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Gov't Code §6103

Attorneys for Defendant
City of Palos Verdes Estates

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Attorneys for Defendant
Palos Verdes Homes Association

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Attorneys for Defendants
Robert Lugliani And Dolores A. Lugliani, as co-
trustees of The Lugliani Trust; Thomas J. Lieb,
Trustee, The Via Panorama Trust

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

CITIZENS FOR ENFORCEMENT OF PARKLAND
COVENANTS and JOHN HARBISON,

Petitioners,

vs.

CITY OF PALOS VERDES ESTATES, a municipal
corporation; PALOS VERDES HOMES
ASSOCIATION, a California corporation; ROBERT

Case No.: BS142768

**JOINT EX PARTE APPLICATION TO SET
BRIEFING SCHEDULE AND A SINGLE
HEARING DATE FOR MOTION FOR
SUMMARY JUDGMENT/ADJUDICATION
AND CROSS-MOTIONS FOR SUMMARY
JUDGMENT/ADJUDICATION**

DECLARATION OF BRANT H. DVEIRIN

JOINT EX PARTE APPLICATION TO SET BRIEFING SCHEDULE AND A SINGLE HEARING DATE FOR MOTION
FOR SUMMARY JUDGMENT/ADJUDICATION AND CROSS-MOTIONS FOR SUMMARY
JUDGMENT/ADJUDICATION

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

3
4 Defendants.

[Proposed Order Filed Concurrently]

Hon. Barbara A. Meiers
Dept. 12

Petition Filed: May 13, 2013
Ex Parte Date: Feb. 26, 2015 8:30 a.m.
Trial Date: None Set

Motion for Summary Adjudication or Judgment
Hearing Date: March 25, 2015
Time: 10:30 AM
Department: 12

1 TO PARTIES AND THEIR COUNSEL OF RECORD: PLEASE TAKE NOTICE that on
2 Thursday February 26 at 8:30 a.m. in Dept. 12 of the Los Angeles Superior Court, located at 111 North
3 Hill Street, Los Angeles, California, Defendants, Robert Lugliani and Dolores A. Lugliani, as co-
4 trustees of The Lugliani Trust, Thomas J. Lieb, Trustee, The Via Panorama Trust (“Via Panorama”),
5 Defendant City of Palos Verdes Estates (“City”), Defendant Palos Verdes Homes Association
6 (“PVHA”) (collectively the “Defense Parties”) will and hereby do apply ex parte for an order as
7 follows:

- 8 • Taking off-calendar the hearing on Petitioners’ Citizens for Enforcement of Parkland
9 Covenants and John Harbison (“Petitioners”) motion for summary
10 judgment/adjudication currently scheduled for March 25, 2015, which has not yet been
11 fully-briefed;
- 12 • Taking off-calendar the Case Management Conference currently scheduled for April 1,
13 2015;
- 14 • Setting a briefing schedule for Defense Parties’ intended cross-motions for summary
15 judgment/adjudication;
- 16 • Setting a single hearing date for both Petitioners’ motion for summary
17 judgment/adjudication and Defense Parties’ cross-motions for summary judgment/
18 adjudication; and
- 19 • Any other orders which the court deems just and proper to ensure fairness and judicial
20 economy in these proceedings.

21 This ex parte application is based upon this application, the Declaration of Brant H. Dveirin,
22 and upon such further evidence and argument as may be permitted at the hearing on this matter, and in
23 particular, is based upon these facts:

24 (1) The hearing on Petitioner’s motion for summary judgment/adjudication is noticed for
25 March 25, 2015;

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1 (2) The Defense Parties notified the Petitioners of Defendants' plan to file their own
2 motions for summary adjudication or judgment (Decl. of Brant H. Dveirin ¶¶ 4, 5, 11, 13);

3 (3) The Defense Parties have commenced lay and expert discovery and have scheduled the
4 deposition of Petitioner John Harbison for March 12, 2015 (Decl. of Brant H. Dveirin ¶¶ 5, 8, 12);

5 (4) The Defense Parties' discovery will not be completed before the March 25, 2015 hearing
6 on Petitioner's motion for summary judgment/adjudication (Decl. of Brant H. Dveirin ¶¶ 5, 11, 12, 14,
7 16);

8 (5) The Defense Parties estimate they will complete discovery by approximately May 18,
9 2015 (Decl. of Brant H. Dveirin ¶ 16);

10 (6) The Defense Parties' discovery is necessary and germane to their opposition Petitioner's
11 motion for summary judgment as well as to Defense Parties intended cross-motions for summary
12 adjudication or judgment (Decl. of Brant H. Dveirin ¶¶ 5, 11); and

13 (7) The Parties have not been able to reach an agreement as to a schedule to allow for the
14 completion of Defense Parties' discovery and scheduling cross-motions for summary adjudication or
15 judgment (Decl. of Brant H. Dveirin ¶¶ 13, 14).

