Tahoe a hot ticket for second homeowners

By Lauren Schuker Blum, Atthew Dolan and Candace Jackson, Wall Street Journal

The hottest new tech-industry accessory? A house in Tahoe.

Venture capitalist Steven Stull recently paid $11.875 million for a 10,000-square-foot waterfront estate on Lake Tahoe in Incline Village. David Duffield, co-founder of Workday, paid $25.5 million for another Incline Village estate, according to public records. It was the largest sale on the Sierra Nevada lake since 2008, says listing broker Kerry Donovan.

Brokers in towns surrounding Tahoe, say sales have picked up dramatically in the last six months, as spillover from the Bay Area's exuberant housing market has finally reached the area. The Nevada side of the lake has gotten an additional boost since California passed Proposition 30, hiking income taxes on the wealthy and increasing the appeal of owning on the zero-income-tax Nevada side.

Tahoe's second home market is resurrected. Photo/LTN file

Brokers say sales are surging on both sides of the lake.

“December was the strongest December we’ve ever seen in the business,” says Susan Lowe, the corporate broker for Chase International, pointing to data that stretch back to 1990. According to the agency, the first quarter of 2013 saw $246.4 million home and condo sales in the area, up more than 70 percent from the first quarter of 2012.

Jim Telling, a partner at East West Partners, which developed the Village at Northstar, says the company has seen a 72 percent increase in the number of home sales since 2011. Average prices rose to $869,000 from $531,000, spurred by a large number of $1 million-plus sales.

Kate Wormington, a 17-year Apple veteran who left in 2010 to raise money for an education nonprofit, and her husband, Dan, a current Apple employee, recently snapped up a fully furnished, four-bedroom home that was listed for $2.1 million. The ski-in/ski-out property is at Constellation Residences at Northstar.

Wormington, a mother of two, says she liked the area’s friendly vibe as well as its amenities, such as ski valets and a chef-run s’mores bar.

“It is amazing to me how many people you run into,” she says, adding that they frequently see friends from the tech world and their hometown of San Carlos on weekends. “It feels like home.”

The change in the area’s fortunes has been swift and dramatic. Though the housing market in the Bay Area has been one of the strongest in the country, Lake Tahoe long struggled to recover from the downturn, with homes frequently sitting on the market for many months and selling well below asking price.

Despite the recent boom, prices still have yet to recover to their pre-downturn heights. Lowe says pricing generally dropped about 35 percent from the peak and is coming back slowly.

Martis Camp, a golf and ski community in Truckee that began construction in 2006, has sold 52 lots and homes since the start of January, says Brian Hull, director of sales, up from 27 at this point last year. Prices for lots range from the mid-$600,000s to $2 million and 108 homes have been completed so far.

Hull says the influx of younger families from the tech industry has resulted in a number of contemporary-style mountain homes with glass-filled architecture.

“Silicon Valley is at the cutting edge of changing the way we live with tech,” he says. “They’re really doing that with interesting homes from a design standpoint.”

Donovan, a broker with Chase International in Incline Village, the Nevada town where Oracle billionaire Larry Ellison has assembled a 7.6-acre lakefront compound, says Proposition 30 has had a positive impact on sales on the Nevada side. Though several high-profile sales have gone to tech-industry people, she says, the typical buyer is a wealthy baby boomer in finance or other industry from Northern or Southern California looking to relocate.

“People are thinking, ‘OK, I’d better just do it now,'” she says.

But Tahoe is not the only spot on the map seeing resurgence in high-end property transactions.

After a series of sluggish years, Miami’s luxury condo market is reviving, thanks in part to help from an unexpected source: New Yorkers.

Although buyers from Latin America and Europe have been lauded for helping to revive the city’s property prices, developers and real-estate agents now say it’s a new crop of Americans, mostly second-home buyers from New York, that has pushed luxury prices in Miami to a new level—and stirred a buying frenzy.

“A lot of them are buying now because Miami has really changed over the last couple of years, with a ton of New York restaurants and hotels opening up, with new development, and that has really made New Yorkers more comfortable with purchasing,” says Vanessa Grout, chief executive of Douglas Elliman’s Florida brokerage.

She estimates that about 60 percent of her firm’s luxury buyers are from New York, about double the percentage of a year ago.

Edgardo Defortuna, president and founder of Fortune International, a Miami development firm, says New Yorkers now make up about 25 percent of all luxury buyers, compared with around 10 percent a year ago.

The Hamptons of the Midwest is what Chicago is being called.

Straight across Lake Michigan from the Chicago Loop is a ribbon of tucked-away beach towns. On the Michigan side, this region is called Harbor Country. Elsewhere, it’s known as the “Hamptons of the Midwest.”

Now, after a slowdown, Chicago’s luxury buyers are returning to Second City’s longtime second home. Roughly 80 percent of its vacation properties are owned by residents of the Chicago area, according to real-estate agents, including such high-power figures as the Daley family, Mayor Rahm Emanuel and former Obama adviser David Axelrod.

“There aren’t six degrees of separation here,” says Kim Pruitt with the Harbor Country Chamber of Commerce. “It’s usually less than two, because it seems like everyone came from Chicago.”

While the real-estate slump hit both sides of the lake hard — some estimate that lakefront prices fell 25 percent to 35 percent during the worst of the recession—luxury buyers began returning to Harbor Country last year. Now brokers say high-end inventory is running low. Last year, 25 beachfront properties sold, five times the amount in an average year, brokers say.

