

**A MESSY SITUATION CAUSING PALOS VERDES ESTATES PROPERTY OWNERS TO QUESTION LEGALITY**  
**PVE CITY COUNCIL MEETING MARCH 12, 2013 rev**

**THE ISSUE IS SIMPLE.**

The City of Palos Verdes Estates City Council (PVECC) in cooperation (or collusion) with the Palos Verdes Homes Association (PVHA) has done what PVE private property owners call an **“Illegal conveyance of 1.7 acres of very valuable PVE Parkland to a private party”**. It seems like that conclusion is accurate as the deeds state all Parkland is to be held in perpetuity for the owners of private property in PVE.

NOTE - All actual pages **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** recorded July 21<sup>st</sup>, 1926 by Bank of America, **“Declaration No. 25 Of Establishment”** of **“Local Protective Restrictions, Conditions, Covenants, Reservations, Liens, and Charges Affecting The Real Property Known As TRACT 8652, MONTEMALAGA, PALOS VERDES ESTATES, et al”** (includes Via Panorama) are attached to this Summary.

The illegal transaction was accomplished in 2012 by transferring the Parkland to the private party for \$500,000, while additionally requiring the private party to make a \$1.5 million donation to the Palos Verdes Peninsula School District. Certainly a benefit to the School District but obviously no benefit to the private property owners of PVE.

It was an intricate, convoluted, and complex transaction with steps seemingly designed to confuse. Further it appears California “Brown Act” notification responsibilities were violated as the transaction was unknown to the owners of private property in PVE until the rezoning application was filed six months later.

The illegal transaction is attempted to be explained in a “Memorandum of Understanding” (MOU), approved by the City Council 07/24/12. That MOU & other pertinent documents and photos can be found on the website <http://www.pveopenspace.com>.

This transaction does not meet the requirements of the **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** which by law “Run with the Land”. In PVE all such restrictions were specifically transferred and binding on all Grantees in all recorded deeds. Such “Deed Restrictions” are perpetual and ever-lasting under law unless the processes for change of duration or modification in the deeds are followed.

The processes for change were not followed thus they have not changed. Therefore Parkland cannot be sold to a private party. **The transaction was illegal.**

Both of these processes for change are explicitly addressed in the **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** booklets; specifically in this transaction Tracts 8652 in the following recorded deeds (Copies of all such deeds may be downloaded from the website <http://www.pveopenspace.com>).

- **The Bank of America Deed of Trust Indenture**, including Declarations, recorded October 18, 1924 is the founding document of PVE as printed in all pertinent booklets for all Tracts which are entitled **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”**.
- **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** deed recorded July 21<sup>st</sup>, 1926 by Bank of America, “Declaration No. 25 Of Establishment” of “Local Protective Restrictions, Conditions, Covenants, Reservations, Liens, and Charges Affecting The Real Property Known As TRACT 8652, MONTEMALAGA, PALOS VERDES ESTATES, et al” (includes Via Panorama)
- **The Bank of America Quit Claim deed** transferring all Parkland to the PVHA recorded June 14, 1940
- **The PVE City Council Resolution accepting title of Parklands, etc.,** was adopted June 12, 1940 and the deed recorded June 14, 1940.

All **“Restrictions, Conditions, Covenants, Liens, and Charges”** are explicit in all four of the foregoing documents and include the referenced sections pursuant to both **“Duration of the Restrictions”** and the process for **“Modification of Restrictions”**. Each and every document includes the wording that all “Restrictions, et al” are binding not only to the original Grantor **but on all Grantees**. That means that both the PVECC and PVHA have these fiduciary responsibilities to protect and maintain the Parklands for the private property owners of PVE.

**They have disregarded those responsibilities.**

The **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** booklet pertinent to Tract 8652 states very clearly in **Declaration 25 Article VI Page 38 Section 1 “Duration of Restrictions”** *all of the restrictions, conditions, covenants, liens, charges set forth in this declaration of restrictions shall continue and remain in full force and effect at all times against said property and the owners thereof, subject to the right of change or modification provided for in Section 2 and 3 of Article VI hereof, until January 1, 1960, and shall as then in force be continued automatically and without further notice from that time for a period of twenty years, and thereafter for successive periods of twenty years each without limitation unless within the six months prior to January 1, 1960, or within the six months prior to the expiration of any successive twenty-year period thereafter a written agreement executed by the then record owners of more than one-half in area of said property, et al”.*

Further in **Declaration 25 Article VI Page 38 Section 2 and 3 “Modification of Basic Restrictions”** and **“Modification of Other Restrictions”** we reference the processes for change of “Conditions, Restrictions, Covenants, Liens and Charges”.

It is **EXPLICIT** in Section 2 “Basic Restrictions” that “Amendment, change, modification or termination of any of the conditions, restrictions, reservations, covenants, liens, charges set forth, et al, **can only be made** “by mutual written agreement with the then owners of record in “a recorded deed of not less than ninety (90) per cent in area of said property and with not less than eighty (80) per cent of all of the then owners of record title of said property et al”.

