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Attorney for Plaintiff and Petitioner
CITIZENS FOR ENFORCEMENT OF
PARKLAND COVENANTS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

CITIZENS FOR ENFORCEMENT OF
PARKLAND COVENANTS, an
unincorporated association,

Plaintiff and Petitioner,

vs.

CITY OF PALOS VERDES ESTATES, a
municipal corporation; PALOS VERDES
HOMES ASSOCIATION, a California
corporation; PALOS VERDES
PENINSULA UNIFIED SCHOOL
DISTRICT, a political subdivision of the
State of California,

Defendants and Respondents,

ROBERT LUGLIANI and DELORES A.
LUGLIANI, as co-trustees of THE
LUGLIANI TRUST; THOMAS J. LIEB,
TRUSTEE, THE VIA PANORAMA
TRUST U/DO MAY 2, 2012 and DOES 1
through 20,

Defendants and Real Parties in
Interest.

Case No.: BS142768

(Assigned for all purposes to
Hon. Joanne O'Donnell, Dept. 86)

**REQUEST FOR JUDICIAL NOTICE BY
CITIZENS FOR ENFORCEMENT OF
PARKLAND COVENANTS IN
OPPOSITION TO DEMURRER BY CITY
OF PALOS VERDES ESTATES**

Hearing Date: October 25, 2013

Hearing Time: 1:30 p.m.

Department: 86

Action Filed: May 13, 2013


Trial Date: None Set

Pursuant to Evidence Code section 452, plaintiff Citizens for Enforcement of Parkland Covenants respectfully requests that the Court take judicial notice of the following documents in opposition to the Demurrer by City of Palos Verdes Estates:

1. First Amended Complaint in Los Angeles Superior Court case number BC431020, *Palos Verdes Peninsula Unified School District v. Palos Verdes Homes Association, et al.*, a true and correct copy of which is attached hereto as Exhibit "A."
2. Defendant Palos Verdes Homes Association's Answer to First Amended Complaint in Los Angeles Superior Court case number BC431020, *Palos Verdes Peninsula Unified School District v. Palos Verdes Homes Association, et al.*, a true and correct copy of which is attached hereto as Exhibit "B."
3. City of Palos Verdes Estates City Counsel Resolution R05-32, a true and correct copy of which is attached hereto as Exhibit "C."
4. Palos Verdes Estates Municipal Case section 17.32, a true and correct copy of which is attached hereto as Exhibit "D."
5. Palos Verdes Estates Municipal Case section 18.16, a true and correct copy of which is attached hereto as Exhibit "E."

DATED: October 11, 2013

BROEDLOW LEWIS LLP

By: 
Jeffrey Lewis

Attorneys for Plaintiff and Petitioner
CITIZENS FOR ENFORCEMENT OF
PARKLAND COVENANTS

EXHIBIT A

ORIGINAL

ROBINSON & PARKER LLP
JEFFREY L. PARKER, Bar No. 94240
21535 Hawthorne Boulevard, Suite 210
Torrance, California 90503
Telephone: 310-792-2200
Telecopier: 310-792-2201

Attorneys for Plaintiff
PALOS VERDES PENINSULA
UNIFIED SCHOOL DISTRICT

FILED
LOS ANGELES SUPERIOR COURT
APR - 4 2011
JOHN A. CLARKE, CLERK
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT,

Plaintiff,

v.

PALOS VERDES HOMES ASSOCIATION,
a California corporation; CITY OF PALOS
VERDES ESTATES; and DOES 1 through 20,

Defendants.

CASE NO. BC431020

Complaint filed February 1, 2010

Assigned to Hon. Richard Fruin
Department 15

FIRST AMENDED COMPLAINT

1. Quiet Title

2. Declaratory Relief

Exempt from filing fees pursuant to
Government Code § 6103

Plaintiff alleges:

PRELIMINARY ALLEGATIONS

1. Plaintiff Palos Verdes Peninsula Unified School District ("District") is a public school district in Los Angeles County duly organized and conducting business under the laws of this State. Plaintiff is the successor in interest to the Palos Verdes School District of Los Angeles County ("Predecessor District") and the owner, among other properties, of that certain real property described as Lots C and D of Tract 7331, as per map recorded in Book 102, pages 46 to 50 inclusive, of maps and records of Los Angeles County ("Lots C & D"). Lot C is

1 situated between 2032 and 2100 Via Pacheco and Lot D between 2037 and 2101 Palos Verdes
2 Drive West, all in the City of Palos Verdes Estates.

3
4 2. Defendant Palos Verdes Homes Association ("Association") is a nonprofit
5 California corporation with certain quasi-governmental responsibilities in and for the City of
6 Palos Verdes Estates and the Miraleste area of the City of Rancho Palos Verdes, all in Los
7 Angeles County. Association deeded Lots C & D to Predecessor District in 1939.

8
9 3. Defendant City of Palos Verdes Estates ("City") is a duly formed and
10 incorporated municipality in Los Angeles County, California.

11
12 4. Plaintiff is ignorant of the true names and capacities of Defendants Does 1
13 through 20 and therefore sues these Defendants by such fictitious names. Plaintiff will amend
14 this complaint to allege these Defendants' true names and capacities when ascertained. Each of
15 these Defendants is responsible in some manner for the events alleged herein and damages
16 caused thereby.

17
18 **FIRST CAUSE OF ACTION**
19 **QUIET TITLE**
20 **AGAINST DEFENDANTS ASSOCIATION AND DOES 1 THROUGH 10**

21
22 5. Paragraphs 1 through 4 are incorporated herein as if set forth in full.

23
24 6. Lots C & D together form a strip of land roughly 126 feet wide by 303 feet long
25 (separated by a 20 foot wide alley) extending from Palos Verdes Drive West on the east to Via
26 Pacheco on the west. On both sides of Lots C & D and extending for many lots in both
27 directions are single family residential homes each on lots roughly 60 to 65 feet wide by 140 to
28 160 feet long. Attached hereto as Exhibit 1 is a copy of the maps of relevant sections of Tract

1 No. 7331 showing Lots C & D and the lots on both sides. Directly across Palos Verdes Drive
2 West from Lots C & D is a large parcel owned by Plaintiff used as a Little League baseball field.
3 Directly across Via Pacheco from Lots C & D is a large parcel owned by Plaintiff used as Palos
4 Verdes High School. These larger parcels were deeded by the Association to Predecessor
5 District at or about the same time as Lots C & D.

6
7 7. Since being deeded Lots C & D in 1939, Plaintiff and Predecessor District have
8 never used Lots C & D for classroom purposes. Nor have Lots C & D ever been used for
9 playground, playing field or other recreational purposes. Plaintiff now desires to sell Lots C & D
10 as surplus property pursuant to Education Code §§ 17455 et seq. and Government Code §§
11 54222 et seq. and 65852.9, thereby realizing much needed revenue from such sale. These
12 provisions provide that Lots C & D may be developed to the same extent as is permitted on
13 adjacent property (specifically, four single family residences) and that Plaintiff may sell Lots C
14 & D at such full fair market value.

15
16 8. Attached hereto as Exhibit 2 is a copy of the 1939 grant deed ("1939 Association
17 Deed") from the Association to the Predecessor District pertaining to Lots C & D, among other
18 parcels. The 1939 Association Deed contains the following restriction which created a
19 condition subsequent with its inherent right of reverter and power of termination:

20
21 AND SUBJECT TO conditions, restrictions and reservations of record;
22 and to the express condition that said realty shall not be used for any other
23 purpose than for the establishment and maintenance of public schools, parks,
24 playgrounds and/or recreation areas and shall not be sold or conveyed except
25 subject to conditions, restrictions and reservations of record and except to a park
26 commission or other body suitably constituted by law to take, hold, maintain and
27 regulate public parks and/or playgrounds; provided that easements may be granted
28 over portions of said realty to the public for parkway and/or street purposes.

1 9. Attached hereto as Exhibit 3 is a copy of the 1925 grant deed ("1925 B of A
2 Deed") by which the Association acquired Lots C & D, among other parcels, from grantor Bank
3 of America. The 1925 B of A Deed contains various restrictions ("1925 Deed Restrictions"),
4 including the following restriction and reverter clause:

5
6 3. That the said realty is to be used and administered forever for park
7 purposes, except as hereinafter provided, for the benefit of the persons residing or
8 living within the boundaries of . . . "Palos Verdes Estates" . . . provided (a) That .
9 . . Lots A and B of Tract 7331 . . . or any portions thereof, may be used for
10 purposes of erection and maintenance of public schools, or for playgrounds,
11 recreation, or community purposes and/or for park purposes, and may be deeded
12 by Palos Verdes Homes Association to any legally constituted public school body
13 or authority for the erection and maintenance of public schools thereon or for play
14 grounds, recreation or community purposes.

15

16 6. Provided, that a breach of any of the provisions, conditions,
17 restrictions, reservations, liens, charges and covenants hereinbefore referred to
18 and/or contained herein . . . shall cause said realty to revert to the Grantor herein,
19 or its successors in interest as owner of the reversionary rights herein provided
20 for, and the owners of such reversionary rights shall have the right of immediate
21 re-entry upon said realty in the event of any such breach, and, as to each lot and/or
22 parcel owner of said property . . . the said provisions, conditions, restrictions,
23 reservations, liens, charges and covenants shall be covenants running with the
24 land, and the breach of any thereof or the continuance of any such breach may be
25 enjoined, abated or remedied by appropriate proceedings by the grantor herein, or
26 its successors in interest, or by such other lot or parcel owner, and/or by any other
27 person or corporation designated in said Declarations hereinbefore referred to.

