

THE CONTRACTUAL OBLIGATION COLUMN

One of my favorite record album TITLES was THE CONTRACTUAL OBLIGATION ALBUM By MONTY PYTHON on Warner Brothers records. Were the Warner Brothers not pleased with the name of the album? The history here is incomplete, but knowing the brothers and the pythons, I'd guess there was a wee bit of bickering between the bros and 'nakes, undoubtedly about royalties, advances, remissions, costs of advertising, and whether or not the one would resign with the other (and stay in the WB zoo, zoto speak).

Why am I moved to recall this little known, much beloved album? Loyal readers (of which there are at least two, Dad and Mugsy, a Jack Russell Terrier of mine, who knows from steadfast training on which page of this newspaper to go on) (no, not 'to' but 'on,' as in terms of doing your business) are aware that I have shared my feelings about the law recently (Hokulia and depositions). But that's not why I thought of Contractual Obligation... no, it was thanks to my editor, who would not take no for an answer from me when I told her I had nothing left to write about (and am probably proving it, in each word I write).

Did she wave our contract in my face and say, "but, Ricky, the terms and conditions are clear, and express an obligation on your part to produce a column suitable for the general public in a family newspaper setting on a regular basis?"

Indeed, she did not, for she is a gentlewoman and a scribe, and has sympathy for my predicament of being wordless. She also has knowledge that there is no contract between this family paper and me. Best of all, she has experience, particularly with me, of what underwrites the thing that really goes on here (and gets me to write). It is a social contract, and it has at least two conditions: I write because I like to, and you read because you like to. She has space in the paper (repeatedly), and I write to that space (repeatedly).

The essence of a contract, which I learned by reading lots of film and record contracts signed by one or more Pythons, is someone does something, and then the other side does something in response. Play a song, pay royalty.

In the case of Hokulia (sorry if I keep harping on this issue, but my editor knew I'd use it to overcome my loss for words moment), one of the tit-for-tats was if we give you the right to build a golf course and sell vacant lots, then you will build a by-pass road for us. This is a perfectly normal arrangement, that is extremely serious due to the millions at risk for the one how signed a contract to do so, who then ended up barrowing the money to build a road... money that was lent to him because the lender determined it was safe to do so, both legally and financially.

Leaving the developer out of this for a moment, the lender, and the county, locked into a contractual obligation. And, since the state judge's ruling to stop the project for the time -- 2 years -- it takes for Hokulia to be processed at the state level as an agricultural sub-division (quite a mouth-ful for some-one so word-less) (but that's why it's going to take too years: too many words, not enough action), both the lender and the county are locked out of the benefits of this agreement: the profit from making the loan is lost to the lender, and the new road built for 'free' is lost to the good people of West Hawaii. In other words, west hawaiiians are locked in traffic at the same time the lender locks in to a

loss (and Hokulia's homebuyers are locked out of their homes, and their dreams). And the county and lender might soon be locked in a lawsuit over this.

When I was a 'hot surfer' 30 years ago, we were always looking to get 'locked in' the tube (of a wave): this kind of 'locked in' is something nobody is looking for. Given all this present and future pain, I fail to see what good, private and public, is being served by making a project over ten years in the planning go through a multi-year review process. A process rife with words, not action. Like this obligatory column.

On the other hand, the chart is pretty bu-sy: line show how much you pay (\$/sf) for how much you get (number of square feet). In 2001, you paid \$1.8 million for 60,000 sf (the grey line, or $\$30 * 60,000$). The year before, 2000, you paid \$1.5 million (blue line), but in 2003 (red line), the year of the bad news, you paid \$1.2 million. To be sure, going down 33.3% is action, just not good action.

Hokulia Value Lines, Up & Down

