

No.

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION P

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CITIZENS FOR ENFORCEMENT OF PARKLAND COVENANTS  
*Petitioner,*

v.

SUPERIOR COURT OF THE COUNTY OF LOS ANGELES,  
*Respondent,*

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CITY OF PALOS VERDES ESTATES and PALOS VERDES HOMES  
ASSOCIATION,

*Real Parties in Interest.*

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Proceedings of the Los Angeles County Superior Court  
Case No. BS142768 • Hon. Robert H. O'Brien, Judge Presiding

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APPENDIX IN SUPPORT OF PETITION FOR WRIT OF MANDATE  
OR OTHER APPROPRIATE RELIEF  
VOULME 2 OF 2

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Jeffrey Lewis, Bar No. 183934  
Kelly Broedlow Dunagan, Bar No. 210852  
**BROEDLOW LEWIS LLP**  
734 Silver Spur Road, Suite 300 • Rolling Hills Estates, CA 90274  
Tel. (310) 935-4001 • Fax. (310) 872-5389 • E-Mail: [Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

Attorneys for Petitioner  
Citizens for Enforcement of Parkland Covenants

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1 CHRISTI HOGIN, State Bar No. 138649  
City Attorney, City of Palos Verdes Estates  
2 GREGG KOVACEVICH, State Bar No. 181295  
**JENKINS & HOGIN, LLP**  
3 Manhattan Towers  
1230 Rosecrans Avenue, Suite 110  
4 Manhattan Beach, California 90266  
Telephone: (310) 643-8448  
5 Facsimile: (310) 643-8441  
Email: CHogin@LocalGovLaw.com

Exempt from fees pursuant  
to Government Code § 6103

6 Attorneys for Defendant/Respondent  
7 City of Palos Verdes Estates

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES—CENTRAL DISTRICT  
10

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

14 Plaintiffs and Petitioners,

15 v.

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

18 Defendants and Respondents,  
19

20 ROBERT LUGLIANI and DOLORES A.  
21 LUGLIANI, as co-trustees of THE  
LUGLIANI TRUST; THOMAS J. LIEB,  
22 TRUSTEE, THE VIA PANORAMA TRUST  
U/DO MAY 2, 2012 and DOES 1 through  
23 20,

24 Defendants and Real Parties in  
Interest.

CASE NO. BS142768

**CITY OF PALOS VERDES ESTATES'  
NOTICE OF DEMURRER AND  
DEMURRER TO FIRST AMENDED  
PETITION FOR WRIT OF MANDATE  
AND COMPLAINT; MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

Date: January 3, 2014  
Time: 1:30 p.m.  
Dept.: 86

Hon. Joanne O'Donnell

Petition and Complaint Filed: May 13, 2013

25 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

26 PLEASE TAKE NOTICE THAT on January 3, 2014, at 1:30 p.m., or as soon thereafter  
27 as the matter may be heard, in Department 86 of the Superior Court of the State of California,  
28

1 Los Angeles County, located at 111 N. Hill St., Los Angeles, California, Respondent and  
2 Defendant City of Palos Verdes Estates (the "City") will and hereby does demur to the  
3 Verified First Amended Petition for Writ of Mandate and Complaint for Injunctive Relief  
4 ("Petition" or "FAP") filed by Citizens for Enforcement of Parkland Covenants and John  
5 Harbison (together, "Plaintiffs" or "Petitioners") in its entirety.

6 **DEMURRERS**

7 1. The First Cause of Action for declaratory relief fails to state a cause of action  
8 because it fails to set forth the ultimate facts of a justiciable controversy on which the court  
9 could grant the declaratory relief.

10 2. The Second Cause of Action to enjoin alleged waste of public funds and *ultra*  
11 *vires* actions by the City does not plead facts sufficient to state a cause of action because the  
12 City's actions complained of are entirely legal and within its sole discretion. Code Civ. Proc.  
13 § 430.10, subd. (e).

14 3. The Third Cause of Action for peremptory writ of mandate does not plead facts  
15 sufficient to state a cause of action because enforcement of privately place deed restrictions is  
16 not a governmental function and the City cannot be compelled to exercise its discretion in any  
17 particular manner when deciding how to deal with alleged code violations. Code Civ. Proc. §  
18 430.10, subd. (e).

19 The demurrers are based upon the accompanying memorandum of points and  
20 authorities, all matters upon which judicial notice should or may be taken, the records,  
21 pleadings, and documents on file in this action, and such further argument and evidence as  
22 may be presented at the time of the hearing.

23 DATED: December 4, 2013

Respectfully submitted,

24  
25 By: 

Christi Hugin  
Gregg Kovacevich  
JENKINS & HOGIN, LLP  
Attorneys for Respondent/Defendant  
CITY OF PALOS VERDES ESTATES



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## I. INTRODUCTION

Plaintiff Citizens for Enforcement of Parkland Covenants was given leave to amend its petition and complaint through which it seeks to undo a series of real property conveyances among Defendants and Real Parties in Interest. The First Amended Petition and Complaint (“FAP”) adds a new plaintiff (John Harbison) and, for reasons unknown, removes the Palos Verdes Peninsula Unified School District (the “District”) as a defendant even though the District was a key player in the transaction Plaintiffs seek to unwind. The FAP also includes several new allegations, nearly all of which simply mirror unsuccessful arguments plaintiff made in opposition to the initial demurrers by the City and the other parties. Consequently, the new allegations add virtually nothing to the case and fail to cure the defects that rendered the original petition and complaint susceptible to demurrer.

As discussed in the City’s demurrer to the original petition and complaint, Plaintiffs oppose certain political decisions of the City Council and claims that these decisions – the proposed rezoning of property and the requested approval of after-the-fact permits for retaining walls – would be “*ultra vires*,” beyond the City’s authority. The lynchpin of Plaintiffs’ contention is that the City’s actions might violate private deed restrictions. Through this action, Plaintiffs seek to have the court stop the City from exercising its legislative discretion with respect to the zoning of property within the City and instead use its governmental authority to enforce private deed restrictions on private property in the manner that Plaintiffs see fit. Plaintiffs’ legal theory remains unchanged from the original complaint and is contradicted by settled law. The relief sought is unavailable and, accordingly, the City respectfully requests that the demurrer be sustained without leave to amend.

## II. STANDARD OF REVIEW

“A demurrer tests the sufficiency of the plaintiff’s complaint, i.e., whether it states facts sufficient to constitute a cause of action upon which it may be based. (Code Civ. Proc., § 430.10, subd. (e)).” *Young v. Gannon* (2002) 97 Cal.App.4th 209, 220. “In determining whether the complaint states facts sufficient to constitute a cause of action, the trial court may consider all material facts pleaded in the complaint and those arising by reasonable implication



therefrom; it may not consider contentions, deductions or conclusions of fact or law.” *Id.* The trial court may also consider matters of which it may take judicial notice. CCP§ 430.30(a).

Likewise, in ruling on the sufficiency of the petition for writ of mandate as against demurrer, the court assumes to be true all material facts properly pleaded (*Flores v. Arroyo* (1961) 56 Cal.2d 492, 497), disregarding conclusions of law and allegations contrary to facts of which judicial notice may be taken (*Watson v. Los Altos School Dist.* (1957) 149 Cal.App.2d 768, 771-772; *Griffin v. County of Colusa* (1941) 44 Cal.App.2d 915, 918), and considering such judicially noticed facts as though pleaded in the petition (*Watson v. Los Altos School Dist.*, *supra.*). See *Stanton v. Dumke* (1966) 64 Cal.2d 199, 207.

Under Code of Civil Procedure section 430.10 (e), a defendant is entitled to demur to a cause of action if the pleading “does not state facts sufficient to constitute a cause of action.” To state facts sufficient to constitute a cause of action, a plaintiff must “allege the ultimate facts necessary to the statement of an actionable claim.” *Careau & Co. v. Sec. Pac. Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1390. In determining whether a complaint alleges sufficient facts, “[d]oubt in the complaint must be resolved against the plaintiff and facts not alleged are presumed not to exist.” *C&H Foods Co. v. Hartford Ins. Co.* (1984) 163 Cal.App.3d 1055, 1062.

A court should deny leave to amend a complaint after sustaining a demurrer “where the facts are not in dispute, and the nature of the plaintiff’s claim is clear, but, under substantive law, no liability exists.” 5 Witkin, Civil Procedure, 4<sup>th</sup> ed., Pleading, § 946. For reasons stated below, the City requests that the court sustain the demurrers without leave to amend.

### **III. FACTS AS ALLEGED**

For purposes of demurrer, material facts properly pleaded in the complaint are accepted as true. The following facts are taken from the complaint.

In 1913, a wealthy New York financier purchased the land that would later become the City of Palos Verdes Estates. FAP ¶ 9. Development of the property began in the early 1920’s. *Id.* In 1925, a number of lots were conveyed to the Palos Verdes Homes Association (the “Association”) subject to deed restrictions limiting the use of the properties to public



1 schools, parks, playgrounds or recreation areas. FAP ¶ 10(c). In 1938, the Association  
2 conveyed 13 of the properties to the Palos Verdes Peninsula Unified School District (the  
3 “District”) subject to the same restrictions set forth in the 1925 deed. Among the properties  
4 were two parcels referred to as “Lots C & D.” FAP ¶ 11. The 1938 deed included restrictions  
5 that the property be used for the establishment and maintenance of public schools, parks,  
6 playgrounds and/or recreation areas. FAP ¶ 11; FAP Exhibit 3, pp. 2-3.

7 The City of Palos Verdes Estates was incorporated on December 20, 1939. FAP ¶ 9(a).  
8 In 1940, the Association deeded property owned and managed by it to the City. FAP ¶ 9(b).  
9 Among the properties conveyed to the City in 1940 was “Area A”—the parcel that is the focus  
10 of the petition and complaint. FAP ¶ 9(d). The 1940 deeds provided that the property  
11 conveyed is to be used for park and/or recreation purposes for the benefit of residents and non-  
12 resident property owners within Palos Verdes Estates. *Id.* The deeds further gave the  
13 Association a right of reversion in the event certain deed restrictions were violated. FAP ¶  
14 10(d); FAP Exhibit 2, pp. 13-14. Certain named parties also would be authorized to bring  
15 appropriate proceedings to enjoin, abate or remedy the breach of any deed restriction. *Id.*;  
16 FAP Exhibit 2, p. 14.

17 On February 1, 2010, the District filed a lawsuit against the City and Association  
18 [LACSC Case No. BC431020], seeking, among other things, a declaration that the deed  
19 restrictions applicable to Lots C & D were no longer enforceable. FAP ¶ 12. On September  
20 22, 2011, the Court entered judgment finding that deed restrictions applicable to the property  
21 and set forth in deeds from 1925 and 1938 all remain enforceable against the District. FAP ¶  
22 13; FAP Exhibit 3. The Association thereafter brought an unsuccessful motion for attorneys’  
23 fees. FAP ¶ 14. The District subsequently appealed the judgment and the Association filed a  
24 cross appeal on the attorney fee issue. FAP ¶ 15.

25 In May 2012, the Association and the District entered into a Memorandum of  
26 Understanding to resolve their disputes and obviate the need to pursue their appeals. The City  
27 is also a party to the MOU, along with defendant/real party-in-interest Thomas J. Lieb, trustee,  
28 the Via Panorama Trust U/DO May 2, 2012. FAP ¶¶ 19, 20; FAP Exhibit 4. The MOU



provided for the following land transfers: (1) Lots C and D would revert to the Association pursuant to the terms of the applicable deed restriction; (2) the Association would swap Lots C and D for Area A with the City; and (3) the Via Panorama Trust would purchase Area A from the Association. FAP ¶ 20; FAP Exhibit 4.

Following the execution of the MOU, the parties took steps towards its implementation. FAP ¶ 23. On September 5, 2012, the City quitclaimed its interest in Area A to the Association. *Id.* On the same day, the Association conveyed Area A to Thomas J. Lieb, trustee, the Via Panorama Trust U/DO May 2, 2012, referred to by Plaintiffs (together with several Doe defendants) as the “Area A Recipients.” *Id.* Area A is located at the end of a cul-du-sac and is adjacent to another parcel Plaintiffs refer to as the “Panorama Property.” FAP ¶ 16. Plaintiffs allege that the owners of the Panorama Property have encroached on Area A by erecting improvements in violation of the deed restrictions. FAP ¶¶ 16, 17.

On February 19, 2013, the City’s planning commission held a public hearing on an application by the Panorama Property Owners to re-zone Area A and to obtain after-the-fact approvals for improvements constructed thereon. FAP ¶ 24. The commission recommended denial of the zone change request. *Id.* The matter proceeded to the City Council on March 12, 2013. *Id.* The Council held a hearing but did not take action, instead continuing the matter and directing staff to investigate other zoning options. *Id.*

This lawsuit was filed on May 13, 2013 and the City was served on June 16, 2013. The City and the other Defendants, Respondents and Real Parties in Interest demurred to the petition and complaint and, on October 25, 2013, the Honorable Robert O’Brien sustained the parties’ demurrers to the third cause of action with leave to amend. The court did not rule on the parties’ demurrers to the first and second causes of action, indicating instead that those matters should be resolved outside of the Writs and Receivers Department.

#### **IV. ARGUMENT**

##### **A. The New Allegations in the Amended Petition and Complaint Do Not Cure the Fatal Defects in the Original Petition and Complaint.**

Aside from adding a plaintiff and removing a defendant, the FAP includes three groups



1 of new allegations, none of which helps to cure the fatal defects in the original petition and  
2 complaint. The new allegations are summarized below:

3       **1. Allegations relating to City’s Code Enforcement Program.** In Paragraph 18 (and  
4 its 17 subparagraphs a through q), Plaintiffs reference correspondence from the City to the  
5 “Panorama Property Owners” between 1972 and 2011 in which the City requested or  
6 demanded the removal of illegal encroachments on City-owned property. Plaintiffs also  
7 reference a Municipal Code enforcement program from 2005 addressing unauthorized  
8 encroachments onto City-owned properties. Based on the historical correspondence and the  
9 City’s 2005 code enforcement program, Plaintiffs allege that the City has previously  
10 considered the encroachment on Area A to be in violation of the applicable deed restrictions  
11 and that the City has, “through conduct and statements,” taken the position that the deed  
12 restrictions are mandatory and not discretionary. These allegations do nothing to help  
13 Plaintiffs state a cause of action against the City.

14       First, these new allegations simply mirror arguments made by Plaintiffs in opposition to  
15 the City’s original demurrer and already considered by the court. *See* Plaintiff’s Opposition to  
16 Demurrer by Palos Verdes Estates at pp. 1, 11-12; City’s Reply Brief on Demurrer at p. 6.  
17 Second, even if accepted as true, the new allegations in Paragraph 18 do not establish the  
18 existence of a mandatory duty on the part of the City to enforce private deed restrictions on  
19 property it does not even own. The only thing the allegations establish is the undisputed fact  
20 that, while the City did own the property, it undertook various measures to seek the removal of  
21 illegal encroachments upon it—encroachments that the City could exercise its police powers to  
22 remove because they were constructed without permits *in violation of local ordinances*.  
23 Contrary to Plaintiffs’ assertion, a City may not use its police power to enforce private deed  
24 restrictions. The fact that the City informed neighboring property owners that their  
25 encroachments violated applicable deed restrictions as well as the Municipal Code does not  
26 create in the City a mandatory, ministerial obligation to enforce the deed restrictions. Indeed,  
27 when the City owned the property, it was obligated to comply with the deed restrictions, as is  
28 any owner of restricted property. In any event, the City no longer owns the property and



1 Plaintiffs fail to appreciate the fact that the City is not required to own Area A in order for the  
2 deed restrictions to have force and effect.

3       **2. Allegations relating to City's Prior Ownership of Property.** Paragraphs 25  
4 through 30 purport to explain the genesis of an alleged "ministerial duty" on the part of the  
5 City to enforce the private deed restrictions and remove the illegal encroachments on Area A.  
6 *See also* FAP ¶ 57. Paragraph 25 characterizes several restrictions in the 1940 deed through  
7 which the Association conveyed Area A to the City—restrictions that limit the use of the  
8 property, the types of structures that may be erected on it, and to whom it may be sold or  
9 conveyed, and that further provide the Association with a right of reversion in the event of a  
10 breach of any of the restrictions. Paragraph 27 alleges that the City accepted the deed with all  
11 of its restrictions. Paragraphs 26 and 28 through 30 consist of legal conclusions based on the  
12 content of the 1940 deed and the City's Municipal Code—legal conclusions that need not be  
13 accepted as true on demurrer. *Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4<sup>th</sup> 962, 967.  
14 Even if the new allegations of fact in Paragraphs 25 through 30 are accepted as true, they do  
15 not help Plaintiffs to state a cause of action against the City.

16       Restrictions on the face of a deed do not create mandatory enforcement obligations on  
17 the part of the government any more than they create mandatory enforcement obligations on  
18 the part of private individuals. In fact, the drafters of the deed obviously recognized that the  
19 City would not have a mandatory obligation to enforce the restrictions and, for that reason,  
20 reserved unto the Association the right of reversion in the event of a breach of certain specified  
21 restrictions (including the "no structures" restriction). FAP ¶ 25(e); FAP Exhibit 2, pp. 13-14,  
22 ¶ 7. That sort of incentivization is the normal means by which deed restrictions get  
23 enforced—the property owner either abides by them voluntarily or they risk suffering the  
24 consequences spelled out in the deed itself. As discussed *infra*, Plaintiffs appear to confuse the  
25 City's authority to enforce its Municipal Code with a power to address violations of private  
26 deed restrictions. The unpermitted improvements on Area A do constitute violations of the  
27 Municipal Code. The City is addressing the code violations at the present time by entertaining  
28 applications for a zone change and after-the-fact entitlements. FAP ¶ 24. If those things are



ultimately granted, the improvements could be legalized in place. If they are not, as explained *infra*, the City may use one of several tools available for addressing the violations. On the other hand, the City cannot enforce private deed restrictions on property it does not own. Even if the City still owned Area A, it would not have a “mandatory duty” to enforce the restrictions.

**3. Allegations relating to New Estoppel Claim.** Paragraphs 37 through 41 purport to allege that the City is “estopped from denying the efficacy of the land use restrictions in the 1940 deeds.” These paragraphs consist entirely of legal conclusions that need not be accepted as true on demurrer. *Aubry v. Tri-City Hospital Dist.*, *supra*, 2 Cal.4<sup>th</sup> at 967. In any event, these new allegations precisely mirror unsuccessful arguments made by Plaintiffs in opposition to the City’s original demurrer and already considered by the court. *See* Plaintiff’s Opposition to Demurrer by Palos Verdes Estates at pp. 12-13; City’s Reply Brief on Demurrer at pp. 7-8. Moreover, estoppel is of no value in this case; the scope of the police power and the (non)existence of a ministerial duty within the meaning of CCP §1085 are questions of law that may be resolved by this court on demurrer.

None of the above-described amendments alleges ultimate facts that cure the deficiencies in the original complaint. Consequently, the First Amended Petition and Complaint fails to state a cause of action against the City.

**B. The FAP Fails to Plead Facts to State a Cause of Action for Declaratory Relief as Against the City.**

The City hereby joins in the argument of Defendants/Real Parties-in-Interest Robert and Dolores A. Lugliani, as co-trustees of the Lugliani Trust, and the Palos Verdes Homes Association set forth in their individual demurrers to the first and third causes of action.