In January and February, seven properties priced above $1 million sold or went into contract, says Dan Coffey, a broker with RE/MAX Harbor Country in Union Pier. One sale — a 6,000-square-foot, six-bedroom, six-full-bathroom, shingle-style beach house on 2 acres, with 200 feet of lakefront—topped $4 million, a level not seen since 2005.

S. Tahoe revamps city lease agreement policy

By Kathryn Reed

South Lake Tahoe this week revised its policy for how contracts are awarded, and then later revised the lease with the restaurateur at Lake Tahoe Airport.

The overall contract issue keeps rearing its head. There are multiple multi-decade agreements in place or ones done decades ago that have not been enforced. The parking agreement with Heavenly Mountain Resort would be an example of the latter.

Then there’s the 30-year lease with Mountain West Aviation to operate the airport. It in large part favors the lessee and not the city.


The owners of Flight Deck restaurant have a year to pay off their debt to South Lake Tahoe. Photo/LTN file

The council asked for a more stringent policy when last year it came to light the electeds had not been notified of the multi-year agreement a now fired employee entered into with a nonprofit for it to lease a city-owned building.

While the city owns more than 200 parcels, this includes things like retention basins. Council asked staff in the future to provide a list of amenities people might actually want to rent or lease.

A request for proposal must be used when the amount is $30,000 or greater or the length of the contract is more than six months.

“We want to make sure the lessee can run a business and that the benefits to the public are maximized,” Deputy City Attorney Nira Feeley told the council April 2.

While rent is supposed to be charged at fair market, that isn’t happening at the airport.

The council agreed to alter the agreement with Tom and Diane Miller who own and operate the Flight Deck restaurant. The base rent is now $700. It had been $600 when the contract was signed in April 2010. It increased based on inflation so they were most recently supposed to be paying $631.

In addition to that $631, the Millers were supposed to be paying 5 percent of gross revenues less than $15,000 per month or 7 percent of gross revenues above $30,000. This included alcohol sales.

Instead, they chose not to pay anything. They were $40,000 in arrears as of March 1.

With the Alcoholic Beverage Control looking into how the city collects rent at the ice arena in terms of alcohol being part of gross sales, the city is amending most of its agreements.

The Millers took issue with the alcohol sales being part of gross revenues even though it's in the original the contract. (This is per staff. The Millers did not attend the meeting.)

It was agreed the Millers back rent would be reduced to $22,500. They have one year to pay it — interest free. If the restaurant, which is on the market, sells, then the debt would be tied to the sale.

Rent is now a flat $700 month with the city not collecting any percentage of any sales.

Councilwoman Brooke Laine brought up how this site has a history of losing money, and how former Councilman Mike Weber "walked away from considerable debt" when he owned Chase's restaurant at the airport.

Mayor Tom Davis tried to defend his former colleague, saying that wasn't true. But the airport manager said Laine's memory was more accurate.

(Weber didn't pay the debt until the next owner came along to give him some cash. City Clerk Suzie Alessi later wrote *Lake Tahoe News* to say, "Mike Weber's profit from the sale of the restaurant was reduced to pay off the debt he owed the city.")

Laine reluctantly voted for the revised agreement with the Millers.

"I want it to work, but I'm concerned," Laine said.

Massive South Tahoe erosion project delayed

Publisher's note: ***This is one of a few stories about construction planned for the Lake Tahoe Basin this summer.***

By Kathryn Reed

An $11 million erosion control project in South Lake Tahoe has been delayed for at least one month because on Wednesday at a special meeting the City Council threw out all bids and will start the process all over.

Staff recommended this course of action because Disney Construction, the low bidder, had so many errors in its documents that other bidders protested the bid process. The next bid was $4 million higher. Only three bids were submitted.

"Disney during the council meeting (April 3) said they stand by their bid. I told them I appreciate that and that I expect to see the same bid, but cleaned up," City Manager Nancy Kerry told *Lake Tahoe News*.

Disney said its numbers are spot on, but admitted the documents were a mess.

Other bids were so much higher because of the requirement to treat water during construction. But this is standard policy when working in the Lake Tahoe Basin. The city will spend time revising the bid docs to explain more thoroughly what this means so contractors understand the particulars.

The city expected the three-year project to be under way May 1. Now it won't start until at least June. The bulk of the work was to happen this year. How the rebidding process will impact the actual work remains to be seen.

This storm pipe near Lakeshore Lodge and Spa in South Lake Tahoe will be replaced in the Bijou erosion control project. Photo/LTN file

This year the work will be most visible to the public, with minor work in the commercial area in year two because most will be done in the meadow, and the final year will be establishing the vegetation and other work.

"This is the first pump and treat system in the basin," Jim Marino, capital improvements project manager for the city, told *Lake Tahoe News*. "Normally it's collected, treated and gravitationally goes to the lake."

The project will collect the water flowing down from the 1,300-acre Bijou Creek watershed, treat it, pump it to sediment basins in the meadow off Glenwood Way, have sediment settle out there, so then the only thing being released into the lake is clean water.

The existing filtration system is 50-years-old and is ineffective in keeping sediment from the lake. This fine sediment is what scientists say is the primary reason the lake’s clarity has decreased.

