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Resident requests code enforcement; city responds, "sue your neighbors"

By Sora O'Doherty



A clogged drainage pipe Photo Sora O'Doherty

John Bilello lives in a lovely home on Lombardy Lane in Orinda, but he isn't happy. Since he bought the house about two years ago, he is now facing \$200,000 worth of work to his home to address water damage that he says is caused by neighbors who put in drainage systems and are diverting storm water from their properties onto his. The other properties are on Irving, a street that sits just uphill from Lombardy Lane. Bilello says that he has had thousands of gallons of water flowing onto his property from the neighboring properties, resulting in damaged floors inside his home and stains on his concrete driveway. The entire home is tilted. A representative from Ned Clyde Foundations has estimated the work to repair the foundation at some \$72,000, with another \$10,000 to correct the cracks in the house that will result from the foundation correction.

It is clear that this is an existing drainage system in place. At the back of his property, in the corner, is a hole in which can be seen a large clay pipe which fed water through the Bilello property to Lombardy Lane. Bilello argues that this system was installed illegally without easements or permits, but the city of Orinda does not seem to agree. Bilello says that he has undertaken extensive research with the city as well as with Contra

Costa County and can find no evidence of any existing easement or permits for the drainage system. There is a large file at the city of public documents about this dispute, which can be viewed by anyone who requests them. Included in the file is a diagram from the diverting parties showing the diversion system.

Bilello has employed an attorney, but he is not interested in suing his neighbors, as he says the city is telling him to do, but he really wants the city to begin a code enforcement action against parties who he alleges have installed the drainage systems and sump pumps without permits (in violation of Title 18 of Orinda muni code. 18.03.055). In a recent letter to all interested parties, Planning Director Drummond Buckley said, "Staff has reviewed carefully all the relevant information before the City related to this matter. After considering that evidence, the City has, as a courtesy, advised all interested parties that it is not immediately exercising its discretion to pursue code enforcement, but retains the option to do so in the future (e.g., based on new and/or additional evidence). Staff spent a great deal of time reviewing all the evidence provided and has not determined that there is a code violation related to drainage in the vicinity of ... Lombardy Lane."

The letter does indeed, to Bilello's consternation, advise the parties to "seek adjudication in court (or through other means)." Buckley strongly recommends that the parties to this private drainage dispute work to resolve the issue through "litigation, mediation, negotiation, or other appropriate means." Buckley concludes, "The City will not adjudicate that private dispute, as such adjudication is not within the City's authority or jurisdiction."

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