

RUTAN & MIZE
ATTORNEYS AT LAW
SUITE 211 FIRST NATIONAL BANK BUILDING
SANTA ANA, CALIFORNIA

June 8, 1931.

Ed Fletcher,
1020 Ninth Street,
San Diego, California.

Dear Sir:

Mr. L. M. Smith of Santa Ana, Route 1, Box 365, has talked with me about the right of way mentioned in your letter to him of May 29th in connection with the Spurlock property.

The facts as I have been able to ascertain them are that Mr. Smith and Mr. Spurlock were some time ago buying the ten acre piece on contract, and about two years ago it was agreed between the parties that Mr. Spurlock would take the two acre piece and Mr. Smith the balance of the property, and that Mr. Smith would assume all of the indebtedness that the two then owed on the property. This was done and Spurlock's piece deeded to him clear. As I understand it was expressly agreed between Spurlock and Smith that as a part of the consideration involved in the divisions and also because Mr. Smith was assuming all the indebtedness, Spurlock was to have no right of way over the Smith portion. As a part of this understanding Mr. Spurlock then made the statement and contemplated access to a public highway over another piece of land Southerly of the two acre piece and, conforming to that understanding, Mr. Spurlock did purchase on contract from the parties on the South a triangular piece of property and a lot. The lot so purchased by Mr. Spurlock on contract was adjacent to the contour road of Leeson & Lindley on Panorama Heights. This purchase by Spurlock apparently is further evidence that Spurlock and Smith agreed at the time of the division that there was to be no right of way over Smith's property. I understand that this purchase of the triangular piece and the lot was shortly after the Spurlock-Smith division and I further understand that later on Mr. Spurlock defaulted in his obligations under the contract of purchase of the triangular piece and the lot and forfeited his interest therein.

There is further evidence of the agreement between Smith and Spurlock that no right of way was to be acquired over Smith's land in that Mr. Spurlock ordinarily after the division used the Adair-Chapman-Alden road running Westerly and Northerly from the West side of the two acre piece and Spurlock has never used any right of way over the Smith property.

Mr. Smith has proposed to me, as a matter of compromise, that it is possible to procure a ten foot easement, or possibly fifteen feet, from the Southeast corner of the two acre piece in

[See SPURLOCK]
CSM

January 28, 1931.

Rutan & Mize,
First National Bank Bldg.,
Santa Ana, California.

Attention Mr. Mize

My dear Mr. Mize:

Enclosed find copy of letter to our mutual friend, Crookshank, which is explanatory.

I assume they will have to hire an attorney anyway, and I would like to see you get the business.

What time next week, or week after, can we meet with your clients, the Dennisons, on the ground.

Yours very truly,

EF:KLM

a Southeasterly direction across the Southwest portion of the Smith property and then South across a triangular parcel owned by Mr. Smith and then across a small portion of the Leeson property to connect with the road of the Panorama Subdivision. Mr. Smith is willing to grant this easement, and also to interview the other interested parties and endeavor to procure easement deeds for you, all for the total consideration of \$400.00 as far as Mr. Smith is concerned. It may be that no consideration would be asked by any others.

Mr. Smith is not willing to grant you a right of way East and West along his North line.

Mr. Smith is not antagonistic, but wants his rights protected, and although I have not read the cases recently involving easements of necessity, I believe that the law is that a purchaser of a portion of a larger tract does not acquire an easement of necessity where at the time it was agreed that no such easement was to be appurtenant to the smaller piece.

We will be glad to hear from you.

Yours truly,

RUTAN & MIZE,

By *R. C. Mize*

RCM:A

June Tenth,
1931

Rutan & Mize,
211 First National Bank Bldg.,
Santa Ana, California.

Attention Mr. R. C. Mize.

Dear Mr. Mize:

I thank you for your letter of the eighth.

I know nothing about the arrangement between Mr. Smith and Mr. Spurlock but I do know that the property was deeded by Mr. Smith to Mr. Spurlock. I am enclosing copy of the deed.

I am also enclosing copy of the original agreement with Mr. Spurlock as part consideration for making the loan.

I am enclosing copy of written opinion from my attorney, Mr. Sloane.

We have written notice from the Adair, Chapman, Alden people that we cannot use that right of way as it is a private right of way and under the laws of the state we feel we have an easement across the Smith property. For that reason I have taken the matter up with the board of supervisors and the district attorney to see what, if anything, they will do.

I am sure you and Mr. Sloane can agree on what the equities are in this matter as well as the law.

If you can give me a diagram of what compromise Mr. Smith is willing to make without compensation regarding an easement I will listen to it.

I am sure you would take the same attitude if you were in my position as I know Mr. Spurlock gave me his word that Smith had agreed to give an easement, for right of way thru the property. Spurlock gave me that agreement in writing and my attorney tells me that until

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a specified agreement is agreed upon I can go down any of the rows of trees and across to my property and if I am disturbed my recourse is the courts or to have Mr. Smith arrested.

I am sending a copy of this letter to Mr. Harrison Sloane, also copy of your letter and hope the matter can immediately be adjudicated.

Where are we in the Denison matter? Have you any suggestions?

Yours very truly,

EF:ASK

A. W. RUTAN
R. C. MIZE
IRA KROESE

PHONES
2760 AND 2761

RUTAN & MIZE
ATTORNEYS AT LAW
SUITE 211 FIRST NATIONAL BANK BUILDING
SANTA ANA, CALIFORNIA

June 12, 1931.

Ed Fletcher,
1020 Ninth Street,
San Diego, California.

Dear Sir:

I have read your letter of June 10th regarding the Smith-Spurlock matter, and it appears from the letter or agreement of February 3rd, 1930, to the Morse Construction Company that Mr. Spurlock agreed personally to see that an easement is secured, but there is nothing in this agreement or letter to the effect that such easement was to be secured over the Smith property and of course there is nothing in the agreement binding Smith.

I presume from your letter that Mr. Sloan has not given consideration to what I understand to be the new facts as set out in my letter to you which you just recently sent to Mr. Sloan. I do not personally know what the facts are but gave them to you as represented to me, and I would think the best thing to do at the present would be to see whether Mr. Sloan would modify his opinion in any way based on the assumption that the matters I reported are facts.

I reported to you all the new developments on the Denison matter when we talked over the phone today.

Yours truly,

RUTAN & MIZE,

By *R. C. Mize*

Copy to Harrison G. Sloan,
Attorney at Law,
San Diego, California.

RCM:A

Ed Fletcher Papers

1870-1955

MSS.81

Box: 23 Folder: 10

General Correspondence - Rutan and Mize



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