16
17 Dated: February 24, 2015

ARMERUSTER GOLDSMITH & DELVAC LLP

18 By 

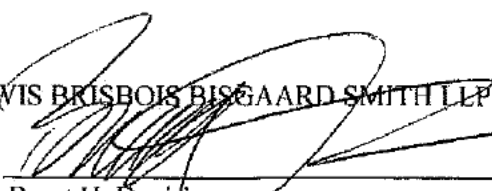
19 R.J. Comer
20 Attorneys for Defendant

21 ROBERT LUGLIANI and DOLORES A. LUGLIANI,
22 as co-trustees of THE LUGLIANI TRUST; THOMAS
23 J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST
U/DO MAY 2, 2012

24 [SIGNATURES CONTINUED ON NEXT PAGE]
25
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27
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1
2 Dated: February 24, 2015

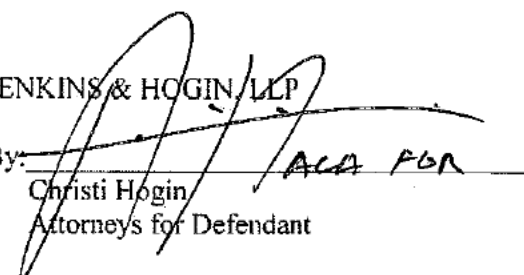
LEWIS BRISBOIS BISGAARD SMITH LLP

3 By: 
4 Brant H. Dveifin
5 Attorneys for Defendant

6 PALOS VERDES HOMES ASSOCIATION

7
8 Dated: February 24, 2015

JENKINS & HOGIN LLP

9 By: 
10 Christi Hogin
11 Attorneys for Defendant

12 CITY OF PALOS VERDES ESTATES

1 **[PROPOSED] ORDER**

2 IT IS HEREBY ORDERED:

3 The March 25, 2015 hearing on Petitioner's motion for summary adjudication or judgment in
4 this matter is hereby taken off-calendar.

5 The April 1, 2015 Case Management Conference is hereby taken off-calendar.

6 A single hearing date for both Petitioners' motion for summary judgment and Defense Parties'
7 cross-motions for summary judgment or adjudication shall be August 27, 2015 at 9:30 a.m. in this
8 Department.

9 The briefing schedule for both Petitioners' motion for summary judgment and Defense Parties'
10 cross-motions for summary judgment or adjudication shall be as follows:

- 11 • Defense Parties' Opposition to Petitioners' motion for summary judgment shall be due
12 on or before August 13, 2015;
- 13 • Defense Parties' cross-motions for summary judgment or adjudication shall be filed and
14 served on or before June 12, 2015;
- 15 • Petitioners' Opposition to Defense Parties' cross-motions for summary judgment or
16 adjudication shall be filed and served on or before August 13, 2015;
- 17 • Petitioners' Reply to Defense Parties' Opposition to Petitioners' motion for summary
18 judgment shall be due on or before August 21, 2015; and
- 19 • Defense Parties' Reply to Petitioners' Opposition to Defense Parties' cross-motions for
20 summary judgment or adjudication shall be filed and served on or before August 21,
21 2015.

22 IT IS SO ORDERED.

23 Dated: _____

24 The Honorable Barbara A. Meiers,
25 Judge of the Superior Court
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27
28

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

DANIEL V. HYDE, SB No. 063365

2 E-Mail: Daniel.Hyde@lewisbrisbois.com

BRANT H. DVEIRIN, SB No. 130621

3 E-Mail: Brant.Dveirin@lewisbrisbois.com

221 North Figueroa Street, Suite 1200

4 Los Angeles, California 90012

Telephone: 213.250.1800

5 Facsimile: 213.250.7900

6 Attorneys for Respondent/Defendant, PALOS VERDES
HOMES ASSOCIATION

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

9 CENTRAL DISTRICT - STANLEY MOSK COURTHOUSE

11 CITIZENS FOR ENFORCEMENT OF
12 PARKLAND COVENANTS, an
unincorporated association; JOHN
HARBISON, an individual,

13 Plaintiff /Petitioners,

14 vs.

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

19 Defendants/Respondents.

20 ROBERT LUGLIANI and DOLORES A.
21 LUGLIANI, as co-trustees of the
LUGLIANA TRUST; THOMAS J. LIEB,
22 TRUSTEE, THE VIA PANORAMA
TRUST,

23 Defendants/Real Parties in Interest.

CASE NO.: BS 142768

JUDGE: Hon. Barbara A. Meiers

DEPT.: 12

**DECLARATION OF BRANT H. DVEIRIN
IN SUPPORT OF *EX PARTE*
APPLICATION AND APPLICATION**

EX PARTE HEARING

DATE: February 26, 2015

TIME: 8:30 a.m.

DEPT.: 12

MOTION FOR SUMMARY ADJUDICATION/ JUDGMENT

Date: March 25, 2015

Time: 10:30 a.m.

Dept.: 12

Petition Filed: May 13, 2013

Trial Date: None Set

27 I, Brant H. Dveirin, declare and state as follows:

28 1. I am an attorney and partner with the law firm of Lewis Brisbois Bisgaard & Smith

4817-3352-1186.2

1 LLP, counsel of record for Defendant/ Respondent, Palos Verdes Homes Association.

2 2. I am personally familiar with the facts set forth in this declaration and if called
3 upon to do so, I could and would competently testify thereto.

