

Kevin And Nicole Are Engaged!



Kevin asked THE question late in the eve of Nicole's birthday, September 4th. Nicole accepted and some time later, both made phone calls to their mothers with the news. For Nicole's mom, Christine Schwander, in Chicago, that must have been about 3:00am. Christine then called Nicole's sister, Heidi, who then called Nicole herself. This encouraged Jan to call all three of Kevin's brothers and then, finally, there were the facebook postings before the event melted into the night. I think it fair to say that we all woke up to the birth date of Nicole a little later then normal and a lot happier.

Kevin and Nicole were down in San Diego the following weekend and we celebrated with Mom and Dad at a nice Up Town restaurant called Banker Hill.

The wedding, still in the planning stages, will be in about a year.



Ed and Jan Riel, Kevin' parents.



Nicole's Sister Heidi, and her mom, Christine



Kevin and Nicole with Whiskers (Short list,best man)

Birdy sent in this copy of this article that was written by Ana and her partner and published in the CA Law Review. We are extremely proud of her as she develops her career in law.

Promises and Perils of the Polanco Redevelopment Act

CA Lawyer Publishes Article by Jason Meyer and Ana Hartman

In 1990, the California Legislature enacted a measure to encourage private parties to develop properties around the state that are idle or are underutilized because of real or perceived environmental contamination. The statute, commonly known as the Polanco Redevelopment Act, accomplishes this by alleviating most of the legal and financial risks associated with cleanup. Although this law has had the intended effect of getting polluted property cleaned up and redeveloped, it is rife with perils for unsuspecting owners.

To help clarify the roles, responsibilities, and potential liabilities of various parties under the statute, San Diego Partner **Jason Meyer** and Associate **Ana Hartman** published an article entitled "Clean Up that Mess!" in the "Expert Advice" section of the August 2010 issue of *CA Lawyer*.



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Clean up That Mess!

Property ownership is a cherished right, but it also involves significant responsibilities. One of them is an owners duty to clean up polluted land. Approximately 90,000 properties around the state sit idle or are underutilized because of real or perceived environmental contamination. To deal with this problem the California legislator in 1990 enacted a measure to encourage private parties to develop such properties. The statute, commonly known as the Polanco Redevelopment Act, accomplishes this by alleviating most of the legal risks associated with cleanup (Cal. Health & Saf. Code §§33459-33459.8). Although this law has had the intended effect of getting polluted properties cleaned up and redeveloped, it is rife with perils for unsuspecting owners. Local and regional development agencies can operate like mini-EPAs, issuing cleanup orders for sites they do not own (s 33459.1(a)(1), or acquiring property through eminent domain and then funding cleanup with money recovered from the owners and potentially responsible parties. (PRPs) (§ 33439.1(a)(1)).

The Polanco Act prescribes the process for cleaning up polluted properties in redevelopment areas, while providing immunity to agencies and subsequent property purchasers who clean up sites under an approved plan. Redevelopment agencies have broad authority over cleanup activities; the law states that they may take "any actions" they deem necessary to remedy or remove a release of pollutants, whether the agency owns the property or not (PRPs) (§ 33439.1(a)(1)).

Scrap yards, vacant lots, defunct gas stations, and abandoned warehouses are the properties most often targeted. Owners of such properties should know the likelihood that hazardous substances are present, as well as the potential for use of the Polanco act to clean them up.

The statute defines a "responsible party" extremely broadly—including any current owner and operator of the subject facility; owners or operators of the facility at the time of disposal of any hazardous substance; any person who arranged the disposal or treatment of any hazardous substances; and any person who accepts hazardous substances for transport to disposal or treatment facilities (see § 33459(h)).

If there are no PRPs the current owner may shoulder all responsibility (§ 33459(h)). Therefore, anyone considering a property acquisition should conduct a thorough investigation into historical uses of the site to gauge the potential risk of hazardous substances.

After a redevelopment agency receives cleanup guidelines from the Department of Toxic Substances Control (DTSC) or one of the state's regional water quality control boards, it must submit a remedial action plan to the DTSC or water board for approval before proceeding with the work. Although a redevelopment agency must provide notice to both to the relevant administrative body and the PRP the act requires only *one* notice to the PRP. If a PRP fails to respond within the specified time frame, the agency need not provide further notice, even if new hazardous substances are found if additional remedial measures are deemed necessary.

A remediation plan can be costly to prepare. A REP that becomes aware of a contamination problem can either draft and submit a plan for approval within 60 days, or allow the redevelopment agency to prepare the plan.

