

Timeline and Summary of Via Panorama Parkland Sale Dispute

- **1975:** Lugliani buys residence at 900 Via Panorama (1.8 acres and comprised of two parcels).
- **1975-2005:** Lugliani builds extensive encroachments on 1.7 acres of adjacent parkland for his own private use. Encroachments include sports field, gazebos, walls, (including one approximately 22 feet high), steps, paved driveway, a wrought iron fence and gate with 9 foot pillars and lion statues, extensive plantings (including a row of trees now 50 feet tall.)
- **2005:** PVE sends notice to 40 homeowners (including Lugliani) to remove encroachments and gives everyone 5 years to remedy. All but Lugliani and one other homeowner comply.
- **2006-2010:** PVE sends reminder notice each year, and 3 months before the deadline for compliance; all notices are ignored.
- **2010:** PVE (or Lugliani) bring in bulldozers to remove encroachments at parkland next to 900 Via Panorama; Lugliani threatens suit if ground made unstable by removing 22 foot wall, and demolition stops.
- **August 2011:** PVHA wins lawsuit reaffirming the Protective Restrictions and deeds; PVPUSD appeals decision and PVHA appeals for reimbursement for legal fees, which had been denied.
- **Late 2011** Frank Zerunyan, on behalf of Lugliani, proposes MOU which eventually covers:
 - Lugliani gives \$1.5 M charitable gift to PVPUSD
 - PVPUSD drops appeal of lawsuit with PVHA over Lots C&D sale, and agrees not to sell school property for development
 - PVPUSD agrees to incentive to NOT put lights at PVHS
 - Lots C&D revert to PVHA; PVE and PVHA swap 1.7 acres of Via Panorama Parkland for Lots C&D (# acres)
 - **PVHA sells the 1.7 acres on Via Panorama to Lugliani for \$500,000;** PVHA transfers \$100,000 of these proceeds to PVE
- **May 2012** MOU unanimously approved by PVE City Council, PVHA and PVPUSD; no prior notice given in newspapers, no signs and no mailing sent despite unprecedented sale of parkland
- **January 2013:** Sign is posted at Via Panorama parkland proposing Rezoning from OS to R-1 Residential; no one in the neighborhood was aware of the 2012 sale prior to this
- **January 2013:** Notices sent to homeowners within 300 feet of the parkland property to be re-zoned; however, the original measurement was not done properly as our property was not included initially and our property lies within 300 feet of the parkland.
- **2/19/13:** Large crowd comes to Planning Commission to oppose rezoning; Planning Commission denies rezoning.
- **3/12/13:** 100 signed letters in opposition and crowd of over 150 come to PVE City Council Meeting. PVE CC postpones decision, and City Attorney recommends creating a new category of "Privately Owned Open Space" which would specifically allow the promised encroachments (driveway, pillars, sports field, gazebo, BBQ) but no habitable structures.
- **March – May 2013:** PVHA unresponsive to attempts to engage in dialogue and explain their reversal on the covenants
- **May 2013:** Citizens for Enforcement of Parkland Covenants (CEPC) formed and lawsuit filed but not served as attempts to reverse the sale without court intervention continues.
- **June 2013:** after a two-month delay by defendants, PVHA, PVE and PVPUSD agree to meet with CEPC but there is no resolution. Lawsuit then served.

