

Roy Arrigo
6724 Bellaire Drive
New Orleans, LA 70124
June 21, 2012

After the August ruling in federal court, when it became apparent that this board's servitude claims wouldn't fly, your story suddenly changed. You abandoned claiming servitudes on our property and begin saying that it is only a restriction of use on the homeowners for that portion of the levee, even going so far as to say that 'servitude' is our word, not yours.

It was this board who said that servitudes clearly showed on our property documents, this board said that we should have known about those servitudes. Servitudes, your word, are all this disagreement has ever been about. Attached are 30 times members of this board made direct claims of servitudes on our properties; at these meetings, in court and to the media.

Now you claim that it is just a 'restriction of use...like a sidewalk', but, your invitations to the Corps to enter our property for levee work say it's more than that. No one needs a right of entry to access a sidewalk. How can you give others the right to enter and construct on land where the only right that you have is to restrict the owner's use?

When caught in the wrong, rather than do the right thing, you just change your story. Your current version of the truth has more holes in it than the one your highly paid lawyers made up about the "clearly shown" servitudes. How much longer must we play this game where the public exposes your lies from the previous meeting and you respond with a new pack of lies to be exposed at the next one?

March 17, 2011 SLFPA-E Board Meeting (page 1 of the official minutes):
In his opening comments at the March 2011 board meeting Board president Tim Doody said:

It was enforcing servitude on the 17th Street Canal. He said that in May of 2008 **the Board voted to give the USACE the right of entry on to the servitude attached to the levee.** And he said that **the board is exercising its servitude** along the stretch of levee and along all outfall canals.

April 21, 2011 SLFPA-E Board Meeting (page 9 of the official minutes):
Tommy Anzelmo:

The Saint Julien Doctrine established that the servitude by the nature that the levee was built where it was built where it was built created the **Saint Julien servitude** that is presently there now. Additionally, because **the servitude was created** well before Title 19 came into effect and the jurisprudence established that if someone wanted to complain, it was the property owner who should have complained at the time that the levee was being constructed.

Anzelmo also said: **"So by operation of law, there is a levee servitude."**

October 20, 2011 SLFPA-E Board Meeting (page 1 of the official minutes):
Mr. Lacour explained that Mr. Meric (a Bellaire Drive/17th Street canal resident) should check the property title to determine **where the levee servitude falls.** The inward dimension for measuring the 15-ft. requirement begins from **the levee servitude.**

(What is interesting about this claim is that it is after the levee board changed its story in late August 2011. Mr. Lacour must have momentarily forgotten the new version of the story.)

January 14, 2011, Civil District Court Proceedings:
Counsel for the Southeast Louisiana Flood Protection Authority-East, Mr. Tommy Anzelmo:

“To the extent a creation of the **servitude** resulted in a taking, that occurred decades ago when the 17th Street Canal was constructed.”

“So what we are dealing here is **we’ve got a valid servitude.**”

“I’m suggesting Your Honor, that’s because there is a **valid levee servitude,...**”

Page 14 of the court transcripts:

“Where there is a judicially **confirmed legal servitude** over the area where we are letting the Corp do the work.”

(Letting the Corp do the work on this servitude goes a lot further that claiming that it is “just a restriction of use for the property owners.)

Page 15 of the court transcripts:

“But when your honor examines that article and viewed in light of what the law says relative to St. Julien **servitude**, what the Fourth Circuit has said, **that there is the servitude here...**”

Page 17 of the court transcripts:

“**is there a levee servitude here, yes, it is. Is it under St. Julien, yes, it is.**”

October 29, 2009 Amicus Brief filed by the ABL to the Appeals Court:

Page 2.

“The law and jurisprudence are clear that the **levee districts possess servitudes** over the existing levees pursuant to the St. Julien doctrine...”

“The law and jurisprudence are also clear that **the levee districts possess a servitude** or right to clear obstructions from within six feet of the toe of the existing levees, without any obligation to compensate owners of the property **subject to these servitudes** and/or rights.”

Page 3.

“Under the existing law and jurisprudence, **the levee districts unequivocally possess servitudes** for the levees that they have operated for decades...”

May 29, 2009, Civil District Court Proceedings:
Counsel for the Southeast Louisiana Flood Protection Authority-East, Mr. Tommy Anzelmo:

Page 18 of the court transcripts:

“ **... we then go to the St. Julien servitude in addition to the 225 right or servitude.**”

Page 21 of the court transcripts:

“**The servitude here was already in place**”

“If you look at each and every one of the property descriptions it will note that **there is the servitude, that is there.**”

Page 22 of the court transcripts:

“And any time that they buy, any subsequent title holder, they buy it **subject to that servitude.**”

Page 23 of the court transcripts:

“We presented all of the titles for Your Honor to examine, and those titles show that they either knew or should have known the existence not only of the levee but a **levee servitude itself.**”

Page 25 of the court transcripts:

”Those levees were **certainly an apparent servitude**”.

“They can’t do things on their property if **there’s a servitude**.”

March 24, 2009 Times Picayune article *Land Clearing to start alongside 17th Street Canal* by former reporter-now board employee, Sheila Grissett

“Government lawyers argue that **legal servitudes exist** to allow the property’s use for purposes of public safety”.

May 29, 2009 Times Picayune article *Judge rules in favor of 17th St. Canal Homeowners, also by Sheila Grissett*

“Levee officials said the homeowners knew, or should have known, from the land surveys and title documents when they purchased the property that **there were levee servitudes and restrictions on various portions of their back yards** adjacent to the levee.”

Attorney, Tommy Anzelmo argued that levee officials had three separate legal authorities for the decisions they made – including **the existence of titles and surveys that he said “clearly showed” levee servitudes on the property** of all 15 plaintiffs at the time of purchase.”

(The above one is my favorite because of the word “clearly”. According to the Southeast Louisiana Flood Protection Authority-East, in two and a half years those servitudes went from clearly showing to not being there at all.)

January 14, 2011, Civil District Court, **The below quote is not a claim made by levee board representation, but it is from Judge Kern Reese:**

“I hold to my belief that a new servitude was created in 2006. They were not compensated for that servitude, that constitutes an unpermitted taking without compensation.”

Judge Reese also said “...there are three branches of government, executive, legislative and judicial, and I only represent one aspect, on the federal side you have a couple of branches of government that you may petition, and I strongly urge you to do that as citizens, to make your voices heard loud and long about this situation. We have a duty to take care of ourselves in this part of the world and we love living here, but we also have a duty to stand up as citizens. So I urge you to do that.”

Recent denials of servitudes:

At the September 2011 board meeting Mr. Lacour said that the 15-ft. zone is **not a servitude**, but a prohibition of use on the property owner within that area of the levee.

At the May 2012 board meeting John Barry said to Bellaire homeowner Craig Berthold “**You call it a servitude; I don’t think we call it a servitude**”