28 ///

1 Predecessor District did not consent to the 1925 B of A Deed restrictions and, as a public entity,
2 Plaintiff is not bound by them.

3
4 10. Attached hereto as Exhibit 4 is a copy of the 1938 untitled document ("1938 B of
5 A Deed") by which grantor Bank of America granted to the Association "all its right, title and
6 interest in and to" the real property, including Lots C & D, described in the 1939 Association
7 Deed. By virtue of the 1938 B of A Deed, all legal rights retained or not previously deeded to
8 the Association under the 1925 B of A Deed ("1925 Deed Enforcement Rights") relative to the
9 property described in the 1938 B of A Deed were transferred to the Association in that the 1925
10 Deed Enforcement Rights merged into the fee interest held by the Association in Lots C & D and
11 the other property described in the 1938 B of A Deed resulting in termination of the 1925 Deed
12 Restrictions. Accordingly, the Association's transfer to Predecessor District under the 1939
13 Association Deed was not subject to the 1925 Deed Restrictions.

14
15 11. The Association's CC&R's categorize Lots C & D as "Class F Properties" and
16 expressly permit their use for single family residences, stating the following in Section 10:

17
18 Section 10. In Business and Public Use Districts of Class F, no building, structure
19 or premises shall be erected, constructed, altered or maintained which shall be
20 used or designed or intended to be used for any purpose other than that of a public
21 or private school, playground, park, aeroplane or dirigible landing field, or
22 accessory aerodrome or repair shop, public art gallery, museum, library,
23 firehouse, nursery, or greenhouse or other public or semi-public building, or a
24 single family dwelling.

25
26 12. No notice of extension was ever filed as to either the 1925 B of A Deed or the
27 1939 Association Deed. Accordingly, under Civil Code §§ 885.010 et seq. all powers of
28 termination or rights of reverter accorded by these instruments expired 30 years after their

1 recordation and all restrictions imposed by these instruments terminated and were rendered
2 unenforceable. Plaintiff seeks a determination as of the date this complaint is filed that such
3 powers of termination or rights of reverter and the associated restrictions are of no force or
4 effect.

5
6 13. Plaintiff further seeks a determination as of the date this complaint is filed that
7 Plaintiff's title to Lots C & D is free and clear of any and all restrictions imposed by the 1939
8 Association Deed and the 1925 B of A Deed since such restrictions are obsolete and
9 unenforceable under Civil Code § 885.040 and are of no force or effect under Civil Code §
10 885.060 (b) and (c) given the overriding public policy of permitting surplus school district
11 property to be developed to the same extent as permitted on adjacent property to ensure the
12 school district receives fair market value for such property (as expressed in the Education and
13 Government Codes), given that other current and changed circumstances since recordation of the
14 Deeds render enforcement of such restrictions inequitable and unreasonable, and given that
15 enforcement of such restrictions would not effectuate their purpose.

16
17 **SECOND CAUSE OF ACTION**

18 **DECLARATORY RELIEF**

19 **AGAINST ALL DEFENDANTS**

20
21 14. Paragraphs 1 through 12 are incorporated herein as if set forth in full.

22
23 15. A dispute has arisen between Plaintiff and Defendants. Under applicable law,
24 including Government Code § 65852.9, Plaintiff contends Lots C & D can be developed to the
25 same extent as is permitted on adjacent property and that Plaintiff is entitled to an expedited
26 process for rezoning and subdividing Lots C & D to avoid unnecessary costs and delays.
27 Defendants dispute Plaintiff's contention. Specifically City contends that Plaintiff must undergo
28 the same rezoning and subdividing process as any other applicant, subject to public hearing, and

1 that the outcome of the process is by no means certain (essentially denying the existence and
2 effect of Government Code § 65852.9). Association contends that no lot in the City may be
3 subdivided without Association's consent and that Association will never consent to the
4 subdividing of Lots C and D.

5
6 16. A judicial declaration as to the parties respective rights, obligations and duties
7 concerning the rezoning, subdividing and disposing of Lots C & D is necessary and appropriate
8 for the efficient administration of justice, to avoid a multiplicity of lawsuits, and to advance the
9 public policy expressed at Government Code § 65852.9 of expediting the process by which a
10 school district may rezone and sell unused property for development to the same extent as
11 permitted on adjacent property, all to avoid unnecessary costs and delays to the school district.

12
13 WHEREFORE, Plaintiff prays for judgment as follows:
14

15 1. As against Defendants Association and Does 1 through 10, a determination
16 quieting title as of the date this complaint is filed that any and all powers of termination or rights
17 of reverter contained in the 1939 Association Deed and the 1925 B of A Deed are of no force or
18 effect and that all other restrictive provisions in those instruments applicable to Lots C & D also
19 are of no force or effect;

20
21 2. As against all Defendants, a judicial declaration as to the parties respective rights,
22 obligations and duties concerning the rezoning, subdividing and disposing of Lots C & D –
23 specifically that:

24
25 a. Disposition of Lots C & D is governed by the provisions of Education
26 Code §§ 17455 et seq. (not Education Code §§ 17485 et seq. which apply
27 only to land previously used for recreational purposes);

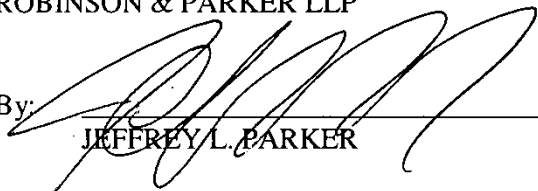
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- b. Plaintiff is entitled to an expedited rezoning and subdividing process, avoiding all unnecessary costs and delays;
 - c. Upon compliance with such expedited procedural requirements, Lots C & D shall be rezoned and subdivided to permit development of that property to the same extent as is permitted on adjacent property (four single family residences, each on one-half the existing lot); and
 - d. Plaintiff is further entitled thereafter to all revenue from the sale of Lots C & D at such full fair market value;
- 3. Costs of this suit; and
 - 4. Such other relief as this Court deems proper.

DATED: April 4, 2011

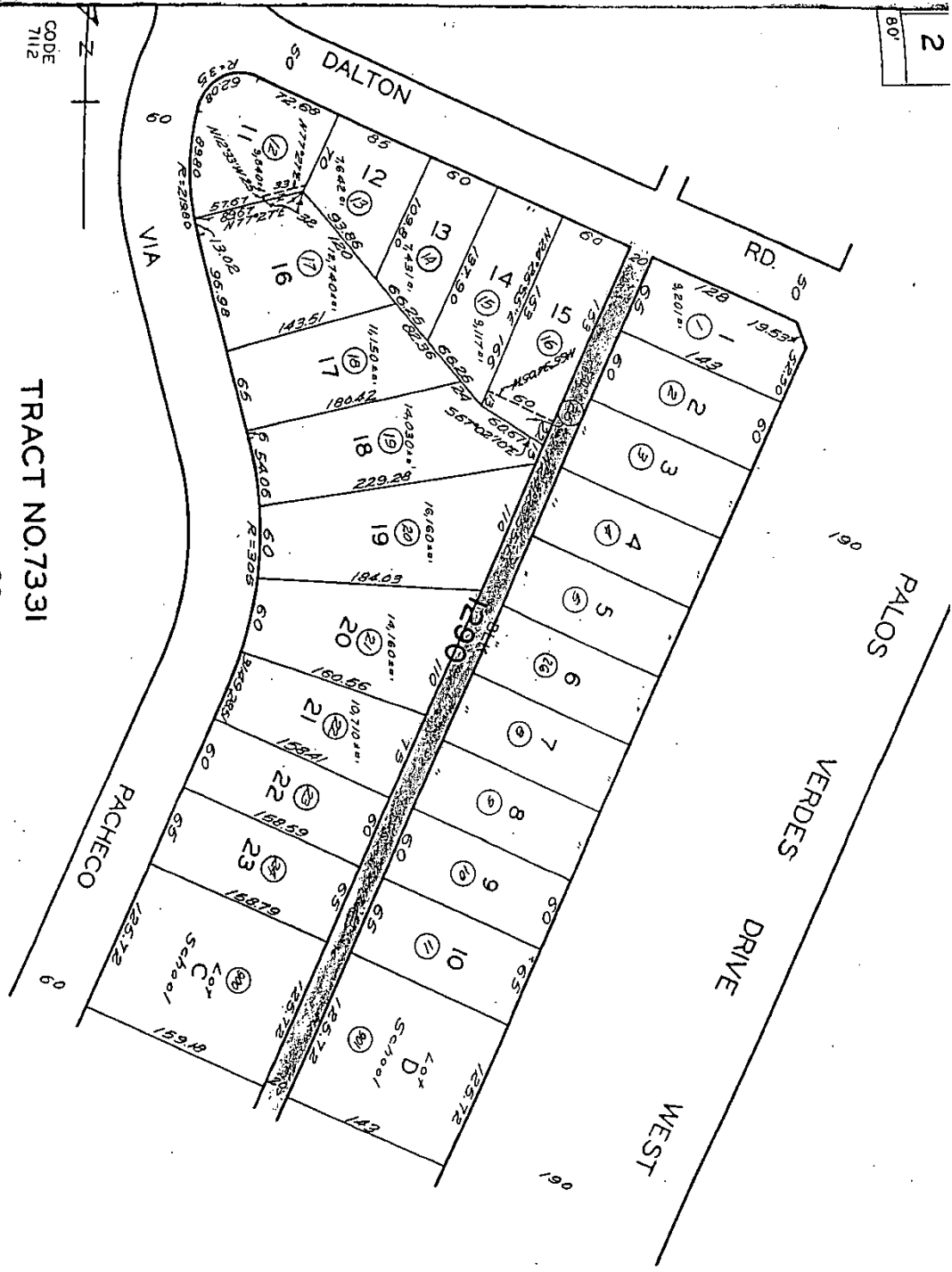
ROBINSON & PARKER LLP

By: 
JEFFREY L. PARKER

Attorneys for Plaintiff
PALOS VERDES PENINSULA
UNIFIED SCHOOL DISTRICT

11/06/11

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80'