- After defendants delay hearing by two months, they file a demurrer which adds another three months to the process. PVHA stipulates in their brief that they have the **"right but not the duty"** to enforce the restrictive covenants, thus transforming what we believe is their obligation to maintain all parkland for public use "forever" as discretionary; the sale of parkland to private owners fell under this "discretionary" power. The City has argued that they have no duty to enforce the restrictions, even though they passed a resolution in 2005 indicating otherwise and that the City has full **"police power"** and hence has no obligation to be bound by the deed restrictions that they freely and openly accepted when they received the property in 1940.
- We of course disagree with these arguments, and further find it disturbing that the City of PVE and the PVHA are embracing such disregard for the public interest by selectively enforcing the law -- thus signaling that **no parkland is safe from being sold**. The encroachments built on this property over the past 38 years by the resident who purchased the parkland are also clearly in violation of PVE Municipal Code.
- **10/28/13**: Court hears Writ Mandamus demurrer on one of the counts in November. Judge O'Brien finds for defendants, but gives CEPC leave to amend.
- **11/7/13**: CEPC files Amended Petition
- **11/19/13 PVE submitted a draft of a new Housing Element plan to the state** that asserted that parkland CC&Rs would not allow other uses of that land (including low income housing). So the City is using the CC&Rs when it suits them, and then ignoring them when it does not suit them.
- **1/3/14**: The scope of the hearing was very narrow: Judge O'Brien only ruled on one of several claims and did not, for example, rule on whether the sale of public parkland to a private person constitutes an "ultra vires" act in violation of the law. Judge announced that he intended to sustain the demurrer on the writ of mandamus claim because he "did not see evidence of a ministerial duty" which required PVE City and PVHA to follow the protective restrictions. The PVHA had argued that they had the "right but not the duty" to follow the CC&Rs, and they based this on the word "shall" in the CC&Rs claiming that it actually means "may" and hence is optional. The Judge apparently accepted that argument, much to our surprise and amazement. Contrary to the belief held by many members of our community, **the PVHA and City have now gone on record as stating the enforcement of land use restrictions is a matter of discretion**.
- **1/14/14: PVHA annual meeting held**; several dozen people attended the annual meeting. Statements were made by CEPC supporters. Thirty-six ballots counted as "no" for re-election of Board; since there was no quorum, existing slate of directors continued their service.
- **3/10/14: CEPC decides to seek appellate review of this decision**. Three justices of the court of appeal will review Judge O'Brien's decision. Note that the demurrer only covers 1 of the 3 counts in our original petition. Note, this appeal was eventually delayed until the other counts have been adjudicated
- **3/28/14 Letter to PVHA Board clarifying the legal basis for the CEPC lawsuit**; it pointed out that the information in the 1940 deeds (that had been illegally withheld from the discovery process by the PVHA and PVE City) clearly proved that PVHA had to abide by the stronger restrictions it placed on the property when it wrote those restrictions into the 1940 deed transferring parklands, including the Via Panorama Parkland to the City of PVE. Under those more stringent restrictions, the property must "be used and administered forever for park and/or recreation purposes only" and "shall not be sold or conveyed, in whole or in part, ... except to a body suitably constituted by law to take, hold, maintain and regulate public

parks." Further, it binds all future owners (including PVHA) of the property to those restrictions. Therefore, PVHA clearly acted illegally by selling the property to a private individual for his own private playground.

- **4/11/14 Tentative Ruling by Court on Defendants' Demurrers and Motions to Strike.** This tentative ruling reflects Judge Meiers' first impressions on the case, and the merits of the arguments presented.
- **6/17/14 Second Amended Petition:** This condensed document restates and clarifies the multiple legal documents previously filed by CEPC and are included in the website. The Judge asked CEPC to condense arguments and focus on the legal basis of the sale of parklands based on the written restrictions in the deeds and Protective Restrictions -- CEPC complied. It is simpler to follow, and it will be the basis upon which the Court rules.
- **11/4/14 Defendant Responses to Special Interrogatories, Requests for Production and Requests for Admission.** As we proceed to the next stage of trial preparation, CEPC asked defendants to confirm certain "facts" so that the trial process is more efficient. This summary presents the responses by the three defendants to each of the requests. We found the degree of denial of the obvious somewhat shocking, but you should form your own conclusions. What document
- **11/4/14 Court Ruling on Defendants' Demurrers and Motions to Strike.** Since June 2014, the City of Palos Verdes Estates, the Palos Verdes Homeowners Association and the Luglianis have filed a series of legal challenges to our lawsuit asking that the case be dismissed without a trial. On November 4, 2014, Judge Barbara Meiers denied these challenges and ruled that our lawsuit has sufficient merit to move forward to a trial.
- **12/5/2014 CEPC Files Motion for Summary Judgment:** The purpose of the motion is ask Judge Meiers to rule on the central legal question of our lawsuit: do the City of Palos Verdes Estates and/or the Palos Verdes Homes Association have the power to sell public parkland to a private party? The motion is scheduled to be heard in February.
- **12/16/2014 Defendants send letter indicating they plan on citing the Marketable Title Act as justification** that they do not need to honor and follow deeds. What is interesting about this strategy is that PVHA (with the same Board Members) successfully won a suit wherein they argued that the Marketable Title Act does not apply. Now PVHA is arguing that they should be allowed to sell under the Marketable Title Act. This reversal flies in the face of the doctrine of judicial estoppel (which means that once you have taken a position in litigation and prevailed you may not thereafter take the opposite position).
- **1/13/15 Speeches made at PVHA Annual Meeting by a group of concerned residents.** Again, no quorum established; existing directors continue to serve.
- **2/26/15 Ex Parte Application to Set Briefing Schedule and Single Hearing Date for Motion for Summary Judgement:** This filing by defendants was submitted to delay the next stage in trial.
- **3/5/15 Second Ex Parte Application to Set Briefing Schedule and Single Hearing Date for Motion for Summary Judgment:** This second filing by defendants was submitted again to delay the next stage in trial.
- **3/13/13 Defendant City of PVE Files Cross-Motion for MSJ to be removed from the case**
- **5/15/15 Defendants submit their responses to our MSJ.**
- **5/22/15 Defendant City of PVE Reply in support of their MSJ.**
- **5/22/15 CEPC Reply to Defendants Arguments.**
- **5/26/15 Defendants Objected to Facts Introduced by Plaintiffs,** by filing three additional documents.