With the Bijou area so developed, it’s not possible to build a detention basin in the commercial area to collect the water to filter out the fine sediment before it reaches Lake Tahoe.

Today water comes out of the meadow, crosses Highway 50, goes under the parking lot between CVS and Heidi’s restaurant and flows into the lake.

“We will remove that storm pipe. There will be a new headwall there. It will be a much nicer structure,” Marino said. “There will always be water going into the lake, but it will be treated.”

When Caltrans was doing work last year on the highway the city went forward with putting in its infrastructure so the road would not have to be dug up this year.

Still, this project is going to affect that area once works begins. Not only will the commercial area be impacted, but motorists driving through this section of town, as well as side streets will have experience traffic delays.

No resolution in T.J. Maxx water supply dilemma

By Kathryn Reed

Before Lukins Brothers Water Company pitches an idea about how to supply the T.J. Maxx building with adequate water to fight a fire, the company is asking the California Public Utility Commission whether all ratepayers can absorb the cost of an interconnection to South Tahoe Public Utility District.

"I think if I were in the shoes of customers of Lukins, I would wonder why that is appropriate," STPUD board Chairman Eric Schafer said at Thursday's meeting.

South Tahoe PUD staff gave the board an update April 4 on the situation that was supposed to be resolved the first of the month. It could be a couple more weeks before the board is presented with a possible solution.

A temporary agreement is in place between the water districts that allowed the clothing store to open last fall. (This story has more background on the quagmire.)

"My interest is merely that there be adequate water pressure. How they get there I don't have an opinion," South Lake Tahoe Fire Chief Bruce Martin told *Lake Tahoe News.* (He is also the fire marshal for the city. No longer is Lake Valley Fire responsible for those duties.)

Schafer also said he hopes one proposal is brought forward and not separate ones from Lukins and the Garfinkles. The Garfinkles own the building at the Y.

Hydraulic models need to be created to determine if South Tahoe Public Utility District could sustain water pressure if there were a major fire at the center that sent water into the entire Lukins' system via the intertie.

No one from Lukins, T.J. Maxx or representing the landlord attended Thursday's meeting. No one from the city was at the meeting either, and this, two days after Councilwoman Brooke Laine said how she would be regularly attending these meetings.

Big casinos want legislators to curtail slot arcades, sports betting kiosks

By Anjeanette Damon, Las Vegas Sun

CARSON CITY – Nevada's biggest gaming companies went to the Legislature on Wednesday to ask lawmakers to protect them from strip mall slot machine parlors and barroom sports betting kiosks.

It's a Goliath vs. David image.

But the big gamers say they need legislative intervention now to protect the state's largest industry from a looming rock between the eyes.

Through a series of administrative decisions, the Nevada Gaming Control Board has allowed sports betting kiosks to creep into restricted gaming license establishments – taverns, slot parlors, sports bars.

Of the $170 million in sports pool win last year, the kiosks accounted for $600,000 – less than a third of a percent.

But that dollar figure should grow over time, and the Nevada Resort Association doesn't want restricted license establishments to benefit.

"We've heard over the last few days: 'What's the harm, it's only a $600,000 handle. We only have a few kiosks. We're not hurting them,'" lobbyist Pete Ernaut told the Senate Judiciary Committee on Wednesday.

“Think about that for a second. You think these people go into this building to only drive $600,000 worth of sports book handle? Their entire business model is based on the proliferation of kiosks.”

Senate Bill 416 brought forward by the Nevada Resort Association calls into question the Legislature’s role as either field-leveler or industry protector.

It does two things aimed at restricted license establishments:

• Outlaws sports betting kiosks — and other sports betting activities;

• Implements new standards for “slot arcades” such as Dotty’s, which offer slot play but little other business activity.

Establishments such as Dotty’s proliferated in the wake of the statewide indoor smoking ban. One opened recently in Stateline. Critics argue they take advantage of restricted licenses available to businesses such as taverns, gas stations and grocery stores that want to offer slot machines as an ancillary activity to their main business.

Restrictions proposed by the Nevada Resort Association go beyond those passed by the Nevada Gaming Commission in 2011. They would require slot arcades to embed slot machines in standard bars, build larger kitchen and restaurant areas and take away the ability for slot arcades to apply for a waiver.

The NRA fully admits that its proposed legislation is protectionist. Ernaut argued protecting gaming is not just the Legislature’s job, but should be its highest priority.

“Protection of this industry: There can’t be a higher priority of this body than getting the No. 1 industry in this state right,” Ernaut said.

He stressed that Nevada law is designed to prevent competition among non-restricted licensees — the big casinos that are required, among other things, to build 200 hotel rooms – and the smaller restricted license operations that don’t need any comparable capital investment.

But tavern owners, bookmakers and kiosk companies scoffed at the idea their small slice of the market could pose a threat to Nevada’s casino resorts – both big and small.

“It doesn’t exist,” Joe Asher of William Hill, which operates 82 kiosks in Nevada, said of the contention kiosks are eating into the bottom lines of bigger casinos. “There is not one single shred of evidence that it does exist.”

In an ironic twist, kiosk sports betting evolved within what is supposed to be the state’s most regulated industry without any specific approval by the Nevada Gaming Commission.

Instead, the Gaming Control Board administratively approved the emerging technology step-by-step – from kiosks used simply as an information tool all the way to accepting wagers – under a provision that allows the board oversight over ancillary equipment.

