cost the JPIA about \$3 million, he said.

That's not counting the millions of dollars in legal fees already spent by all sides, and the \$1 million the city and the association spent on the temporary solution five years ago.

Richards did not want to speculate on the amount the two large lots could sell for, nor would he say to what extent each party would recover its costs.

"They're not expected to turn a profit. They're expecting to reduce what their total cost is," he said.

But Dahlerbruch said there's hope the recession-stricken residential real estate market will have improved enough by the end of next year that much of the costs will be recovered.

"The timing will be perfect," Dahlerbruch said.

Today, the landslide is covered in green mesh with tall weeds that have sprouted through. The site is crisscrossed by construction tape indicating the new boundaries, a new horse trail, the driveways and retaining walls.

The former Sheen home is boarded up, its circular fountain filled with dried leaves, rocks and cement blocks. Cobwebs cross the driveway, which has been fenced off.

In October, the City Council and the community association are expected to approve documents and planning applications needed to move forward with the project.

Then the construction work will go out to bid, and much is contingent on sticking to the settlement's tight timeline and budget.

"We're all going to be on pins and needles until we get the bids in and get bids within our price range," Jenkins said. "Once we get the bids, the case is dismissed."

Next year, after the rainy season, construction is set begin.

The lots - one about 4.8 acres and the other 2.7 acres - should go on sale by the end of 2011. They'll join just a handful of other vacant lots remaining for development in Rolling Hills.

"They're beautiful lots," Jenkins said. "They have a fabulous city view."