**C. The Second Cause of Action Fails to State a Claim Against the City.**

Plaintiffs’ second cause of action is brought pursuant to Code of Civil Procedure section 526a and seeks to enjoin the City from spending additional public funds in furtherance of the Panorama Property Owners’ applications for a zoning ordinance amendment that would affect the uses on Area A permitted by the City’s zoning ordinance and for after-the-fact

1 approval of a retaining wall on Area A. The FAP also adds one twist not included in the  
2 original complaint—the allegation that “to the extent the September 2012 deeds are deemed  
3 valid, the conveyance of public parkland to a private party is also a waste of public funds and  
4 an ultra vires act.” FAP ¶¶ 24, 51, 52; Prayer for Relief ¶¶ 3, 4. Because zoning is a valid  
5 exercise of the City’s police powers and the City’s conveyance of Area A was to the  
6 Association which held a right of reversion in the property, Plaintiffs cannot state a claim  
7 under CCP § 526a on either theory.

8 “Under Code of Civil Procedure section 526a, a taxpayer may challenge wasteful or  
9 illegal government action that otherwise would go unchallenged because of standing  
10 requirements. To state a claim, the taxpayer must allege specific facts and reasons for the  
11 belief the expenditure of public funds sought to be enjoined is illegal. General allegations,  
12 innuendo, and legal conclusions are not sufficient. [¶] A cause of action under Code of Civil  
13 Procedure section 526a will not lie where the challenged governmental conduct is legal.  
14 Conduct in accordance with regulatory standards is a perfectly legal activity. Further, a  
15 taxpayer is not entitled to injunctive relief under Code of Civil Procedure section 526a where  
16 the real issue is a disagreement with the manner in which government has chosen to address a  
17 problem because a successful claim requires more than an alleged mistake by public officials  
18 in matters involving the exercise of judgment or wide discretion.” *Coshov v. City of*  
19 *Escondido* (2005) 132 Cal.App.4<sup>th</sup> 687, 714 (internal citations and quotations omitted.)

20 The first portion of Plaintiffs’ second cause of action is premised on the theory that  
21 City’s actions—its consideration of applications for a zoning amendment and after-the-fact  
22 entitlements—are “*ultra vires*” (i.e., beyond the City’s legal authority and, therefore, illegal)  
23 because they allegedly violate deed restrictions applicable to the Area A property. FAP ¶ 51.  
24 The theory contradicts settled law.

25 The zoning authority of local governments derives from article XI, section 7 of the  
26 California Constitution. *Neighbors in Support of Appropriate Land Use v. County of*  
27 *Tuolumne* (2007) 157 Cal.App.4<sup>th</sup> 997, 1005. “Under the police power granted by the  
28 Constitution, counties and cities have plenary authority to govern, subject only to the



1 limitation that they exercise this power within their territorial limits and subordinate to state  
2 law. (Cal. Const., art. XI, § 7.) Apart from this limitation, the ‘police power [of a county or  
3 city] under this provision ... is as broad as the police power exercisable by the Legislature  
4 itself.’ [Citation.]” *Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39  
5 Cal.3d 878, 885, 218.

6 It is well established that no person has a vested right in the exercise of the police  
7 power and that a municipality’s exercise of the police power may not be limited by private  
8 contracts or restrictive covenants. *Teachers Ins. & Annuity Assn. v. Furlotti* (1999) 70  
9 Cal.App.4<sup>th</sup> 1487 1496-97; *Wheeler v. Gregg* (1949) 90 Cal.App.2d 348, 367. Private  
10 agreements restricting the use of property are simply immaterial to the validity of a particular  
11 zoning ordinance.<sup>1</sup> *O’Rourke v. Teeters* (1944) 63 Cal.App.2d 349, 352. Consequently, the  
12 City’s exercise of its police power in considering amendments to its zoning ordinance and  
13 processing a permit application cannot constitute illegal conduct and form the basis of a CCP §  
14 526a claim. *Coshov v. City of Escondido, supra*, 132 Cal.App.4<sup>th</sup> at 714.

15 Not only are the City’s actions that Plaintiffs seek to enjoin perfectly legal, they are  
16 required by law. The consideration of a zoning ordinance amendment and after-the-fact  
17 approvals are pending as the result of applications made by the Panorama Property Owners.  
18 FAP ¶ 24. The City must process those applications in the manner set forth in its ordinance.  
19 Palos Verdes Estates Municipal Code (“PVEMC”) § 17.28.010<sup>2</sup> *et seq.* (describing process for  
20 consideration of zoning ordinance amendments); § 17.28.030 (“The city council, after receipt  
21 of the recommendation of the planning commission, shall hold a final hearing upon the  
22 proposed amendment and take such action as it deems appropriate.”); § 17.04.110 (authorizing  
23 after-the-fact applications); § 17.04.100 (describing process for entitlement applications,  
24

25 <sup>1</sup>Likewise, a change in zoning does not impair the enforceability of existing deed restrictions. *Seaton*  
26 *v. Clifford* (1972) 24 Cal.App.3d 46, 52; *Wilkman v. Banks* (1954) 124 Cal.App.2d 451, 455.  
27 Therefore, if Plaintiffs possess any enforceable rights or remedies by virtue of the deed restrictions  
applicable to Area A, those rights or remedies will not be affected by any action the City may choose  
to take on the pending applications for a zoning ordinance amendment and after-the-fact entitlements.

28 <sup>2</sup>The PVE Municipal Code may be found at <http://www.codepublishing.com/ca/palosverdesestates>



1 including after-the-fact applications.) Therefore, the injunction sought by Plaintiffs in  
2 connection would actually prevent the City from carrying out its obligation to process the  
3 applications in the manner required by law.<sup>3</sup>

4 The second part of Plaintiffs' second cause of action—the contention that the City's  
5 conveyance of Area A to the Association was an *ultra vires* act—is also without merit. In  
6 accordance with the MOU, the City allowed the transfer of ownership of Area A (deed  
7 restrictions and all) to the Association and accepted ownership of Lots C & D (deed  
8 restrictions and all). FAP, Exhibit 4, p. 7. Indisputably, the City possesses the legal authority  
9 to “purchase, lease, receive, hold, and enjoy real and personal property, and control and  
10 dispose of it for the common benefit.” Gov't Code §37350. Therefore, conveyance of the  
11 property was a lawful exercise of the City's power. For that reason alone, Plaintiffs cannot  
12 state a claim under section 526a. *Coshov v. City of Escondido, supra*, 132 Cal.App.4<sup>th</sup> at 714.  
13 In any event, the transaction was not even a “waste” in the colloquial sense because the City  
14 ended up receiving title to Lots C & D—property roughly equivalent in size and value to Area  
15 A yet far more useful as parkland due to its location and accessibility. FAP, Exhibit 4, p. 4.

16 Because the City's police power may not be limited by private covenants regarding the  
17 use of land, its consideration of a zoning code amendment and an after-the-fact permit  
18 application is perfectly legal and Plaintiffs cannot plead facts sufficient to state a cause of  
19 action against the City under CCP § 526a. Furthermore, because the Legislature has invested  
20 cities with the power to control and dispose of real property for the common benefit, and  
21 because the transaction yielded a piece of property even better suited for public parkland,  
22 Plaintiffs cannot claim that the conveyance of Area A was an illegal and wasteful act under  
23 section 526a. Accordingly, the City respectfully requests that its demurrer to the second cause  
24 of action be sustained without leave to amend.

---

25  
26  
27 <sup>3</sup>It should be noted as well that applicants for zoning amendments and after-the-fact entitlements are  
28 required to pay a fee for the applications. PVEMC §§ 17.04.070, 17.28.010(C). Pursuant to  
Proposition 26, the amount of the fee may not exceed the reasonable cost of processing the  
applications. Cal. Const. art. XIII C, § 1.



1           **D.     The Third Cause of Action Fails to State a Claim Against the City.**

2           In its third cause of action, Plaintiffs seek a writ of mandate commanding the City to  
3 enforce the deed restrictions applicable to Area A and to remove the illegal improvements  
4 from Area A and restore it to its original state. FAP ¶ 57. Citing Code of Civil Procedure  
5 section 1085, Plaintiffs allege that the City has a clear, present and ministerial duty to enforce  
6 deed restrictions on the property it no longer owns. FAP ¶¶ 54, 57.

7           “Generally, mandamus is available to compel a public agency’s performance or to  
8 correct an agency’s abuse of discretion when the action being compelled or corrected is  
9 ministerial. A ministerial act is an act that a public officer is required to perform in a  
10 prescribed manner in obedience to the mandate of legal authority and without regard to his or  
11 her own judgment or opinion concerning such act’s propriety or impropriety, when a given  
12 state of facts exists.” *AIDS Healthcare Foundation v. Los Angeles Dept. of Public Health*  
13 (2011) 197 Cal.App.4<sup>th</sup> 693, 700-701 (internal citations and quotations omitted.)

14           As detailed further below, Plaintiffs cannot demonstrate a legal entitlement to a writ.  
15 The City has no ministerial duty, let alone any legal mechanism, to enforce private deed  
16 restrictions on property that it does not own. With respect to the alleged illegal improvements  
17 on Area A, the City has several options available for dealing with code violations and cannot  
18 be compelled to pursue any one enforcement mechanism in particular.

19                   **1.     Plaintiffs Are Not Entitled to a Writ Commanding the City to**  
20                   **Enforce Private Deed Restrictions on Area A.**

21           Unless a clear intention to allow enforcement by others is expressed in the deed  
22 restriction, a party must have a legal interest in the benefitted property in order to have  
23 standing to enforce the restriction. *BCE Development, Inc. v. Smith* (1989) 215 Cal.App.3d  
24 1142, 1146-1147; Miller and Starr, 8 Cal. Real Est. § 24:25 (3d ed.) The seller or transferor of  
25 the benefitted property cannot enforce the deed restrictions after conveying away title to  
26 another absent a showing that the original covenanting parties intended to allow enforcement  
27 by one who is not a landowner. *Farber v. Bay View Terrace Homeowners Ass’n* (2006) 141  
28 Cal.App.4<sup>th</sup> 1007, 1011; *Russell v. Palos Verdes Properties* (1963) 218 Cal.App.2d 754, 764-  
765 (disapproved of on other grounds by *Citizens for Covenant Compliance v. Anderson*



1 (1995) 12 Cal.4<sup>th</sup> 345.) In any case, enforcement of the terms of a private deed restriction is  
2 not a governmental function.

3 As alleged in the Petition, the City no longer owns Area A. FAP ¶ 6. It is owned by  
4 Thomas J. Lieb, Trustee, the Via Panorama Trust. *Id.* Even if the City remained authorized to  
5 enforce the deed restrictions in question, it has no mandatory duty to enforce them. There is  
6 no authority to support Plaintiffs suggestion that a public officer becomes obligated by law to  
7 take certain actions by virtue of the placement by a private party of restrictions on the face of a  
8 deed. Furthermore, the 1940 deed in question gave the Association a right of reversion in the  
9 event of a breach by the City. FAP ¶ 10(d); FAP Exhibit 2, pp. 13-14. In addition to that, it  
10 authorized (but did not obligate) certain other benefitted parties to pursue remedies. FAP,  
11 Exhibit 2, p. 14 (“...the breach of any [covenant] or the continuance of any such breach may  
12 be enjoined, abated or remedied by appropriate proceedings by the Grantor herein [the  
13 Association] or its successors in interest, or by such other lot or parcel owner, and/or by any  
14 other person or corporation designated in said Declarations of Restrictions.” (Emphasis  
15 added.)) Therefore, Plaintiffs have not alleged facts, and cannot allege facts, establishing a  
16 mandatory duty on the part of the City to enforce private deed restrictions applicable to Area  
17 A.<sup>4</sup>

18 **2. The City Cannot Be Compelled to Address the Alleged Illegal**  
19 **Improvements On Area A in Any Particular Manner.**

20 To the extent Plaintiffs seek to force the City to employ specific code enforcement  
21 mechanism to deal with the encroachments on Area A, such relief is not available in mandate.  
22 If improvements have been constructed on Area A in violation of the City’s zoning ordinance,  
23 the City has a number of tools in its belt for achieving compliance. Zoning violations may be  
24 prosecuted criminally as a misdemeanor. PVEMC §§ 1.16.010, 1.16.010(B), 17.32.060. In  
25 additional to criminal penalties, the City may declare any violation of its code a public

26  
27 <sup>4</sup>Section 12 (“Right to Enforce”) of the “Declaration of Establishment of Basic Protective  
28 Restrictions” states that the restrictions are enforceable by “Commonwealth Trust Company, Palos  
Verdes Homes Association, by the owner or owners of any property in said tract, their and each of  
their, legal representatives, heirs, successors and assigns.” FAP, Exhibit 1, p. 50.



1 nuisance and subject it to abatement. PVEMC §§ 1.16.010(F), 17.32.040, 17.32.050.  
2 Nuisance abatement offers several options to the City, including the issuance of an abatement  
3 order directing the property owner to abate the nuisance. PVEMC §§ 8.48.040 *et seq.*,  
4 17.32.050. If the property owner fails to comply, the City may seek an abatement warrant and  
5 cause the nuisance to be abated with its own workforce or that of a private contractor.  
6 PVEMC § 8.48.060. The City through a lien or a special assessment on the property may  
7 recoup costs associated with abatement and the City has the additional option of seeking a  
8 court order for treble costs of abatement. PVEMC §§ 8.48.090, 8.48.110. The City may also  
9 achieve compliance by legalizing unpermitted improvements as opposed to forcing their  
10 removal. For example, the City always has the option of amending its zoning ordinance to  
11 authorize previously unpermitted uses. After-the-fact permits may also be issued for  
12 improvements authorized in the zone.<sup>5</sup> PVEMC §§ 15.08.140, 15.08.150, 17.04.110. With a  
13 number of options available to achieve code compliance, the City may not be compelled to  
14 pursue any one in particular.

15 The court in *Riggs v. City of Oxnard* (1984) 154 Cal.App.3d 526 considered and  
16 rejected a petition seeking to command the city to exercise its code enforcement discretion in a  
17 particular manner. There, Appellant sought a petition for writ of mandate compelling the city  
18 to close down a transmission shop operating in the C-2 zone where such uses were clearly  
19 prohibited and to issue its owners a criminal citation for violating the zoning ordinance. The  
20 City had erroneously issued the transmission shop a zone clearance, allowing it to open. After  
21 the lawsuit was filed, the Oxnard City Council amended its zoning ordinance to authorize  
22 transmission shops in the C-2 zone subject to a special use permit. Although the legislative  
23 amendment rendered the remedy Appellant sought (enforcement of the zoning ordinance)  
24 moot, the court nevertheless considered Appellant's argument that a writ should lie to enforce

25 \_\_\_\_\_  
26 <sup>5</sup>Private covenants and deed restrictions are not enforced by a city through its police power. While  
27 private covenants and restrictions may be more restrictive than the applicable zoning regulations, they  
28 do not constrain a city's police power to zone and grant permits consistent with its zoning ordinance.  
If private covenants/deed restrictions are violated, the remedy lies in the courts with benefitted  
property owners or others specifically authorized to seek relief according to the deed restrictions.



1 a clear public duty. *Id.* at 530. The court held that municipalities have broad discretion to  
2 determine the most appropriate mode of enforcing ordinances and that a writ of mandate will  
3 not issue to compel that discretion be exercised in a particular way. *Id.* at 530. The court  
4 recognized that a city retains the police power to zone and rezone property as it sees fit and  
5 that rezoning to accommodate an existing use was within the city's power. *Id.* at 531.

6 It is also firmly established that a writ may not lie to compel an agency to initiate  
7 criminal prosecution. The principle of prosecutorial discretion is rooted in separation of  
8 powers and due process and is basic to the framework of the criminal justice system.  
9 *Gananian v. Wagstaffe* (2011) 199 Cal.App.4<sup>th</sup> 1532, 1543. An unbroken line of cases has  
10 recognized that prosecutorial discretion is not subject to judicial control. *Id.* at 1545-46; *Dix v.*  
11 *Superior Court* (1991) 53 Cal.3d 442, 451; *People v. Municipal Court* (1972) 27 Cal.App.3d  
12 193, 207; *Taliaferro v. Locke* (1960) 182 Cal.App.2d 752, 755-56.

13 Here, the City has options for addressing the alleged illegal improvements on Area A  
14 and the corresponding discretion; Plaintiffs are not entitled to a writ compelling the City to  
15 exercise its discretion in any particular manner.

16 **E. Plaintiffs' Estoppel Theories Are Without Merit.**

17 In paragraph 37 through 41 of the FAP, Plaintiffs plead the estoppel theories that  
18 they raised in opposition to the City's initial demurrer and which have already been considered  
19 and rejected by the court. Plaintiffs' first estoppel theory suggests that because the City  
20 accepted title to Area A in 1940 subject to numerous deed restrictions, it is "estopped from  
21 now denying the efficacy of the entire deeds, including the land use restrictions." FAP ¶ 39.  
22 Plaintiffs miss the point again. The City does not, and has not, denied that Area A was subject  
23 to deed restrictions that limited its use when the City owned the property. The City no longer  
24 owns Area A (FAP ¶¶ 6, 23) and, therefore, it is without standing to enforce those private deed  
25 restrictions. *BCE Development, Inc. v. Smith* (1989) 215 Cal.App.3d 1142- 1146-47; *Miller*  
26 *and Starr*, 8 Cal. Real Est. § 24:25 (3d ed.) Even if the City still owned Area A it would be  
27 under no mandatory obligation to enforce the deed restrictions, although as property owner it  
28 would be subject to them.

1 For its second theory, Plaintiffs cite *Roberts v. City of Palos Verdes Estates* (1949) 93  
2 Cal.App.2d 545 for the proposition that the City is “estopped to deny the mandatory nature of  
3 the land use restrictions due to prior litigation of this very issue.” FAP ¶ 40. In *Roberts*, the  
4 issue was whether the City could erect a building to store city-owned maintenance vehicles  
5 and equipment on property subject to a deed restriction that prohibited the erection of any  
6 structures unless they were “properly incidental to the convenient and/or proper use of said  
7 realty for park purposes.” *Roberts*, 93 Cal.App.2d at 546. The court ruled that terms of the  
8 deed alone are controlling, not the desires of the City, and remanded the case to the trial court  
9 to determine whether the proposed buildings would be “necessary and appropriate, and hence,  
10 ‘incidental to the convenient and/or proper use of said realty for park purposes.’” *Id.* at 548.  
11 The case has no application here. The City is not making use of Area A and does not propose  
12 to make use of Area A. The City’s point is simply that it may not be compelled to use its  
13 police power to enforce private deed restrictions applicable to property it does not own.  
14 Plaintiffs can offer no legal authority to contradict the City’s position on that point.  
15 Consequently, the City requests that the court sustain the demurrer to the third cause of action  
16 without leave to amend.

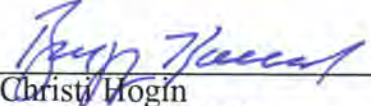
17 **V. CONCLUSION**

18 For the foregoing reasons, the City respectfully requests that this Court sustain  
19 the City’s demurrer without leave to amend.

20 Dated: December 4, 2013

Respectfully submitted,

21  
22 By: \_\_\_\_\_

23   
Christy Hugin  
24 Gregg Kovacevich  
JENKINS & HOGIN, LLP  
25 Attorneys for Defendant/Respondent  
CITY OF PALOS VERDES ESTATES  
26  
27  
28



1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
4 and not a party to the within action; my business address is 1230 Rosecrans Avenue, Suite 110,  
Manhattan Beach, CA 90266.