TRACT NO. 7331
M.B. 102-46-50

CODE
7112
FOR PREV. ASSMNT. SEE: 1601-2

EXHIBIT 1

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PALOS

VIA RIVERA

VERDES

DRIVE

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CODE
7112

TRACT NO. 7331

M.B. 102-46-50

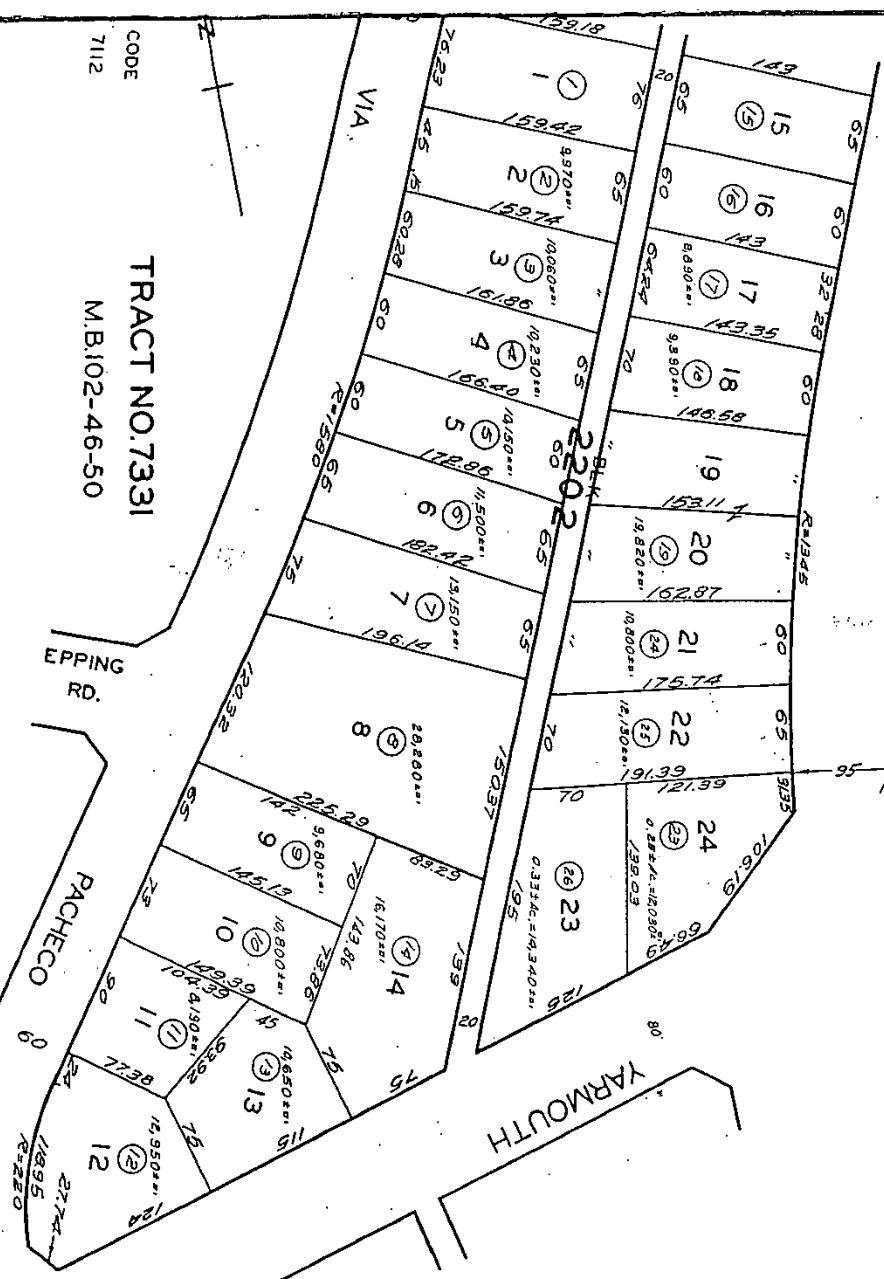
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EPPING RD.

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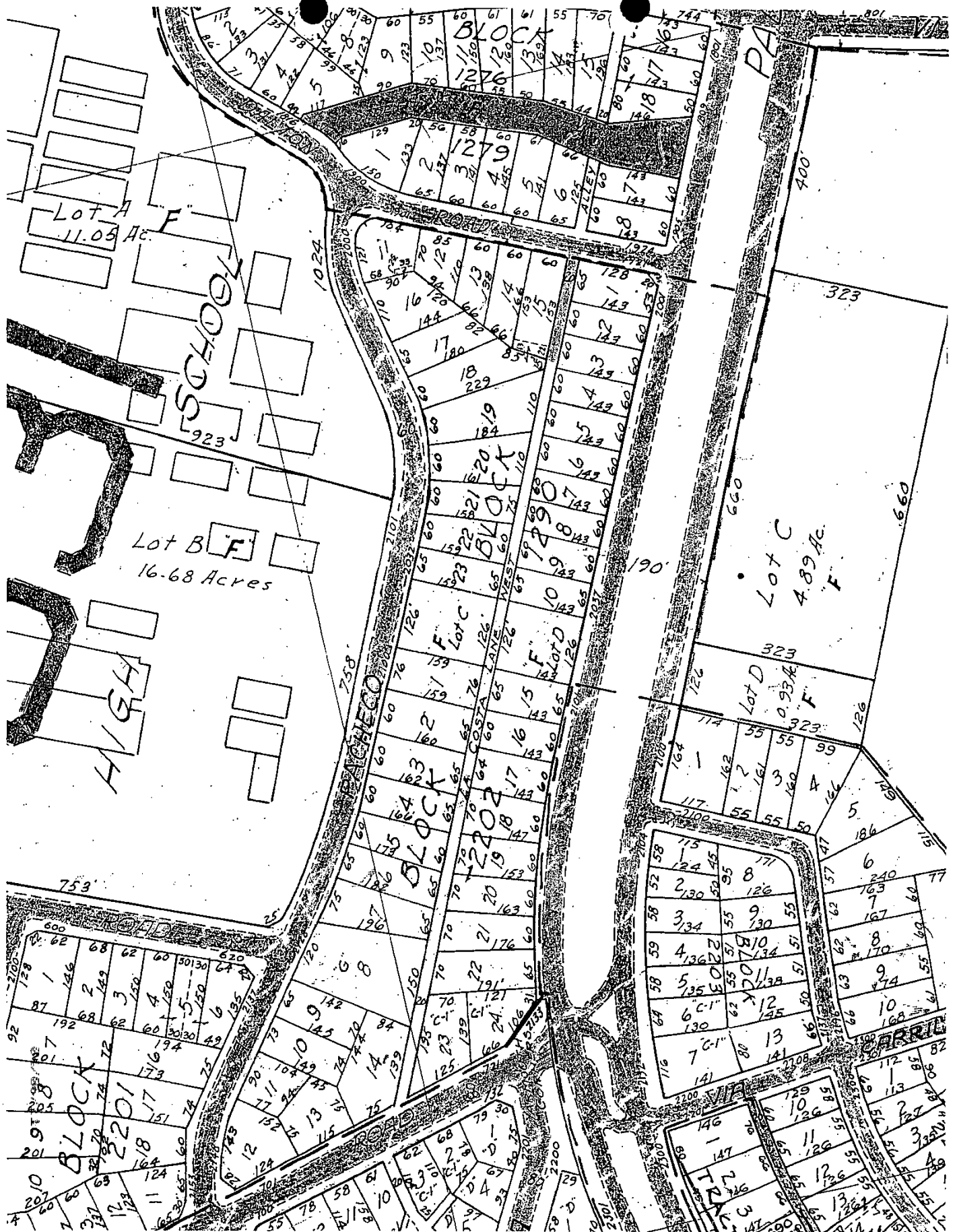
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ASSASSOR'S MAP
CITY OF LOS ANGELES, CALIF.



