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Subject: Covenant enforcement and effectiveness  
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FYI

It is my understanding that, if a covenant does not have a "rent charge" ( which means a penalty charge) then when a breach occurs the only meaningful action that can be taken is to go to court (costly and slow). The rent charge needs to be large enough to deter the land owner from violating terms of covenant in the first place. You need to ask yourselves ...will the Islands Trust go to court if CM violates the terms of the covenant? Some provisions? All provisions?

Further, covenants that are essentially striving to conserve natural features (which should include our groundwater resources) are difficult to enforce through the courts if there is no documented regular monitoring by the covenant holder because that is interpreted to mean the covenant holder is not serious about the protection contained in the covenant. Monitoring costs money, which is why an endowment is required to offset that cost. The question to consider is if the Islands Trust is going to commit taxation revenue to do monitoring or is it appropriate to expect an applicant to front the money.

Thank you for your further consideration of this issue.

Sheila Anderson

PS. CMS does not have a good track record for respecting land use provisions.