Neither lawmakers nor gaming commissioners have had a say in whether taverns and other restricted licensees should be allowed to operate as sports books.

But is the Nevada Legislature really being asked to step in between Goliath and David?

The companies running small gaming operations aren’t exactly small companies.

William Hill is, according to the company’s website, “the world’s largest bookmaker,” employing more than 17,000 in eight countries.

Golden Gaming is Nevada’s largest slot route operator, with 8,500 machines in more than 600 locations. It also is the state’s largest tavern operator and owns three casinos in

Pahrump.

Still, Golden is a far cry from the multinational corporations running casino resorts on the Las Vegas Strip.

On the other hand, the emerging kiosk industry plays an important role in Nevada’s economy, its lobbyists argued.

“When you become successful, you wind up on someone’s radar screen, and when you’re on the radar screen, you wind up here (at the Legislature) with people trying to stifle competition,” said Sean Higgins, lobbyist for Golden Gaming. “I guess the message is, ‘Be successful, but not too successful. Because if you’re too successful, we’ll try to push you back down.’”

Asher brought a human prop with him.

“Mark Keller, will you stand up please?” Asher said midway through his testimony. From the audience, Keller obliged. “This is a real kiosk man. He has a family. He has 3-year-old. If you kill kiosks, you take this man’s job away.”

Median price of houses going up in S. Tahoe

By Dan Spano

The median price of homes sold in March was $349,000, exactly $100,000 more than March 2012. This is also the highest monthly figure since March of 2009 when the median was $352,049. Just 30 days ago the median price was $295,000.

During the last 12 months, there were 763 closed sales of homes in South Lake Tahoe. This is up 14.2 percent from the same period last year when there were 668 sales.

When looking at the month of March, you'll see 2013 had 54 closed sales which was 1.8 percent less than 2012's 55 sales.

The number of homes for sale in South Lake Tahoe continues to dwindle, and there a few reasons why. There were just 226 homes for sale this past month which is a 44.5 percent drop from March 2012. The last 12 months have seen a 37.6 percent drop in inventory. To put these numbers into perspective, there were 829 homes for sale in August 2007 and 692 in July 2011.

We now have less than one-third of that number currently for sale.

One thing that we weren't quite expecting was an increase in the new listings of homes for sale. We've been seeing a decrease in new listings, but March 2013 saw a 10 percent increase from March 2012 and was the third straight month with a increase. There were 77 new listings this month, 70 in March last year but an overall drop of 16.5 percent over the last 12 months. Over the last 12 months there were 908 new listings of homes for sale in South Lake Tahoe and there were 1,087 over the previous 12 month period.

If you divide up the South Lake Tahoe market into the four price ranges used by Realtors, you'll see the the higher end homes saw the largest increase of new listings, while those homes priced below $435,000 saw decreases.

We saw some homes pulled off the market in March due to homeowners that don't have to sell right away deciding to sit back and wait for the median sales price to go up. Will this month's big increase cause them to re-enter the market? We'll have to wait and see.

Dan Spano is with Paradise Real Estate.

State releases money for Kings Beach project

The massive Kings Beach face-lift is one step closer to happening now that the state has released money that had been tied up with the dissolution of Placer County's redevelopment agency.

That $10 million is part of the overall $45 million project along Highway 28.

Besides improving just more than 1 mile of road, this is a water quality project to reduce sediment from reaching Lake Tahoe. Sidewalks will be installed, two roundabouts will be put in and lanes will be reduced from four to three.

Some of the neighborhood streets will also receive upgrades.

The idea is when the project is done Kings Beach will be more friendly for those walking and biking.

Utility work for the Kings Beach Commercial Core Improvement Project started in March.

— Lake Tahoe News staff report

Dish Network owner not making friends

By Eriq Gardner, Hollywood Reporter

In 1980, a few months before Charlie Ergen co-founded the company that would become Dish Network, he and a gambling buddy strode into a Lake Tahoe casino with the intention of winning a fortune by counting cards. Ergen, then 27, had bought a book called "Playing Blackjack as a Business" and studied the cheat sheets.

Unfortunately for him, a security guard caught his pal lip-syncing numbers as the cards were dealt. The two were kicked out and subsequently banned from the casino.

More than three decades later, Ergen, now 60, again stands accused of cheating the house — but this time the house is nestled in the confines of executive suites from Burbank to Beverly Boulevard. And now, Ergen's Englewood, Co.-based Dish Network, the nation's third-largest satellite/cable TV provider, a public company that's grown from a $60,000 startup to an empire with 14 million subscribers and $14 billion in annual revenue, is the entertainment industry's Enemy No. 1. With increasing frequency, Ergen has engaged in ugly, high-stakes games of chicken with Hollywood.

In his brutal battle over ballooning carriage fees with AMC, he dropped The Walking Dead and Mad Men network from the Dish system for months. He also has spent years fighting with broadcasters over the practice of distantly retransmitting TV signals without a license and even was caught violating a promise to stop that he made under oath — all while Dish was named "America's worst company to work for" by a watchdog website. But all that was just preamble to the Hopper.

In January 2012, Dish introduced the proprietary DVR service that allows consumers to “AutoHop,” or watch the entire primetime lineup of the broadcast networks commercial-free without even having to fast-forward through ads. Immediately after its introduction, CBS, NBC, ABC and Fox filed lawsuits arguing that Dish, if allowed to continue offering the Hopper, will put them out of business. The networks want a judge to grant an injunction, and Fox is appealing the denial of a shutdown while making a renewed attempt to enjoin the Hopper — after Dish added mobile capabilities amid the legal challenge.