11/98/69

PALOS VERDES HOMES ASSOCIATION, a California Corporation, in consideration of Ten Dollars (\$10.00) to it in hand paid, receipt of which is hereby acknowledged, does hereby GRANT TO PALOS VERDES SCHOOL DISTRICT OF LOS ANGELES COUNTY, all that real property in the County of Los Angeles, State of California, described as follows:

Lot T of Tract 8888, as per map recorded in Book 83, Pages 77 to 80 inclusive of Maps, records of said Los Angeles County, except that portion thereof already conveyed by Grantor herein to Grantee herein by deed dated June 24, 1925 and recorded in Book 4451, Page 224, of Official Records of said Los Angeles County;

That portion of Lot T of Tract 6887 as per map recorded in Book 96, Pages 28 to 31 inclusive, of Maps, records of said Los Angeles County, lying north of a line drawn from 101 to the North line of Via Picasos at a distance of one hundred forty (145) feet Northwardly therefrom;

Lot A of Tract 7144, as per map recorded in Book 103, Pages 13 to 18 inclusive, of Maps, records of said Los Angeles County;

Lots A, B, C and D of Tract 7331, as per map recorded in Book 102, Pages 46 to 50 inclusive, of Maps, Records of said Los Angeles County.

Lot B of Tract 7333, as per map recorded in Book 113, Pages 72 to 75 inclusive, of Maps, Records of said Los Angeles County;

Lot C of Tract 7334 as per map recorded in Book 150, Pages 12 to 16 inclusive, of Maps, records of said Los Angeles County;

Lots A, D, C and D of Tract 7537 as per map recorded in Book 104, Pages 12 to 15 inclusive, of Maps, Records of said Los Angeles County.

SUBJECT TO State and County Taxes now due and/or delinquent;

AND SUBJECT TO conditions, restrictions and reservations of record; and to the express condition that said realty shall not be used for any other purpose than for the establishment and maintenance of public schools, parks, playgrounds and/or recreation areas and shall not be sold or conveyed except subject to conditions, restrictions and reservations of record and except to a park commission or other body suitably constituted by law to take, hold, maintain and regulate public parks and/or playgrounds; provided that easements may be granted over portions of said realty to the public for parkway and/or street purposes.

IN WITNESS WHEREOF, PALOS VERDES HOMES ASSOCIATION has caused this deed to be duly executed, by its officers thereunto authorized, this 7th day of December, 1939.

(Corporate Seal)

PALOS VERDES HOMES ASSOCIATION
Donald Armstrong, President.
Everett M. York, Secretary.

State of California, County of Los Angeles) ss
Before me, Lillian Throne, a Notary Public in and for said County, personally appeared Donald Armstrong, known to me to be the President, and Everett M. York, known to me to be the Secretary, of Palos Verdes Homes Association, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same. Witness my hand and official seal.

(Notarial Seal)
Lillian Throne, Notary Public
in and for the County of Los Angeles, State of California. My Commission Expires Dec. 1 1940.

APPROVAL of the foregoing conveyance is hereby given.
PARK AND RECREATION BOARD
of Palos Verdes Homes Association
W. HAROLD KINGSLEY, Chairman.

PALOS VERDES SCHOOL DISTRICT, PALOS VERDES ESTATES, CALIFORNIA.

To whom it may concern: January 27, 1939.

The following resolution was adopted by the Board of Trustees, Palos Verdes School District, in regular session on Thursday, January 12, 1939:

"Be it resolved that the Board of Trustees, Palos Verdes School District, approve and hereby accept the transfer of the seven school sites described in the deed duly executed by the Palos Verdes Homes Association to the above named school district on the 7th day of December, 1939."

Certified by:

L. G. HUMMEL (L.G. Hummel)
Sec'y. to the Board.

#1251-Copy of original recorded at request of Grantee, Jan. 31, 1939. 12:23 P.M.
Copied #100. Compared. Mame B. Beatty, County Recorder, by
F88-B-M.

Mr. Rowe (22)

I HEREBY CERTIFY THAT IF IMPRESSED WITH THE SEAL OF LOS ANGELES COUNTY RECORDER, THIS IS A TRUE COPY OF THE FOREMANENT RECORD FILED ON RECORD IN THIS OFFICE.
DATE MAR 12 1939
FEE 1.00
LOS ANGELES COUNTY, STATE OF CALIFORNIA

EXHIBIT 2

COPY

COPY

PALOS VERDES HOMES ASSOCIATION, a California corporation, in consideration of Ten Dollars (\$10.00) to it in hand paid, receipt of which is hereby acknowledged, does hereby GRANT TO

PALOS VERDES SCHOOL DISTRICT OF LOS ANGELES COUNTY all that real property in the County of Los Angeles, State of California described as follows:

4116-12-10
Lot T of Tract 6886, as per map recorded in Book 83, pages 77 to 80 inclusive, of Maps, records of said Los Angeles County, except that portion thereof already conveyed by Grantor herein to Grantee herein by deed dated June 24, 1925, and recorded in Book 4451, page 224, of Official Records of said Los Angeles County;

That portion of Lot T of Tract 6887, as per map recorded in Book 96, pages 28 to 32 inclusive, of Maps, records of said Los Angeles County, lying north of a line drawn parallel to the North line of Via Picaposte at a distance of one hundred forty five (145) feet Northwardly therefrom;

Lot A of Tract 7144, as per map recorded in Book 103, pages 13 to 18 inclusive, of Maps, records of said Los Angeles County;

Lots A, B, C, and D of Tract 7331, as per map recorded in Book 102, pages 46 to 50 inclusive, of Maps, records of said Los Angeles County;

9-17-57
Lot B of Tract 7333, as per map recorded in Book 113, pages 72 to 75 inclusive of Maps, records of said Los Angeles County;

Lot C of Tract 7334, as per map recorded in Book 150, pages 12 to 16 inclusive, of Maps, records of said Los Angeles County;

H-7
Lots A, B, C, and D of Tract 7537, as per map recorded in Book 104, pages 12 to 15 inclusive, of Maps, records of said Los Angeles County.

SUBJECT TO State and County taxes now due and/or delinquent;

AND SUBJECT TO conditions, restrictions and reservations of record; and to the express condition that said realty shall not be used for any other purpose than for the establishment and maintenance of public schools, parks, playgrounds and/or recreation areas, and shall not be sold or conveyed except subject to conditions, restrictions and reservations of record and except to a park commission or other body suitably constituted by law to take, hold, maintain and regulate public parks and/or playgrounds; provided that easements may be granted over portions of said realty to the public for parkway and/or street purposes.

IN WITNESS WHEREOF, PALOS VERDES HOMES ASSOCIATION has caused this deed to be duly executed, by its officers thereunto authorized, this 7th day of December, 1938.

PALOS VERDES HOMES ASSOCIATION

President

Secretary

11/98/10

COPY

COPY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:

On this day of December, 1938, before me, Lillian Throne, a Notary Public in and for said County, personally appeared Donald Armstrong, known to me to be the President, and Everett M. York, known to me to be the Secretary, of Palos Verdes Homes Association, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

Witness my hand and official seal.

Notary Public in and for the
County of Los Angeles,
State of California

APPROVAL of the foregoing conveyance is hereby given.

DEED AND AFFIDAVIT FOR BOARD
of Palos Verdes Homes Association

Witness my hand and official seal.

11/98/48

04/06/11

Section (h) refers to Palos Verdes
High School Site.

I HEREBY CERTIFY THAT IF IMPRESSED WITH THE SEAL OF LOS ANGELES COUNTY RECORDERS,
THIS IS A TRUE COPY OF THE PERMANENT RECORD FILED OR RECORDED IN THIS OFFICE.
DATE MAR 13 1982 FEE 480 Key C. S. COUNTY RECORDER
LOS ANGELES COUNTY, STATE OF CALIFORNIA

GRANT DEED.

Bank of America, a corporation organized under the laws of the State of California, and
having its principal place of business at Los Angeles, California, in consideration of Ten
(\$10.00) Dollars, receipt of which is hereby acknowledged, does hereby grant to Palos Verdes

EXHIBIT 3

77-57
56 Association, a corporation, that certain real property in the County of Los Angeles, State of California, hereinafter referred to as "said realty" described as follows, to-wit:

- (a) Lots R, T, U and W of Tract 6885, as per Map recorded in Book 78, Pages 49 to 52 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (b) Lots A, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S, U of Tract 6887, and that portion of Lot T in said Tract 6887 lying north of a line drawn parallel to the North line of Via Placoste at a distance of one hundred forty-five (145') feet Northwardly therefrom, as per Map recorded in Book 56, Pages 28 to 32 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (c) Lots A, B, C, D and E of Tract 6886, as per Map recorded in Book 100, Pages 67 to 72 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (d) Lots D, F and G of Tract 6890, as per Map recorded in Book 100, Pages 82 to 85 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (e) Lots A, B, C, D, E, F, G, and H of Tract 7143 as per Map recorded in Book 99, Pages 46 to 51 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (f) Lot A of Tract 7144, as per Map recorded in Book 103 Pages 13 to 18 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (g) Lots H, M, O, P and S of Tract 7145 as per Map recorded in Book 96, Pages 19 to 22 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (h) Lots A, B, C and D of Tract 7331, as per Map recorded in Book 102, Pages 46 to 50 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (i) Lots A, B, C, D, E and K of Tract 7332, as per Map recorded in Book 102, Pages 42 to 45 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (j) Lot B of Tract 7536, as per Map recorded in Book 86, Pages 48 to 50 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (k) Lots A, B, D of Tract 7537, and Lot E of said Tract 7537 (except that part of said Lot E lying between Block 2300 and Block 2306 of said Tract 7537) and a strip of land twenty (20') feet wide in Lot 2 of Block 2306 in said Tract 7537 adjacent to and parallel to the easterly side line of said Lot 2, as per Map recorded in Book 104, Pages 12 to 15 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (l) Lots A, B, C, E, J, N, O and Q of Tract 8471, as per Map recorded in Book 99, Pages 4 to 7 of Maps, in the office of the County Recorder of said Los Angeles County; and
- (m) Lots A, B and E of Tract 7540, as per Map recorded in Book 104, Pages 56 to 59 of Maps, in the office of the County Recorder of said Los Angeles County.