5 On December 6, 2013, I served the foregoing documents described as:

6 **CITY OF PALOS VERDES ESTATES' NOTICE OF DEMURRER AND**  
7 **DEMURRER TO FIRST AMENDED PETITION FOR WRIT OF MANDATE AND**  
8 **COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**  
9 **THEREOF;**

10 on the interested party or parties in this action by placing the original thereof enclosed in sealed  
11 envelopes with fully prepaid postage thereon and addressed as follows:

12 *PLEASE SEE SERVICE LIST ATTACHED*

- 13 ☐ **VIA EMAIL.** I caused such document as described above, to be transmitted via E-Mail  
14 to the offices of the addressee(s).
- 15 ☐ **VIA FACSIMILE.** I caused such document to be transmitted via facsimile to the offices  
16 of the addressee(s).
- 17 ☐ **VIA OVERNIGHT DELIVERY.** I enclosed the documents in an envelope or package  
18 provided by an overnight delivery carrier and addressed to the person(s) at the address(es)  
19 stated above. I placed the envelope or package for collection and overnight delivery at a  
20 regularly utilized drop box of the overnight delivery carrier.
- 21 ☒ **VIA U.S.MAIL.** I enclosed the above described documents in a sealed envelope or  
22 package addressed to the person(s) listed above or on the attached; caused such envelope  
23 with postage thereon fully prepared to be placed in the United States mail at Los Angeles,  
24 California.

25 *I am readily familiar with the Jenkins & Hugin, LLP's practice of collection and processing correspondence for  
26 outgoing mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with  
27 postage thereon prepaid at Manhattan Beach, California, in the ordinary course of business. I am aware that  
28 on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is  
more than one day after date of deposit for mailing in affidavit.*

- 29 ☒ **STATE.** I declare under penalty of perjury under the laws of the State of California  
30 that the above is true and correct.
- 31 ☐ **FEDERAL.** I declare that I am employed in the office of a member of the Bar of this  
32 Court at whose direction the service is made.

33 Executed this 6<sup>th</sup> day of December, 2013, at Manhattan Beach, California.

34   
35 WENDY HOFFMAN

## SERVICE LIST

Jeffrey Lewis  
Kelly Broedlow Dunagan  
BroedlowLewis LLP  
734 Silver Spur Road  
Suite 300  
Rolling Hills Estates, CA 90274  
Tel: (310) 935-4001  
Fax: (310) 872-5389  
[Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

Attorneys for Petitioner  
*Citizens for Enforcement of Parkland  
Covenants*

Terry Tao  
Scott J. Sachs  
Atkinson, Andelson, Loya, Ruud & Romo  
12800 Center Court Drive  
Suite 300  
Cerritos, CA 90703  
Tel: (562) 653-3000  
Fax: (562) 653-3333  
[TTao@AALRR.com](mailto:TTao@AALRR.com)  
[SSachs@AALRR.com](mailto:SSachs@AALRR.com)

Attorneys for Respondent  
*Palos Verdes Peninsula Unified School  
District*

Sidney F. Croft  
LAW OFFICE OF SIDNEY CROFT  
314 Tejon Place  
Palos Verdes Estates, CA 90274  
Tel: (310) 849-1992  
[SFCroftLaw@aol.com](mailto:SFCroftLaw@aol.com)

Attorney for Respondent  
*Palos Verdes Homes Association*

Andrew Haley  
GREENWALD, PAULY, FOSTER & MILLER  
APC  
1299 Ocean Avenue  
Suite 400  
Santa Monica, CA 90401-1007  
Tel: (310) 451-8001  
[ahaley@gpfm.com](mailto:ahaley@gpfm.com)

Attorney for Respondent  
*Palos Verdes Homes Association*

Damon P. Mamalakis  
R.J. Comer  
Armbruster Goldsmith & Delvac  
11611 San Vicente Boulevard  
Suite 900  
Los Angeles, CA 90049  
Tel: (310) 254-9026  
Fax: (310) 254-9046  
[Damon@agd-landuse.com](mailto:Damon@agd-landuse.com)  
[RJ@AGD-LandUse.com](mailto:RJ@AGD-LandUse.com)

Attorneys for Real Parties in Interest  
*Robert Lugliani and Dolores E. Lugliani, as  
co-trustees of THE LUGLIANI TRUST;  
THOMAS J. LIEB, TRUSTEE, THE VIA  
PANORAMA TRUST*



Jeffrey Lewis (SBN 183934)  
Kelly Broedlow Dunagan (SBN 210852)  
**BROEDLOW LEWIS LLP**  
734 Silver Spur Road, Suite 300  
Rolling Hills Estates, CA 90274  
Tel. (310) 935-4001  
Fax. (310) 872-5389  
E-Mail: [Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

Attorney for Plaintiffs and Petitioners  
CITIZENS FOR ENFORCEMENT OF  
PARKLAND COVENANTS and JOHN  
HARBISON

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

CITIZENS FOR ENFORCEMENT OF  
PARKLAND COVENANTS, an  
unincorporated association and JOHN  
HARBISON,

Plaintiffs and Petitioners,

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)

**MEMORANDUM OF POINTS AND  
AUTHORITIES BY CITIZENS FOR  
ENFORCEMENT OF PARKLAND  
COVENANTS IN OPPOSITION TO  
THE CITY OF PALOS VERDES  
ESTATES' DEMURRER TO FIRST  
AMENDED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT**

Hearing Date: January 3, 2014  
Hearing Time: 1:30 p.m.  
Department: 86

Action Filed: May 13, 2013  
Trial Date: June 20, 2014

**CONFORMED COPY  
ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles

**DEC 19 2013**

Sherri R. Carter, Executive Officer/Clerk  
By Araceli Rodriguez, Deputy

**BY FAX**

## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. SUMMARY OF ARGUMENT**

The first amended petition (“FAP”) by Citizens for Enforcement of Parkland Covenants (“CEPC”) alleges three separate and independent legal theories to invalidate the purported conveyance in September 2012 of publicly owned parkland to private owners for private use. The City of Palos Verdes Estates (“City”) asserts three fallacious arguments in support of its demurrer. Each must be rejected.

First, the City argues that because it does not presently own the land, it cannot be compelled to take any action concerning the land. (Demurrer, p. 5, li. 23). This argument ignores CEPC’s allegations that the September 2012 deeds are void and illegal. (First Amended Petition (“FAP,”) ¶¶ 44(c), 52, 62). The City owned the parkland before entering into the illegal settlement and deeds that are the subject of this lawsuit. The City’s misconduct at that time that it owned the parkland that also forms the basis of the FAP. The City cannot avoid declaratory relief and the action for waste of public funds by claiming that the parkland has already been (illegally) conveyed. This Court has the power to conclude that the deeds were invalid and the City still owns the parkland.

Second, the City argues that it has the unfettered power to buy and sell public parkland at whim. (Demurrer, p. 10, p. 8-9). This argument is contrary to well settled law. Although a municipality such as the City generally has the power to buy and sell, that power is limited where it receives property via deed containing use restrictions. “[L]and which has been dedicated as a public park must be used in conformity with the terms of the dedication, and it is without the power of a municipality to divert or withdraw the land from use for park purposes.” (*City of Hermosa Beach v. Superior Court* (1964) 231 Cal.App.2d 295, 300). A city that attempts to use a property in violation of the deed restrictions “would be an ultra vires act.” (*Ibid.*; see also *Big Sur Properties v. Mott* (1976) 62 Cal.App.3d 99, 104). “It is well settled that where a grant deed is for a specified, limited and definite purpose, the subject of the grant cannot be used for another and different purpose.” (*Roberts v. City of Palos Verdes Estates* (1949) 93 Cal.App.2d 545, 547).

1        Third, the City argues that because many of CEPC's newer allegations in the FAP are  
2 mere conclusions of law that this Court may ignore them. (Demurrer, p. 6, citing *Aubry v.*  
3 *Tri-City Healthcare Distr.* (1992) 2 Cal.4th 962, 967). With all due respect, the new allegations  
4 at paragraphs 17 – 42 are neither conclusory nor legal in nature. CEPC detailed numerous  
5 specific factual circumstances under which the City made statements and acted as though the  
6 same land use restrictions at issue in this case were binding on the City. For example, CEPC  
7 alleges that the same deed restrictions that the City now claims are optional, the City in 2003  
8 stated were legally binding on the City. (FAP, ¶ 18(g).) As another example, the City has  
9 argued in this case that in 1940 the City was without power to accept any limiting deed  
10 restrictions when it accepted the parkland properties. In 2005, the City, through staff, stated  
11 that the City "wholeheartedly accepted" the condition that the parkland must be perpetually  
12 maintained for the public to enjoy." (FAP, ¶ 18 (h).) Likewise, the FAP describes a 2005  
13 resolution passed by the City describing "deed-restricted" parkland and making enforcement  
14 of illegal encroachment mandatory. (FAP, ¶ 18 (i).) These factual allegations and the  
15 remainder of the FAP are not remotely close to the type of "legal conclusion" that courts can  
16 and should disregard in the context of a demurrer. Rather, the purposes of these paragraphs  
17 is to plead the existence of estoppel. (See Part V below).

18        For these reasons, the demurrer must be overruled.

19  
20        **II. THE DEMURRER TO THE FIRST CAUSE OF ACTION FOR**  
21        **DECLARATORY RELIEF SHOULD BE OVERRULED BECAUSE**  
22        **CEPC HAS ALLEGED THE EXISTENCE OF AN ACTUAL**  
23        **CONTROVERSY REGARDING THE SEPTEMBER 2012 DEEDS AND**  
24        **RELATED TRANSACTIONS**

25        The City has joined in the other parties' demurrer to the first cause of action for  
26 declaratory relief. (Demurrer, p. 7, li. 19-23). A demurrer is not an appropriate response to a  
27 declaratory relief action. (*Qualified Patients Ass'n v. City of Anaheim* (2010) 187 Cal.App.4th 734,  
28 756). Even if the Court concludes at this early juncture that the City will prevail on the

declaratory relief claim, CEPC is still entitled to proceed to trial and obtain a resolution of the declaratory relief claim:

Strictly speaking, a general demurrer is not an appropriate means of testing the merits of the controversy in a declaratory relief action because plaintiff is entitled to a declaration of his rights even if it be adverse.

*Taxpayers for Improving Public Safety v. Schwarzenegger* (2009) 172 Cal.App.4th 749, 769

[D]emurrer is not the proper context to reach and resolve the merits of plaintiffs' claim for declaratory judgment. "When," as here, "the complaint sets forth facts showing the existence of an actual controversy between the parties relating to their respective legal rights and duties and requests that these rights and duties be adjudged, the plaintiff has stated a legally sufficient complaint for declaratory relief. It is an abuse of discretion for a judge to sustain a demurrer to such a complaint and to dismiss the action, even if the judge concludes that the plaintiff is not entitled to a favorable declaration."

*Qualified Patients Ass'n v. City of Anaheim, supra*, 187 Cal.App.4th at p. 756)

For the foregoing reasons, the demurrer should be overruled.

### III. THE DEMURRER TO THE SECOND CAUSE OF ACTION FOR PUBLIC WASTE SHOULD BE OVERRULED BECAUSE THE CONVEYANCE OF PUBLIC PARKLANDS TO A PRIVATE PARTY FOR PRIVATE USE IS PER SE ULTRA VIRES

The second cause of action alleges that the September 2012 deeds conveying public parklands to private parties for private use constituted an ultra vires act. (FAP, ¶¶ 51-52). The contemplated spot zoning or other legislative solutions to permit private, exclusive use of the parkland is also alleged to be an ultra vires act. (FAP, ¶ 51). There is ample precedent for CEPC's allegations. *City of Hermosa Beach v. Superior Court, supra*, 231 Cal.App.2d at p. 296 is instructive. In that case, in 1907, the city was deeded beach property for recreational purposes and prohibiting traffic. Fifty years later, when the city erected a fence and constructed a road on the deeded property, a city resident sued the city to enforce the 1907 deed restriction. The city demurred on the ground that only the attorney general could

1 enforce the land restrictions. The demurrer was overruled and the city sought writ relief. In  
 2 denying writ relief, the court of appeal confirmed that when a municipality is deeded land for  
 3 public purposes:

4 the municipality owes the public a duty to employ the property in a certain  
 5 way and that the members of the public can proceed in equity to compel the  
 municipality to live up to this part of its governmental obligations.

6 (*City of Hermosa Beach v. Superior Court, supra*, 231 Cal.App.2d at pp. 298-99)

7 The court went on to hold that once a city accepts a deed with restricted public  
 8 purposes, the city must continue to use that land for public purposes. (*Id.* at 300). The city,  
 9 in such a circumstance ‘is without the power of a municipality to divert or withdraw the land  
 10 from use for park purposes.’ (*Ibid.*) A city that attempts to use a property in violation of the  
 11 deed restrictions “would be an ultra vires act.” (*Ibid.*; see also *Big Sur Properties v. Mott* (1976)  
 12 62 Cal.App.3d 99, 104). Notably, the *City of Hermosa Beach* case specifically approved the  
 13 procedure of asserting a claim asserting ultra vires acts under Code of Civil Procedure,  
 14 section 526a to protect parkland. ((*City of Hermosa Beach v. Superior Court, supra*, 231  
 15 Cal.App.2d, at p. 300).

16 The *City of Hermosa Beach* case is not an aberration:

17 California courts have been loathe to cast aside use restrictions on property  
 18 contained in deeds: “‘It is well settled that where a grant deed is for a  
 19 specified, limited and definite purpose, the subject of the grant cannot be used  
 20 for another and different purpose. (*Roberts v. City of Palos Verdes Estates* [ (1949)  
 21 ] 93 Cal.App.2d 545, 547 [209 P.2d 7]; *Griffith v. Department of Public Works* [ (1956)  
 22 ] 141 Cal.App.2d 376, 380 [296 P.2d 838].)’” (*Big Sur Properties v. Mott*  
 23 (1976) 62 Cal.App.3d 99, 103, 132 Cal.Rptr. 835 [*Big Sur Properties*]; see also  
 24 *Save the Welwood Murray Memorial Library Com. v. City Council* (1989) 215  
 25 Cal.App.3d 1003, 1012, 263 Cal.Rptr. 896 [Welwood Murray ].)

26 Likewise, California courts have often held that “‘[w]here a tract of land is  
 27 donated to a city with a restriction upon its use—as, for instance, when it is  
 28 donated or dedicated solely for a park—the city cannot legally divert the use  
 of such property to purposes inconsistent with the terms of the grant.’  
 (Citations.) Further, where, as here, property is acquired by a public entity  
 through private dedication, the deed is strictly construed. (Citations.) As  
 several California courts have observed: “‘Courts have guarded zealously the  
 restrictive covenants in donations of property for public use....” (Citations.) In  
 fact, where property has been donated for public use, some courts have  
 concluded such property “is held upon what is loosely referred to as a ‘public

1 trust,' and any attempt to divert the use of the property from its dedicated  
2 purposes or uses incidental thereto is an ultra vires act. (Citations.)

3 (*County of Solano v. Handlery* (2007) 155 Cal.App.4th 566, 575-76).

4 In sum, *City of Hermosa Beach v. Superior Court, supra*, 231 Cal.App.2d at pp. 298-99 and  
5 *County of Solano v. Handlery, supra*, 155 Cal.App.4th at pp. 575-76 confirm that a city that  
6 accepts deeds with land use restrictions remains bound by those land restrictions. The City's  
7 present legal posture: that the land use restrictions have no force and effect confirm the  
8 existence of the very controversy alleged in the pleadings: the \$2.0 million payoff<sup>1</sup> by the  
9 Lugianis in exchange for parkland property presents a very real and actionable justiciable  
10 dispute.

11  
12 **IV. THE DEMURRER TO THE THIRD CAUSE OF ACTION FOR WRIT**  
13 **OF MANDATE SHOULD BE OVERRULED BECAUSE CEPC HAS**  
14 **ALLEGED A CLEAR, MINISTERIAL DUTY**

15 The City argues that the petition for mandate claims fail because the City does not  
16 own the parkland anymore (Demurrer, pp. 11-12). This argument assumes that the Court  
17 will find that the September 2012 deeds were valid. That argument is premature. The Court  
18 has yet to rule on the validity of the deeds. For purposes of the demurrer, the Court must  
19 assume as true CEPC's allegations that the deeds are illegal and void. (*Flores v. Arroyo* (1961)  
20 56 Cal.2d 492, 497). Under that assumption, the City does currently own the parkland.  
21 Moreover, in the event that the Court grants CEPC's requested declaratory relief that the  
22 September 2012 deeds are void CEPC is also entitled to relief under the mandate claim that  
23 the City will enforce the deed restrictions.

24 The City also argues that there is no ministerial duty here. (Demurrer, p. 11). CEPC  
25 disagrees. The land use restrictions compelling that the parkland be used perpetually for  
26

27 <sup>1</sup> More specifically, the Lugianis donated \$1.5 million to the Palos Verdes Peninsula Unified  
28 School District, paid \$400,000 to the Palos Verdes Homes Association and \$100,000 to the  
City.

1 public purposes is akin to a condition of approval imposed by a planning commission for a  
2 development project. Although the decision to reject or approve a development project is a  
3 discretionary one not subject to judicial interference, once a project is approved and  
4 conditions of approval are made, enforcement of those conditions is a ministerial duty.  
5 (*Terminal Plaza Corp. v. City and County of San Francisco* (1986) 186 Cal.App.3d 814, 834 [holding  
6 that Zoning Administrator had clear, ministerial duty to enforce planning commission  
7 condition of approval requiring construction of pedestrianway].) Here, once the City made  
8 the discretionary decision in 1940 to accept the deed restrictions, the enforcement of those  
9 restrictions by city officials became a clear, ministerial duty.

10 The case of *Save the Welwood Murray Memorial Library Com. v. City Council* (1989) 215  
11 Cal.App.3d 1003 (hereinafter, "*Welwood*") is instructive. In *Welwood*, the City of Palm Springs  
12 owned real property where the city's library was situated. The library property had been  
13 acquired by private deed restricting the use of the property to library uses. Forty years later,  
14 the City entered into an agreement with a developer. The agreement contemplated moving a  
15 popular restaurant to the library property. An unincorporated association formed for the  
16 purpose of blocking the project filed a petition for writ of mandate in the Superior Court to  
17 prevent the city from conveying the library to the developer. After the lawsuit was filed, the  
18 city and developer entered into an amended agreement calling for a partial razing of the  
19 library building in lieu of a conveyance to the developer to accommodate the dining area. The  
20 trial court was poised to grant the writ and block the city's actions when the city and  
21 developer began negotiations for a third agreement to allow for an easement for dining uses  
22 on library property. The trial court granted the writ of mandate and an injunction precluding the  
23 city from granting an easement or razing the library. The city appealed.

24 The Court of Appeal confirmed that the deed restrictions controlled the use of the  
25 property and dining uses would not directly contribute to a library use of the property.

26 (*Welwood*, at 1012):

27 The use proposed by City in no way directly contributes to these purposes,  
28 and, actually, in at least one way, is antithetical to such purposes, for the

proposed use would destroy parts of the building where books are stored and used.

(*Welwood*, at 1015).

The *Welwood* court found that the city's successive developer agreements would violate the deed restrictions requiring the city to "forever maintain" the library. (*Ibid.*) On appeal, the city argued that the writ impermissibly invaded the City's discretion. The *Welwood* court disagreed:

The language of the writ does not prevent City from removing sections of the library, from conveying easements or other legal rights over the Library Property or from otherwise undertaking any acts *necessary for library purposes*. It merely commands City not to undertake any such actions if they are done primarily for a nonlibrary purpose or if they interfere with library use.

(*Welwood*, at 1016, emphasis in original).

Finally, the *Welwood* court concluded that the trial court's issuance of an injunction to block the City's plans was proper:

A public trust is created when property is held by a public entity for the benefit of the general public. (Citations.) Here, title to the library property is held by City to be used by City for the benefit of the general public as a public library. Any attempt to divert the use of the property from its dedicated purposes or uses incidental thereto would constitute an ultra vires act. (Citations.) Thus, it would be proper not only to issue an injunction to enforce the obligation arising from the existence of the public trust, i.e., to enforce City's obligation to use the property as a public library, but also to prevent an ultra vires, and hence nonlegislative, act.