Ergen, who is married with five kids and has seen his personal net worth swell to an estimated $10.6 billion, making him 100th on the most recent Forbes list of richest people, expresses confidence that he will win the legal fight and says it is time that the broadcasters get on board.

“Some people are averse to change, but the advertising model is going to change with or without the Hopper,” he recently told analysts. “What we’re saying to the broadcasters is, ‘There’s a way for you not to put your head in the sand.'”

The broadcasters reject the assessment.

“Services [like Hopper] that undermine the economic fabric of our business aren’t just illegal, they potentially destroy our ability to give the public what it wants,” CBS chairman and CEO Leslie Moonves tells THR. Adds NBC Broadcasting chairman Ted Harbert, “I think this is an attack on our ecosystem.”

Not surprisingly, Hopper has become extremely popular. The year before Dish began offering the service for free to customers, the company lost 166,000 subscribers. Since then, Dish added back 89,000.

“We’re a little bit like an Indiana Jones movie,” a sanguine Ergen said about his company at the All Things Digital conference Feb. 11. “We’re always in trouble. We always get out of it. We’re always going from alligators to guys with arrows to snakes. We want to win.” (Ergen declined comment for this piece.)

At a time when Big Four broadcast network ratings have hit historic lows, with Fox down 21 percent this season and NBC being beaten in the 18-to-49 demo by Univision during the February sweep, it’s hard enough to pitch advertisers on delivering eyeballs to ads — as the nets will do in May at the annual $10 billion upfront presentations. It’s even harder when a major satellite carrier is touting its ability to completely eliminate commercials from the viewer experience. Networks hope that if research agencies like Nielsen start placing emphasis on those who watch programming a week after an initial live telecast, it will help keep advertisers in line. But analyst Richard Greenfield asks: “C3 vs. C7? Who is kidding whom about watching commercials during DVR’d programming?”

Interestingly, such TV carriers as Time Warner Cable and DirecTV, though presumably in possession of the same technological capability, have not provided products that have triggered such industry venom. Maybe there’s a reason for that.

Ergen has presented Hopper as a consumer right while simultaneously telling analysts that programmers have “devalued” content by making TV shows available on Netflix and suing ESPN for, among other things, allowing streaming. CBS is trying to rescind its licensing contract with Dish by claiming that Ergen and his top lieutenants fraudulently hid their plans for the Hopper in contract meetings in 2011. And in February, Dish claimed CBS forced The Big Bang Theory actress Kaley Cuoco to delete a sponsored tweet endorsing Hopper, even though there was no evidence the actress was pressured. At a March event honoring Moonves, Cuoco announced, “I would like to take this opportunity to say one thing: Leslie, f— the Dish

Network."

As Hollywood reluctantly enters the digital age, new players like Barry Diller's Aereo TV service are challenging traditional revenue streams and squaring off against the networks in court. (Diller's Aereo survived an initial legal challenge April 1 when an appeals court allowed it to stay in business at least until a trial.) Even among these threats, though, Dish represents perhaps the most aggressive and well-funded disrupter. And it's controlled by a man who has the money and inclination to take the fight to its legal and, for Hollywood, very scary conclusion. Yes, he's known by some within his organization to be a penny-pinching loudmouth ("They treat their employees like slaves," says one online employee review).

But it's one thing to scream at underlings and install a scanning device to police tardiness (yes, he really did that); it's quite another to destroy evidence and mislead judges in a courtroom – Dish has been sanctioned for such behavior.

It's all enough to ask: If Charlie Ergen is the most hated man in Hollywood, what should the industry do about him?

Ergen now is gearing up for a fight that could answer that question. In September, a licensing agreement expires between Dish and the Walt Disney Co. The coming talks between the companies represent the first major negotiation since the introduction of the Hopper. Disney hardly wishes to bless a tech product like the Hopper by renewing its deal with Dish. But it's nearly impossible for a media company to walk away from the billions of dollars Ergen is paying for programming.

This friend-and-foe dilemma is the essential conundrum Dish presents. Six months before its deal with Disney was set to expire, Dish wasn't at any negotiation table but rather in a courtroom, taking Disney's ESPN unit to trial for allegedly offering Dish competitors better prices.

Naturally, Ergen has been hailed as a hero by consumer advocates who appreciate his willingness to toy with a TV model that has become sacred to Hollywood conglomerates.

"When it comes to trying out new things and keeping costs down in a competitive market, you need a first-mover like Dish," says John Bergmayer at Public Knowledge, a not-for-profit rights organization.

Notes Vijay Jayant, an analyst who has been following Dish for years at ISI Group: "Charlie's attitude is, 'At some point, they'll negotiate with me on my terms.' He's bluffing until he's not."

If Dish exhibits a special form of aggression, observers credit this to its billionaire founder and his company's precarious position in the competitive video-distribution industry.

Ergen was born in Tennessee to a physicist father who is credited as coining the phrase "China syndrome" to describe the containment shortcomings of a nuclear reactor accident. After playing small forward on the state university's basketball team, he earned a business degree from Wake Forest University in 1976, then worked as a financial analyst at Frito-Lay. Two years later, at 25, he stunned his family by "retiring" — or rather, he took advantage of the discounts his future wife, Cantey McAdam, got working as a flight attendant to travel the world. He also fiddled with becoming a professional poker and blackjack player.