This conveyance is made and accepted and said realty is hereby granted, subject to taxes now a lien, and upon and subject to each of the following provisions, conditions, restrictions and covenants, to-wit: 1. The express condition that the Grantor herein is not responsible or liable in any way for any inducement, representation, agreement, condition or stipulation not set forth herein, or in the Declarations of Establishment of Restrictions and Conditions hereinafter mentioned. 2. Each and every provision, condition, restriction, reservation, lien, charge, easement and covenant contained in the Declaration of Establishment of Basic Protective Restrictions executed by Commonwealth Trust Company, as owner, dated June 26, 1923, and recorded in Book 2360, Page 231, and Amendments Nos. One and Three thereto, dated November 26, 1923, and June 16, 1924, respectively, and recorded in Book 2340, Page 27, and in Book 4019, Page 274 respectively, of Official Records of Los Angeles County, California, and Declarations Nos. 5, 7, 8, 10, 12, 14, 15, 17 and 21 respectively, of Establishment of Local Protective Restrictions, recorded in Book 2863, Page 364, and in Book 3443, Page 146, and in Book 3443, Page 289 and in Book 3113, Page 194 and in Book 4803, Page 175 and in Book 4060, Page 264 and in Book 4208, Page 93, and in Book 4236, Page 240, and in Book 3434, Page 165, respectively of Official Records of said Los Angeles County, and Amendment No. Three to said Declaration No. 5 above referred to, all except the first mentioned having been executed by Bank of America, successor in interest of said Commonwealth Trust Company, whereby there was established a general plan for the improvement and development of said realty and other prop-

described and/or referred to in said Declaration of Restrictions, and provisions, conditions, restrictions, reservations, liens, charges, easements and covenants were fixed, including the establishment, maintenance and operation of Palos Verdes Homes Association, a California corporation, and of the Art Jury as therein provided, subject to which said property and/or all parcels thereof should be sold and conveyed and all of said provisions, conditions, restrictions, reservations, liens, charges, easements and covenants are hereby made a part of this conveyance, and expressly imposed upon said realty as fully and completely as if herein set forth in full.

3. That the said realty is to be used and administered forever for park purposes, except as hereinafter provided, for the benefit of the persons residing or living within the boundaries of the property known as Tract No. 4400 and Tract No. 6881, in the County of Los Angeles, State of California, said property being commonly known and referred to as "Palos Verdes Estates", under such regulations consistent with the other conditions set forth in this deed as may from time to time hereafter be established by the Park Department of Palos Verdes Homes Association for the purpose of safeguarding said realty, and any vegetation and/or improvements thereon from damage or deterioration, and for the further purpose of protecting the residents of said Palos Verdes Estates from any uses of or conditions in or upon the said realty which are, or may be, detrimental to the amenities of the neighborhood; provided: (a) That that portion of Lot T, Tract 6887, above described, Lot A of Tract 7144, Lots A and B of Tract 7531, Lots A and B of Tract 7537, and Lot N of Tract 8471, or any portions thereof, may be used for purposes of erection and maintenance of public schools, or for playgrounds, recreation, or community purposes and/or for park purposes, and may be deeded by Palos Verdes Homes Association to any legally constituted public school body or authority for the erection and maintenance of public schools thereon or for playgrounds, recreation or community purposes. (b) That the power, right and easement is specifically reserved to Bank of America, its successors and assigns, to use the following lots as a right of way for a double track electric railroad and for the erection construction and maintenance of poles, wires or other structures properly appurtenant to such use: Lots P, G, J, K, L, Q, R and U in said Tract 6887. (c) That the power, right and easement is reserved to Bank of America, to enter upon, develop, plant, improve or maintain any or all of said lots or property for the benefit of all of Palos Verdes Estates in a manner not inconsistent with the purposes for which said lots are hereby conveyed and after due notice to and consultation with the Park Department of Palos Verdes Homes Association; and in connection with said improvements to open, extend and improve Via Colinita through said Lot H in said Tract 7145. (d) That the easement is specifically reserved to Bank of America to establish and maintain such reasonable number of water mains and other utilities as to it may seem advisable in and over said realty for the service of abutting lots in a manner not inconsistent with the purposes for which said realty is hereby conveyed and in accordance with a written approval which shall be issued by the Park Department of Palos Verdes Homes Association for the location of said utility lines. 4. That except as provided above, no buildings, structures or concessions shall be erected, maintained or permitted upon said realty, except such as, (in the opinion of the Park Department of Palos Verdes Homes Association), are properly incidental to the convenient and/or proper use of said realty for park purposes.

5. Except as provided in paragraph 3 hereof, that no part of said realty shall be sold or conveyed by Palos Verdes Homes Association except subject to the terms and conditions hereof; provided, however that said realty or any portion thereof, may be conveyed by said Palos Verdes Homes Association subject to the same conditions as herein contained with respect to the purposes for which said property may be used, to a Park Commission or other body suitably constituted by law to take, hold, maintain and regulate public parks; provided further that Palos Verdes Homes Association may dedicate to the public, portions of said lots for parkway or street purposes and/or for the purpose of rectification of boundaries, re-convey title to portions of said land to Bank of America or its successors in interest, in exchange for other lands.

126 4457

The Park Department of Palos Verdes Homes Association in its sole discretion, may by and with the written approval of Palos Verdes Art Jury first obtained, permit the owner of a lot abutting on said realty, to construct and/or maintain paths, steps and/or other landscape improvements, as a means of egress from and ingress to said lot or for the improvement of views therefrom, in such a manner and for such length of time and under such rules and regulations as will not, in the opinion of the Park Department of Palos Verdes Homes Association and Palos Verdes Art Jury, impair or interfere with the use and maintenance of said realty for park purposes, as hereinbefore set forth. Provided, that a breach of any of the provisions, conditions, restrictions, reservations, liens, charges and covenants hereinbefore referred to and/or contained herein, including those contained in said Declarations hereinbefore referred to, shall cause said realty to revert to the Grantor herein, or its successors in interest as owner of the reversionary rights herein provided for, and the owners of such reversionary rights shall have the right of immediate re-entry upon said realty in the event of any such breach, and, as to each lot and/or parcel owner of said property or other property described and/or referred to in said Declarations hereinbefore referred to, the said provisions, conditions, restrictions, reservations, liens, charges and covenants shall be covenants running with the land, and the breach of any thereof or the continuance of any such breach may be enjoined, abated or remedied by appropriate proceedings by the grantor herein, or its successors in interest, or by such other lot or parcel owner, and/or by any other person or corporation designated in said Declarations hereinbefore referred to. Provided Further, that a breach of any of the said provisions, conditions, restrictions, reservations, liens, charges and covenants, or any re-entry by reason of such breach, shall not impair, defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value, as to said realty, or any part thereof, but said provisions, conditions, restrictions, reservations, liens, charges and covenants shall be binding upon and effective against any owner of said realty whose title thereto is acquired by foreclosure, Trustee's sale or otherwise.

Provided, also that by the acceptance of this conveyance the Grantee agrees with the Grantor that the reservations, provisions, conditions, restrictions, liens, charges and covenants set forth or mentioned, are a part of the general plan for the improvement and development of the property described and/or referred to in said Declarations hereinbefore referred to, and are for the benefit of all of said property as described and/or referred to and each owner of any land therein, and shall inure to and pass with said property and each and every parcel of land therein, and shall apply to and bind the respective successors in interest of the parties hereto, and are, and each thereof is, imposed upon said realty as a servitude in favor of said property and each and every parcel of land therein as the dominant tenement or tenements.

In Witness Whereof, Bank of America has this 29th day of June, 1925, hereunto caused its corporate name and seal to be affixed by its Vice-President and its Assistant Secretary thereunto duly authorized.

(Corporate Seal)

Bank of America,
By Jay E. Randall, Vice-President
By Chas. H. Johnston, Asst. Secretary.

State of California, County of Los Angeles) ss.

On this 30th day of June, 1925, before me, L. R. Crabtree, a Notary Public in and for the County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Jay E. Randall known to me to be the Vice-President, and Chas. H. Johnston known to me to be the Assistant Secretary of Bank of America, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same. In Witness Whereof, I have hereunto set my hand and affixed my official

seal the day and year in this certificate first above written.
(Notarial Seal) L. R. Crabtree, Notary Public
in and for the County of Los Angeles, State of California.