It is **EXPLICIT** in Section 3 “Other Restrictions” that change of “Any of the conditions, restrictions, covenant, reservations, liens, or charges, et al **can only be made** “provided, however, that in either case no change or modification shall be made without the written consent duly executed and recorded of the owners of record of not less than two-thirds of all lands held in private ownership within three hundred feet in any direction of the property concerning which modification of change is sought to be made, et al”.

**\*\*NEITHER OF THESE THREE ABOVE NECESSARY ACTIONS WERE TAKEN AS TO THE VIA PANORAMA PARKLAND\*\***

It is **CONCLUSIVE** in law; the **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** and all recorded deeds that PVE Parkland cannot be sold, conveyed, or transferred to a private owner or to anyone without taking the actions as defined in the above two paragraphs with any requested change or modification approved by such process. **The transaction was illegal.**

**BUT THEY DID IT ANYWAY!** Why proper processes were not followed?

The solution is in the **“PROTECTIVE RESTRICTIONS” Declaration 25 Article VI Page 39 Section 6 “Reversion of Title”**.

Section 12 **“Reversion of Title”** states “Each and all of said restrictions, conditions, covenants, reservations, liens, and charges is and are for the benefit of each owner of land (or any interest therein) in said property and they and each thereof shall inure to and pass with each and every parcel of said property, shall apply to and bind the respective successors in interest of Bank of America. And further reads “A breach of any of the “Restrictions, Conditions, and Covenant hereby established shall cause the real property upon which breach occurs to revert to Bank of America, or its successors in interest, as owners of the reversionary rights herein provided for, et al”.

Therefore since the 2012 conversion of PVE Parkland to private ownership was illegal and hence **being a specific breach** of the **“PROTECTIVE RESTRICTIONS PALOS VERDES ESTATES”** and **all recorded deeds** as provided for in Declaration 25, Article VI Page 40 Section 6, **the process of “Reversion of Title” must be effected by the PVECC without delay.**

For certainty of the **BREACH** creating the illegality see the **PVE City Council minutes from 1939/1940 starting with page 334 from that minutes book.** These are available for review by the public at the PVHA office.

**In the Council minutes of November 01, 08, and December 20, 1939, and the minutes of January 24 and February, 1940** are documented discussions and motions as to **how to properly convey or deed the parkland properties to the City of PVE with the “Protective Restrictions”.**

**The Council minutes of June 14, 1940;** specifically the formal Quit Claim of the Parklands, golf course, etc, made by Bank of America to the PVHA and the PVE City Council Resolution of June 12, 1940 **start with page 334 of the Council minute book.**

- **The first 3 pages** are the beginning of the Bank of America Quit Claim deed
- **Pages numbered three, four and five** are the first pages of the Quit Claim and describe what was being quit claimed, **pages six and part of seven** is the PVE City Council Resolution 12 authorizing the City of PVE to accept title which passed June 12, 1940
- **Pages seven, eight, nine, ten, and part of eleven** are the grant to the PVHA to the City of PVE of that certain real property (parklands, golf course, etc).
- **Pages eleven and twelve** are the definition and statement to that *“This conveyance is made and accepted by the City of PVE and said realty is hereby granted subject to each of the following provisions, restrictions, and covenants, to-wit”.*
- **On page twelve** it states *“Each and every provision, condition, restriction, lien, charge, easement, and covenant contained in the “Declaration of Establishment of Basic Protective Restrictions” executed by, et al, is “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”*

#### **WHAT COULD BE CLEARER AS TO FUTURE FIDUCIARY RESPONSIBILITY?**

**There is growing rage in the community of PVE** as not only is the transfer of the 1.7 acres illegal to make matters worse the private party has now submitted

**Application Number: Agenda Item ZC-2M-902-13** of the 03/12/13 meeting of the PVE City Council requesting a Zone Change of the acreage to R-1 Family Residential plus a Miscellaneous Application for walls exceeding the maximum allowable height.

**As the transaction transferring the Parkland is illegal rezoning to R-1 would be compounding the illegality!**

But as the Planning commission of PVE recommended unanimously that Application ZC-2/M-902-13 rezoning to FR-1 NOT be approved perhaps reason in the governance areas will now prevail within the PVECC.

We have specifically clarified why the Parkland transaction is illegal. We have questioned the complexity and the purpose of the MOU and the strangely interesting movement of monies, both being done in a seemingly unnecessary number of convoluted and intricate ways that could open the participating private and public entities to scrutiny for collusion to avoid real estate and personal taxes.

**IT IS CONCLUSIVE THAT THE PVE CC MUST NOT APPROVE THE R-1 REZONING REQUEST  
AND START THE "REVERSION OF TITLE "PROCESS ASAP.**

*If the foregoing is not soon accomplished and the law suits start it is certainly possible the Franchise Tax Board, IRS and the Attorney General of the State of California will see a need to investigate both PVE and PVHA.*

**WE DO NOT NEED SUCH BAD PUBLICITY AS HAS HAPPENED TO OTHER CITIES IN OUR STATE!**

See the website <http://www.pveopenspace.com> for all references and documents not attached to this newsletter.

Please visit, sign the petition, and post any comments you wish on the web site.