Then, in 1980, his buddy Jim DeFranco told him about "a big satellite dish getting signals from outer space," according to a Wake Forest commencement address Ergen gave in 2012. Together with DeFranco and McAdam, the three sank $60,000 of their personal savings into a suburban Denver startup called EchoStar.

An avid mountain climber who has scaled Mount Kilimanjaro and

Mount Everest, Ergen steadily has grown his business — now officially known as screaming-all-caps DISH — into one of the 200 largest corporations in the world, averaging about $1 billion in annual profits (Ergen controls 88 percent of voting power at the company). Dish thrived in large part by focusing on the hilly rural areas of the country, where cable TV lines did not run — and, of course, a willingness to brawl with anyone getting in the way.

Dish employees, adversaries and analysts say no one exploits the judicial system like Ergen does to gain a competitive advantage. A judge a decade ago noted that Ergen had violated a pledge made under penalty of perjury to stop distantly retransmitting local TV signals. An appeals court wrote in 2006 that there was "no indication that EchoStar was ever interested in complying with the [Satellite Home Viewer] Act," and added, "We seem to have discerned a 'pattern' and 'practice' of violating the Act in every way imaginable."

During the mid-2000s, when Ergen was fighting TiVo over who owned rights to DVR technology, not only did TiVo convince a court that Dish had violated a patent, but the judge in the case found it "distasteful" that Ergen's company would "engage in an ad campaign that touted its DVRs as 'better than TiVo' while continuing to infringe TiVo's patent." In 2009, Dish officially was sanctioned by the court. (The parties later settled.)

Perhaps most notoriously, there were the irate judges who officiated Dish's recent battle with Cablevision/AMC after Dish terminated a 15-year deal to carry the Voom networks, a suite of 21 little-watched HD channels such as Kung Fu HD and Film Fest HD. In the early days of the case, Dish was penalized for "bad faith" or "gross negligence" in the destruction of internal company emails. A visibly angry New York Supreme Court Judge Richard Lowe later threatened to launch an investigation unless Dish documents were turned over. The suit became so ugly that at one point, Dish executive Carolyn Crawford hit the father of the opposing side's lawyer on her way out of the courtroom. She later apologized in open court.

In a sexual harassment case in Maryland in 2005, a judge wrote that "EchoStar [was] guilty of gross spoliation of evidence." In a 2012 trademark dispute, a judge said of Dish lawyers that he had never encountered "such divisiveness or contentiousness" in his 17 years on the bench.

"Most corporations have an institutional bias against litigation and see it as necessary evil," says one network insider. "But for Charlie, that's how he likes to run his company. You'll never see him suing in his home state, though. Their name is mud in Colorado. Judges are on to them."

In fact, when Dish filed suit in May 2012 in an attempt to beat broadcasters to court and have a judge declare the Hopper legal, it did so in New York.

Dish continues to be pugnacious at every turn. The Federal Trade Commission and Justice Department are jointly pursuing a lawsuit against the company for allegedly violating telemarketing sales rules by placing unwanted calls to millions of consumers. Dish also uses every opportunity it has to tout its Hopper as the tech product so great that the networks won't let anybody hear about it (even while telling judges that the Hopper is not so different from other DVRs).

Ambush spin is common at Dish. On industry news websites, employees regularly leave comments meant to slyly promote Dish services. One writer at AllThingsD was so fed up that in 2011, he penned a column titled, "Dear Dish Network: Your Spam Makes Me Sad. Please Stop." The press release issued by Dish in the Kaley Cuoco flap is another example. There was no source of the alleged CBS demand to delete her tweet, and CBS flatly denied it. Pushed to corroborate such an allegation, Dish spokesman John Hall will only say, "We were contacted by someone close to the situation who told us that CBS asked her to remove the tweet."

Barbara Roehrig worked at EchoStar during the mid-'90s and was the company's first female senior executive. She remembers constantly sparring with Ergen, who sometimes would threaten to walk into a room and fire all the employees he called the "craziness pack."

"The modus operandi is yelling there, and it takes a toll," says Roehrig, adding that she still stays in touch with many in Dish's middle management who refuse to ascend to the company's executive ranks because of the emotional turmoil that it brings. "We've all been in the line of Charlie's ranting."

Dish was named "America's worst company to work for" by the website 24/7 Wall Street, based on scathing reviews on the job site Glassdoor.com. Employees have been subjected to "badge reports," where they are red-flagged for showing up minutes late. When they travel, staffers are asked to take red-eye flights, share hotel rooms and reimburse the company if they tip more than 15 percent. One field-service specialist tells THR, "In my office, you are not even allowed to use the restroom in the mornings before leaving on your route or in the evenings until you're off the clock." (A Dish rep says the company abandoned its badge reports in January and disputes that employees are forced to take red-eye flights and aren't allowed bathroom breaks.)

After Dish was hit with bad press, management attempted to intervene. Dish CEO Joe Clayton sent employees an email that stated in part, "If you are happy here at DISH and believe the company is moving in the right direction, log on to Glassdoor.com and provide feedback."

At Dish's Colorado headquarters, company leaders shoot down questions about whether Dish truly is the meanest of mean companies.