4757 27
Copy of original recorded at request of Bank of America, Jun 30, 1925 at 45 Min. past 4 P.M.
Copyist: #127, Comptroller C. L. Logan, County Recorder, Ky. M. K. Line Deputy

Original recorded at this office

20/20/20

11/98/10

(OK) #16335 243

18886 243

#885. Copy of original recorded at request of TITLE GUARANTEE & TRUST CO., JAN. 28, 1930 at 8:30 A. M. Copyist #92. Compared. Name B. Beatty, County Recorder, By *John M. Miller* Deputy.
\$4.80 - 40. M.

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association, in consideration of Ten Dollars (\$10.00) to it in hand paid, receipt of which is hereby acknowledged, does hereby GRANT TO PALOS VERDES HOMES ASSOCIATION, a California corporation, all its right, title and interest in and to all that real property in the County of Los Angeles, State of California, described as follows: Lot S of Tract 6885, as per map recorded in Book 70, pages 40 to 52 inclusive, of Maps, records of said Los Angeles County;

Lot T of Tract 6886, as per map recorded in Book 83, pages 77 to 80 inclusive, of Maps, records of said Los Angeles County; That portion of Lot T of Tract 6887, as per map recorded in Book 96, pages 23 to 32 inclusive, of Maps, records of said Los Angeles County, lying north of a line drawn parallel to the North line of Via Pico at a distance of one hundred forty-five (145) feet Northwesterly therefrom;

Lot A of Tract 7144, as per map recorded in Book 103, pages 13 to 18 inclusive, of Maps, records of said Los Angeles County; Lots A, B, C. and D of Tract 7331, as per map recorded in Book 102, pages 46 to 50 inclusive, of Maps, records of said Los Angeles County; Lot R of Tract 7333, as per map recorded in Book 113, pages 72 to 75 inclusive, of Maps, records of said Los Angeles County; Lot C of Tract 7334, as per map recorded in Book 150, pages 12 to 16 inclusive, of Maps, records of said Los Angeles County; Lots A, B, C and D of Tract 7537, as per map recorded in Book 104, pages 12 to 15 inclusive, of Maps, records of said Los Angeles County. IN WITNESS WHEREOF, BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION has this 7th day of December, 1930, caused this deed to be executed in its name by its Trust Officer and its Assistant Trust Officer, thereunto duly authorized.

(- - - - -)
Consent to the execution
of the foregoing deed is hereby
given.
Quar L. Willatt, Trustor,
Palos Verdes Trust,
BA #155.

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION
H. A. Wright, Trust Officer.
Grant J. Hoge, Asst. Trust Officer.

STATE OF CALIFORNIA COUNTY OF LOS ANGELES)ss: On this 30th day of December, 1930, before me, a Notary Public in and for said County, personally appeared H. A. Wright, known to me to be the Trust Officer, and Grant J. Hoge known to me to be the Assistant Trust Officer, of Bank of America National Trust and Savings Association, the association that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the association therein named, and acknowledged to me that such association executed the same. Witness my hand and official seal.

(Notarial Seal) M. Cupp, Notary Public
in and for the County of Los Angeles, State of California.

#1260. Copy of original recorded at request of Grantee, JAN. 31, 1930, 12:43 P. M. Copyist #98. Compared. Name B. Beatty, County Recorder, By *John M. Miller* Deputy.
\$1.00 - S. M.

DEED OF TRUST
With Assignment of Rents.

THIS DEED OF TRUST, made this TWENTY-FIRST day of JANUARY, 1930, BETWEEN ANNIE M. FALLIN and DAVID L. FALLIN, her husband, as TRUSTOR, Los Angeles Trust & Safe Deposit Company, a California corporation, of Los Angeles, California, as TRUSTEE, and Security-First National Bank of Los Angeles, a National Banking Association, as BENEFICIARY.

WITNESSETH: That Trustor irrevocably GRANTS, TRANSFERS and ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, the property in Los Angeles County, California, described as: Lot Nineteen (19), in Block Eight (8) of the Greenwell Tract, in the City of Los Angeles, as per map recorded in Book 12, Page 70 of Miscellaneous Records of said County.

EXHIBIT 4

EXHIBIT B

1 GREENWALD, PAULY, FOSTER & MILLER,
A Professional Corporation
2 ANDREW S. PAULY (SBN 90145)
ANDREW J. HALEY (SBN 202900)
3 1299 Ocean Avenue, Suite 400
Santa Monica, California 90401-1007
4 Telephone: (310) 451-8001

5 SIDNEY F. CROFT, ESQ.
3858 Carson Street, Suite 127
6 Torrance, CA 90503-6705
Telephone: (310) 316-8090
7

8 Attorneys for Defendant
PALOS VERDES HOMES ASSOCIATION
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**
12 **CENTRAL DISTRICT**

13 PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT,

14 Plaintiff,

15 vs.

16 PALOS VERDES HOMES ASSOCIATION, a
17 California corporation; CITY OF PALOS
VERDES ESTATES; and DOES 1 through 20,

18 Defendants.
19

Case No. BC431020

*Assigned for All Purposes to the
Honorable Richard Fruin,
Department 15*

**DEFENDANT PALOS VERDES
HOMES ASSOCIATION'S ANSWER
TO PLAINTIFF'S UNVERIFIED
FIRST AMENDED COMPLAINT**

20 Defendant Palos Verdes Homes Association ("PVHA") hereby answers and responds
21 to the unverified First Amended Complaint ("Complaint") of plaintiff Palos Verdes
22 Peninsula Unified School District ("Plaintiff") as follows:

23 **GENERAL DENIAL**

24 1. Pursuant to the provisions of Section 431.30(d) of the Code of Civil Procedure,
25 Defendant denies, both generally and specifically, each, every, and all of the allegations
26 contained in the Complaint.
27
28

FILED
Los Angeles Superior Court

APR 05 2011

John A. Clarke, Executive Officer/Clerk
By *[Signature]* Deputy
DOROTHY SWAIN

Fees paid on

L. MENJIVAR
9/05/10 - \$355.00

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

2. The Complaint fails to state facts sufficient to constitute any cause of action against PVHA.

SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

3. The Complaint, and each and every cause of action alleged therein, is barred against PVHA by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

(Waiver)

4. The Complaint, and each and every cause of action alleged therein, is barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

5. The Complaint, and each and every cause of action alleged therein, is barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Laches)

6. The Complaint, and each and every cause of action alleged therein, is barred against PVHA by the doctrine of laches, as PVHA has been prejudiced by Plaintiff's unreasonable delay in asserting the purported causes of action in the Complaint.

SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

7. The entire Complaint, and each and every purported cause of action alleged therein, is barred by the applicable statutes of limitation including, but not limited to, California Code of Civil Procedure §343.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Join Indispensable Parties)

8. The Complaint, and each and every cause of action alleged therein, is barred due to Plaintiff's failure to join indispensable parties as defendants in this action.

EIGHTH AFFIRMATIVE DEFENSE

(Reservation to Assert Other Defenses)

9. PVHA expressly and specifically reserves the right to amend this answer to add, delete and/or modify affirmative defenses based upon legal theories, facts and circumstances which may or will be developed through discovery and/or further legal analysis of PVHA's position in this litigation.

WHEREFORE, defendant Palos Verdes Homes Association prays for judgment as follows:

1. That this Court dismiss the First Amended Complaint with prejudice as to defendant Palos Verdes Homes Association;

2. For an award of attorneys' fees and costs to the extent allowed by statute or law; and,

3. For such further relief as this Court deems just and proper.

DATED: April 4, 2011.

GREENWALD, PAULY, FOSTER & MILLER,
A Professional Corporation

ANDREW S. PAULY
ANDREW J. HALEY

SIDNEY F. CROFT

By: 

ANDREW S. PAULY
Attorneys for Defendant
PALOS VERDES HOMES ASSOCIATION

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1299 Ocean Avenue, Suite 400, Santa Monica, California 90401-1007.

On April 4, 2011, I served the foregoing document(s) described as **DEFENDANT PALOS VERDES HOMES ASSOCIATION'S ANSWER TO PLAINTIFF'S UNVERIFIED FIRST AMENDED COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed to the addressee(s) as follows:

Jeffrey L. Parker, Esq.
Robinson & Parker LLP
21535 Hawthorne Blvd., Suite 210
Torrance, CA 90503

Counsel for Plaintiff
PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT
Fax: (310) 792-2201
E-Mail: jeff@robinsonparker.com

☐ BY MAIL: I caused such envelope to be deposited in the mail at Santa Monica, California. The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

☒ BY PERSONAL SERVICE: I personally delivered such envelope by hand to Jeffrey L. Parker in Department 15 of the Los Angeles Superior Court.

☐ BY FEDEX: The FedEx package tracking number for this envelope is _____, and the envelope was sent [mode] for receipt on [day], [date].

☐ BY ELECTRONIC MEANS: A courtesy copy of the above-referenced document was transmitted by ☐ facsimile and/or ☐ e-mail transmission; said transmission was reported as complete and without error.

☒ Executed on April 4, 2011, at Santa Monica, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made.



