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HUGH WILLIAMS / Daily Journal

Attorneys Thomas Freeman, left, and Robert Garcia, executive director of the Center for Law in the Public Interest, stand at the site of a proposed gate to Canyonback Road that will restrict public access to the Big Wild wilderness area.

Gate May Make Cranky Neighbors

Homeowners, Trail Users Clash Over Canyonback Road

By Stefanie Knapp
Daily Journal Staff Writer

In 1994, a state appellate court ordered Whitley Heights, an enclave of old Hollywood glamour perched above the seedy streets of Tinseltown, to take down its gates.

The decision, which opened the neighborhood streets to outsiders, killed 146 similar gate requests from other city districts. The court seemed to have halted a growing trend of Angelenos trying to hunker down in balkanized neighborhoods.

“We doubt the Legislature wants to permit a return to feudal times with each

suburb being a fiefdom to which other citizens of the state are denied their fundamental right of access to use public streets within those areas,” Justice Fred Woods wrote in the decision. *Citizens Against Gated Enclaves v. Whitley Heights Civic Association*, 23 Cal.App.4th 812 (1994).



But now, a group of Brentwood homeowners, with city permission, has begun erecting gates blocking their canyon road. The Canyon Back Alliance, comprising 16 organizations opposing the gate, including Santa Monica's Center for Law in the Public Interest, is threatening litigation.

Gated communities are common in Los Angeles, including Fremont Place near Hancock Park and dozens of tract developments. Gov. Arnold Schwarzenegger lives in a gated Los Angeles community. The Los Angeles police also have put up barricades in South Los Angeles and Pico-Union to fight crime.

The barriers generally are allowed, however, only if they block off private streets that are not used by the general public.

The street behind the proposed gate at Canyonback Road in Brentwood is a very public thoroughfare. The quarter-mile road bisects the Kenter Fire Road, which provides access to "Big Wild," a 21,000-acre urban wilderness with many public parks and trails. Hundreds of hikers, dog walkers, bikers and nature lovers use the Canyonback Road entrance every week, according to Tom Freeman of Los Angeles' Bird, Marella, Boxer & Wolpert, who is working pro bono to fight the gate.

Citing crime, Crown Homeowners Association, which represents owners of 71 homes behind the gate, has been trying to privatize the road and get a permit for a gate since 1995.

"There are security problems," said Gary Morris, a land-planning consultant whom the association hired to assist with obtaining the permit.

Cars race up and down Canyonback, and youth climb the fence to get into homeowners' private pools and hot tubs late at night, according to Morris.

Morris also pointed out that the 71 homeowners are the only ones in the 300-home Mountaingate area living without gates. The remaining homeowners can reach their homes through a network of private streets.

City officials voted preliminarily to vacate the street and make it private. But lawyers say *Whitley* won't allow that. The court said *Whitley Heights* could not vacate its streets because they were used by the public as a short cut to Highland Avenue.

"The law is that you cannot privatize a public street if it is being used for a

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President of the Upper Mandeville Association

legitimate public use by the general public, and using Canyonback Road to utilize public parkland is a legitimate public use," Freeman said.

Kevin Keller, Councilwoman Cindy Miscikowski's chief planning deputy, said the council has to take a final vote "at a later date."

Michael D. Patonai of the city's West Los Angeles District Engineering office signed the permit for the gate on Canyonback Road in February.

Patonai said that it is "standard procedure" for a gate permit to be issued after preliminary approval but before the final sign-off.

Gate construction, which began in early July, came as a complete surprise to trail users, lawyers said.

Freeman and 16 organizations, including the Brentwood City Council, Upper Mandeville Canyon Association, Sierra Club's Santa Monica Mountains Task Force and the Concerned Off-Road Bicyclists Association, want unrestricted access to the Santa Monica Mountains through Canyonback Road.

"What open space there is, such as the Santa Monica mountains, has to remain open for enjoyment and recreation for everyone, not just privileged homeowners," Robert Garcia, executive director of the Center for Law in the Public Interest, said.

Freeman and Garcia each sent a letter July 23 asking Los Angeles City Attorney Rocky Delgadillo to instruct officials that the gate is illegal under *Whitley Heights*.

Garcia said the gate would restrict access to scarce public parkland. The Center for Law in the Public Interest has waged a protracted battle for access to public land all over the city, including the Malibu beaches.

Freeman and Garcia have not received any response to their letter.

"We're working with the parties to

resolve the matter," Delgadillo spokesman Matt Szabo said.

"If they go ahead and vacate the street, we're going to file a lawsuit," Freeman warned.

Last week, Miscikowski held a private meeting in her office Thursday to try to come up with a compromise. The meeting was unsuccessful, Keller said.

"We didn't get everything settled in one meeting," Keller said.

The Crown homeowners association previously suggested that visitors be admitted from sunrise to sunset but that they would have to pick up a handset and call a guard to let them in.

Giving the guard veto power over who can use the parkland could lead to discrimination, Freeman said.

"We don't want to answer to 71 very wealthy homeowners by buzzing into a buzzer and be looking into a video camera for someone to decide if I can have access to land that I helped pay for," Wendy-Sue Rosen, president of the Upper Mandeville Association, a neighboring community group, said.

Keller said that there are plans for additional meetings, possibly within two-to-three weeks.

"The council wants to see access between sunrise and sunset, the manner in how that's achieved ... that's what's being discussed," Keller said.

But Garcia said that the mere presence of the gate will keep people away.

"If they build a gate there, people will not come to the Big Wild. They will be intimidated. They will be offended. They will be alienated. They will simply stop using that path to reach the Big Wild," Garcia said.

Which is exactly what the homeowners want, he said.

Until the issue is resolved, however, Miscikowski ordered the gates to "remain open and inoperative," Keller said.