4 3. On December 5, 2014 Plaintiffs filed their Motion for Summary Judgment or
5 Summary Adjudication without any prior notice and with no meet and confer with any of the
6 Defendants.

7 4. Thereafter, on December 10, 2014, the parties had a conference call in which they
8 discussed, among other things, the fact that the motion was filed without notice, the need to
9 complete percipient discovery and some expert discovery prior to the filing of their opposition to
10 Plaintiffs' motion and prior to filing any dispositive motions and that Defendants desired to take
11 the depositions of Plaintiffs.

12 5. On December 18, 2015, I sent a letter to Plaintiffs' counsel Jeff Lewis on behalf of
13 all defense counsel confirming our recent conference call and explaining why Defendants believed
14 that Plaintiff's Motion for Summary Judgment or Summary Adjudication is premature and that
15 Defendants have discovery that we need to conduct and my letter confirmed that Plaintiffs'
16 counsel understood that his Motion could be successfully opposed if there is a need for discovery.
17 In my letter I described the fact discovery that we desired to conduct and the fact that we also
18 needed expert discovery. In my letter I proposed a one hundred fifty (150) days extension of the
19 Motion for Summary Judgment or Summary Adjudication, comprised of a ninety (90) days
20 extension for percipient discovery, in addition to sixty (60) days for expert discovery. We
21 proposed setting a briefing schedule for cross-motions for summary judgment. I informed
22 Plaintiffs' counsel that Defendants would go in *ex parte* if we could not reach an agreement on the
23 extension of time and the filing of cross motions. A true and correct copy of my December 18,
24 2014 letter is attached hereto as Exhibit 1.

25 6. On December 19, 2014, Jeff Lewis responded to my letter in an email to all
26 Defense counsel in which he provided deposition dates for his client and suggested that in lieu of

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4817-3352-1186.2

1 expert discovery that any experts provide declarations as part of any motions for summary
2 judgment and oppositions. He agreed to move his Motion for Summary Judgment or Summary
3 Adjudication to a date in March in order to allow us more time to negotiate these issues and
4 requested that we not go in *ex parte* over the Christmas and New Year's holiday, to which all
5 Defendants agreed. A true and correct copy of Plaintiffs' counsel's December 19, 2014 email is
6 attached hereto as Exhibit 2.

7 7. Following the exchange of communications on December 18, 2014 and December
8 19, 2014, Plaintiffs' counsel continued the hearing on his Motion for Summary Adjudication to
9 March 25, 2015.

10 8. On January 16, 2015, I served on behalf of the Defendant Palos Verdes Homes
11 Association, Special Interrogatories and Deposition Notices of both Plaintiffs, Citizens for
12 Enforcement of Parkland Covenants and John Harbison.

13 9. On January 19, 2015, Plaintiffs' counsel sent me a letter and objections to the
14 discovery in which he suggested alternative dates for depositions. A true and correct copy of the
15 January 19, 2015 letter is attached hereto as Exhibit 3.

16 10. On January 19, 2015, I responded by email to Plaintiffs' counsel's email in which
17 we further met and conferred on the discovery and reached an agreement on the depositions being
18 held on March 12 and 13, 2015. A true and correct copy of my January 19, 2015 email is attached
19 hereto as Exhibit 4.

20 11. On January 21 to February 4, 2015, Plaintiffs' counsel and I exchanged emails in
21 which, I stated that his Motion for Summary Judgment or Summary Adjudication would not
22 dispose of all issues in the case, the Defendants intended on not just opposing Plaintiffs' motion
23 but seeking adjudication or judgment as to issues in the case and that the leading practice guide
24 suggested that the better practice was for the parties to file cross-motions whenever possible, as
25 the Court's generally want to hear all issues at one time, as opposed to separate dispositive
26 motions. Plaintiffs' counsel asked what issues we intended to address during the cross motions for

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1 summary judgment, which I outlined in the email which included lack of standing, failure to name
2 an indispensable party, that there is no reverter as a matter of law and the interpretation of all the
3 ancient deeds in light of the property transfers. True and correct copies of the emails are attached
4 hereto as Exhibit 5.

5 12. On January 28, 2015, the Defendants jointly met with two real estate (2) experts,
6 who we collectively agreed to retain. We learned from the experts that after they are retained,
7 they would need at least sixty (60) days to complete the minimal work necessary to provide a
8 declaration for purposes of both Defendant's oppositions to Plaintiffs' Motion, and for
9 Defendants' cross-motion for summary judgment. Defendants are still in the process of retaining
10 the experts, which should be completed this week, and their work can then begin.

11 13. On February 6, 2015, Plaintiffs' counsel responded to my February 4, 2015 email
12 in a letter in which he said that he would not agree to a further continuance of his Motion for
13 Summary Judgment or Summary Adjudication to allow for cross-motions for summary judgment.
14 A true and correct copy of Plaintiffs' counsel's February 6, 2015 letter is attached hereto as
15 Exhibit 6.