ANDREW S. PAULY

EXHIBIT C

RESOLUTION R05-32

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA ADOPTING A POLICY FOR THE
REMOVAL OF UNAUTHORIZED ENCROACHMENTS IN THE CITY'S PARKLANDS**

WHEREAS, the City was developed with open space as a core element that significantly defines the character of the community; and

WHEREAS, the City owns 849 acres of parklands that comprise much of the open space and are deed-restricted to remain open for the public's use; and

WHEREAS, a number of residents have constructed and/or maintain encroachments within the parklands without the City's authorization, restricting the public's use of these areas and exposing the City to undue liability;

WHEREAS, the transfer of ownership of private property adjacent to encroachments is a logical time to require the removal of said unauthorized encroachments;

NOW THEREFORE, the City Council of the City of Palos Verdes Estates DOES RESOLVE AS FOLLOWS:

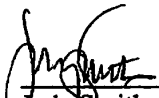
Section 1. The City Council hereby adopts a Policy for the Removal of Unauthorized Encroachments in the City's Parklands attached hereto as Exhibit 1.

Section 2. The City Clerk shall certify to the passage and adoption of Resolution R05-32 and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED on this 8th day of November, 2005.


DWIGHT ABBOTT, MAYOR

ATTEST:


Judy Smith, City Clerk

APPROVED AS TO FORM:

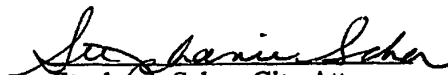

Stephanie Scher, City Attorney

EXHIBIT 1

POLICY FOR THE REMOVAL OF UNAUTHORIZED ENCROACHMENTS IN THE CITY'S PARKLANDS Updated 11/8/05

The Policy for the Removal of Unauthorized Encroachments in the City's Parklands is established to summarize the existing policies established by the Municipal Code for the removal of encroachments, and to add a requirement for the removal of encroachments when the adjacent private property changes ownership. It is the goal of this policy to restore public access to and use of these areas in a timely fashion.

This Policy in no way limits the City's ability to require the removal of any unauthorized encroachment in the parklands for any reason.

1) Definition of Encroachment

Encroachments are defined in Section 12.04.010 of the Municipal Code as follows:

"Encroachment" means privately owned facilities or structures in the public right of way or on other public property, constructed and maintained by the property owner."

Examples of encroachments include, but are not limited to: fences, walls, hardscape (such as concrete or brick), fireplaces, sheds, gazebos, swings and other play equipment, and tree houses.

2) Removal Requirements Per City Code

Require removal of unauthorized encroachments during a discretionary review by the City's Planning Commission

Section 17.04.090 of the City's Municipal Code states that the approval of any development entitlement application per Title 17 or 18 of the Code may be conditioned by the Planning Commission or Council. Such conditions may address any aspect of the project or the property. At the time of developing project plans, surveys are typically conducted and encroachments are identified. As a routine, the Planning Commission imposes a condition on all its approvals, requiring the removal of non-standard encroachments.

Require removal of unauthorized encroachments when they fall into disrepair.

Section 8.48.015 H of the City's Municipal Code states that it is a public nuisance to maintain fences, walls, landscaping, or walkways that are maintained in a defective, unsightly, or no longer viable condition. As the City becomes aware of encroachments which have fallen into disrepair, they are deemed a public nuisance and removal is required. The Public Works Director, or his or her designee, shall have the authority to judge when these encroachments are in a state of disrepair.

Require removal of unauthorized encroachments when they are modified.

Section 12.04.010 of the City's Municipal Code does not allow the permanent private occupation of City property without a permit. When the City is made aware of any modification underway to an existing unauthorized encroachment, removal of the entire encroachment is required.

3) Removal Requirements Upon Adjacent Private Property Transfer of Ownership

Within 60 days of the close of escrow for the transfer of ownership of a previously noticed private property located adjacent to an unauthorized encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

4) Removal Requirements Five Years After Notification by the City

If a property has not be transferred within five years after notification by the City of the need to remove the illegal encroachment(s), the encroachment(s) shall be removed by the adjacent property owner and the area shall be restored to a condition similar to other parklands in the area.

5) Notification

As staff becomes aware of significant unauthorized encroachments in the City's parklands, a notice of the violation shall be sent to the adjacent property owner and permanent record of the notice shall be maintained in the correlating "Address File". Real Property Records Reports shall include mention of any encroachment notices on file.

Prior to sending the formal notice of an encroachment which must be removed upon sale or within the specified time period, the City will undertake the necessary action to determine the exact location of the boundary between City and private property, including obtaining a survey, if required in the sole discretion of the City. The notice shall give the property owner a period of one month from the date of the notice to appeal the determination that the encroachment is on City property to the Director of Public Works. The decision of the Director of Public Works shall be final.

6) Enforcement

Staff will track monthly County Assessor's transfer reports and the Code Enforcement Officer will investigate relevant property transfers. If an illegal encroachment(s) is not removed per this policy, the City will immediately remove the encroachment(s), bill the adjacent property owner, lien the property if necessary, and cite the adjacent property owner for an infraction(s).

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

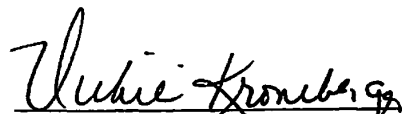
I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R05-32** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 8th of November, 2005, by the following vote:

AYES: COUNCILMEMBERS: Abbott, Flood, Humphrey, Sherwood

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBERS: Goodhart


Vickie Kroneberger, Deputy City Clerk

Chapter 17.32 ENFORCEMENT

Sections:

- [17.32.010](#) Enforcement responsibility.
- [17.32.020](#) Building permit – Conformity required.
- [17.32.030](#) Building permit – Plat required.
- [17.32.040](#) Remedies cumulative and nonexclusive.
- [17.32.050](#) Violation – Nuisance.
- [17.32.060](#) Violation – Misdemeanor.

17.32.010 Enforcement responsibility.

The chief of police, building inspector, code enforcement officer, city clerk, and all officials charged with the issuance of licenses or permits shall enforce the provisions of this title and PVEMC Title [18](#). (Ord. 700 § 2 (Exh. 1), 2012; Ord. 84 § 10.1, 1948)

17.32.020 Building permit – Conformity required.

No building permit shall be issued for the erection or use of any structure or part thereof, or for the use of any land, which is not in accordance with the provisions of this title and PVEMC Titles [15](#), [18](#), and [19](#). Any permit issued contrary to the provisions of this title and PVEMC Titles [15](#), [18](#), and [19](#) shall be void and of no effect. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 84 § 10.2, 1948)

17.32.030 Building permit – Plat required.

A. All applications for building permits shall be accompanied by a plat, drawn to scale, showing the actual dimensions of the lot or building site to be built upon, the location, height and area of the building or buildings to be erected, and such other information as may be necessary for the enforcement of this title and PVEMC Title [18](#).

B. Where a proposed front yard is less than the prescribed minimum for the district in which the building is to be erected, such plat shall include the nearest adjoining premises on both sides in the same block on which premises buildings have already been erected, together with the location of such buildings. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 84 § 10.3, 1948)

17.32.040 Remedies cumulative and nonexclusive.

All remedies provided for in this chapter shall be cumulative and not exclusive. The conviction and punishment of any person herein shall not release such person from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures or improvements, nor prevent the enforced correction or removal thereof. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 84 § 10.6, 1948)

17.32.050 Violation – Nuisance.

Any building or structure erected or maintained, or any use of property, contrary to the provisions of this title and PVEMC Title [18](#) shall be unlawful and a public nuisance and the city attorney shall, upon order of the city council, immediately commence action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use, and restrain and enjoin any person from setting up, erecting or maintaining such building or structure, or using any property contrary to the provisions of this title and PVEMC Title [18](#). It shall be the right and duty of every citizen to participate and assist the city officials in the enforcement of the provisions of this title and PVEMC Title [18](#). (Ord. 700 § 2 (Exh. 1), 2012; Ord. 84 § 10.5, 1948)

17.32.060 Violation – Misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, except that notwithstanding any other provision of this section, any violation constituting a misdemeanor under this chapter may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 627 § 30, 2001; Ord. 495 § 18, 1989; Ord. 84 § 10.7, 1948)

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Chapter 18.16 OS ZONE

Sections:

- [18.16.010](#) Purpose and intent.
- [18.16.020](#) Uses permitted.
- [18.16.025](#) Uses permitted with a conditional use permit.
- [18.16.030](#) Uses requiring specific development plan.
- [18.16.040](#) Specific development plan.
- [18.16.050](#) Coastal zone limitations on development in bluffs.

18.16.010 Purpose and intent.

The purpose of the open space (OS) zone is to preserve, promote and enhance valuable natural and open space resources in the city. It is also the purpose of the application of this zone to assure that uses of the open space lands and facilities are compatible with other permitted uses in the community.

The open space zone land consists of all publicly owned land including all city-owned land, including parklands and street rights-of-way, except any land within the coastal zone as defined by the California Coastal Commission, all school sites utilized or owned by the Palos Verdes Peninsula Unified School District, all sites utilized or owned by the Palos Verdes Peninsula Library District, and all land owned or which could be owned by the Palos Verdes Homes Association as a result of the exercise of any reversionary rights.