(*Welwood*, at 1017).

The holding of *Welwood* is applicable here. The City of Palm Spring's attempt to first convey and then raze the library is analagous to the City's conveyance of public parkland to the Luglianis. The issuance of a writ was upheld in *Welwood* because the proposed dining use for library property was a blatant violation of the deed restrictions. The facts of *Welwood* are not distinguishable.

Finally, the City also argues that the Court cannot compel the City to adopt any specific measures to enforce the restrictions. CEPC agrees. However, that does not preclude the Court from ordering the City to actually enforce the restrictions. For example, the Court could order the City to use reasonable measures to remove illegal encroachments on public



1 parkland within the next five years. Such an order would not invade the admittedly broad  
2 discretion that the City enjoys in the exercise of its police powers. The fact that the City has  
3 a choice among various enforcement mechanisms does not grant the City authority to simply  
4 not enforce the deed restrictions.

5  
6 **V. THE COURT SHOULD FIND THE CITY IS ESTOPPED BY ITS OWN**  
7 **DEEDS AND WORDS FROM DENYING THE ENFORCEABILITY OF**  
8 **THE DEED RESTRICTIONS**

9 For decades, the City has acted and stated that the deed restrictions on public  
10 parkland are legally binding and require the City to keep parklands free of illegal structures  
11 and private usage. (FAP, ¶ 18(a), (c), (d), (e), (g).) The City has previously taken the position  
12 that the City “wholeheartedly accepted” and was legally bound by the restrictions contained  
13 in the deeds conveying the parkland to the City. (FAP, ¶ 18 (h).). The City, having accepted  
14 the deed restrictions in 1940 and public pronounced that they were legally binding as support  
15 for City-wide parkland enforcement efforts, is now estopped from denying the binding  
16 nature of those deed restrictions. (*Chapman v. Gillett* (1932) 120 Cal.App. 122, 126-27  
17 [holding that plaintiff took deed of conveyance reciting existence of prior deed of trust is  
18 estopped from denying validity of prior deed of trust].) Estoppel principles apply to claims  
19 against the government, “particularly where the application of the doctrine would further  
20 public policies and prevent injustice.” (*US Ecology, Inc. v. State of California* (2001) 92  
21 Cal.App.4th 113, 131).

22 The City also suggests that the Court should disregard CEPC’s estoppel arguments  
23 because the Court previously considered and rejected them in the prior demurrer.  
24 (Demurrer, p. 5). In fact, the City previously urged this Court to ignore the estoppel  
25 arguments because they were not pled in the original pleading. (Reply to Demurrer to  
26 Petition, p. 7). CEPC, having now accepted the City’s invitation to plead the estoppel  
27 argument, the argument should now be considered for the first time on the merits.  
28

1           **VI.     THE COURT SHOULD FIND THE CITY IS COLLATERALLY**  
2                   **ESTOPPED BY THE LITIGATION IN ROBERTS V. CITY OF**  
3                   **PALOS VERDES ESTATES**

4           In the 1940's, the City attempted to use parkland for non-parkland purposes.  
5           *Roberts v. City of Palos Verdes Estates* (1949) 93 Cal.App.2d. 545. The Court of Appeal ruled  
6           that the deed restrictions trumped the City's desires to use the land for another purpose.  
7           Having fully litigated that issue previously in 1949, the City may not re-litigate the same issue  
8           here. The Court of Appeal has already conclusively established that the City's desires for  
9           better uses for parkland are immaterial. "What a city council or board of trustees would like  
10          to do under whatever guise it may be proposed is not the test as to the validity of the  
11          proposal. The terms of the deed alone are controlling." (*Roberts v. City of Palos Verdes Estates*,  
12          *supra*, 93 Cal.App.2d at p. 548). The issue may not be re-litigated here. (*Proctor v. Vishay*  
13          *Intertechology, Inc.* (2013) 213 Cal.App.4th 1258, 1274 [holding that doctrine of collateral  
14          estoppel may be asserted to prevent party from relitigating issue previously decided after a  
15          full and fair hearing on the merits].)

16  
17           **VII.   CONCLUSION**

18          For the foregoing reasons, CEPC and Harbison respectfully request that the Court  
19          overrule the demurrer in its entirety. Alternatively, CEPC and Harbison requests leave to  
20          amend.

21  
22  
23          DATED: December 19, 2013

BROEDLOW LEWIS LLP

24  
25          By: \_\_\_\_\_

  
Jeffrey Lewis

26                   Attorneys for Plaintiffs and Petitioners  
27                   CITIZENS FOR ENFORCEMENT OF  
28                   PARKLAND COVENANTS and JOHN  
                      HARBISON

1 CHRISTI HOGIN, State Bar No. 138649  
City Attorney, City of Palos Verdes Estates  
2 GREGG KOVACEVICH, State Bar No. 181295  
**JENKINS & HOGIN, LLP**  
3 Manhattan Towers  
1230 Rosecrans Avenue, Suite 110  
4 Manhattan Beach, California 90266  
Telephone: (310) 643-8448  
5 Facsimile: (310) 643-8441  
Email: CHogin@LocalGovLaw.com

Exempt from fees pursuant  
to *Government Code* § 6103

6 Attorneys for Defendant/Respondent  
7 City of Palos Verdes Estates

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES—CENTRAL DISTRICT

11 CITIZENS FOR ENFORCEMENT OF  
12 PARKLAND COVENANTS, an  
unincorporated association,

13 Plaintiff and Petitioner,

14 v.

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 and Respondents,

20 ROBERT LUGLIANI and DOLORES A.  
21 LUGLIANI, as co-trustees of THE  
LUGLIANI TRUST; THOMAS J. LIEB,  
22 TRUSTEE, THE VIA PANORAMA TRUST  
U/DO MAY 2, 2012 and DOES 1 through  
23 20,  
24 Defendants and Real Parties in Interest.

CASE NO. BS142768

**CITY OF PALOS VERDES ESTATES'  
REPLY BRIEF IN SUPPORT OF  
DEMURRER TO FIRST AMENDED  
PETITION FOR WRIT OF MANDATE  
AND COMPLAINT**

Date: January 3, 2014  
Time: 1:30 p.m.  
Dept.: 86

Petition and Complaint Filed: May 13, 2013

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1 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

2 This case is really nothing more than a dispute among private property owners about the  
3 rights and obligations arising from a set of private deed restrictions on a parcel the City no  
4 longer owns. There is no good reason why the City is even named in the case. The far-flung  
5 legal theories advanced in plaintiffs' causes of action against the City are a testament to that.  
6 The deed restrictions they seek to have enforced run with the land and remain equally  
7 enforceable regardless of who owns the property. As was the case with plaintiffs' response to  
8 the City's original demurrer, the opposition to the City's demurrer to the second cause of  
9 action fails because the plaintiff has not identified any *ultra vires* actions by the City. The first  
10 amended petition and complaint ("FAP") seeks to prevent the City from processing  
11 applications for a zone change and after-the-fact permits for encroachments on Area A; but, of  
12 course, processing the applications is not only within the City's authority, it is the City's duty.  
13 In their opposition brief, plaintiffs contend that conveying property and accepting a  
14 conveyance was *ultra vires*; however, Government Code section 37350 expressly authorizes  
15 the City to convey and receive property.

16 Plaintiffs' response to the City's demurrer to the third cause of action again fails to  
17 provide any serious opposition, insisting without any supporting authority whatsoever that the  
18 court must assume the City still owns the property when deciding whether the City has some  
19 ministerial duty to enforce private deed restrictions through its police powers. Beyond that,  
20 plaintiffs refer to new allegations in the FAP incorporating previously unpleaded estoppel  
21 arguments made in support of their opposition to the City's original demurrer. Pleded or  
22 unpleaded, however, those legal theories have no merit.

23 For the reasons set forth in the City's Demurrer and herein, the City respectfully  
24 requests that its demurrer to the first amended petition be sustained without leave to amend.

25 **II. ARGUMENT**

26 **A. The Complaint Fails to Plead Facts Sufficient to State a Cause of Action for**  
27 **Declaratory Relief as Against the City.**

28 The City of Palos Verdes Estates hereby joins in the argument of Defendants/Real  
Parties-in-Interest set forth in their responses to Section II of the opposition brief regarding



1 Plaintiffs' first and third causes of action.

2       **B. Plaintiffs' Second Cause of Action Fails to State a Claim for Relief Against**  
3       **the City.**

4       In the second cause of action, plaintiffs seek injunctive and declaratory relief under  
5 Code of Civil Procedure section 526a to prevent the City from spending any additional funds  
6 processing the Panorama Property Owners' applications for a zoning ordinance amendment  
7 and after-the-fact approvals for the existing improvements on Area A. FAP, Prayer ¶ 4.

8 Plaintiffs also seek an order declaring the conveyance of Area A to the Association to be a  
9 waste of taxpayer funds. FAP, Prayer ¶ 5. Plaintiffs seek this relief on the theory that these  
10 actions are "*ultra vires*"—that is, outside the City's legal authority. As detailed in the City's  
11 moving papers, plaintiffs' second cause of action fails to state a cognizable claim for relief.

12 Not only is the processing of entitlement applications not "*ultra vires*," it is a core  
13 governmental function. In fact, the City has an obligation to process the applications in the  
14 manner prescribed by its municipal code. *See* City's Demurrer to FAP, pp. 9-10.

15 Consequently, the City's processing of entitlement applications cannot constitute illegal  
16 conduct and form the basis of a CCP § 526a claim.<sup>1</sup> *Coshov v. City of Escondido* (2005) 132  
17 Cal.App.4<sup>th</sup> 687, 714 ("A cause of action under Code of Civil Procedure section 526a will not  
18 lie where the challenged governmental conduct is legal.") Likewise, the alleged conveyance  
19 of Area A by the City is not illegal conduct that can form the basis of a CCP § 526a claim  
20 because the City is clearly authorized by law to control and dispose of real property for the  
21 common benefit, a fact that plaintiffs do not refute—or even respond to—in their opposition  
22 brief.<sup>2</sup> Gov't Code § 37350 (a city may "purchase, lease, receive, hold, and enjoy real and

23 <sup>1</sup>As the City has already pointed out in each of its demurrers, plaintiffs' attempt to enjoin the City from  
24 spending any funds to process the applications is also without merit. Applicants for entitlements and  
25 zone changes are required to pay a fee to the City in an amount that does not exceed the City's cost to  
26 process the applications. PVEMC §§ 17.04.070, 17.28.010(C); Cal. Const. art. XIII C, § 1.  
27 Consequently, the processing of such applications is generally revenue neutral to the City. The owners  
28 of Area A have paid all required application fees to the City and, unless the applications are  
29 withdrawn, they are entitled to have them processed, and decisions on them rendered, in the ordinary  
30 course of business.

<sup>2</sup> In their opposition brief, plaintiffs add a slight twist to the allegations in their complaint. The  
complaint alleges that the "conveyance of public parkland to a private party is [] an *ultra vires* act."

[Footnote continued on next page]



1 personal property, and control and dispose of it for the common benefit.”)

2 Ignoring the black letter law entirely, plaintiffs instead rely on a series of cases standing  
3 for the proposition that a city may not use land that has been dedicated to it in a manner that is  
4 inconsistent with the terms of the dedication. FAP at pp. 4-6 (citing *City of Hermosa Beach v.*  
5 *Superior Court* (1964) 231 Cal.App.2d 295; *Big Sur Properties v. Mott* (1976) 62 Cal.App.3d  
6 99; *County of Solano v. Handlery* (2007) 155 Cal.App.4<sup>th</sup> 566.) Each of these cases is  
7 inapposite. The City does not quarrel with the notion that a local agency may not use property  
8 in a manner which conflicts with the terms of the dedication through which it received the  
9 property. Indeed, when John Q. Citizen bequeaths his property to the government to maintain  
10 as public parkland, it is that logical precept that prevents the government from thereafter using  
11 the property as a site for a sewage treatment plant. In this case, however, plaintiffs are not  
12 challenging how the City *uses* the property but rather whether the City can lawfully convey it  
13 and accept ownership of a piece of property better suited for parkland uses—the sort of  
14 transactions expressly authorized under state law. Gov’t Code §37350.

15 Indeed, plaintiffs do not (and cannot) allege that the City has ever used Area A in a  
16 manner inconsistent with the applicable deed restrictions. As plaintiffs acknowledge, it is the  
17 neighboring property owners that have constructed improvements on Area A without authority  
18 to do so. FAP ¶¶ 16-17. The City had taken a number of steps to cause those encroachments  
19 to be removed and the property restored. FAP ¶ 18. All the while, as a result of the  
20 unpermitted encroachments on Area A, the Association held a reversionary interest that it was  
21 free to exercise at any time. FAP ¶ 10(d). An opportunity arose for the City to acquire a piece  
22 of property better suited for public parkland and to avoid the risk of the Association exercising  
23 its reversionary interest to Area A, leaving the City with nothing. *Id.*; FAP, Exhibit 4, p. 4.

24 [Footnote continued from previous page]

25 FAP ¶ 52. In their opposition, plaintiffs argue that the “deeds conveying public parklands to private  
26 parties *for private use* constituted an ultra vires act.” Opp. to Demurrer at p. 4 (emphasis added.)  
27 Contrary to plaintiffs characterization, the deeds do not in any way purport to limit Area A for private  
28 use or to authorize any particular use of Area A. The deeds effected a simple conveyance of the real  
estate *and the restrictions on the deed passed along with the property and remain on the property*, a  
fact that plaintiffs stubbornly refuse to acknowledge—perhaps because to do so would be to concede  
that the city does not belong in case that is, at its core, a dispute about the enforceability of private  
covenants between private parties.



1 The City seized that opportunity and the public is better off for it. Plaintiffs' insinuation that  
2 the City must own Area A in order for it to be preserved as public open space is both  
3 unfounded and irrational for, as the City has pointed out several times now, the deed  
4 restrictions on Area A run with the land and are binding upon whoever owns the property.  
5 And, there remains a class of persons with standing to enforce those restrictions as against the  
6 current owner. The City's conveyance of Area A has absolutely no effect whatsoever on the  
7 enforceability of any applicable deed restrictions.<sup>3</sup>

8 All of the cases cited by plaintiffs involved public entities attempting to use property in  
9 a manner inconsistent with terms of the dedication. See *County of Solano v. Handlery, supra*,  
10 155 Cal.App.4<sup>th</sup> 566 (County sought to make alternative use of land that had been dedicated to  
11 it for fairground purposes); *Big Sur Properties v. Mott, supra*, 62 Cal.App.3d 99 (state statute  
12 authorizing rights-of-way for private access across public parkland under certain circumstances  
13 is not applicable to property that has been donated to the state for exclusive use as a park);  
14 *City of Hermosa Beach v. Superior Court, supra*, 231 Cal.App.2d 295 (holding that a taxpayer  
15 had standing to maintain an action to prevent the construction of a road over property restricted  
16 from such use and dedicated "as a public pleasure ground.") None of the authorities cited by  
17 plaintiffs supports the conclusion that the City may be compelled to continue to own the  
18 property. Thus, neither the deeds accomplishing the transfer of ownership nor the MOU that  
19 contemplates them is *ultra vires*. Because plaintiffs have not pled an *ultra vires* act, they fail  
20 to state a cause of action under CCP section 526a. For that reason, the City respectfully  
21 requests that its demurrer to the second cause of action be sustained without leave to amend.<sup>4</sup>

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23 <sup>3</sup> At the conclusion of Section III of their opposition brief, plaintiffs contend that the City's "present  
24 legal posture" is that "the land use restrictions have no force or effect." Opp. Brief at 6:6-7. This is  
25 wholly untrue, as plaintiffs well know. The City has never once suggested that the deed restrictions  
have no force or effect. Quite the opposite as a matter of fact. On several occasions now the City has  
emphasized that the deed restrictions *remain binding upon whoever owns the property*.

26 <sup>4</sup> It is evident from plaintiffs' opposition brief that its primary concern centers on its desire to see the  
27 private deed restrictions applicable to Area A enforced. Given that, plaintiffs appear to be confused on  
28 a fundamental point. The applications for a zone change and after-the-fact entitlements that would  
have the effect of legalizing the improvements on Area A remain pending, but even if they are  
ultimately approved by the City that would not impair the enforceability of valid deed restrictions at  
all. *Seaton v. Clifford* (1972) 24 Cal.App.3d 46, 52; *Wilkman v. Banks* (1954) 124 Cal.App.2d 451,

[Footnote continued on next page]



1           **C. Plaintiffs' Third Cause of Action Fails to State a Claim for Relief Against**  
2           **the City.**

3           In their third cause of action, Plaintiffs seek a writ of mandate compelling the City to  
4           enforce deed restrictions applicable to Area A and to remove the illegal improvements from  
5           Area A and restore it to its original state. FAP ¶ 57. In its demurrer, the City argued that  
6           plaintiffs fail to state a cause of action because the City has no ministerial duty, let alone any  
7           legal standing, to enforce private deed restrictions on property it does not own. In response,  
8           plaintiffs offer two arguments. First, plaintiffs contend that the court must proceed under the  
9           assumption that the deeds conveying Area A are "illegal and void." Second, plaintiffs argue  
10          that the private deed restrictions are "akin to a condition of approval imposed by a planning  
11          commission for a development project" and the City is therefore obligated to enforce them.  
12          There is no merit to either argument.

13          In opposition to the City's original demurrer, CEPC conceded that it had not stated a  
14          claim for writ of mandate and that the viability of its third cause of action for a writ  
15          commanding the City to enforce the deed restrictions was, at a minimum, contingent on the  
16          court first declaring the deeds void and the City regaining ownership of Area A. Opp. to  
17          Original Demurrer, p. 11 ("At *that* point, mandamus will lie...") (emphasis added.) In other  
18          words, by plaintiffs' own admission if the Complaint failed to state a cause of action to void  
19          the deeds, the mandate claim must also fail (although it fails for independent reasons as well).  
20          Having unsuccessfully opposed demurrer the first time around, plaintiffs now boldly insist that  
21          "the Court must assume as true CEPC's allegations that the deeds are illegal and void. (*Flores*  
22          *v. Arroyo* (1961) 56 Cal.2d 492, 497). Under that assumption, the City does currently own the  
23          parkland." Opp. Brief at p. 6. This is simply not true and the case cited by plaintiffs offers no  
24          support. It is firmly established that a demurrer admits all material and issuable facts properly  
25          pleaded. However, it does not admit contentions, deductions or conclusions of fact or law

26          [Footnote continued from previous page]

27          455. Therefore, if plaintiffs or anyone else possess any enforceable rights or remedies by virtue of the  
28          deed restrictions applicable to Area A, those rights or remedies will not be affected by any action the  
29          City may take on the applications. The most a zone change and after-the-fact entitlements can do is  
30          bring Area A into conformance with the Municipal Code. They cannot cure any violation of a private  
31          covenant or restriction if any such violation exists.