16 14. I sent an email to Plaintiffs' counsel asking him to reconsider his February 6, 2015
17 letter and stating again that Defendants were willing to do a Case Management Conference or an
18 *ex parte* to resolve these issues and that we should meet with the Judge as soon as possible ahead
19 of the hearing date to allow sufficient time for the discovery to be completed prior to hearing any
20 dispositive motions. A true and correct copy of my February 6, 2015 email is attached hereto as
21 Exhibit 7.

22 15. Following all of the above, Defendants' and Plaintiffs' counsel agreed to contact
23 the Court to request a Case Management Conference, in response to which the Court requested
24 that the parties appear *ex parte*.

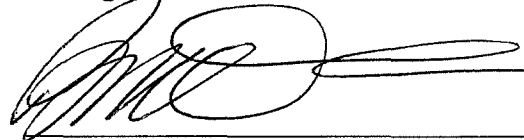
25 16. As stated in my December 18, 2014 letter, Defendants need one hundred fifty (150)
26 days to complete percipient and expert discovery, and are requesting that the Court set a hearing
27 date for cross motions for summary judgment for a date in late August or September 2015. The
28 discovery is both necessary for our opposition to the Motion for Summary Judgment or Summary

4817-3352-1186.2

1 Adjudication, as well as for Defendants' Cross Motion for Summary Adjudication/Judgment.
2 Even the current limited outstanding discovery, special interrogatories and depositions of
3 Plaintiffs, will not be due and completed until the middle of March 2015, after the due date for our
4 opposition to the Motion for Summary Adjudication.

5 I declare under penalty of perjury under the laws of the state of California that the
6 foregoing is true and correct.

7 Executed this 24th day of February, 2015 at Los Angeles, California.

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10 BRANT H. DVEIRIN, Declarant
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**LEWIS
BRISBOIS
BISGAARD
& SMITH LLP**
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BRANT H. DVEIRIN
DIRECT DIAL: 213.580.6317
BRANT.DVEIRIN@LEWISBRISBOIS.COM

December 18, 2014

File No.
50013.1840

VIA EMAIL & U.S. MAIL: Jeff@broedlowlewis.com

Jeffrey Lewis, Esq.
BROEDLOW LEWIS LLP
734 Silver Spur Road, Suite 300
Rolling Hills Estates, CA 90274-3667

Re: Citizens for Enforcement, etc., et al. vs. City of Palos Verdes Estates et al.
LASC Case No.: BS 142 768

Dear Jeff:

This letter follows our recent conference call, regarding your Motion for Summary Adjudication.

As you know, you did not meet and confer with us prior to filing the Motion, which still needs to occur.

Further, as we explained, the Defendants believe the Motion is premature, in that we have discovery we need to take, and as you pointed out during our phone call, you understood that the Motion could be successfully opposed if there is a need for discovery, and you asked the Defendants to inform you of the discovery desired, and the time necessary to complete the discovery. You also stated you may be willing to stipulate to certain facts in lieu of discovery.

The fact or percipient discovery we desire is on at least the following issue:
Standing: who comprises the organization, Citizens for Enforcement of Parkland Covenants and who are all the members, their identity, where they live, which own property within the HOA area, which are residents of the City, tenants, other capacity. We propose sending you special interrogatories. As to the time desired for this fact discovery, assuming preparing the discovery, the responses, and the time for any motions, we estimate that we need at least a three month extension of the hearing date on the Motion.

ATLANTA • BEAUMONT • BOSTON • CHARLESTON • CHICAGO • DALLAS • DENVER • FORT LAUDERDALE • HOUSTON • LA QUINIA • LAWYETTE • LAS VEGAS • LOS ANGELES • MADISON COUNTY
NEW ORLEANS • NEW YORK • NEWARK • ORANGE COUNTY • PHILADELPHIA • PHOENIX • SACRAMENTO • SAN BERNARDINO • SAN DIEGO • SAN FRANCISCO • SEATTLE • TAMPA • TEMECULA • TUCSON

4848-6319-0305.4

EXHIBIT 1

Jeffrey Lewis, Esq.
December 18, 2014
Page 2

During the same time period, we will serve written discovery and take a deposition of John Harbison, on at least the following issues: his use of the subject alleged parkland, his correspondence and communication with third parties related to the issues in the case, and his participation in the public hearing process on the MOU at issue.

Following this limited factual discovery, or possibly concurrently with the fact discovery, we propose the following expert discovery: interpretation of ancient deeds, the effect of the Marketable Title Act on older deeds, the circumstances under which merger of deed covenants occurs. Based on the need for some limited expert discovery, we propose either a further 60 days for expert discovery, in addition to 90 days for fact discovery, or 150 days for all discovery.

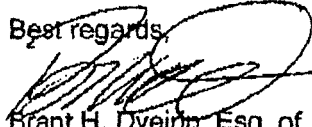
As we also discussed, the Defendants propose setting a briefing schedule for Cross Motions for Summary Judgment by both sides, following the limited fact and expert discovery, with all sides or parties filing opening briefs, and then responding and reply briefs. We propose setting a briefing schedule for Cross Motions following the 150 days for discovery.