“I think it is a challenging place to work,” admits Dave Shull, a Dish senior VP in charge of content acquisition deals. He says it’s common for meetings to get “animated” but embraces the company’s aggressive ethos. “You can always be a follower, a slave to competition and hope for the best,” says Shull. “Or you can lead the charge, try to expand market share and innovate. When you ski or ride horses, what happens when you sit back is that you lose control. We lean in.”

After several years of growth, Dish, like the rest of the cable and satellite industry, has been facing new challenges. In 2012, pay TV providers added only a few tens of thousands of subscribers, according to analyst estimates. And the overall trajectory isn’t good. In reaction, Dish has been aggressive in keeping customer bills lower than those of its rivals. Dish’s subscriber-related expenses increased to $7.25 billion in 2012, up 6 percent from the previous year, which the company attributes to rising programming costs. By comparison, DirecTV spent more than $13 billion on programming in 2012 (and another $2 billion on service), about a 12 percent increase. “I’d venture to guess that Dish’s programming increases are among the lowest in the business,” says Jayant.

Still, that might not be enough. Dish now competes with such Internet-based TV services as Netflix and Hulu (subscribing to both costs only about a third of the $49.99 for a basic Dish package) as well as web-and-TV combos offered by the likes of Time Warner Cable and Comcast.

Unlike its rivals, Dish has struggled to expand into businesses other than satellite TV service. In 2011, it completed an acquisition of Blockbuster but couldn’t leverage the brand into a viable Netflix competitor. Dish has been attempting to do more with its wireless spectrum assets, which it has paid roughly $3 billion to acquire, but has been frustrated by FCC roadblocks. The company lately has been attempting to get a wireless network service off the ground, holding talks with Google and making an aggressive bid to acquire part of 4G network pioneer Clearwire Corp.

For now, though, Dish remains a “one-trick pony,” in the words of analyst Jayant. Unlike Comcast, it doesn’t create any programming itself; unlike Time Warner Cable or Verizon, it isn’t able to offer triple play of television/Internet/phone service. What it has is the Hopper, which leads one lawyer defending the networks to conclude, “Ergen would rather ask for forgiveness than permission.”

Some legal observers believe that Dish will succeed in court. In November, a federal judge declined to grant a preliminary injunction to stop the Hopper and said that Fox faces an uphill road in arguing that Dish has committed copyright infringement and breached its contracts with the network. The judge wasn’t totally convinced of the legality of Dish’s system, however, and some attorneys believe the broadcasters ultimately will prevail.

“I think a court is going to side with the networks because of the economics, though a new [legal] test might need to be fashioned because this doesn’t fit the usual standards,” says Bryan Sullivan at Early Sullivan.

As the lawsuit plays out, Dish’s ability to stay in the game might depend on the outcome of coming carriage negotiations. Ergen will be making a multibillion-dollar bet that Disney can’t afford to walk away from Dish’s 14 million subscribers, but if it signs a new deal, it will send a signal that broadcasters have been a tad hyperbolic when it comes to the threat they allege the Hopper to be.

If the offer is not right, Dish could head down a new path. It might stream Disney’s ABC anyway, without a contract but in partnership with a company like Diller’s Aereo, whose own technology of capturing over-the-air TV signals and transmitting them privately online likely will be hashed out in a messy trial. (Dish and Aereo reportedly have held talks with each other recently.) Or Dish could abandon the quickly growing cost of licensing ESPN’s live sports to further position the satellite distributor as the cheap alternative in the marketplace. But that’s undoubtedly risky.

Analysts are getting a little edgy. On a recent earnings call, Dish’s management was asked to address what’s going to happen.

“We are a big customer of Disney’s,” answered Clayton. “I would not expect them to take it down with the AutoHop as the reason.” Added Ergen, “Our checks are pretty big.” Dish pays Disney roughly $1 billion a year for ESPN alone. But that’s not quite enough to settle the analyst community. “I have no idea what is going to happen,” admits Jayant.

As the recent Dish-ESPN lawsuit highlighted, thanks to “most favored nation” provisions (which guarantee that no rival will get a better deal), subscriber rates are intertwined throughout the TV industry. If Disney accepts less than market value from Dish, it likely will have to give discounts to other distributors, too. And walking away from Dish might not necessarily mean losing all 14 million pay TV consumers if some of them defect to rival services. A recent survey by Lazard Capital found that 41 percent to 48 percent of pay TV subscribers would cancel or switch their service if they lost a top broadcast network, and 35 percent would cancel if they lost ESPN. “If anything, content’s leverage over distributors is strengthening,” concludes analyst Barton Crockett.

The last time Disney and Dish made a deal, in 2005, the negotiations took a year. Now, there’s just a few months until the license expires in September, and the very dealmakers who will be meeting with one another just sat uncomfortably side by side for three weeks in a courtroom.

Disney declines comment about whether it would look past the Hopper, whose legality likely will not be settled before the two sides need to make a deal. A Disney spokesperson says any renewal with Dish would "be consistent with established marketplace terms." Dish's Shull won't say whether Ergen or his execs have met with Disney, but says he hopes that the two companies will be able to work out their differences.

Is Ergen about to get comeuppance for his nasty behavior? Or will broadcasters bow to what many believe is the inevitable evolution of the ad business? By year's end, the outcome of the Disney-Dish negotiations could signal where the industry is headed.