1 alleged therein. *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 713; *Flores v. Arroyo* (1961)  
2 56 Cal.2d 492, 497. Plaintiffs' contention that the Area A deeds are "illegal and void" is  
3 clearly a legal conclusion (and an erroneous one at that). Therefore, it is not accepted as true  
4 on demurrer.<sup>5</sup> Regardless, as detailed in the City's moving papers, plaintiffs cannot state a  
5 cause of action for mandate under any circumstances because even if the City still owned Area  
6 A it would be under no mandatory obligation to enforce the deed restrictions. Demurrer, p. 12.  
7 Plaintiffs sometime confuses this fact with any property owners' obligation to comply with the  
8 deed restrictions. The 1940 deed authorized certain parties to enforce the restrictions. FAP,  
9 Exhibit 2, p. 14. It did not impose a mandatory duty on any party to enforce them.<sup>6</sup> *Id.*

10 For their second argument, plaintiffs rely entirely on *Save the Welwood Murray*  
11 *Memorial Library Com. v City Council* (1989) 215 Cal.App.3d 1003 for the proposition that  
12 the City has a ministerial duty to enforce the deed restrictions applicable to Area A. Opp. Brief  
13 at pp. 7-9. The *Welwood* case is totally inapposite. There, the City of Palm Springs entered  
14 into an agreement with a developer to locate a restaurant and related amenities on property that  
15 had been dedicated to the city exclusively for public library uses. The court found that "[t]he  
16 use proposed by the City in no way directly contributes to [public library] purposes" and  
17 affirmed an injunction preventing the City from making unauthorized use of the restricted

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18  
19 <sup>5</sup> There is an inherent contradiction in plaintiffs' complaint that should be noted. While plaintiffs urge  
20 the court to assume the deeds are void and that, as a consequence, the City still owns Area A, they  
21 simultaneously allege that the Association's reversionary interest in Area A has been triggered. FAP ¶  
22 48(c) and (d). If, as plaintiffs allege, the Association's reversionary interest was triggered by the  
23 September 2012 deeds, then the Association would wind up with title to the property in either case—  
24 whether by deed from the City or by virtue of a reversion as a consequence of the deed. Plaintiffs  
25 cannot have it both ways, insisting on the one hand that the City must still own Area A while at the  
26 same time alleging that title has automatically reverted to the Association.

27 <sup>6</sup> Plaintiffs also argue that mandamus will be appropriate to require the City to enforce its municipal  
28 code if they can convince the court to void the subject deeds. Opp. Brief at pp. 8-9. Plaintiffs'  
confusion is apparent. The City's authority to enforce its zoning regulations is unaffected by the  
change in ownership. The City still has precisely the same police power (and corresponding  
discretion) that it had when it owned the underlying fee interest in Area A. However, the Court may  
not compel the City to exercise its discretion in any particular manner. *Riggs v. City of Oxnard* (1984)  
154 Cal.App.3d 526, 530. Even if the court had such authority, it would be premature at this point  
because, as plaintiffs alleged, applications are pending before the City which, if ultimately approved,  
would have the effect of legalizing the improvements on Area A. FAP ¶ 24. It would be a senseless  
waste of public resources for the City to simultaneously pursue legal remedies to compel removal of  
the improvements while applications to legalize them in place remain pending.



1 property. *Id.* at 1015. Here, the City is not proposing and has never proposed making any use  
2 of Area A that is inconsistent with the deed restrictions. The City no longer owns Area A and  
3 it may not be compelled to own it. Gov't Code § 37350. Consequently, the City has no  
4 present obligation of any kind with respect to the deed restrictions.

5 Furthermore, contrary to plaintiffs' characterization, restrictions imposed by a private  
6 property owner on a deed are not akin to conditions placed by a planning commission on a  
7 discretionary land use permit and the *Terminal Plaza* case relied on by plaintiffs does not  
8 support the analogy. In *Terminal Plaza*, the court held that the city's planning commission had  
9 a ministerial obligation to implement all duly passed resolutions. *Terminal Plaza Corp. v. City*  
10 *and County of San Francisco* (1986) 186 Cal.App.3d 814, 831. The court analogized the  
11 planning commission's function to that of a city council, reasoning that "[i]f the necessary  
12 majority [of the city council] vote in favor of [an] ordinance, the various city departments are  
13 charged with the ministerial task of implementing the ordinance." *Id.* Restrictions on a deed  
14 placed by private parties simply do not give rise to a mandatory obligation on the part of the  
15 government to enforce them. The City certainly has a duty to comply with deed restrictions on  
16 property that it owns. Such is true of all property owners, public or private. However, at this  
17 point, plaintiffs seek a writ of mandate to compel the City to enforce private deed restrictions  
18 on property it does not own. Such relief is unavailable as a matter of law and sufficient  
19 grounds to sustain the City's demurrer to the third cause of action.

#### 20 **D. Plaintiffs' Estoppel Theories Have No Merit.**

21 Plaintiffs offer both equitable estoppel and collateral estoppel theories in support of  
22 their opposition, neither of which has any merit. The equitable estoppel theory suggests that  
23 because the City accepted title to Area A in 1940 subject to numerous deed restrictions, it is  
24 now "estopped from denying the binding nature of those deed restrictions." Opp. Brief at p. 9.  
25 Plaintiffs miss the point yet again. The City does not, and has not, denied that Area A was  
26 subject to deed restrictions that limit its use while the City owned it. The City no longer owns  
27 Area A (FAP ¶ 23) and, therefore, it is without standing to enforce those private deed  
28 restrictions. *BCE Development, Inc. v. Smith* (1989) 215 Cal.App.3d 1142- 1146-47; Miller



1 and Starr, 8 Cal. Real Est. § 24:25 (3d ed.) Even if the City still owned Area A it would be  
2 under no mandatory obligation to enforce the deed restrictions (FAP, Exhibit 2, p. 14),  
3 although as property owner it would be subject to them.

4 In support of its collateral estoppel theory, plaintiffs argue that the City is attempting to  
5 re-litigate an issue decided in the 1949 case of *Roberts v. City of Palos Verdes Estates* (1949)  
6 93 Cal.App.2d 545. Plaintiffs are way off the mark. In *Roberts*, the issue was whether the  
7 City could erect a building to store city-owned maintenance vehicles and equipment on  
8 property subject to a deed restriction that prohibited the erection of any structures unless they  
9 were “properly incidental to the convenient and/or proper use of said realty for park purposes.”  
10 *Roberts*, 93 Cal.App.2d at 546. The court ruled that terms of the deed alone are controlling,  
11 not the desires of the City, and remanded the case to the trial court to determine whether the  
12 proposed buildings would be “necessary and appropriate, and hence, ‘incidental to the  
13 convenient and/or proper use of said realty for park purposes.’” *Id.* at 548. The case has no  
14 application here. The City is not making use of Area A and does not propose to make use of  
15 Area A. In addition, the City acknowledges the existence and enforceability of the deed  
16 restrictions applicable to Area A. The City’s point is simply that it may not be compelled to  
17 use its police power to enforce private deed restrictions applicable to property it does not own.  
18 Plaintiff’s opposition brief cites no legal authority to contradict the City’s position on that  
19 point. Consequently, the plaintiffs fail to state a cause of action against the City for traditional  
20 mandate.

21  
22 **E. Plaintiff Has Failed to Show that the Defects in Its Complaint Can be Cured  
by Amendment.**

23 A plaintiff bears the burden of establishing that defects in its complaint can be cured by  
24 amendment. *Durell v. Sharp Healthcare* (2010) 183 Cal.App.4<sup>th</sup> 1350, 1371; *Campbell v.*  
25 *Regents of University of California* (2005) 35 Cal.4<sup>th</sup> 311, 320. In their opposition, plaintiffs  
26 do not request leave to file a second amended complaint in the even the City’s demurrer is  
27 sustained and do not discuss or explain how supplemental allegations would cure the  
28 Complaint’s fundamental defects. Consequently, plaintiffs have failed to meet their burden



1 and the City's demurrer to the second and third causes of action should be sustained without  
2 leave to amend. *Durell, supra*, 183 Cal.App.4<sup>th</sup> at 1371. In any event, whether the City has a  
3 ministerial duty to enforce private deed restrictions on property it does not own is a question of  
4 law squarely before this court at this time; further facts will not change the legal conclusion  
5 that the City has no present duty to enforce the deed restrictions against private property  
6 owners. That is the right of the Association and others.

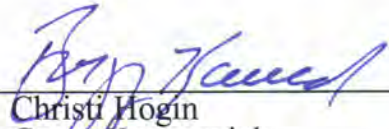
7 **III. CONCLUSION**

8 For the foregoing reasons, the City respectfully requests that the Court sustain the City's  
9 demurrers without leave to amend.

10  
11 Dated: December 26, 2013

Respectfully submitted,

12  
13 By: \_\_\_\_\_

  
Christi Hugin  
Gregg Kovacevich  
JENKINS & HOGIN, LLP  
Attorneys for Defendant/Respondent  
CITY OF PALOS VERDES ESTATES

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
4 and not a party to the within action; my business address is 1230 Rosecrans Avenue, Suite 110,  
Manhattan Beach, CA 90266.

5 On December 26, 2013, I served the foregoing documents described as:

6 **CITY OF PALOS VERDES ESTATES' REPLY BRIEF IN SUPPORT OF**  
7 **DEMURRER TO FIRST AMENDED PETITION FOR WRIT OF MANDATE AND**  
8 **COMPLAINT;**

9 on the interested party or parties in this action by placing the original thereof enclosed in sealed  
envelopes with fully prepaid postage thereon and addressed as follows:

10 *PLEASE SEE SERVICE LIST ATTACHED*

- 11 ☐ **VIA EMAIL.** I caused such document as described above, to be transmitted via E-Mail  
to the offices of the addressee(s).
- 12 ☐ **VIA FACSIMILE.** I caused such document to be transmitted via facsimile to the offices  
13 of the addressee(s).
- 14 ☐ **VIA OVERNIGHT DELIVERY.** I enclosed the documents in an envelope or package  
provided by an overnight delivery carrier and addressed to the person(s) at the address(es)  
15 stated above. I placed the envelope or package for collection and overnight delivery at a  
regularly utilized drop box of the overnight delivery carrier.
- 16 ☒ **VIA U.S.MAIL.** I enclosed the above described documents in a sealed envelope or  
17 package addressed to the person(s) listed above or on the attached; caused such envelope  
with postage thereon fully prepared to be placed in the United States mail at Los Angeles,  
18 California.

19 *I am readily familiar with the Jenkins & Hogin, LLP's practice of collection and processing correspondence for*  
20 *outgoing mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with*  
21 *postage thereon prepaid at Manhattan Beach, California, in the ordinary course of business. I am aware that*  
22 *on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is*  
23 *more than one day after date of deposit for mailing in affidavit.*

- 24 ☒ **STATE.** I declare under penalty of perjury under the laws of the State of California  
25 that the above is true and correct.
- 26 ☐ **FEDERAL.** I declare that I am employed in the office of a member of the Bar of this  
27 Court at whose direction the service is made.

28 Executed this 26<sup>th</sup> day of December, 2013, at Manhattan Beach, California.

29   
30 WENDY HOFFMAN

**SERVICE LIST**

Jeffrey Lewis  
Kelly Broedlow Dunagan  
BroedlowLewis LLP  
734 Silver Spur Road  
Suite 300  
Rolling Hills Estates, CA 90274  
Tel: (310) 935-4001  
Fax: (310) 872-5389  
[Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

Attorneys for Petitioner  
*Citizens for Enforcement of Parkland  
Covenants*

Terry Tao  
Scott J. Sachs  
Atkinson, Andelson, Loya, Ruud & Romo  
12800 Center Court Drive  
Suite 300  
Cerritos, CA 90703  
Tel: (562) 653-3000  
Fax: (562) 653-3333  
[TTao@AALRR.com](mailto:TTao@AALRR.com)  
[SSachs@AALRR.com](mailto:SSachs@AALRR.com)

Attorneys for Respondent  
*Palos Verdes Peninsula Unified School  
District*

Sidney F. Croft  
LAW OFFICE OF SIDNEY CROFT  
314 Tejon Place  
Palos Verdes Estates, CA 90274  
Tel: (310) 849-1992  
[SFCroftLaw@aol.com](mailto:SFCroftLaw@aol.com)

Attorney for Respondent  
*Palos Verdes Homes Association*

LEWIS BRISBOIS BISGAARD & SMITH LLP  
Daniel V. Hyde  
Brant H. Dveirin  
221 N. Figueroa Street, Suite 1200  
Los Angeles, CA 90012  
Tel: (213) 250-1800  
Fax: (213) 250-7900  
[Daniel.Hyde@lewisbrisbois.com](mailto:Daniel.Hyde@lewisbrisbois.com)  
[Brant.Dveirin@lewisbrisbois.com](mailto:Brant.Dveirin@lewisbrisbois.com)

Attorneys for Respondent  
*Palos Verdes Homes Association*

Andrew Haley  
GREENWALD, PAULY, FOSTER & MILLER  
APC  
1299 Ocean Avenue  
Suite 400  
Santa Monica, CA 90401-1007  
Tel: (310) 451-8001  
[ahaley@gpfn.com](mailto:ahaley@gpfn.com)

Attorney for Respondent  
*Palos Verdes Homes Association*



1 Damon P. Mamalakis  
2 R.J. Comer  
3 Armbruster Goldsmith & Delvac  
4 11611 San Vicente Boulevard  
5 Suite 900  
6 Los Angeles, CA 90049  
7 Tel: (310) 254-9026  
8 Fax: (310) 254-9046  
9 [Damon@agd-landuse.com](mailto:Damon@agd-landuse.com)  
10 [RJ@AGD-LandUse.com](mailto:RJ@AGD-LandUse.com)  
11  
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13  
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21  
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26  
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Attorneys for Real Parties in Interest  
*Robert Lugliani and Dolores E. Lugliani, as*  
*co-trustees of THE LUGLIANI TRUST;*  
*THOMAS J. LIEB, TRUSTEE, THE VIA*  
*PANORAMA TRUST*

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

DANIEL V. HYDE, SB No. 63365

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 Defendant and Respondent

PALOS VERDES HOMES ASSOCIATION

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

12 CITIZENS FOR ENFORCEMENT OF  
13 PARKLAND COVENANTS, an  
unincorporated association; JOHN  
14 HARBSION, an individual

15 Plaintiff and Petitioners,

16 vs.

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

20 Defendants and Respondents.

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

24 Defendants and Real Parties in  
25 Interest.

CASE NO. BS142768

[Assigned to Hon. Joanne O'Donnell, Dept. 86]

**DEFENDANT AND RESPONDENT  
PALOS VERDES HOMES  
ASSOCIATION'S NOTICE OF HEARING  
AND DEMURRER TO THIRD CAUSE OF  
ACTION OF FIRST AMENDED  
PETITION FOR WRIT OF MANDATE  
AND COMPLAINT FOR INJUNCTIVE  
RELIEF, AND MEMORANDUM OF  
POINTS AND AUTHORITIES**

**NOTICE OF JOINDER IN DEMURRER  
OF RESPONDENT CITY OF PALOS  
VERDES ESTATES AND JOINDER IN  
DEMURRER AND MOTION TO STRIKE  
OF REAL PARTIES ROBERT  
LUGLIANI, ET. AL.**

Petition Filed: May 13, 2013

**Hearing Date:** January 3, 2014

**Time:** 1:30 p.m.

**Dept.:** 86

Trial Date: June 20, 2014



1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 On January 3, 2014, at 1:30 p.m., or as soon thereafter as the matter may be heard, in  
3 Department 86 of the above-entitled court, located at 111 N. Hill Street, Los Angeles, California,  
4 Defendant and Respondent Palos Verdes Homes Association (the "Association") will demur to the  
5 Third Cause of Action of the First Amended Petition for Writ of Mandate and Complaint for  
6 Injunctive Relief (the "Amended Petition") filed by Plaintiffs and Petitioners, Citizens for  
7 Enforcement of Park Land Covenants and John Harbison (collectively "CEPC and Harbison" or  
8 "Petitioners" interchangeably).

9 The Association also moves to join in Demurrer of Defendant and Respondent City of  
10 Palos Verdes Estates, and join in the Demurrer and Motion to Strike of Real Parties Robert  
11 Lugliani, et. al.

12 **DEMURRER BY ASSOCIATION**

13 The Association demurs to the Third Cause of Action of the Amended Petition on the  
14 grounds that the Amended Petition fails to state a cause of action for the issuance of a writ of  
15 mandate because it fails to allege that the Association had a ministerial duty to enforce land use  
16 restrictions or exercise its reversionary rights.

17 The Association's Demurrer is based on the accompanying memorandum of points and  
18 authorities, any and all matters subject to judicial notice, and all documents in the file in this case,  
19 and on such argument and evidence as may be presented at the hearing.

20 DATED: December 5, 2013

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

21  
22 By: 

23 Brant H. Dveirin

24 Attorneys for Respondent and Defendant PALOS  
25 VERDES HOMES ASSOCIATION  
26  
27  
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER**

2 **I. INTRODUCTION**

3 The Third Causes of Action of both the Original and Amended Petitions seek a writ of  
4 mandate under Code of Civil Procedure Section 1085 directing the Association to enforce land use  
5 restrictions and exercise reversionary rights in regard to a parcel of land in Palos Verdes Estates  
6 referred to as Area A.<sup>1</sup> Writs of mandate may be issued to compel the performance of acts that  
7 the respondent has a ministerial duty to perform, but may not control the discretion vested in a  
8 governing body or board. (*See* Code of Civil Procedure Section 1085; *See also* *Gong v. Fremont*  
9 (1967) 250 Cal. App. 2d 568, 572 ) The Association demurred to the Third Cause of Action of  
10 the Original Petition on the grounds that the deed restrictions and protective covenants governing  
11 the Association and its members granted the Association the authority and discretion to enforce  
12 land use restrictions and exercise its reversionary rights, but did not impose any duty on the  
13 Association other than to act in good faith, on reasonable investigation, within its authority and  
14 with due regard for the best interests of the association and its members. The court sustained the  
15 Association's demurrer and ruled that "... there was no ministerial duty shown in the pleading."  
16 (Minute Order, October 28, 2013)

17 The Petitioners have filed an Amended Petition and added a Section H, entitled  
18 "Association's Ministerial Duties to Enforce the Parkland Covenants and Enforce Its Reversionary  
19 Rights" (Amended Petition, page 16.) These new allegations, however, are mere conclusions of  
20 law and do not alter the previous determination of the court that the documents governing the  
21 Association and its members, which are incorporated into the Original and Amended Petitions,  
22 continue to show that the Association's board has the authority and discretion to take the actions  
23 that it took and that there continues to be no ministerial duty shown in the pleadings. For that  
24

25  
26 <sup>1</sup> The Amended Petition, identical to the Original Petition, alleges a chronology of historical deeds  
27 and covenants, and restrictions ("Historical Deed Restrictions") that establish and govern the  
28 Association and establish conditions, covenants and agreements, as well as deed restrictions,  
relative to the properties identified in the Amended Petition as "Lots C & D" and "Area A"  
(Original Petition 4:24-7:14 and Amended Petition 5:5-7:10).



1 reason, the Association's demurrer to the Third Cause of Action of the Amended Petition should  
2 be sustained without leave to amend.

3 **II. FACTUAL BACKGROUND**

4 The Amended Petition seeks to void an admittedly "well-intentioned" agreement that  
5 settled a lawsuit brought by the Palos Verdes Peninsula Unified School District ("School District")  
6 against the Association and the City of Palos Verdes Estates ("City"). In that lawsuit, the School  
7 District sought to have the court declare land use restrictions obligating the School District to hold  
8 two of its properties ("Lots C and D") for school purposes to be unenforceable so that the School  
9 District would be able to raise needed funds by selling those lots for residential development.