Since you have already sent a letter to the court, requesting a trial setting conference, we propose submitting a stipulation to the court in lieu of the TSC, along the lines discussed above, which we will prepare for your review.

Please advise if the above meets with your approval. We need to hear from you on this no later than close of business on Friday December 19, 2014. If we do not hear from you we will move *ex parte* to continue the Motion and set the above dates.

We look forward to hearing from you.

Best regards,


Brant H. Dveihn, Esq. of
LEWIS BRISBOIS BISGAARD & SMITH LLP

BHD/dim

cc:

Daniel V. Hyde, Esq.
Sidney F. Croft, Esq. (via email at: sfcroftlaw@aol.com)
R.J. Comer, Esq. (via email at rij@agd-landuse.com)
Damon Marmalakis, Esq. (via email at damon@agd-landuse.com)
Christi Hogan, Esq. (via email at CHogan@LocalGovLaw.com)
Tarquin Preziosi (via email at tpreziosi@localgovlaw.com)

Dveirin, Brant

From: Jeffrey Lewis <jeff@broedlowlewis.com>
Sent: Friday, December 19, 2014 1:57 PM
To: Dveirin, Brant; R.J. Comer; Damon Mamalakis; Christi Hogin; Tarquin Preziosi
Cc: Hyde, Daniel; sfcroftlaw
Subject: CEPC v. PVE - Deposition and MSJ Dates

Counsel,

I just spoke with Brant regarding last night's letter sent on behalf of defense counsel. One of the issues raised in the letter was the deposition of John Harbison. Mr. Harbison is available for deposition on January 12, 16, 19 or 20. While we work through the remaining issues presented in your letter, would you please check your schedules and advise me which of those dates would be acceptable for a deposition? I would like to lock in a date on all of our calendars before year's end.

I also wanted you to know that I will be out of town next week December 24 - 26. Brant graciously agreed not to schedule any ex parte proceedings for December 24 or 26. Brant and I discussed moving the MSJ hearing date (presently scheduled for Feb. 25) to March 11, 18 or 25. While I understand that date is not far enough out for any of you, the purpose of my agreeing to moving it to March was to avoid the need for anyone to rush to court on an ex parte next week.

We also discussed the subject of expert discovery. I suggested that in lieu of expert discovery (expert demands, exchanges and depositions), defense counsel could simply retain one or more experts to provide opinion declarations in opposition to my MSJ. While I do not agree that such declarations would be relevant or admissible, that may be more expeditious than going through full blown expert discovery process. It is quite likely that my clients will meet your expert declarations with mere objections rather than counter-declaration from our own title experts.

I will be in the office Monday and Tuesday if there is any urgent need to speak before the holidays. However, my intent in agreeing to move the MSJ hearing to March was to avoid any rush to the court on an ex parte next week.

Best regards,

Jeffrey Lewis

BROEDLOW LEWIS LLP

734 Silver Spur Road, Suite 300 | Rolling Hills Estates, CA | 90274
Tel. (310) 935-4001 | Direct (310) 935-4002 | Fax. (310) 872-5389
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Certified Specialist in Appellate Law
The State Bar of California Board of Legal Specialization

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business law • litigation & appellate practitioners

January 19, 2015

VIA E-MAIL (Brant.Dveirin@LewisBrisbois.com) AND CONFIRMED VIA U.S. MAIL

Brant Dveirin, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 North Figueroa Street, Suite 1200
Los Angeles, CA 90012

RE: *Citizens for Enforcement of Parkland Covenants v. City of Palos Verdes Estates*
Los Angeles County Superior Court Case No. BS142768

Dear Brant,

I am in receipt of your deposition notices and interrogatories. As you know, following our productive phone call on December 19, I sent an email that same day to all defense counsel offering to make John Harbison available for deposition on January 12, 16, 19 or 20. No one accepted that offer. On December 30, 2014, you responded to my December 19, 2014 email by asking me for my availability after the week of January 5, 2014 for a conference call with defense counsel to discuss discovery and cross-motions for summary judgment. On January 6, I offered to participate in a discovery conference call requested by you on January 12, 14, 15 or 16. I also referenced my earlier email of December 19 and asked defense counsel to "let me know if any of those dates would work" for plaintiffs' deposition. I also informed you that John Harbison would be "out of the country and unavailable for deposition between February 3 and 23." Nobody responded to my January 6 email. No one accepted my offer to produce Mr. Harbison for deposition on January 12, 14, 15 or 16. No one accepted my offer to have a discovery conference call on January 12, 14, 15 or 16.

