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Wells on the Shoreline in San Juan County

Even though I have been in this business for 24 years, on almost every transaction I learn something new. During 2018, I learned how difficult it is to develop a residential home on waterfront lot that is reliant upon a private water system. As in the case of most waterfront lots with a private system, the well was located within 1000 feet of the shoreline and therefore triggered more regulations. This 2-party well system was shared with an existing interior water view home and the proposed home planned for the waterfront lot.

The County's regulations include a review of the distance to the shoreline, lot size, static water level in the well and chloride concentrations. Based on all criteria, the County will determine if a hydrogeological site evaluation will be required. (A drawn-down on the well)

The escrow on this transaction was over 12 months and the buyer spent tens of thousands of dollars during their feasibility study prior to closing to investigate the suitability of the lot.

I recognize that the costs on a waterfront lot and future development isn't considered a large concern for most but why does it cost so much and take so long to purchase and develop single family homes in the islands? This buyer intends to build a modest home on this lovely lot.

As in the case of many of our sellers, this client was unable to fund the investigation on the water source upfront before a buyer was bound by the contract. Primarily due to the fact that water testing is time sensitive and we were afraid if we spent the money to test the well, the reports would be expired prior to us attracting a buyer for the property.

The lot was on the market for 699 days. It was being marketed during the period where the desirability of waterfront lots was greatly diminished due to the recession and the uncertainty that surrounded the shoreline setbacks as the Shoreline Management Program and Critical Areas Ordinance were both pending an update. During the marketing, the seller lowered the price several times.

Many buyers inquired about the lot but due to the complexity of the County regulations for shoreline development, they passed on the opportunity to purchase a lot. Finally we attracted a buyer.

This buyer was both well qualified and he was an architect that was knowledgeable of the construction industry and County regulations. He turned out to be the best buyer in the world as he was accepting of the length of the escrow that would be required and the upfront expenses, not your typical buyer.

He ordered out the Residential Pre Application (RPA) which located all utilities, the building site, proposed set back and screening on the lot. The RPA plus the survey work required was around \$3000.

Of course he incurred the basic expenses such as an archaeology study, a Geo Hazard study, an arborist for tree removal and engineering for the storm water management which totaled about \$10,000. He was able to process his architectural plans without expense.

In order for the buyer of this waterfront lot to close, he needed to have a comfort level of what he could build and the cost involved to develop the property. Prior to application for a building permit, a Certificate of Water Availability needed to be processed. (Water Cert)

The Water Cert required that the septic system be determined; the buyer processed a perc, design and permit for \$2500 and that had a validity date of four years.

In this case it was obvious, however; on other lots, a survey may have been required to confirm that the well head is located within 1000 feet of the shoreline.

San Juan County regulations require that all private wells within 1000 feet of the shoreline have a draw-down test and are tested for salt water intrusion between the months of July through October prior to approval of the Water Cert. Further, the County and hydraulic engineers require at least one neighbor, if not two, have their static levels monitored during the draw-down of the subject property. Explaining this process to an uninvolved neighbor was a character building experience.

The buyer was required to hire a private hydrologist to work with the County approved hydrologist. The private hydrologist for the buyer was around \$10,000. Al Mauldin charged \$1750 for his share of the work. The private hydrologist prepared a report for the County hydrologist to review and provide recommendations for approval.

As part of the Water Cert requirements, the shared well maintenance and use agreements had to be fully signed and recorded. This document was drawn by the seller's attorney, and then reviewed by the buyer, seller and agents and the buyer's attorney. The document was also reviewed by the County and hydrologist as they required certain language for the annual testing of the shoreline well and other restrictions. The cost for the well agreement was around \$2000.

We tried to obtain a waiver of the draw-down requirement as we had three historic San Juan Short list reports on the well that showed that the chloride levels were actually decreasing on the well. We also had a 15 year old draw-down test on the well from when the owner originally built their house but it was not convincing. We were unable to obtain a waiver of the draw-down test.

The draw-down testing was a nerve-racking process for the seller and all parties involved as even though we were told that a draw-down test won't create salt water intrusion on wells that are not inclined for intrusion, the testing still posed risks.

During the draw-down test, Al Mauldin processed litmus tests for chlorides every 30 minutes. If the chloride level had increased during the testing, he would've shut down the process. The well produced 6.71 GPM but the drawdown test was processed at 1.5 GPM in order to avoid stressing the well. The test was for a four hour period and the results produced didn't require longer testing.

During the testing, neither the owner of the well nor the neighbors could use their well water for 48 hours. Each had to have storage or arrange hauled water for this period of time. The test required a

large group of participants; present included the County person, County hydrologist, the private hydrologist, the owner, prospective buyer and the neighbors.

Once the testing was processed, Al Mauldin completed his report which was submitted to the private hydrologist. Once the private hydrologist was finished the information was submitted to our County officials. The turnaround time was greater than 30 days as the locals had to involve the County hydrologist to review the private hydrologists report.

The County's approval included a restrictor on the well. As I mentioned, this was a 6.71 GPM well and was to be shared by two properties. The county restricted down below the minimum GPM requirements to get a single-family residence permit or less than 1/2 GPM. This restriction dictated that the shared well would need a holding tank, more plumbing and electrical and a nice looking well house which I estimate will total about \$25,000 more than budgeted to hook up to this well

I assume if the chlorides had been above the County recommended levels, the well would've been decommissioned. Alternative water sources for the existing home and the proposed waterfront lot would have been slim to none:

Water catchment - expensive, requires a "tank farm" and it is unacceptable to lenders due to secondary market requirements.

Water hauling - Unacceptable to lenders due to secondary marketing requirements.

Desalinization System – Applicable to private wells but can cost in the range of \$80,000-\$100,000. Typically used for community water systems.

The loss in value due to the loss of a water source to an existing single-family residence is tremendous. The conversion from a single family lot to a recreational lot is a decrease in value of at least 50%, if not more.

In some cases drilling a new well at least 1000 feet back on the subject property or a neighboring property may have been an option. It would all depend on whether the lot was large enough and the neighbors were cooperative. Sharing other wells in the area might also be an option for some lots.

Conclusion:

The buyer decided that they were comfortable enough to close on the property as they had the Water Cert in hand and the remaining process to obtain a single-family residential permit was standard procedures. As I mentioned the escrow was 12 months, partly due to needing to wait until the most vulnerable time of the year to do the draw-down process which was July through October.

It was a learning experience for all agents involved; Al and Frieze Mauldin were great to work with, the costs including the hydrologists were expensive, the buyer and seller were extremely stressed, and the champagne that we shared after closing tasted better than most.

I recognize that these regulations are for consumer protection but this was an existing well, serving an existing home, plus they had existing well test results. One would think a waiver of the draw-down would have been granted.

If you own a waterfront lot that is not developed but has at least a well, I can't recommend that you do the draw-down upfront as it may expire before you attract a buyer. However, just be prepared for a long expensive escrow. If your project is a tear-down a certificate of water availability would be required. If your project is a remodel, as long as there was already water and plumbing to the existing structure the regulations may not be triggered. Be sure to check with the County for full details.

If I represent a buyer on a waterfront lot, I wouldn't allow a closing until they had processed all of the information that I just detailed above.

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