10 The settlement agreement is Exhibit 4 to the Amended Petition and is incorporated by  
11 reference. The agreement expressly provides the School District's acknowledgement that Lots C  
12 and D, as well as all of its other lands within the City, continue to be subject to the Historical Land  
13 Use Restrictions for school and related purposes. (*See* MOU, Art. II, Sub A, Amended Petition,  
14 Exhibit 4, p. 5) The agreement further provides for Lots C and D to revert to the Association in  
15 accordance with the Historical Land Use Restrictions. (*Id.*, Art. II, Sub. C, pp.6-7; and MOU  
16 Recitals, p. 2.) Under the settlement agreement, the Association agreed to convey Lots C and D to  
17 the City to be maintained by the City as open space. (*Id.* p.7) In exchange, the City conveyed  
18 another parcel of land, referred to as "Area A," then restricted as open space, to the Association.  
19 (*Id.*, Art. III, Sub. B and C, p. 7) The agreement then provided for Area A to be conveyed as open  
20 space to the Real Parties in Interest, who are adjacent property owners (the "Luglianis"). (*Id.*,  
21 Sub.D, p. 7) Area A is roughly the same size as Lots C and D, and under the settlement  
22 agreement, was found by the Association and the City to be less useful as parkland than Lots C  
23 and D because Area A was less accessible than Lots C and D. (*Id.*, MOU, Recitals, p.4)

24 The Luglianis' predecessor in interest had constructed unpermitted retaining walls on Area  
25 A that provided support for the Lugliani residence and, pursuant to the settlement agreement, the  
26 Luglianis agreed to assume the duty to maintain the retaining walls. Also located on Area A were  
27 a gazebo and other non-habitable structures, which have since been removed. (*Id.* Recitals p. 4.)

28 Except as described above, there is no allegation in the Amended Petition that the Petitioners or

1 others have ever entered or used Area A; nonetheless, the Association reserved an open space  
2 easement over Area A in favor of the City that required the Luglianis to maintain the retaining  
3 walls and allowed certain non-habitable structures to be constructed subject to the City's zoning  
4 and permitting processes. (*Id.*, Art. V Sub. D, p.7.)

5 On or about July 15, 2013, the respondents and defendants filed a joint demurrer to the  
6 Original Petition ("Original Demurrer"). On or about October 25, 2014, the Court, the Honorable  
7 Robert H. O'Brien presiding, heard the Original Demurrer, and a Demurrer by the City of Palos  
8 Verdes Estates, and ruled on October 28, 2013 as follows:

9 The Demurrers to the Third Cause of Action for Writ of Mandate  
10 are sustained with leave to amend on the ground that there is no  
ministerial duty shown in the pleading.

11 On or about November 7, 2013, the Petitioners served their Amended Petition. The  
12 Amended Petition added several paragraphs that are incorporated into its Third Cause of Action,  
13 characterizing the Association's authority to enforce and interpret land use restrictions as  
14 ministerial duties. Those allegations (Paragraphs 31 through 34 of the Amended Petition) are  
15 mere conclusions of law and do not alter the legal effect of various provisions of the land use  
16 restrictions attached as Exhibit 1. Paragraphs 35 and 36 allege non-compliance with a purported  
17 requirement to obtain the affirmative vote of two-thirds of the owners within 300 feet, although  
18 that alleged requirement, however, does not apply. (*See* below, section III, C.)

19 In addition to the conclusions of law described above, the Amended Petition continues to  
20 incorporate the Historical Deed Restrictions for Palos Verdes Estates as Exhibit 1, the deeds  
21 applying those restrictions to the relevant parcels as Exhibit 2, the judgment in the School District  
22 lawsuit as Exhibit 3, and the settlement agreement as Exhibit 4. The Amended Petition therefore  
23 adds no new ultimate facts that would support a showing of a ministerial duty on the part of the  
24 Association.

25 ///

26 ///

27 ///

28 ///



1 **III. ANALYSIS**

2 **A. The Exhibits Attached to the Amended Petition Establish that the Association**  
3 **Has Discretion in Enforcing the Deed Restrictions and the Disposing of**  
4 **Property.**

5 As explained in the Original Demurrer and Reply, the documents governing the  
6 Association, which are again attached and are now incorporated, in part, into the Amended  
7 Petition, expressly contradict the Petitioners' allegations that the Historical Deed Restrictions  
8 impose upon the Association, "the clear, present, and ministerial right and affirmative duty to  
9 enforce its reversionary rights as to Area A..." and "to enforce the land use restrictions."  
10 (Amended Petition 22:6-11.) As shown in the Original Demurrer, the documents governing the  
11 rights, duties, and powers of the Association do not impose any such duty, but merely confer a  
12 right to do so, while also granting the Association broad discretion to convey and dispose of land  
13 and interpret the Historical Deed Restrictions. (See Amended Petition, Exhibit 1, pp. 28-30, 48-  
14 50.)

15 Facts appearing in exhibits to a complaint overrule inconsistent factual claims in pleadings.  
16 (*Holland v. Morse Diesel International, Inc.* (2001) 86 Cal. App. 4<sup>th</sup> 1443, 1447.) The overriding  
17 facts of the Amended Petition show that the Association has the power to enter into the MOU and  
18 to convey Area A to the Luglianis, particularly in the context of an exchange for more accessible  
19 and more useful parkland. The very exhibits that Petitioners rely on show that the Association has  
20 the right to exercise its reversionary and re-entry interests in Area A, but not the unambiguous  
21 duty to so.

22 In its Amended Petition, the Petitioners quote language from the same exhibits attached to  
23 the Original Petition that "The 1925 and 1928 deeds demonstrate that the very purpose of the  
24 creation of the ASSOCIATION was to 'maintain the parks...and to perpetuate the restrictions.'"  
25 (Amended Petition, p. 16:10-12, citing Exhibit 1, p.7.) But that language must be read together  
26 with other express powers of the Association to "convey, sell or otherwise encumber...for public  
27 use and/or otherwise dispose of real property..." and the "right and power to ...dispose of parks,  
28 parkways, playgrounds, open space and recreation areas." (Amended Petition, Exhibit 1, pp. 28-

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29.) The power to dispose of park and open space clearly grants the Association the authority to convey Area A to the Luglianis, particularly when the purpose of that conveyance is to accomplish an exchange for more accessible and more useful parkland.

The Petitioners appear to assume incorrectly the word “shall,” as used in the governing documents expresses or signifies a mandatory duty. (Amended Petition, page 16, paragraph 32-34.) It is recognized, however, that the word “shall” is ambiguous, has as many as eight different meanings, and that the courts “in virtually every English-speaking jurisdiction have held—by necessity—that *shall* means *may* in some contexts and vice-versa.” (Bryan A. Garner, A Dictionary of Modern Legal Usage, Second Edition, p. 939).

Exhibit 1 to the Amended Petition grants the Association the power “to interpret, modify, amend, cancel, annul and/or enforce the deed restrictions.” (Amended Petition, Exhibit 1, p. 30.) The power to interpret clearly implies the exercise of discretion. The power to “enforce” deed restrictions is also expressed as an alternative to the powers to “modify, amend, cancel,” and “annul” those restrictions. This language clearly implies that there must be an exercise of discretion before making a determination to enforce the deed restrictions.

The Association exercised its discretion to interpret the deed restrictions in the MOU as follows:

As of the date of the transfer of Area A, the Homes Association represents and warrants to Property Owners that the condition of the Area A does not violate any recorded covenant, condition or declaration enforceable by the Homes Association, which could allow the exercise of any reversionary interest to the Homes Association in Area A. (MOU, Art. III, Sub. E, Amended Petition, Exhibit 4, p. 7.)

The Association also exercised its discretion to interpret the deed restriction in the deed conveying Area A from the Association to the Luglianis. (See Joint Request for Judicial Notice in Support of Original Reply, Ex. B [Grant Deed Instrument Number 20121327415].) In Paragraph 2 of that deed, the Association expressly sets forth what structures would be permitted in Area A and requires that any necessary City approvals be obtained. Paragraph 10 then memorializes the Association’s interpretation of the deed restrictions stating:

It is the intent of the parties that the structures permitted under



1 Section 2 hereof are permitted under the conditions, restrictions  
2 and reservations cited herein [the deed restrictions], subject to  
3 compliance with application and approval requirements of Section  
4 2. (*Id.*)

5 The Petitioners have failed to allege facts showing that the Association had no right to  
6 issue such discretionary determinations. Furthermore, Section 11 of Exhibit 1 to the Amended  
7 Petition expressly grants the Association a right to interpret or enforce the deed restrictions and  
8 that the Association's interpretation "shall be final and conclusive upon all interested parties."  
(Amended Petition, Exhibit 1, p. 50.)

9 The Petitioners have therefore failed to plead the facts necessary to show that the  
10 Association has any required mandatory duty to exercise its reversionary rights, or take any action  
11 against the Luglianis to enforce deed restrictions that the Association, in its discretion, has  
12 determined have not been violated. For this reason, the Amended Petition fails to establish any  
13 affirmative duty supporting the issuance of a writ of mandate. Since this is the Petitioners second  
14 failed attempt to plead a mandatory duty, the Association's demurrer should be sustained without  
15 leave to amend.

16 **B. Case Law Holds that Community Associations Have Discretion in**  
17 **Determining How to Enforce Their CCRs and Courts Generally Defer to the**  
18 **Decisions of their Governing Boards.**

19 When a duly-constituted community association board on reasonable investigation, in good  
20 faith, with due regard for the best interests of the association and its members, exercises its  
21 discretion on matters within its authority, the courts will defer to the board's authority and  
22 presumed expertise. (*Lamden v. La Jolla Shores Clubdominium Homeowners Assn.* (1999), 21  
23 Cal.4<sup>th</sup> 249, 265; *Narstedt v. Lakeside Village Condominium Assn.* (1994) 8 Cal.4<sup>th</sup> 361, 374  
24 [Anyone who buys in a common interest development with knowledge of the discretionary powers  
25 of the homeowners' association accepts "the risk of that the power may be used in a way that  
26 benefits the commonality but harms the individual . . ."])

27 The California Supreme Court, in *Lamden* 21 Cal. 4<sup>th</sup> at 257-259, upheld a Board's  
28 decision to spot treat termite infestation instead of fumigation. The Court held that the business

1 judgment rule applied to the decisions of associations that are also corporations, but in the case of  
2 both corporations and unincorporated homeowner associations, courts should defer to a  
3 community association board's authority and presumed expertise, when in good faith, and with  
4 regards for the best interest of the community association and its members, the board exercises  
5 discretion within the scope of its authority. (*Id.* at 265.) The Court explained that in the instance  
6 of an association that is a corporation, as is the case here, the business judgment rule insulates the  
7 association from court intervention for those management decisions that are made in good faith  
8 and in what the Association management believes is the best interest of the organization. (*Id.* at  
9 257.) The courts do not substitute their judgment for that of the corporation's board of directors.  
10 (*Id.*)

11 *Lamden* relied on *Nahrstedt* 8 Cal. 4<sup>th</sup> at 364-365, which addressed the issue of what  
12 standard governs the enforceability of covenants in CCRS. The Court held there, consistent with  
13 the *Lamden* decision, that "courts generally will uphold the decision made by the governing board  
14 of an association, so long as they represent good faith efforts to further the purpose of the common  
15 interest development..."

16 In *Haley v. Casa Del Rey Homeowner's Assn.* (2007) 153 Cal. App. 4<sup>th</sup> 863, 875, the court  
17 ruled that *Lamden's* rule of judicial deference to community board decision making was not  
18 limited to ordinary maintenance decisions but extended to board decisions regarding the best  
19 means to enforce the development's covenants and restrictions without resorting to litigation.

20 As shown above, the Association exercised its discretion under the governing documents  
21 and entered into the settlement to transfer Area A to the Luglianis in exchange for securing Lots C  
22 and D as parkland. The Petitioners cannot show that any mandatory duty has been breached. The  
23 Association's demurer should be sustained.

24 **C. The Petitioners' Reference to a Two-Thirds Vote Requirement for**  
25 **Modification of Deed Restrictions Does Not Apply to the Area A property.**

26 The Amended Petition, paragraph 35, relies on Section 9, page 17, of the protective  
27 conditions, Exhibit 1, to allege that two-thirds of the owners within 300 feet must vote to modify  
28 any of the land use restrictions. **Exhibit 1, Section 9, page 17 refers only to a portion of the**



1 local restrictions applicable to Tract 6888, which does not involve any of the subject  
2 property in this case. Exhibit 1, page 10, is the title page for Declaration No. 8 which states that  
3 it is the "Establishment of local protective restrictions, conditions, covenants, reservations, liens  
4 and charges affecting the real property known as TRACT 6888 – LUNADA BAY – PALOS  
5 VERDES ESTATES. It is undisputed in this case that the property that is subject of the  
6 Amended Petition is not part of Tract 6888.

7 D. The Association Joins In The Demurrer of Defendant and Respondent City of  
8 Palos Verdes Estates And The Demurrer And Motion To Strike of Real  
9 Parties Robert Lugliani, et. al.

10 The Association joins in the Demurrer of Defendant and Respondent City of Palos Verdes  
11 Estates and joins in both the Demurrer and Motion to Strike of Real Parties Robert Lugliani et. al.

12 IV. CONCLUSION

13 For the reasons stated, the Court should sustain this Demurrer to the Amended Petition  
14 without leave to amend.

15 DATED: December 5, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

16  
17 By: 

18 Brant H. Dveirin  
19 Attorneys for Respondent and Defendant PALOS  
20 VERDES HOMES ASSOCIATION  
21  
22  
23  
24  
25  
26  
27  
28

1 CALIFORNIA STATE COURT PROOF OF SERVICE

2 File No. 50013.1840

3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 At the time of service, I was over 18 years of age and not a party to the action. My  
5 business address is 221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012.

6 On December 5, 2013, I served the following document(s):

- 7 ■ **DEFENDANT AND RESPONDENT PALOS VERDES HOMES ASSOCIATION'S**  
8 **NOTICE OF HEARING AND DEMURRER TO THIRD CAUSE OF ACTION OF**  
9 **FIRST AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT**  
10 **FOR INJUNCTIVE RELIEF, AND MEMORANDUM OF POINTS AND**  
11 **AUTHORITIES**
- 12 ■ **NOTICE OF JOINDER IN DEMURRER OF DEFENDANT AND RESPONDENT**  
13 **CITY OF PALOS VERDES ESTATES AND JOINDER IN DEMURRER AND**  
14 **MOTION TO STRIKE OF REAL PARTIES ROBERT LUGLIANI, ET. AL.**

15 I served the documents on the following persons at the following addresses (including fax  
16 numbers and e-mail addresses, if applicable):

17 **SEE ATTACHED SERVICE LIST**

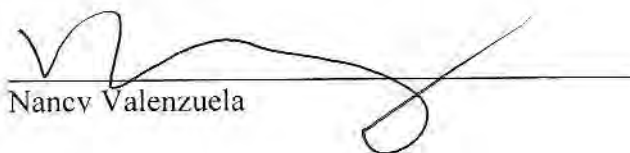
18 The documents were served by the following means:

19 ☒ (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to  
20 the persons at the addresses listed above and (specify one):

21 ☒ Placed the envelope or package for collection and mailing, following our ordinary  
22 business practices. I am readily familiar with the firm's practice for collection and processing  
23 correspondence for mailing. Under that practice, on the same day that correspondence is placed  
24 for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal  
25 Service, in a sealed envelope or package with the postage fully prepaid.

26 I declare under penalty of perjury under the laws of the State of California that the  
27 foregoing is true and correct.

28 Executed on December 5, 2013, at Los Angeles, California.

29   
Nancy Valenzuela



**SERVICE LIST**

- 1  
2 Terry T. Tao, Esq.  
ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
3 12800 Center Court Drive, Suite 300  
Cerritos, CA 90703  
4 Telephone: (562) 653-3000  
Facsimile: (562) 653-3333  
5 E-Mail: TTao@AALRR.com
- 6 Christi Hugin, Esq.  
JENKINS & HUGIN, LLP  
7 1230 Rosecrans Avenue, Suite 110  
Manhattan Beach, CA 90266  
8 Telephone: (310) 643-8448  
Facsimile: (310) 643-8441  
9 E-Mail: CHugin@LocalGovLaw.com
- 10 Jeffrey Lewis, Esq.  
BROEDLOW LEWIS, LLP  
11 734 Silver Spur Road, Suite 300  
Rolling Hills Estates, CA 90274  
12 Telephone: (310) 935-4001  
Facsimile: (310) 872-5389  
13 E-Mail: Jeff@BroedlowLewis.com
- 14 R.J. Comer, Esq.  
Damon Mamalakis, Esq.  
15 ARMBRUSTER GOLDSMITH & DELVAC LLP  
11611 San Vicente Boulevard  
16 Suite 900  
Los Angeles, CA 90049  
17 Telephone: (310) 209-8800  
Facsimile: (310) 209-8801  
18 E-Mail: damon@agd-landuse.com
- 19 Sidney F. Croft, Esq.  
LAW OFFICE OF SIDNEY CROFT  
20 314 Tejon Place  
Palos Verdes Estates, CA 90274  
21 Telephone: (310) 849-1992  
E-Mail: SFCroftlaw@aol.com  
22
- Andrew Haley, Esq.  
23 GREENWALD, PAULY, FOSTER & MILLER APC  
1299 Ocean Avenue, Suite 400  
24 Santa Monica, CA 90401  
Telephone: (310) 451-8001  
25 E-Mail: ahaley@gpfm.com

26

27

28

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1 Jeffrey Lewis (SBN 183934)  
2 Kelly Broedlow Dunagan (SBN 210852)  
3 **BROEDLOW LEWIS LLP**  
4 734 Silver Spur Road, Suite 300  
5 Rolling Hills Estates, CA 90274  
6 Tel. (310) 935-4001  
7 Fax. (310) 872-5389  
8 E-Mail: [Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

9 Attorney for Plaintiffs and Petitioners  
10 **CITIZENS FOR ENFORCEMENT OF**  
11 **PARKLAND COVENANTS and JOHN**  
12 **HARBISON**

**CONFORMED COPY**  
**ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles

**DEC 19 2013**

Sherri R. Carter, Executive Officer/Clerk  
By Araceli Rodriguez, Deputy

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

11 **CITIZENS FOR ENFORCEMENT OF**  
12 **PARKLAND COVENANTS, an**  
13 **unincorporated association and JOHN**  
14 **HARBISON,**

15 Plaintiffs and Petitioners,

16 vs.

17 **CITY OF PALOS VERDES ESTATES, a**  
18 **municipal corporation; PALOS VERDES**  
19 **HOMES ASSOCIATION, a California**  
20 **corporation; PALOS VERDES**  
21 **PENINSULA UNIFIED SCHOOL**  
22 **DISTRICT, a political subdivision of the**  
23 **State of California,**

24 Defendants and Respondents,

25 **ROBERT LUGLIANI and DELORES A.**  
26 **LUGLIANI, as co-trustees of THE**  
27 **LUGLIANI TRUST; THOMAS J. LIEB,**  
28 **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)

**MEMORANDUM OF POINTS AND**  
**AUTHORITIES BY CITIZENS FOR**  
**ENFORCEMENT OF PARKLAND**  
**COVENANTS IN OPPOSITION TO**  
**PALOS VERDES HOMES**  
**ASSOCIATION'S DEMURRER TO**  
**FIRST AMENDED PETITION FOR**  
**WRIT OF MANDATE AND**  
**COMPLAINT**

Hearing Date: January 3, 2014  
Hearing Time: 1:30 p.m.  
Department: 86

Action Filed: May 13, 2013  
Trial Date: June 20, 2014

**OPPOSITION TO PALOS VERDES HOMES ASSOCIATION'S DEMURRER TO FIRST AMENDED**  
**PETITION FOR WRIT OF MANDATE AND COMPLAINT**



## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. SUMMARY OF ARGUMENT**

To be clear, the Palos Verdes Homes Association (“Association”) contends that the word “shall” does not mean “shall” and that through “interpretation” of deed restrictions the Association is authorized to sell public parkland to a private citizen for exclusive private purposes such as a gazebo, barbecue, sports court and retaining wall. (Demurrer, p. 6). The Association also affirms its earlier argument, through new counsel, that it has the right but not the duty to enforce the land use restrictions at issue in this litigation. (Demurrer, p. 6). These astonishing arguments come from the Association that was formed for the very purpose of maintaining public parklands and perpetuating their land use restrictions. (Ex. 1, p. 7).<sup>1</sup> In addition, the Homes Association successfully fought a recent case in 2010-2011 to prevent the School District from selling land encumbered by the same protective restrictions.