It was in this context, that I was quite shocked to receive deposition notices for depositions to be held on Saturday February 7, 2015 and Tuesday, February 17, 2015. Both of those dates fall within the range of dates that I informed you that Mr. Harbison will be out of the country. I would like to think that this was the result of miscommunication and not a deliberate attempt to harass and burden Mr. Harbison. Enclosed please find objections to the deposition notices. Mr. Harbison will not be appearing on February 7 or 17 as he will be out of the country. He could be available to attend deposition on the following dates: January 22, 23 and 27, February 2 or

p: 310.935.4001 f: 310.872.5389
734 Silver Spur Road, Suite 300 | Rolling Hills Estates, CA 90274
broedlowlewis.com

EXHIBIT 3



March 12 and 13. Please be advised that Mr. Harbison will be the "PMK" designated to testify as to the subjects identified in your deposition notice and we would request that you conduct the depositions in his individual and representative capacity concurrently. If you wish to select any of those dates, please let me know this week as my calendar is filling up rapidly. Also, please advise of your willingness to conduct the deposition in the South Bay, perhaps at Ms. Hogin's office? I believe that is more central to the witnesses and attorneys than your downtown office.

As a reminder, I remain willing to enter a factual stipulation that may obviate the need for a deposition or certainly shorten it. For example, in the past we have offered to stipulate regarding the participation (or lack thereof) by Harbison and CEPC at the MOU meetings of the City and Association. Let me know if you want to proceed with this route.

Finally, the Association has served interrogatories asking that the plaintiffs confirm which members are members of the Association. Would you be so kind as to informally produce the Association's current membership list to assist our efforts in responding to the Association's discovery? Please advise.

Thank you,

A handwritten signature in black ink, appearing to read 'Jeffrey Lewis'.

Jeffrey Lewis

Encls. (2)

cc: *VIA EMAIL ONLY*

Christi Hogin, Esq. (CHogin@LocalGovLaw.com)

R.J. Comer, Esq. (RJ@AGD-LandUse.com)

Sidney F. Croft, Esq. (SFCroftLaw@AOL.com)

Dveirin, Brant

From: Dveirin, Brant
Sent: Monday, January 19, 2015 2:20 PM
To: Jeff@BroedlowLewis.com; Jason Ebbens (jason@broedlowlewis.com)
Cc: Damon Mamalakis; Christi Hogin; Hyde, Daniel; Sidney Croft; R. Comer; Hyde, Daniel
Subject: RE: CEPC v. City of PVE

Jeff,

I need to speak to the other counsel in the case, and will get back to you.

I apologize for not recalling that you told us that your client was out of town. The dates I set were convenient for all defense counsel at least, but again I didn't recall knowing your client was out of town. The date of 2/7 was a mistake, it was supposed to be 2/17 and 2/18 for the depositions and clearly not on Saturday.

Yes, we will work with you on other dates. January doesn't work for me.

Yes, if fine with Christi, we can hold the depositions in the South Bay, at her office or your office, and I will get back to you.

Depos of corporate defendants is not subject to the time limit of 7 hours. So that is why that notice is drafted for day to day.

As for categories, I can further define the case number, but I meant knowledge of the case, and settlement of the case that resulted in the MOU.

If CEPC didn't suffer and is not claiming damages, that is fine. Then that category needs no testimony.

Informal discovery works if it can be verified, and may shorten the depositions, but we still will need the depositions and interrogatories. I appreciate your cooperation.

More to follow. Thanks for bringing this to my attention. Call or email me if you have more questions or want to discuss. Brant.



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From: JasonR. Ebbens [<mailto:jason@broedlowlewis.com>]

Sent: Monday, January 19, 2015 12:03 PM

To: Dveirin, Brant

Cc: Damon Mamalakis; Christi Hogin; Hyde, Daniel; Sidney Croft; R. Comer; Hyde, Daniel; Jeffrey Lewis

Subject: CEPC v. City of PVE

Mr. Dveirin,

Attached please find a letter of today's date and two corresponding enclosures. Copies of the same have been sent via U.S. Mail.

Thank you,

Jason R. Ebbens

Paralegal

BROEDLOW LEWIS LLP

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Dveirin, Brant

From: Dveirin, Brant
Sent: Wednesday, February 04, 2015 2:56 PM
To: 'Jeffrey Lewis'
Cc: SFCroftlaw@aol.com; Hyde, Daniel; damon@agd-landuse.com; R.J. Comer; CHogin@LocalGovLaw.com; Tarquin Preziosi
Subject: RE: Jeff, we had our conference call...

Jeff,

All I have consent form the group is for the cross motions, which is the best way for the court to rule on all issues at once – we see little need to split this across 6 months. We obviously want adjudication of our issues – not just a denial of your motion. It is obviously more work for us, as you already have a motion on file, but that is fine. The Judge is going to want to hear these issues only once, and I am certain of that. Practice guides recommend the cross motion route for obvious reasons, so please we need to keep that. We can agree again to the shortened expert discovery with declarations, which you suggested.

As for new issues, as of right now, we intend to seek adjudication at least as to the following: lack of standing, lack of an indispensable party, there is no more reverter as a matter of law, and the interpretation of all the deeds together in light of the property transfers under the MOU, and no nuisance or waste cause of action. This may change, but this is what we are thinking at the moment.

The schedule I proposed is the one that allows us to complete our discovery, expert declarations and draft our cross motion. We are proposing a very reasonable schedule – we are not seeking to create unnecessary delay.

Let me know if fine, and I will send out the stipulation. I look forward to hearing from you. Brant.