- **5/29/15 Court Hearing on Motion for Summary Judgment.** Judge Barbara Meiers indicated a tentative ruling in favor of CEPC.
- **6/4/15 PVHA Intent Clarified.** The Defendants have argued that PVHA has full authority to interpret the intent of PVHA when it transferred parklands to PVE in 1940 including the "forever parklands' clauses in those deeds. The Judge stated that she did not think they have that latitude. On this day we obtained (through a public records request) a letter in August 2010 from Sid Croft, the attorney for PVHA, in which he stated the PVHA was strongly opposed to re-zoning Lots C & D. In his letter, Croft quoted and attached a letter written in 1940 by Charles Henry Cheney, one of the original architects for the Palos Verdes Project in the 1920s. In that letter, Cheney speaks passionately that "our park system is the central feature and most distinguishing feature of the city plan."
- **6/9/15 Comments at PVE City Council Meeting by concerned members of our community**
- **6/29/15 Court Rules in Favor of CEPC's Motion for Summary Judgment.**
- **7/6/15 Harbison Sends Letters to PVE City Council and PV Homes Association** encouraging them to be well informed before deciding on whether to appeal
- **7/9/15 Harbison Sends Letter to PVE City Council members** to correct inaccuracies in the statements of the City Attorney in the *Peninsula News* article published on this date
- **7/14/15 Comments from the public and City Council on CEPC case.** There were two speeches made by members of the public
- **10/9/15 PVHA Board Holds Special Meeting to Discuss CEPC Case:** This meeting was not noticed to the public, as required by the Davis Stirling Act.
- **10/13/15 PVHA Files Declaration with Court that Board has Voted to Appeal:** PVHA's in-house attorney, Sid Croft, filed a declaration by the PVHA with the court. That declaration revealed that a special meeting of the PVHA Board had been held on Friday, October 9th and that "the Board decided to appeal the Judgment, and also to pursue a stay of enforcement of the Judgment pending appeal from the trial court" and "and "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."
- **10/13/15 PVE City Council Considers Appeal and Takes no Action:** PVE City Council met in closed session at 6:00 pm to discuss the CEPC litigation and possibility of appeal. About 20 residents attended, 12 of whom spoke; all speakers urged the City Councilmembers not to appeal; in addition, there were about 20 letters that had been submitted to the council members also urging them not to appeal. The Council went into closed session after the public was heard, and when they appeared again in open session, the city attorney announced, "No action was taken." No information on voting was disclosed.
- **10/19/15 PVHA Board Contradicts Its Court Declaration and Issues Letter Saying it Has not Voted on Appeal:** In a stunning contradiction, PVHA claims that the Declaration to the Court filed by its attorney was incorrect, and that the Board had not voted to appeal the case. They announce an opportunity for the public to express their concerns on 10/27.
- **10/27/15 PVHA Board Holds Public Meeting and Adjourns to Closed Session Without Announcing a Decision:** About 30 people attended and 13 spoke -- all were urging that the PVHA to accept the ruling and not appeal.
- **10/27/15 PVE City Council Again Considers Appeal and Takes no Action:** PVE City Council met once again in closed session. About 20 people attended and 12 spoke -- all urged that the City Council accept the ruling and not appeal. The Council went into closed session after the public was heard, and when they appeared again in open

session, the city attorney announced, “No action was taken.” No information on voting was disclosed.

- **11/5/15 PVHA Announces Decision to Appeal**
- **11/10/15 PVE City Council Announces Unanimous Decision to Appeal**

151 people have submitted letters in opposition to this transaction since the start of the rezoning process. This includes **133 PVE Residents; 104 PVE residents not from the immediate neighborhood** – unusual for PVE where most issues are “not in my backyard.”

For details and all documents, see <http://www.pveopenspace.com>