### **II. THE DEMURRER TO THE THIRD CAUSE OF ACTION SHOULD BE OVERRULED BECAUSE CEPC HAS ALLEGED A CLEAR, MINISTERIAL DUTY ON BEHALF OF THE ASSOCIATION TO ENFORCE THE LAND USE RESTRICTIONS**

The Association argues that the writ of mandate claim is defective because CEPC failed to allege a ministerial duty owed by the Association. (Demurrer, p. 11). CEPC disagrees. The land use restrictions governing the parkland here have never been modified or repealed since the land was conveyed to the City in 1940. The land use restrictions compelling that the parkland be used perpetually for public purposes is akin to a condition of approval imposed by a planning commission for a development project. Although the decision to reject or approve a development project is a discretionary one not subject to judicial interference, once a project is approved and conditions of approval are made,

---

<sup>1</sup> The conditions attached as an Exhibit to the amended petition relate to tract 6888 and 7331. A substantially similar set of conditions, relating to tract 8652 is attached to CEPC’s request for judicial notice as Exhibit “A.” A tract map demonstrating that the sold parklands falls within tract 8652 is attached to CEPC’s request for Judicial Notice as Exhibit “B.”

enforcement of those conditions is a ministerial duty. (*Terminal Plaza Corp. v. City and County of San Francisco* (1986) 186 Cal.App.3d 814, 834 [holding that Zoning Administrator had clear, ministerial duty to enforce planning commission condition of approval requiring construction of pedestrianway].) Here, once the Association enacted restrictions calling for a reversion of title upon breach of conditions, the enforcement of such reversionary interests became a ministerial duty.

The case of *Save the Welwood Murray Memorial Library Com. v. City Council* (1989) 215 Cal.App.3d 1003 (hereinafter, “*Welwood*”) is instructive. In *Welwood*, the City of Palm Springs owned real property where the city’s library was situated. The library property had been acquired by private deed restricting the use of the property to library uses. Forty years later, the City entered into an agreement with a developer. The agreement contemplated moving a popular restaurant to the library property. An unincorporated association formed for the purpose of blocking the project filed a petition for writ of mandate in the Superior Court to prevent the city from conveying the library to the developer. After the lawsuit was filed, the city and developer entered into an amended agreement calling for a partial razing of the library building in lieu of a conveyance to the developer to accommodate the dining area. The trial court was poised to grant the writ and block the city’s actions when the city and developer began negotiations for a third agreement to allow for an easement for dining uses on library property. The trial court granted the writ of mandate and an injunction precluding the city from granting an easement or razing the library. The city appealed.

The Court of Appeal confirmed that the deed restrictions controlled the use of the property and dining uses would not directly contribute to a library use of the property.

(*Welwood*, at 1012):

The use proposed by City in no way directly contributes to these purposes, and, actually, in at least one way, is antithetical to such purposes, for the proposed use would destroy parts of the building where books are stored and used.

(*Welwood*, at 1015).

The *Welwood* court found that the city’s successive developer agreements would violate the deed restrictions requiring the city to “forever maintain” the library. (*Ibid.*) On appeal,

1 the city argued that the writ impermissibly invaded the City's discretion. The *Welwood* court  
2 disagreed:

3  
4 The language of the writ does not prevent City from removing sections of the  
library, from conveying easements or other legal rights over the Library  
5 Property or from otherwise undertaking any acts *necessary for library purposes*. It  
6 merely commands City not to undertake any such actions if they are done  
primarily for a nonlibrary purpose or if they interfere with library use.

7 (*Welwood*, at 1016, emphasis in original).

8 Finally, the *Welwood* court concluded that the trial court's issuance of an injunction to  
9 block the City's plans was proper:

10 A public trust is created when property is held by a public entity for the  
benefit of the general public. (Citations.) Here, title to the library property is  
11 held by City to be used by City for the benefit of the general public as a public  
library. Any attempt to divert the use of the property from its dedicated  
12 purposes or uses incidental thereto would constitute an ultra vires act.  
(Citations.) Thus, it would be proper not only to issue an injunction to  
13 enforce the obligation arising from the existence of the public trust, i.e., to  
enforce City's obligation to use the property as a public library, but also to  
14 prevent an ultra vires, and hence nonlegislative, act.

15 (*Welwood*, at 1017).

16 The holding of *Welwood* is applicable here. The City of Palm Spring's attempt to first  
17 convey and then raze the library to make room for a restaurant is analagous to the  
18 Association's conveyance of public parkland to the Lugliani<sup>2</sup> for a gazebo, barbecue and  
19 other private purposes. The issuance of a writ was upheld in *Welwood* because the proposed  
20 dining use for library property was a blatant violation of the deed restrictions. The facts of  
21 *Welwood* are not distinguishable.

22 ///

23 ///

24  
25  
26  
27  
28 <sup>2</sup> Robert Lugliani, Dolores Lugliani and Thomas Lieb are referred to herein as "Lugliani" for  
brevity's sake.



**III. THE DEMURRER TO THE THIRD CAUSE OF ACTION SHOULD BE OVERRULED BECAUSE THE LAMDEN RULE OF JUDICIAL DEFERENCE DOES NOT APPLY TO ACTS TAKEN OUTSIDE THE POWER OF AN ASSOCIATION**

The Association contends that its decisions are entitled to judicial deference when it acts “within its authority.” (Demurrer, p. 8; *Lamden v. La Jolla Shores Clubdominium Homeowners Assn.* (1999) 21 Cal.4th 249, 265). CEPC agrees. As a corollary to that rule, actions taken outside of an association’s authority are entitled to no deference:

And *Lamden* did not purport to extend judicial deference to board decisions that are outside the scope of its authority under its governing documents. *Lamden* specifically reaffirmed the principle that, “Under well-accepted principles of condominium law, a homeowner can sue the association for damages and an injunction to compel the association to enforce the provisions of the declaration.

(*Ekstrom v. Marquesa at Monarch Beach Homeowners Ass'n* (2008) 168 Cal.App.4th 1111, 1122).

As set forth in Part II above, the Association’s conveyance of public parkland to a private party for private purposes was outside the scope of its authority. Nor was the Association entitled to take no action to enforce the parkland restrictions. No deference is required here.

**IV. THE DEMURRER TO THE THIRD CAUSE OF ACTION SHOULD BE OVERRULED BECAUSE REGARDLESS OF OWNERSHIP, THE LAND USE RESTRICTIONS ARE STILL IN PLACE AND THE ASSOCIATION MUST ENFORCE THEM**

Although there is some dispute about the current ownership of the parkland purportedly conveyed to the Luglianis, there is no dispute that the parkland conveyed to the Luglianis is subject to land use restrictions. All parties agree that the attempt to convey title from the City to the Association and then to the Luglianis did not modify the land use restrictions that the parkland be used for park purposes in perpetuity. Indeed, the September 2012 deed conveying the parkland from the Association to the Luglianis confirms the efficacy

of those land use restrictions. (Request for Judicial Notice (“RFJN”), Ex. C, p. 4, ¶ 10 [acknowledging the application of Declaration No. 1 and 25]. Those land use restrictions include provisions to modify any of the restrictions. (FAP, Ex. 1, p. 17, § 9 [concerning tract 6888 and 7331; RFJN, Ex. A, p. 45, Art. VI, § 3 [substantially identical language concerning tract 8652].). Under the terms of the land use restrictions, no such modification may occur

without the written consent duly executed and recorded of the owners of record of not less than two-thirds in area of all lands held in private ownership within three hundred feet in any direction of the property concerning a change or modification is sought to be made...

(FAP, Ex. 1, p. 17, § 9; RFJN, Ex. A, p. 45, Art. VI, § 3).

No such consent was sought or obtained by the Association or the Lugianis prior to the attempted conveyance of the parkland to the Lugianis in September 2012. As a result, regardless of whether the parkland is now owned by the Lugianis (as the Lugianis contend) or the City (as CEPC contends due to the void nature of the September 2012 deeds), the land use restrictions existing prior to September 2012 preventing anything other than park use continue today to apply to the parkland.

The Association attempts to skirt the failure to obtain consent by labeling its actions as “interpretation” rather than “modification” of the restrictions. The Association contends that by the insertion of paragraph 2 in the deed to the Lugianis,<sup>3</sup> allowing for the presence of the Lugianis’ private gazebos, sports courts, retaining walls, barbecues, etc. on parkland, the Association has merely “intepreted” the land use restrictions. (Demurrer, pp. 7-8). CEPC contends that, in fact, the Association’s insertion of paragraph 2 into the deed is not an “interpretation” of the restrictions but instead is a modification of the restrictions requiring consent of two-thirds of the owners within 300 yards. (Req For Judic. Nocie, Ex. P. 45, Art. VI, § 3). Any fair reading of the changed deed conditions is that the Lugianis obtained a modification of conditions (in exchange for their payment of \$2 million) and not an

<sup>3</sup> The September 2012 deed purporting to convey title to public parklands from the Association to the Lugianis is attached as Exhibit “C” to CEPC’s request for judicial notice filed concurrently herewith.

“interpretation.” For these reasons, the Court should disregard the Association’s argument that it has acted within its authority in executing the September 2012 deed to the Luglianis.

**V. THE DEMURRER TO THE THIRD CAUSE OF ACTION SHOULD BE OVERRULED BECAUSE “SHALL” IS MANDATORY IN THE CONTEXT OF THE ASSOCIATION’S REVERSIONARY INTEREST IN THE PARKLANDS**

If the parkland use restrictions are violated, the property “shall” revert to the Association. (FAP, Ex. 1, p. 48, Art. VI, § 6 [“A breach of any of the restrictions, conditions and covenants hereby established shall cause the real property upon which such breach occurs to revert...”]; see also RFJN, Ex. A, pp. 46-47, Art VI, § 6 [identical reversion language for Tract 8652].) The common sense meaning of the term “shall” is mandatory. “Ordinarily, the term ‘shall’ is interpreted as mandatory and not permissive. Indeed, ‘the presumption [is] that the word ‘shall’ in a statute is ordinarily deemed mandatory and ‘may’ permissive.” (*People v. Standish* (2006) 38 Cal.4th 858, 869). Ordinarily, the word “may” connotes a discretionary or permissive act; the word “shall” connotes a mandatory or directory duty. (*Woodbury v. Brown-Dempsey* (2003) 108 Cal.App.4th 421, 433).<sup>4</sup>

The Association cites no legal decisions but instead relies on attorney Bryan Garner for the proposition that the term “shall” is ambiguous. In some contexts, that might be true. In this context, it is not. If the Court were to interpret the reversionary language to be permissive, it would lose all meaning and effect. Consider the following: “A breach of any of the restrictions *may* cause the real property to revert...” versus “A breach of any of the restrictions *shall* cause the real property to revert.” The permissive use of “shall” in this context renders the entire reversionary interest completely ineffective. The common sense and widely accepted interpretation of “shall” as mandatory should be adopted by the Court as it is the only meaning that gives the reversionary language the intended effect.

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<sup>4</sup> Although these decisions arise in the context of interpretation of statutes, there is no reason it cannot apply to the interpretation of legal instruments as well.



1           **VI.     CONCLUSION**

2           For the foregoing reasons, CEPC and Harbison respectfully request that the Court  
3           overrule the demurrer in its entirety. Alternatively, CEPC and Harbison request leave to  
4           amend.

5  
6           DATED: December 19, 2013

BROEDLOW LEWIS LLP

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8  
9           By: \_\_\_\_\_

Jeffrey Lewis

10           Attorneys for Plaintiffs and Petitioners  
11           CITIZENS FOR ENFORCEMENT OF  
12           PARKLAND COVENANTS and JOHN  
13           HARBISON

1 Jeffrey Lewis (SBN 183934)  
2 Kelly Broedlow Dunagan (SBN 210852)  
3 **BROEDLOW LEWIS LLP**  
4 734 Silver Spur Road, Suite 300  
5 Rolling Hills Estates, CA 90274  
6 Tel. (310) 935-4001  
7 Fax. (310) 872-5389  
8 E-Mail: [Jeff@BroedlowLewis.com](mailto:Jeff@BroedlowLewis.com)

9 Attorneys for Plaintiffs and Petitioners  
10 **CITIZENS FOR ENFORCEMENT OF**  
11 **PARKLAND COVENANTS and JOHN**  
12 **HARBISON**

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

11 **CITIZENS FOR ENFORCEMENT OF**  
12 **PARKLAND COVENANTS, an**  
13 **unincorporated association and JOHN**  
14 **HARBISON,**

15 Plaintiffs and Petitioners,

16 vs.

17 **CITY OF PALOS VERDES ESTATES, a**  
18 **municipal corporation; PALOS VERDES**  
19 **HOMES ASSOCIATION, a California**  
20 **corporation; PALOS VERDES**  
21 **PENINSULA UNIFIED SCHOOL**  
22 **DISTRICT, a political subdivision of the**  
23 **State of California,**

24 Defendants and Respondents,

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

Defendants and Real Parties in  
Interest.

**CONFORMED COPY**  
**ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles

**DEC 19 2013**

Sherri R. Carter, Executive Officer/Clerk  
By Araceli Rodriguez, Deputy

Case No.: BS142768

**BY FAX**

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

**REQUEST FOR JUDICIAL NOTICE IN**  
**OPPOSITION TO DEMURRER TO**  
**FIRST AMENDED PETITION AND**  
**COMPLAINT BY PALOS VERDES**  
**HOMES ASSOCIATION**

Hearing Date: January 3, 2013  
Hearing Time: 1:30 p.m.  
Department: 86

Action Filed: May 13, 2013  
Trial Date: June 20, 2014

1 Pursuant to Evidence Code section 452, plaintiffs Citizens for Enforcement of  
2 Parkland Covenants and John Harbison respectfully requests that the Court take judicial  
3 notice of the following documents in support of plaintiff's Opposition to Demurrer:

- 4 1. Palos Verdes Estates Protective Restrictions, Articles of Incorporation and Bylaws  
5 for tract 7333 and 8652, a true and correct copy of which is attached hereto as  
6 "Exhibit A."
- 7 2. Tract Map 8652, a true and correct copy of which is attached hereto as "Exhibit  
8 B."
- 9 3. Recorded grant deed from Palos Verdes Homes Association to Thomas J. Lieb, a  
10 true and correct copy of which is attached hereto as "Exhibit C."

11  
12 DATED: December 19, 2013

BROEDLOW LEWIS LLP

13  
14 By:  \_\_\_\_\_

Jeffrey Lewis

15  
16 Attorneys for Plaintiffs and Petitioners  
17 CITIZENS FOR ENFORCEMENT OF  
18 PARKLAND COVENANTS and JOHN  
19 HARBISON  
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*Tract 7333 and Tract 8652*  
MONTEMALAGA

PROTECTIVE  
RESTRICTIONS  
PALOS VERDES  
ESTATES

LOS ANGELES COUNTY  
CALIFORNIA



ARTICLES *of* INCORPORATION *and*  
BY-LAWS *of* PALOS VERDES HOMES  
ASSOCIATION

BANK OF AMERICA, *Trustee*  
OLMSTED BROTHERS, *Directors of Design*  
CHAS. H. CHENEY, *Consultant in City Planning*

# PALOS VERDES ESTATES

## PROTECTIVE RESTRICTIONS

### *Summary*

**E**VER since people began to congregate in cities, and even in country communities, the problem of touching elbows has been with us. In Palos Verdes Estates constant effort has been directed to building an ideal garden suburb and residence park, with all the advantages of the city, in the country.

From the very beginning of this project, in the Trust Indenture which is the constitution under which it is being built, and through all the plans and layouts made, every possible protection has been established, to make sure that the neighborhoods in Palos Verdes can never be spoiled. Every man who builds a fine home or other building here need not fear that a thoughtless or unsympathetic neighbor will put in a kind of building next to him so unattractive or inappropriate as to be ruinous. All this has been done, we believe, in a way that will not prove onerous, and yet will give the fullest protection. Careful zoning has been done to locate the few areas necessary for business buildings, apartments and house-courts at appropriate and convenient centers, leaving, however, over ninety per cent of the property restricted to detached single family homes, under the most favorable conditions possible.

The restrictions have been most carefully worked out for every part of Palos Verdes Estates, to accomplish the following results:

*First:* To preserve the fine views of ocean, mountains, and park;

*Second:* To increase with the years the wonderful natural beauty of the property, enhanced with fine planting; and

*Third:* That every purchaser in Palos Verdes may be sure when building his home there that his neighbor will have to build an equally attractive type of building. In other words, he will feel secure in knowing that his home can never be damaged by an unsightly or undesirable structure either upon adjoining lots or in any part of Palos Verdes Estates.



The experience of many of the finest residential tracts in other large American metropolitan areas has clearly demonstrated the advantage of the adoption of such protective restrictions as will promote and safeguard the attractiveness and desirability of residential neighborhoods.

In preparing the restrictions for Palos Verdes Estates, the project has been guided by the experience of many years in these other parts of the country; by the counsel and advice of Olmsted Brothers of Brookline, Massachusetts, the foremost landscape architects in this country; by Charles H. Cheney, nationally known Consultant in city planning; and by the experience of an able staff of architects, landscape architects, engineers and city planners.

In thus taking advantage of the best experience of the country and adapting it to the special conditions of site, climate and residential ideals of Palos Verdes Estates it is believed that the protective restrictions here worked out are the best that have been yet devised for any American community, and will result in making Palos Verdes not only the most beautiful and attractive residential city in California, but one of the finest and most notable in any part of this country or abroad.

On account of the large extent of Palos Verdes Estates, the varying character of the property, the great number and wide range in location, size, slope and outlook of the lots, the declarations of restrictions taken as a whole may seem to be somewhat complex. The fact is, however, that the restrictions and conditions relating to any one lot are quite simple, and may be easily summarized.

Briefly, their main features are as follows:

Marking a greater step forward in the time that the protections will last than any other residential development in Southern California, is the provision of the Palos Verdes restrictions extending their life over a period of 37 years, or until 1960, with automatic extension for successive 20-year periods thereafter unless then changed by the owners of one-half in area of the property. Although the protection of such long time restrictions is most desirable the conditions surrounding property are subject to somewhat rapid change in a section so fast growing as Southern California, and hence a term as long as the above would be unsafe except for the provision

[ 2 ]

which has been included providing a means by which the zoning and local restrictions as to any lot may be modified with the approval of the owners of two-thirds of the property within 300 feet of the proposed change, and of Palos Verdes Homes Association and the Art Jury.

One important feature of the restrictions is that which requires an open or free space on each side of every dwelling, the extent of which varies with the location and the width of the lot. This assures the maintenance of a bright, open, sunshiny neighborhood for each dwelling, with a maximum of light and air, and avoids that unpleasant jamming of one house against another, which has spoiled so many residential developments.

The building set-back requirements from the street have been carefully worked out with the idea of maintaining views and increasing the architectural perspective. The average set-back is 20 to 30 feet, varying in different tracts according to the kind and type of house best suited to that location. For fire protection a set-back from rear lot lines is also required. All set-backs have been much modified where the lots are shallow or on hillsides where it is difficult to get into the buildings unless they are near to the street.