From: Jeffrey Lewis [mailto:jeff@broedlowlewis.com]
Sent: Wednesday, February 04, 2015 11:18 AM
To: Dveirin, Brant
Subject: Re: Jeff, we had our conference call...

Brant,

Thank you for the update. So that I can have an informed conversation with my client:

1. What issues do you propose to include in your MSJ that are not already teed up in my motion?
2. Couldn't we accomplish the same result you want by leaving my MSJ on calendar in March and, if my motion is denied, having your MSJ heard in August?

Jeffrey Lewis

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On Feb 4, 2015, at 11:11 AM, Dveirin, Brant <Brant.Dveirin@lewisbrisbois.com> wrote:

Jeff,

I spoke with Damon, and this is what we propose.

Moving the MJS to a date in late August for Cross Motions, and working back from that date for the motions filing date (yours already filed unless you want to revise it), oppositions and reply date and then setting a briefing schedule.

We will agree to handing the expert discovery for the cross motions only on a declaration basis, unless one party, most likely your side, believes in good faith, that a quick expert deposition is truly needed, and we can as necessary adjust the schedule, but maybe that won't be necessary.

I propose, a schedule such as Motions filed end of June, plus 30 days for oppositions to motions, plus 15 days for replies, then the hearing in two to three weeks.

I think this is fair, and should work.

Let me know if fine with you. Brant.

From: Jeffrey Lewis [<mailto:jeff@broedlowlewis.com>]

Sent: Wednesday, January 21, 2015 2:19 PM

To: Dveirin, Brant

Cc: Hyde, Daniel; SFCroftlaw@aol.com; R.J. Comer (rj@agd-landuse.com); damon@agd-landuse.com; CHogin@LocalGovLaw.com; Tarquin Preziosi; Jason Ebbens

Subject: Re: Jeff, we had our conference call...

Brant,

Thank you for accommodating Mr. Harbison's schedule and my request for a South Bay location on the deposition. I have March 12 and 13 on my calendar although I truly believe you should be able to get the deposition done in one day. Regarding the MSJ hearing schedule, I will review and seriously consider any stipulation you send over. I still have my reservations about the need for full blown expert discovery and the timetable you previously proposed seem unnecessarily long.

Jeffrey Lewis

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On Tue, Jan 20, 2015 at 3:24 PM, Dveirin, Brant <Brant.Dveirin@lewisbrisbois.com> wrote:
We all agreed to the deposition dates of March 12 and 13 in your letter, which I will confirm in amended deposition notices. We understand that you will be producing Mr. Harbison as both the individual and as representative of the Association. The 7 hour limit does not pertain to PMK depositions only to individual depositions. Mr. Harbison will be deposed at the same time in both capacities, and it could take longer than one day, although we don't anticipate that at least not initially. Tarquin agreed we can use his office for the depositions. I will send out amended notices for both depositions beginning on March 12 and March 13 with the understanding that you will be producing just Mr. Harbison for both deposition which can go longer than one day. Let me know if this is fine with you.

We still need time to complete the depositions, and also other discovery and expert discovery and the depositions prior to hearing on your msj, and we need to set a schedule that allows for our cross motion for summary judgment.

We propose we enter into a stipulation setting the various dates for discovery cut off and expert discovery cut off, and date for hearing on cross motions for summary judgment and submitting it to the court to be entered as an order, or alternatively to invite the court to order a TSC/CMC. Let me know if you are agreeable to the stipulation and order. We will draft the stipulation. If we cannot agree, we will request the court *ex parte* to set the dates, but we hope that will not be necessary.

We look forward to hearing from you. Regards, Brant Dveirin.



Brant H. Dveirin
Partner
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business law • litigation & appellate practitioners

February 6, 2015

VIA E-MAIL (Brant.Dveirin@LewisBrisbois.com) **AND CONFIRMED VIA U.S. MAIL**

Brant Dveirin, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 North Figueroa Street, Suite 1200
Los Angeles, CA 90012

RE: *Citizens for Enforcement of Parkland Covenants v. City of Palos Verdes Estates*
Los Angeles County Superior Court Case No. BS142768

Dear Brant,

I was able to touch base with John and Renata Harbison before they left the country. I'm sorry, but we are not in agreement to further postpone the MSJ hearing. We think the issues in our motion are dispositive of the case and will moot the issues you have described for your cross-MSJ. We also believe that every issue that you want to raise in your cross-MSJ could be sufficiently raised in opposition to our MSJ. Perhaps we should request that the court set a case management conference to address these issues.

On an unrelated note, you have served me with discovery which require a response on February 20. I was unable to obtain signed verifications before the Harbisons left the country. Therefore, I would like an extension until February 30 to obtain the verifications and finalize the discovery responses.

Very truly yours,

Jeffrey Lewis

cc: *VIA EMAIL ONLY*

Christi Hogin, Esq. (CHogin@LocalGovLaw.com)
R.J. Comer, Esq. (RJ@AGD-LandUse.com)
Sidney F. Croft, Esq. (SFCroftLaw@AOL.com)

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broedlowlewis.com

EXHIBIT 6

Dveirin, Brant

From: Dveirin, Brant
Sent: Friday, February 06, 2015 12:45 PM
To: 'Jason R. Ebbens'
Cc: Christi Hogin; R. Comer; Damon Mamalakis; Sidney F. Croft; Jeffrey Lewis; Hyde, Daniel
Subject: RE: CEPC v. City og PVE, et al.