The defenses under the act are specific and hard to prove. A responsible party can challenge liability by showing that it acquired the property after disposal or placement of the hazardous substance occurred; that the party was unaware (and had no reason to know) that hazardous substances had been disposed of; or that the property in question was acquired by inheritance or bequest.

Additionally, an otherwise responsible party can challenge liability by demonstrating that the release of hazardous substances was caused by an act of God, war, or by the act of omission of a third party. The PRP must establish that it exercised due care with respect to the subject hazardous substance and took precautions against foreseeable acts or omissions of any third party and the resulting foreseeable consequences.

A lawyer counseling a potentially responsible party should ensure that the appropriate governmental agencies follow statutory procedures to guarantee the property owner's due process rights. And it remediation costs are assessed, the lawyer should make certain that they are calculated fairly and correctly.

Jason F. Meyer is a partner and Ana R. Hartman is an associate in the San Diego office of Gordon & Rees. Meyer directs the firm's Southern California environmental and toxic tort practice group, and Hartman practices with the environmental group.

Our First Hundred Years

An era came to an end on April 1, 1907, when Father Anthony Ubach, the pastor of San Diego for 41 years, was laid to rest in Calvary Cemetery, just blocks from the future St Vincent de Paul Church. Months later, on January 20, 1908, the City of San Diego approved the subdivision map for Mission Hills and before long Craftsman bungalows and Spanish Revival homes began to spring up along the new streets.

Bishop Thomas Conaty of Monterey-Los Angeles was not blind to the development of Mission Hills and founded St Vincent de Paul Parish in 1910. He purchased three bungalows at the corner of Fort Stockton Drive and Hawk Street (now part of our playground), and the new community celebrated its first mass there on April 26, 1910.

A small frame building was soon raised on that corner, serving as church, hall, and even the temporary location of St Augustine's High School (1922). But in 1918, the parish got a "real" church in the mission style, a much-beloved spiritual home noted for its warm interior of dark woods and stained glass. Many mourned its passing a half century later.

St Vincent School came next, dedicated by San Diego's Bishop Charles Francis Buddy, and opened by the Dominican Sisters in September 1948. It was a thriving concern from the beginning, and when the Dominicans had to withdraw, Monsignor Peter Mimmagh persuaded the Sisters of Mercy of Ireland to take their place in 1969.

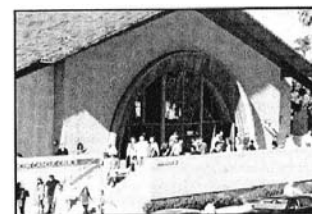
Just months before their arrival Bishop Francis Furey had dedicated the current church and hall, and shortly thereafter the 1918 church and the original 1910 frame structure were demolished to expand the school playground. A new rectory appeared on Ibis Street in 1975.

As the needs of the school have continued to grow, Mercy Hall was added to St Vincent's Campus in 2003 and a preschool, science lab and learning resource center rounded out the campus in 2009. Meanwhile, the church and parish got a healthy renewal and facelift in 2006-09.

With a caring parish family gathered round, St Vincent Parish is ready to engage its second century with confident expectation!



Our first church served us for half a century (1918-1968).



Our current church was dedicated in 1968 and renewed in 2006.

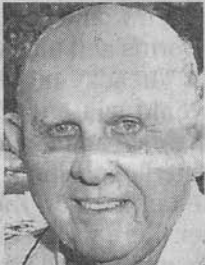
Lyndon Road neighbor dies

It is with sadness that we report the passing of our long time Lyndon Road next door neighbor and St Vincent Church member, Bill Fixsen. The Riel children remember the family, especially son Patrick, who now is a Catholic priest in Peoria, IL.

Also, Bill was a Stardust Country Club member, and we saw him frequently at the golf course

The adjoining obituary appeared recently in the San Diego Union Tribune newspaper

FIXSEN, WILLIAM D.



William D. Fixsen, 76, of Peoria, died on Thursday, July 29, 2010, at his residence.

Born April 30, 1934, in Kanorado, Kansas, to Fred and Bertha Darnauer Fixsen. He married June Melody on August 6, 1960, at St. Rose of Lima Catholic Church in Chula Vista, CA. She survives.

Also surviving are one son, Fr. Patrick Fixsen of Normal, IL; two sisters, Jeri Schmid of Lakeside, CA and Marilyn (James) Lohay of Oakhurst, CA; four brothers, Gayle (Ruth) Fixsen of Twin Falls, Idaho, Richard (Paddy) Fixsen of Hemet, CA, Dr. Dean (Karen) Fixsen of Chapel Hill, NC and Dennis Fixsen of Springfield, MO.

William worked as a Project Manager and Chief Estimator in the construction industry in the San Diego area. In 1978, he owned and operated the Astra Flooring Co. in San Diego until 2001.