The provisions of this chapter are intended to provide criteria and procedures by which these resources may be properly used and maintained. It is further the intent of these provisions to implement the goals and objectives of the conservation and public facilities sections of the Palos Verdes Estates general plan. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 450 § 1, 1987; Ord. 449 § 1, 1987; Ord. 373 § 2, 1983)

18.16.020 Uses permitted.

The following uses shall be permitted in the OS zone:

- A. Undeveloped natural open space available for visual and physical enjoyment of the public;
- B. Elementary school facilities in use as elementary schools on January 1, 1985, including classrooms, meeting rooms, administration, and physical education facilities including playgrounds and sports courts;
- C. Public intermediate or junior high school facilities in use as intermediate or junior high schools on January 1, 1985, including classrooms, meeting rooms, administration, and physical education facilities including playgrounds and sports courts;
- D. Public high school facilities in use as high schools on January 1, 1985, including classrooms, meeting rooms, administration, and physical education facilities including playgrounds and sports courts;
- E. Citizens, parent-teacher associations, Camp Fire Girls, Boy Scout troops, Girl Scouts, YMCA, YWCA, farmers' organizations, school-community advisory council, senior citizens' organizations, clubs and associations formed for recreational, educational, political, economic, artistic or moral activities of the public school districts may engage in supervised recreational activities and they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic and moral interests of the

citizens of the committees;

F. Public, literary, scientific, recreational, education or public agency meetings;

G. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies;

H. Supervised recreational activities;

I. Libraries in use as libraries as of January 1, 1985;

J. Open space for the preservation of natural resources, including without limitation areas required for the preservation of plant and animal life, habitat for fish and wildlife species, areas required for ecologic and other scientific studies, and rivers, streams and estuaries; and

K. Open space areas needed for public health and safety, including without limitation areas which require special city management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, and areas required for the protection of water quality and water reservoirs. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 450 § 1, 1987; Ord. 449 § 1, 1987; Ord. 373 § 2, 1983)

18.16.025 Uses permitted with a conditional use permit.

The following uses may be permitted in the OS zone with the granting of a conditional use permit in the manner prescribed in Chapter [17.20](#) PVEMC:

A. Public special education and continuation classrooms, public adult education classrooms, public school nonclassroom facilities and new public school facilities;

B. Firehouses;

C. Parks or playgrounds, other than as permitted in PVEMC [18.16.020](#);

D. Private schools, which include classroom uses;

E. Art galleries, museums or libraries open to the public;

F. The conduct of religious services;

G. Private studios for artists, musicians and other cultural and scientific endeavors;

H. Uses of existing facilities or public property which are not permitted by PVEMC [18.16.020](#). (Ord. 700 § 2 (Exh. 1), 2012; Ord. 450 § 2, 1987; Ord. 449 § 2, 1987)

18.16.030 Uses requiring specific development plan.

A specific development plan shall be required with the submission of an application for a conditional use permit when there is new construction, structural alteration, modification or additions to any structure and/or open space facility such as parks, playgrounds, parking lots, perimeter or interior landscaping, fencing, walls, lighting, utilities or paving on a site in the OS zone.

The specific development plan shall be prepared and processed in accordance with PVEMC [18.16.040](#). (Ord. 700 § 2 (Exh. 1), 2012; Ord. 450 § 1, 1987; Ord. 449 § 1, 1987; Ord. 373 § 2, 1983)

18.16.040 Specific development plan.

A. Applicant. Application for a specific development plan shall be made by the owner of the property involved or the owner's duly authorized representative or by a purchaser or lessee of the property with the written consent of the owner.

B. Application. The application shall be filed with the city on the form provided by the city for that purpose. The application shall include the following documents and information:

1. The property involved, including the identification of any geologic, seismic or other safety hazards present on the site and mitigation measures proposed, existing uses of the site, legal description of the site and relationship of the site to surrounding land uses;
2. The proposed use of the site and its relationship to the general plan and this chapter, the location and identification of all proposed structures, together with height, bulk and setback limitations;
3. Elevations and type, color and texture of all exterior materials of all structures, existing and proposed;
4. The location, height and exterior materials of all walls and fences, existing and proposed;
5. Provisions for public and private transportation, water supply, sewerage disposal, stormwater drainage, disposal of solid wastes, and energy supply;
6. The location, number of spaces, dimensions and circulation pattern of all off-street parking and loading areas, existing and proposed;
7. The location, size, height, exterior materials and lighting of all signs, existing and proposed;
8. The location and type of all outdoor lighting, existing and proposed;
9. The location and extent of existing and proposed streets and proposed street improvements;
10. A landscape plan indicating existing and proposed natural features such as vegetation, watercourses, and topography;
11. Standards for the maintenance and preservation of landscaping and natural resources;
12. A radius map and a certified list of the names and addresses of all property owners within three hundred feet from the exterior boundaries of the property involved, as shown on the latest assessment roll of the county treasurer;
13. Proposed implementation measures and conditions necessary to comply with this title and the general plan; and
14. Such additional information as the planning commission, from time to time, may deem necessary or desirable.

C. Application Fee. The application shall be accompanied by the payment of a filing fee, as established by resolution of the city council.

D. Upon the acceptance of a completed application, the director shall review the application for conformance with the provisions of this title. The director shall prepare a recommendation and forward the recommendation, application, and other relevant materials to the planning commission and schedule the matter for public hearing before the planning commission pursuant to the provisions of PVEMC [17.04.100](#). The planning commission shall hold such public hearing and make a written recommendation to the city council.

E. The city council, after receipt of the recommendation of the planning commission, shall hold a final hearing upon the proposed application and take such action as it deems appropriate.

F. Adoption a Legislative Act. The adoption of a specific development plan and any amendment thereto is a legislative act which shall be reviewable pursuant to Cal. Civ. Proc. Code § 1085 and shall be subject to initiative and referendum.

G. Procedure for Administration. Every specific development plan adopted by the city shall be administered in accordance with the provisions of Cal. Gov. Code Title 7, Division 1, Chapter 3, Article 8, Specific Plans, commencing with Cal. Gov. Code § 65450. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 373 § 2, 1983)

18.16.050 Coastal zone limitations on development in bluffs.

The provisions of PVEMC [18.16.020](#) and [18.16.030](#) notwithstanding, structures, additions to structures, grading, stairways, pools, tennis courts, spas or solid fences may be constructed on private property on, or within fifty feet of, the bluff edge only with a coastal development permit granted by the city only after preparation of a geologic report and findings by the city that the proposed structure, addition, grading, stairway, pool, tennis court, spa, and/or solid fence:

A. Poses no threat to the health, safety and general welfare of persons in the area by reason of identified geologic conditions which cannot be mitigated; and

B. The proposed structure, addition, grading, stairway, pool, tennis court, spa, and/or solid fence will minimize alteration of natural landforms and shall not be visually intrusive from public view points in the coastal zone. Permitted development shall not be considered visually intrusive if it incorporates the following to the maximum extent feasible:

1. The development is sited on the least visible portion of the site as seen from public view points;
2. The development conforms to the scale of existing surrounding development;
3. The development incorporates landscaping to soften and screen structures; and
4. The development incorporates materials, colors, and/or designs which are more compatible with natural surroundings. (Ord. 700 § 2 (Exh. 1), 2012; Ord. 535 § E, 1991)

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PROOF OF SERVICE

Citizens for Enforcement of Parkland Covenants v. City of Palos Verdes Estates, et al.
Los Angeles Superior Court Case No. BS142768

I, Jason R. Ebbens, declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the within action; my business address is 734 Silver Spur Road, Suite 300, Rolling Hills Estates, CA 90274.

On October 11, 2013, I served the foregoing: **REQUEST FOR JUDICIAL NOTICE BY CITIZENS FOR ENFORCEMENT OF PARKLAND COVENANTS IN OPPOSITION TO DEMURRER BY CITY OF PALOS VERDES ESTATES**

on the interested parties in this action by placing ☐ the original ☒ a true copy thereof, enclosed in a sealed envelope with postage pre-paid, addressed as follows:

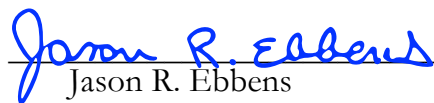
** See Attached Service List **

☐ BY MAIL. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the U. S. Postal Service. The within correspondence will be deposited with the U. S. Postal Service on the same day shown on this affidavit, in the ordinary course of business. I am the person who sealed and placed for collection and mailing the within correspondence on this date at Palos Verdes, California, following ordinary business practices.

☒ BY OVERNITE EXPRESS/FEDERAL EXPRESS. The within correspondence will be deposited with Overnight Express on the same day shown on this affidavit, in the ordinary course of business. I am the person who sealed and placed for collection and mailing the within correspondence on this date at Palos Verdes, California, following ordinary business practices.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 11, 2013, in Los Angeles County, California.


Jason R. Ebbens

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(Page 1 of 2)

Citizens for Enforcement of Parkland Covenants v. City of Palos Verdes Estates, et al.
Los Angeles Superior Court Case No. BS142768

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(Page 2 of 2)

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**Thomas J. Lieb, Trustee, The Via
Panorama Trust U/Do May 2, 2012**