Jeff;

Thank you for your letter. Please reconsider, as one, we need at least 60 days with our experts, who are in the process of still being retained. Secondly, your motion is only for summary adjudication, not judgment, and we cannot get judgment in our favor without a motion of our own. Third, no judge will want to hear successive motions if all the issues can be heard on the same date. I am not opposed to a CMC or an *ex parte* to resolve these issues, but I think a stipulated order would work better and show that we can at least agree on a process that would also be in the court's interest. So, I am asking you to please reconsider. If you still hold fast to "no" and want a CMC, you need let me know that you consent to me or another defendant calling the court on behalf of all parties to see if she will set a CMC for next week or wants an *ex parte*. Please. I appreciate your attention to this and look forward to hearing from you. Also, please include Dan Hyde from my office in future correspondence in addition to me. All the best, Brant.



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From: Jason R. Ebbens [<mailto:jason@broedlowlewis.com>]
Sent: Friday, February 06, 2015 12:02 PM
To: Dveirin, Brant
Cc: Christi Hogin; R. Comer; Damon Mamalakis; Sidney F. Croft; Jeffrey Lewis
Subject: CEPC v. City og PVE, et al.

Mr. Dveirin,

Attached please find a letter of today's date. A copy of the same has been sent via U.S. Mail.

Thank you,

Jason R. Ebbens

Paralegal

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8 Email: damon@agd-landuse.com

9 Attorneys for Defendants
10 ROBERT LUGLIANI and DOLORES A.LUGLIANI,
11 as co-trustees of THE LUGLIANI TRUST,
12 THOMAS J. LIEB, TRUSTEE,
13 THE VIA PANORAMA TRUST

14 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **IN AND FOR THE COUNTY OF LOS ANGELES**

16 CITIZENS FOR ENFORCEMENT OF
17 PARKLAND COVENANTS and JOHN
18 HARBISON,

19 Petitioners,

20 vs.

21 CITY OF PALOS VERDES ESTATES, a
22 municipal corporation; PALOS VERDES HOMES
23 ASSOCIATION, a California corporation;
24 ROBERT LUGLIANI and DOLORES A.
25 LUGLIANI, as co-trustees of THE LUGLIANI
26 TRUST; THOMAS J. LIEB, TRUSTEE, THE VIA
27 PANORAMA TRUST U/DO MAY 2, 2012 and
28 DOES 1 through 20

Defendants.

Case No.: BS142768

**PROOF OF SERVICE RE JOINT EX
PARTE**

Hon. Barbara A. Meiers
Dept. 12

Petition Filed: May 13, 2013
Ex Parte Date: Feb. 26, 2015 8:30 a.m.
Trial Date: None Set

Motion for Summary Adjudication or Judgment
Hearing Date: March 25, 2015
Time: 10:30 AM
Department: 12

PROOF OF SERVICE

I am a resident in the State of California. I am over the age of 18 and not a party to the within action. My business address is 11611 San Vicente Blvd., Suite 900, Los Angeles, California 90049. On February 24, 2015, I served the within Documents:

- (1) JOINT EX PARTE APPLICATION TO SET BRIEFING SCHEDULE AND A SINGLE HEARING DATE FOR MOTION FOR SUMMARY JUDGMENT/ADJUDICATION AND CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION; [PROPOSED] ORDER**
(2) DECLARATION OF BRANT H. DVEIRIN

- ☒ By transmitting the document(s) listed above via email to the person(s) named on the attached Service List at the respective email addresses next to their names, on this date before 5:00 p.m. and receiving confirmed transmission reports indicating that the document(s) were successfully transmitted.
- ☒ By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth on the attached Service List, to those persons indicated on the attached Service List.
- ☒ By causing overnight delivery by Federal Express of the document(s) listed above, addressed as set forth on the attached Service List, to those person(s) indicated on the attached Service List.
- ☐ By causing personal delivery by messenger service of the document(s) listed above, addressed as set forth on the attached Service List, to each of the person(s) named on the attached Service List.
- ☐ By personally delivering the document(s) listed above to each of the person(s) named on the attached Service List, at their respective addresses set forth on the attached Service List.

SEE ATTACHED SERVICE LIST

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- ☒ (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 that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 24, 2015, at Los Angeles, California.

Stephanie Ortega
(Type or print name)


(Signature)

SERVICE LIST**VIA EMAIL AND FEDEX**

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DOCUMENT(S) SENT

(1) JOINT EX PARTE APPLICATION TO SET BRIEFING SCHEDULE AND A SINGLE HEARING DATE FOR MOTION FOR SUMMARY JUDGMENT/ADJUDICATION AND CROSS-MOTIONS FOR SUMMARY JUDGMENT/ADJUDICATION; [PROPOSED] ORDER

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