He graduated from Kansas State University in 1957 with a Bachelors Degree in Civil Engineering.

He was a member of St. Jude Catholic Church in Peoria, and Mt. Hawley Country Club. He loved to golf, and played with the Squires on Wednesdays at Mt. Hawley. He was also a member of the Associated General Contractors of San Diego, and the Sigma Tau Society. He served for the U.S. Public Health Service as well.

A Funeral Mass will be on 11 a.m. on Friday, August 6, 2010 at his church, with his son, Fr. Patrick Fixsen and Fr. Timothy Nolan officiating.

Visitation will be from 9:30 a.m. until 11 a.m. at the church prior to the mass. Graveside services will follow. **Wright & Salmon Mortuary** is in charge of arrangements.

Memorial contributions may be made to St. Jude Catholic School, 10811 N. Knoxville Ave., Peoria, IL 61615.

Tributes and condolences may be submitted to www.wrightandsalmon.com. Please sign the guest book at obituaries.uniontrib.com

Comment – Since we moved to Mission Hills in 1955, Carol, Robert, Listy and Birdy were all christened in the old church, and the twins were 10 years old when the new church opened. The new church has been remodeled twice, and the main entrance, shown above, is the latest configuration.

Some Family history

Fire in Boulder, Colorado

When news of the canyon fire in and around Boulder, Colorado was reported, we wondered if there was any problem with Michael and Ashley. Several calls to Margaret did not get through (we found out later that they are in Europe), so we called Michael. He assured us that they were in no danger, since the fire was about ten miles from their home. He sent us a brief report, plus some other news, as follows.

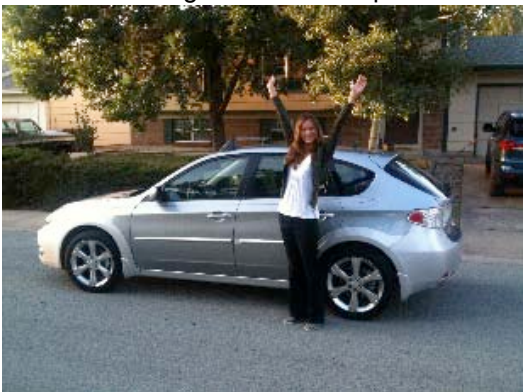
Hi Grandpa,
Just wanted to write to you to let you know that we are not in any danger regarding the terrible fire in Boulder. I have attached a picture taken from outside my office window a few days ago when the flames were on the front range. It has died down considerably since then.



There was a small scare last night because there were 65 mph winds blowing into Boulder, but the fire line

appears to be holding.

On a more positive note, Ashley bought a new car last weekend! She got a Subaru Impreza Outback Sport. It has all wheel drive and snowboard rack so it will become our mountain car as soon as the snowboard



ing seasons starts. Ashley will also be driving it back and forth from her new third grade classroom. She has been teaching for about a month now and by all accounts is doing an amazing job. My life is far less eventful right now. I'm still really enjoying work and the Colorado lifestyle. Can't wait for the snow...

Love,
Michael

A few weeks ago Listy was approached by the librarian at her school, Erin Southam, who told her that they were related. Erin has been tracing Southam ancestry, and in tracking early history discovered that an Edna Southam married to Frank Riel Sr. had a son, Frank Riel Jr. who had a daughter named



Elizabeth, who married Bob Gillingham. The direct connection between Grandpa and Erin is through Grandpa's grandfather, Edwin Southam, who is Erin's great, great grandfather. Erin, through her contacts, has collected a number of old photographs, and kindly loaned some to Grandpa. The people shown in the above picture are as follows, from left to right.

1. Betsy Friend Southam, Grandpa's great great grandmother and Erin's GGG grandmother. Some RFNL readers may recall that some time ago we published a story (provided by Aunt Eloise) about how Betsy and her new husband, Henry Southam, plus family, crossed the Atlantic on the ship "Minerva", ran aground on Long Island but finally reached Strongsville, Ohio, where they settled.
2. Edwin Southam, my Grandfather, and Erin's GG grandfather. Grandpa has a clear recollection of visiting Berea, Ohio, where Edwin and wife lived until he died.
3. The other three ladies are sisters of Edwin, named Ella Southam Xander, Clara Southam Pell, and Elisabeth Southam Salisbury.

We met with Erin several weeks ago, at a Saturday lunch, and exchanged lots of information. We will be meeting again on the 18th of this month, (Applebees restaurant) and would welcome any other family members who would like to attend and meet our San Diego relatives.

We have accumulated a great deal more family information, and from time to time we will publish it in future RFNL's.