

Filed 9/28/11

CERTIFIED FOR PARTIAL PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

HACIENDA RANCH HOMES, INC.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN JOAQUIN
COUNTY,

Respondent;

ROGER ELISSAGARAY et al.,

Real Parties in Interest.

C065978

(Super. Ct. No.
CV027998)

ORDER MODIFYING
OPINION AND DENYING
REHEARING

[NO CHANGE IN
JUDGMENT]

THE COURT:

It is ordered that the opinion certified for partial publication, filed herein on August 30, 2011, be modified as follows:

On page 6, add the following as a footnote at the end of the first full paragraph:

At the same time the trial court also denied a summary judgment motion which had been filed by the Boersmas, identifying the same triable issues.

On page 13, after the first sentence under DISPOSITION, insert the following sentence:

Because the order denying the Boersmas' motion for summary judgment is the same as the order denying Hacienda's motion, and because the judgment appealed from "is so interwoven and connected with the remainder" of this case (*Estate of McDill* (1975) 14 Cal.3d 831, 840), the trial court is directed to vacate its order denying the Boersmas' motion for summary judgment and to enter a new order granting the motion and judgment in favor of the Boersmas.

These modifications do not change the judgment.

The petition for rehearing is denied.

THE COURT:

_____, Acting P. J.

_____, J.