"For some folks, it becomes personal," says Shull. "For me, it's business. There's always some difference of opinion, but with billions of dollars at stake, greed usually wins out."

S. Tahoe puts some teeth into dog ordinance

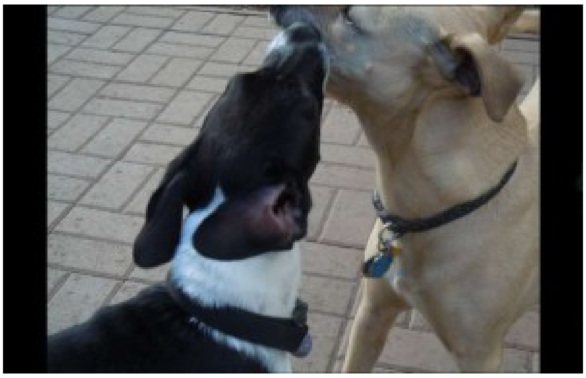
By Kathryn Reed

Less than four months after South Lake Tahoe's less restrictive vicious dog ordinance became the law of the land, the council on Tuesday unanimously agreed to make tweaks to it.

No longer will a hearing officer resolve matters. All dog bite cases will be heard in Superior Court.

"We believe the hearings are too contentious for city staff to hear," Michael Eng in the South Lake Tahoe City Attorney's

Office told the council April 2. (Eng has been an intern for the last 15 months and April 3 is his last day with the city.) “People are passionate about their animals. I believe a formal court hearing is the proper venue.”



Dogs play at the South Lake Tahoe Dog Park. Photo/LTN file

Dog-on-dog attacks will be labeled as a vicious dog attack. Eng said the community and county were dismayed this had been changed.

While staff recommended the vicious dog designation be made after two unprovoked dog-on-dog attacks in a 24-month period, the council changed that to one attack in 24 months.

Karen Kuentz, president of Animal Coalition Tahoe and nine-year volunteer at the shelter in Meyers, told the council she would like vicious dogs to have to wear a muzzle off their property. The council did not agree to that.

The ordinance gives judges leeway in making decisions. For instance, with the county ordinance it treats all dog bites as equal. The city ordinance would allow a judge not to punish a dog and its owner if the bite were accidental; for instance if someone is playing tug-of-rope with a dog and the dog in play bites a person. If that person goes the hospital for a dog bite, animal control is called and it becomes a court case. The judge, per city ordinance, can see the gray area of the case and not work in a black and white vacuum.

The city attorney will also no longer have authority in determining when a dog can be released to its owner. The reasoning is that person is no dog expert.

The passage of the original ordinance in November was in large part initiated by then Councilman Bruce Grego. According to an El Dorado County Animal Control officer, his office was not contacted by the city prior to last fall's passage of the ordinance or while it was being crafted.

There has been much contact in the last four months between the city and Animal Control.

Henry Brzezinski, who heads the county Animal Control, told the council, "This is a step in the right direction to deal with some of the issues we've encountered with the new ordinance. The dog on dog is quite important. Our mantra is public safety."

Brzezinski also believes the county dog ordinance is effective and didn't see a need for the city to loosen what was in place.

SEC develops social media rules

By Dina ElBoghdady, Washington Post

Companies can use social media such as Facebook and Twitter to unveil key information about their operations as long as they’ve told investors where to look for it, the Securities and Exchange Commission announced Tuesday.

The decision averts a showdown between the SEC and Netflix. The Internet video streaming service got into trouble with the agency last year after chief executive Reed Hastings used his personal Facebook account to boast that his company had streamed more than 1 billion hours of content in June.

The SEC told Netflix that the July posting may have run afoul of a rule that requires companies to distribute important information broadly to the public, and avoid feeding it to a select group of shareholders who could trade on it ahead of other investors.

When the SEC warned that Netflix may face enforcement action, the agency was widely mocked as a plodding regulator unable to keep up with evolving technology.

The SEC said that its disclosure rule allows for such changes.

In 2008, the agency determined that companies can use Web sites to distribute material information as long as they’ve alerted investors that the sites would be used for the purpose. On Tuesday, the SEC issued guidance making it clear that the same principles apply to social media.

“Most social media are perfectly suitable methods for communicating with investors, but not if the access is restricted or if investors don’t know that’s where they need to turn to get the latest news,” George Canellos, acting director of the SEC’s enforcement division, said in a statement.

The SEC said it came to realize during the Netflix investigation that there was confusion about how the fair-disclosure rules apply to social media, so it decided not take legal action against Netflix.

But it also pointed out that Hastings had not previously used his Facebook page to announce company news, and Netflix never notified investors that Hastings' personal Facebook page might be used to disseminate information about the company.

In a company filing, Hastings had said that the information he relayed on Facebook was not "material." But the SEC suggested that it was, citing a rise in the share price, which jumped from $70.45 at the time of the Facebook posting to $81.72 at the close of trading the following day.

A Netflix spokesman said the company appreciated "the SEC's careful consideration and resolution of this matter."

Eugene Goldman, a former senior counsel in the SEC's enforcement division, said in a statement that the SEC had cleared up the confusion about the use of social media. "Next time material information is disclosed on an executive's Facebook page without the company alerting all shareholders to look there for information, the matter will likely be met with an SEC lawsuit," said Goldman, a partner at McDermott Will & Emery.