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THANKS FOR THE MEMORIES

Arenas led fight for control of half the land

Tracy Conrad Special to The Desert Sun

On the Fourth of July in 1894, a long 129 years ago, 350 people gathered in Palm Springs for Judge John McCallum's patriotic celebration. Despite the heat of summer, one of the entertainments that day was foot races, and just one person won them all. Lee Arenas, a 17-year-old Agua Caliente Indian bested all other contestants. He stood an impressive, easy 6 feet tall and was lithe, handsome and incredibly athletic. He was also an excellent horseman and baseball player, but that fine summer day he outran the entire town.

It hadn't yet been two decades since President Ulysses S. Grant in 1876 signed over "San Bernardino Base and Meridian, Township 4 South, Range 4 East, Section 14" and much of Section 22 to the Agua Caliente Band of Mission Indians. The next year, 1877, President Rutherford B. Hayes set aside more land, the even-numbered square-mile sections along the railroad tracks, (as the odd-numbered had ones already been granted to the Southern Pacific Railroad,) for the reservation totaling 49 parcels comprising almost 32,000 acres.

Writing in 1981 in the Washington Post, Don Campbell noted, "It was just one of 119 agreements reached with California's 260 tribes and embodied in 18 treaties. Little attention was paid to the 31,520 acres of arid and apparently worthless land that the Agua Calientes had been granted."

In the 1920s, the Tribal committee government assigned lots of land to members of the tribe so they might farm, or raise cattle, or lease small plots.

The Bureau of Indian Affairs sought to divide up reservation among members, sell the rest, and eventually allowing the property pass out of trust, individually owned in fee, and no longer reservation land, no longer subject to the special, tax-exempt treatment of the reservation. The tribe vehemently opposed this effort, understanding it would lead to the decimation of their culture.

Arenas had been born on the land of his ancestors in 1870, before the advent of the reservation. By 1940 the superb

athlete who had impressed everyone in the tiny little village at the base of Mt. San Jacinto decades before was the chair of the Tribal Committee, attempting to make what Campbell called was the "crazy-quilt division of land ownership" in the desert work for his people.

Arenas himself owned a small ranch with abundant fig and grapefruit trees located on Section 14 in the middle of Palm Springs. It was his ancestral land but despite his people having lived on the land for centuries, it was not truly "theirs" as they did not actually control it. Arenas would change all that.

Arenas would spend a good chunk of the 1940s in a series of extremely complicated legal cases to wrest control of his land from the United States government. The Southern District of California was sympathetic to his cause, writing "each Indian...being like flotsam and jetsam rising and falling involuntarily with the tide of National congressional legislation and managed and controlled without their personal wishes being taken into consideration so far as legislative acts of Congress were concerned. As far as their ability to deal with the Federal government was concerned, each Indian was ... entirely subject to the Acts of Congress."

Arenas was undaunted. Campbell noted, "It wasn't until 1940 that a tribal member, Lee Arenas, screwed up his nerve, indignation and meager resources and retained Los Angeles attorney David D. Sallee to pursue the cause of the Agua Calientes — a legal battle that occupied most of the '40s before the tribe was given full control of the land."

The Supreme Court in *Arenas v. United States* held that reservation land was to be allotted to individual tribal members. However, the Bureau of Indian Affairs still limited the term of leases it allowed.

Campbell succinctly summarized, "The leasehold has been a way of life here since the 1950s for commercial, industrial and residential user alike. If you want to use the Agua Caliente's land for any purpose, you lease — there is no option and no hope of converting to ownership, ever.

As Palm Springs was developing in

the 1920s, '30s and '40s into the monied playground that it is today, the Agua Calientes were very much on the outside looking in. The government forbade them to execute any lease longer than five years, and developers moving into Palm Springs simply confined themselves to fee-simple land and 'checker-boarded' their way around the Agua Caliente's tin shacks and open sewers."

Arenas had successfully established rights to his land and the rights of all tribal members. The administration of that land would take another decade to sort out, with the all-female Tribal Council of the late 1950s lobbying successfully for longer term leases and finally breaking the pattern of developers confining themselves to the fee-simple sections.

Control was a bounty for the tribal members. "Income generated from the land is tax free -- and also free from capital gains tax on the rare occasions when a parcel is sold — and the land itself remains off the tax rolls until it is leased. And, at that point, it is the lessee who pays the real estate tax, not the lessor."

By the middle of the 1970s the tribe was prospering. Campbell surveyed the situation, "No one knows — or will admit knowing — what the net worth or annual income of the Agua Calientes is today. Palm Springs broker Ben Blank, however, refers questions to a survey... indicating that every man, woman and child in the tribe at that time had an annual lease income of \$350,000."

"Additionally, while Palm Springs has its own planning and zoning commissions, the Indians controlling half the city don't have to pay a bit of attention to any of the rulings. The band has its own planning commission. 'Legally,' broker Blank said, 'if the Indians should decide to put up a 10-story ferris wheel in downtown Palm Springs, there isn't a thing the city could do about it.'"

"But despite the obvious opportunities for friction — out of envy or the almost-total immunity from restrictions and regulations that the Agua Calientes enjoy — there is little of it in evidence. The Indians, with their wealth, keep a low profile, take pains not to abuse the freedoms they have and are highly respected for their business acumen.



Lee and Marian Arenas circa 1950.

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When you sign a lease it is customarily for 65 years, and typical rents range from about \$45 a month on a \$110,000 tract home to as much as perhaps \$160 to \$170 a month for a house selling for more than \$300,000. There is no guarantee for the holder that the lease will be renewed under any terms."

By the early 1980s, the fate of early leases was going to be determined. "It is a haunting thought for many Palm Springs developers because 20-year leases were previously the rule, and many of these are coming up for renewal, or whatever, in the next year or two. What, if anything, the individual Indian owners will choose to do then about renewal (and on what terms) is anybody's guess."

Campbell quoted Ray Patencio, the then Tribal Chairman, "We have no policy on that sort of thing. It will be a matter between the individual owner and the lessee. And, of course, there's no precedent at this time."

Over those next few decades individual allottees made deals to develop their own land, a right that the intrepid athlete Arenas won for them.

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