Not more than one house may be built on any building site which is zoned for single-family dwellings, nor may any building site be re-subdivided. In some cases, however, large lots have been designated as including more than one building site.

Palos Verdes is, of course, primarily a high class residential city in which over 90 per cent of all lots are restricted to one-family houses. No flats, apartments, duplexes, house-courts or stores are permitted in the single-family neighborhoods, but only at very limited convenient centers where they have been designed to be as much out of the way of the strictly home neighborhoods as possible. The four principal communities of Malaga Cove, Lunada Bay, Valmonte and Miraleste have as a matter of convenience reasonably small business centers, about two miles apart, where a few blocks of necessary stores, garages and service stations may be located. Adjoining them are some blocks open to apartment houses, hotels and house-courts. But the number and kind of these buildings have been



strictly limited, and the project will control their architectural design in such a way as to make them distinctive, attractive and convenient without in any way detracting from, but rather supplementing, the fine and extensive residential neighborhood surrounding them.

There are also established as a matter of convenience additional small business building groups at local centers about a mile apart, as at Montemalaga, Zurita, Margate, etc., to serve areas that would otherwise be inconveniently far from a neighborhood store and market.

Industries, asylums, or nuisance businesses are prohibited in all parts of the Estates.

No billboards, advertising signs or "For Sale" signs can be erected in Palos Verdes, and the few store and business signs necessary must meet with the approval of the Art Jury.

The character of the property is such as to preclude the keeping of live stock, which includes rabbits, pigeons, chickens and other poultry, except where there is no residence within a considerable distance when they may be allowed in special cases, for private use only, by a special permit from the Palos Verdes Homes Association. Likewise, on the larger lots, a special permit may also be given for the keeping of horses and cows.

No outhouses, private garages or tents may be erected prior to the erection of the dwelling house or principal building on the lot.

The minimum cost of houses that may be erected ranges from a fairly low amount in areas where there are cheaper lots to considerably higher restrictions along the ocean bluffs and at special points, the amount being determined by the size, value and neighborhood of the lot.

But more important than any specific requirement as to the minimum cost of houses is the provision in the restrictions for the approval by Palos Verdes Homes Association and the Art Jury of the plans and specifications of all buildings prior to the beginning of construction, and for inspection during construction. This inspection is being



done from the beginning as carefully and thoroughly as it is in a large modern city, thus preventing the danger of careless or bad construction, defective wiring and plumbing, unfortunately so common in most of the unincorporated areas outside of the larger cities of Southern California. The experience of the best Eastern developments has shown that in practice this kind of regulation works greatly to the advantage of lot owners as a whole. It will further the harmonious and attractive development of the property and prevent unsightly buildings—with respect to their location on the lot, design or color scheme. It is also believed that with the long experience of the men intrusted with this part of the work, it will be possible to give, when plans are presented, suggestions of substantial value to home builders, and to prevent costly errors.

Fences, walls, hedges and poles will be limited to a reasonable height. No trees on any lot larger than twenty feet in height may be cut down without the consent of the Park and Recreation Board of Palos Verdes Homes Association.

Easements and rights-of-way are reserved for sanitary, electrical utility and other necessary purposes on the rear five feet of lots, and also over side lines where needed. These easements will not interfere with the full and free use of property by owners for planting.

As nearly every lot must be provided with a private garage special attention has been given to the prevention of unsightly garages. Architects and builders have learned that the garage can very agreeably be made a part of most dwellings, but where this does not seem practicable the restrictions as to the location of garages have been carefully drawn to keep them in a location as unobtrusive and unobjectionable as possible.

To carry on the common interest and look after the maintenance of all lots and the welfare of all lot owners right from the beginning, a community association, with the name of Palos Verdes Homes Association, has been incorporated as a non-stock, non-profit body under the laws of California, in which every building site has one vote. It will be the duty of this body to maintain the parks, street planting and other community affairs, and to perpetuate the restrictions.

The Association is governed by a Board of five directors elected by the members. Each purchaser on receiving his deed automatically becomes a member of this Association and entitled to vote.

One of the greatest difficulties in starting new communities outside of an incorporated city is to bridge the gap of time from the beginning of the project until there are enough people under state law to organize the ordinary forms of government, and to employ the necessary help to keep up streets, parks and playgrounds, and to look after other community interests such as fire protection, secure the necessary watchmen and police, collect garbage, and the like. In smaller projects the selling company often provides a temporary paternalistic interest, which unfortunately, however, often later requires concessions for the sake of making sales that are not always to the greatest common good. To avoid all such difficulties Palos Verdes Homes Association and the Art Jury have been legally constituted under the restrictions, as perpetual bodies to carry out and look after, from the beginning, the best interests and highest ideals of the purchasers.

They will take care of the common and private parks, parking strips on the streets, sidewalk planting, etc.; see that vacant lots are kept free from weeds and rubbish; supervise the ornamental lighting features; care for and maintain club houses, tennis courts, golf courses or any other recreation features that the members may desire; arrange with county authorities for the upkeep of streets, fire and police protection; and otherwise co-operate with all authorities to assure the greatest common welfare to all residents and owners in Palos Verdes.

In order to defray the expenses necessary to properly maintain and fulfill the purposes of the Association, an annual tax or assessment will be levied by the officers on all lots which have been subdivided and legally filed of record in Palos Verdes, including those owned by the Project. This tax or assessment is limited so as never to exceed the rate of the old City of Los Angeles, and is established on the assessed valuations of the County Assessor.

[ 6 ]



While this maintenance charge will naturally be made only large enough to produce as much as is required for the proper upkeep of the property, and may in some years be considerably less than Los Angeles City taxes, the maximum has been established sufficiently large that the Association may have means for making an equitable assessment should residents and property owners desire further playground equipment, community meeting houses or other common improvements.

The Art Jury and the Palos Verdes Homes Association exist solely for the common benefit of all property owners in the Estates and should be made use of by them to bring about the most attractive, convenient and satisfactory development possible.

Owners expecting to build should instruct their architects to secure copies of the printed building code and other regulations from the Secretary of the Palos Verdes Homes Association, 504 Lane Mortgage Building, Los Angeles, or at 75 Malaga Cove Plaza, Palos Verdes Estates, California. A pamphlet explaining the procedure before the Art Jury should also be obtained in advance of starting working drawings. A building permit, such as is usually required in every incorporated city, is necessary before any construction can be commenced, signed by the Building Commissioner of Palos Verdes Homes Association and the Secretary of the Art Jury.

A complete printed copy of the restrictions of record for each tract will be furnished when deeds are delivered, or can be had upon application to Sales Department, Palos Verdes Project, 501 Lane Mortgage Building, Los Angeles.



## DECLARATION NO. 23 OF ESTABLISHMENT

OF

LOCAL PROTECTIVE RESTRICTIONS, CONDITIONS, COVENANTS, RESERVATIONS, LIENS  
AND CHARGES AFFECTING THE REAL PROPERTY KNOWN AS

### TRACT 7333, MONTEMALAGA, PALOS VERDES ESTATES

WHICH IS SITUATED IN THE COUNTY OF LOS ANGELES  
IN THE STATE OF CALIFORNIA

DATED: AUGUST 27TH, 1925

(FILED OF RECORD, SEPT. 4, 1925, IN BOOK 5196, PAGE 30 ET SEQ., OF OFFICIAL RECORDS OF  
LOS ANGELES COUNTY; AS AMENDED BY AMENDMENT NO. 6, DATED DEC. 21, 1925,  
RECORDED JAN. 7, 1926, IN BOOK 5583, PAGE 28 ET SEQ., OF OFFICIAL  
RECORDS OF LOS ANGELES COUNTY.)

DECLARATION, made this 27th day of August, 1925, by Bank of America, a corporation organized and existing under and by virtue of the laws of the State of California:

WHEREAS, Bank of America is successor in interest to Commonwealth Trust Company by virtue of a merger of said Commonwealth Trust Company into the said Bank of America, effective at close of business on the 6th day of October, 1923, by virtue of an agreement of merger made and entered into between said Commonwealth Trust Company and said Bank of America; and,

WHEREAS, said Bank of America, as such successor to Commonwealth Trust Company, is owner of a certain tract of land in the County of Los Angeles, State of California, known as Tract Number 7333 of said County, as per map recorded May 20, 1925, in Book 113, Pages 72 to 75, inclusive, of Maps, in the office of the County Recorder of said Los Angeles County; and

WHEREAS, said Commonwealth Trust Company did on the 5th day of July, 1923, file in the office of the said County Recorder, in Book 2360, Page 231, of Official Records of said County, a certain Declaration of Establishment of Basic Protective Restrictions, et cetera, and Bank of America, as successor in interest to said Commonwealth Trust Company, did also on December 5th, 1923, file Amendment No. 1 thereto in Book 2940, Page 27, and on June 25th, 1924, Amendment No. 3 thereto, in Book 4019, Page 274, of said Official Records, which said Declaration and Amendments are hereinafter referred to as "Declaration No. 1," covering and applicable to certain property therein described, including all of said Tract No. 7333, above described; and,

WHEREAS, said Bank of America is about to sell, dispose of or convey certain portions of said property, which it desires to subject to certain additional local protective restrictions, conditions, covenants, reservations, liens and charges between it and the acquirers or users of said property, as hereinafter set forth; and,

WHEREAS, the power to interpret and enforce certain of the conditions, restrictions and charges set forth in this Declaration is to reside in Palos Verdes Homes Association, a non-profit, cooperative association organized and existing under and by virtue of the laws of the State of California, and in Palos Verdes Art Jury, created and established as provided in said Declaration No. 1:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That Bank of America hereby certifies and declares that in addition and supplemental to the basic plan set forth in said "Declaration No. 1," it has established and does hereby establish the local plan for the protection, maintenance, development and improvement of said Tract No. 7333, and has fixed and does hereby fix the local protective restrictions, conditions, covenants, reservations, liens and charges upon and subject to which all lots, parcels, and portions of said tract shall be held, leased or sold and/or conveyed by it as such owner, each and all of which is and are for the benefit of all of said tract and of each owner of land therein and shall inure to and pass with said tract and each and every parcel of land therein and shall apply to and bind the respective successors in interest of the present owners thereof, 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, as follows, to-wit:

[ 8 ]

**USES OF PROPERTY** **Section 1.** (a) The following portions of said tract are hereby established as Residence Districts of Class A, as defined and limited in said Declaration No. 1:

**CLASS A DISTRICTS** All of the numbered lots and blocks of said Tract No. 7333 not otherwise established or classified in this section.

**CLASS F DISTRICTS** (b) The following lots and portions of said tract are hereby established as Business and Public Use Districts of Class F, as defined and limited in said Declaration No. 1:

Lots A, B, C and D.

**BUILDING HEIGHT LIMITS** **Section 2.** (a) All of said tract is hereby established as a 2½-Story Height District, as defined and limited in said Declaration No. 1.

**TYPE OF ARCHITECTURE** **Section 3.** (a) All of said tract is hereby established as a Type I Architecture District, as defined and limited in said Declaration No. 1; provided that the main roofs of all structures erected, constructed, altered or maintained in Type I Architecture Districts in said tract shall be of burned clay tile or slate approved by the Art Jury.

**MINIMUM COST OF BUILDING** **Section 4.** (a) No building or structure, exclusive of accessory outbuildings, shall be erected, placed or maintained upon any building site embracing any of the following lots or any portion or portions of said lots, which, including a reasonable fee of architect, and a reasonable profit of builder, shall cost or be of the value of less than the sum set opposite said lot in the following list, to-wit:

In Block 1544, Lots 1 and 2, \$20,000.  
In Block 1545, Lots 1 to 4, inclusive, \$20,000.  
In Block 1550, Lots 1 to 7, inclusive, \$25,000.  
In Block 1551, Lots 8 to 10, inclusive, \$20,000.  
In Block 1551, Lots 1 to 7, inclusive, \$15,000.  
In Block 1551, Lots 8 and 9, \$10,000.  
In Block 1551, Lot 10, \$20,000.  
In Block 1551, Lots 11 and 12, \$15,000.  
In Block 1552, Lot 13, \$25,000.  
In Block 1552, Lots 1 and 2, \$15,000.  
In Block 1552, Lot 3, \$12,000.  
In Block 1553, Lots 1 to 4, inclusive, \$15,000.  
In Block 1554, Lots 1 to 7, inclusive, \$20,000.  
In Block 1555, Lots 1 and 2, \$20,000.

**BUILDING SET-BACK LINES** **Section 5.** (a) No building or part thereof, including porches, except steps, balconies, or other architectural features approved by the Art Jury, shall be erected, placed, permitted or maintained nearer the street or lot line hereinafter specified than as follows:

**IN BLOCK 1544** Lots 1 and 2 not less than twenty (20) feet from Via Mirabel or from Lot A, except from that portion thereof between Lot 4 in Block 1545 and Lot 1 in Block 1544.

Lots 1 and 2 not less than thirty (30) feet from Via Cochise and not less than twenty (20) feet from Lot A. **IN BLOCK 1545**

Lot 3 not less than twenty-five feet from Via Cochise and not less than twenty (20) feet from Lot A.

Lot 4 not less than twenty (20) feet from Via Mirabel or from Lot A, except from that portion thereof between Lot 4 in Block 1545 and Lot 1 in Block 1544.

Lot 1 not less than forty (40) feet from Via Visalia or Pante Place and not less than twenty (20) feet from Lot C, or Lot D. **IN BLOCK 1550**

Lots 2 and 3 not less than twenty (20) feet from Via Visalia and not less than twenty (20) feet from Lot C.

Lot 4 not less than thirty (30) feet from Via Visalia and not less than twenty (20) feet from Lot C.

Lot 5 not less than forty (40) feet from Via Visalia and not less than twenty (20) feet from Lot C.

Lot 6 not less than fifty (50) feet from Via Visalia and Via Mirabel, and not less than eighty (80) feet from the rounded corner of their intersection and not less than twenty (20) feet from Lot C.

Lot 7 not less than fifty (50) feet from Via Mirabel and not less than twenty (20) feet from Lot C.

Lot 8 not less than twenty-five (25) feet from Via Cochise and not less than twenty (20) feet from Lot C.

Lot 9 not less than fifteen (15) feet from Via Mirabel.

Lot 10 not less than twenty-five (25) feet from Via Mirabel and from Via Cochise and not less than fifty (50) feet from the cut-off corner of their intersection.

Lots 1 and 2 not less than thirty (30) feet from Via Acalones and Via Visalia. **IN BLOCK 1551**

Lots 3 and 4 not less than forty (40) feet from Via Visalia and Via Mirabel.

Lots 5 to 8, inclusive, not less than thirty (30) feet from Via Mirabel.

Lot 9 not less than twenty (20) feet from Via Mirabel.

Lots 10 to 12, inclusive, not less than twenty (20) feet from Via Acalones. **IN BLOCK 1552**

Lot 13 not less than sixty (60) feet from Via Acalones.

Lots 1 and 2 not less than thirty (30) feet from Via Acalones.

Lot 3 not less than thirty (30) feet from Via Acalones and Via Nogales and the cut-off corner of their intersection.

Lot 1 not less than forty (40) feet from Via Visalia or Via Mirabel and not less than eighty (80) feet from the rounded corner of their intersection. **IN BLOCK 1553**

Lot 2 not less than forty (40) feet from Via Visalia.

Lot 3 not less than forty (40) feet from Via Visalia or from the Southerly boundary of Lot 3.

Lot 4 not less than forty (40) feet from Via Mirabel or from the Southerly boundary of Lot 4.

Lot 1 not less than forty (40) feet from Via Visalia and not less than five (5) feet from the alley along the Southeasterly line thereof. **IN BLOCK 1554**

Lots 2 to 5, inclusive, not less than forty (40) feet from Via Visalia or Via Mirabel.

Lot 6 not less than forty (40) feet from Via Mirabel or the Southerly boundary of said Lot 6, and not less than eighty (80) feet from the rounded corner of their intersection.



Lot 7 not less than forty (40) feet from Via Visalle or the Southerly boundary of said Lot 7, and not less than five (5) feet from the alley along a portion of the Northwestern side of said Lot 7.

#### IN BLOCK 1555

Lot 1 not less than thirty (30) feet from Punta Place and not less than forty (40) feet from the South line of said Lot 1.

Lot 2 not less than forty (40) feet from Punta Place or Via Visalle or from the South line of said Lot 2, and not less than eighty (80) feet from the rounded corner of their intersection.

Lot B not less than thirty (30) feet from any boundary line thereof and not less than seventy (70) feet from the rounded corner at the most Southerly extremity of said Lot B.

#### SET-BACKS FROM SIDE LINES OF LOTS

(b) On every lot in a residence district of Class A there shall be left a free space adjoining each of the side lot lines thereof, extending the full depth of the lot; and no building or part thereof, including porches, except a private garage as provided in said Declaration No. 1, and steps, balconies or other architectural features approved by the Art Jury, shall be erected, permitted or maintained on or upon said free spaces of any numbered lot in said tract. The width of each of said free spaces, measured at any point in the depth of the lot, shall be not less than seven and one-half ( $7\frac{1}{2}$ ) feet plus one-tenth ( $1/10$ th) foot for each foot by which the width of the lot at that point exceeds fifty (50) feet up to a maximum required width of free space of twenty (20) feet; provided, however, that the width of free space on one side of a lot may be reduced by not more than one-third ( $1/3$ ) of the width above required if the width of the free space on the opposite side of the lot is at all points greater than the width above required by a proportionate amount. PROVIDED that the provisions of this section shall not apply to the common lot line between lots used jointly as one building site or as to which an approved party-wall agreement exists as provided in paragraph (c) of Section 27 of Article IV of said Declaration No. 1.

If the width, or set-back lines of any lot be difficult of determination by reason of its irregular shape or otherwise, or, if the extent or location of the free spaces required herein be uncertain, the Building Commissioner of Palos Verdes Homes Association shall in all cases determine what are to be deemed the width and set-back lines of such lot and the extent and location of such free spaces, and such determination in respect thereto shall be final.

(c) Anything to the contrary herein notwithstanding, the right and power is expressly reserved to Bank of America and its successors in interest, on account of the irregular topography of said tract, the difficulty of making garages accessible to the street, and other unforeseen conditions which may work undue hardship in certain cases, to make by written agreement with the owner or owners of any lot in said tract reasonable variations in the set-back lines herein established as to said lot, including the location of private garages not less than five (5) feet from the street line on steeply sloping lots, provided said variations are not, in the opinion of the Art Jury, injurious or undesirable to the neighborhood in which they occur, and the approval of the Art Jury be given thereto in writing.

Section 6. (a) Easements and Rights of Way are hereby specifically reserved to Bank of America, its successors and assigns, for the erection, construction, operation and maintenance of:

#### VARIATIONS IN SET-BACK LINES

#### EASEMENTS AND RIGHTS OF WAY

(1) Poles, wires and conduits for the transmission of electricity for lighting, heating, power, telephone and other purposes and for the necessary attachments in connection therewith; and,

(2) Public and private sewers, storm water drains, land drains and pipes, water systems, water, heating and gas mains or pipes; and,

(3) Any other method of conducting and performing any public or quasi-public utility service or function beneath the surface of the ground.

(b) Such Easements and Rights of Way are hereby specifically reserved on:

(1) The rear five (5) feet of the following lots:

In Block 1550, Lots 8 and 9.

In Block 1551, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.

In Block 1552, Lots 1, 2 and 3.

In Block 1553, Lots 2, 3 and 4.

In Block 1554, Lots 1, 3, 4, 5 and 7.

(As amended by Amendment No. 6.)

(2) A five (5) foot strip adjoining the following lot lines in said Tract:

In Block 1550, on each side of the line dividing Lot 10 from Lots 8 and 9.

In Block 1551, on each side of the line dividing Lot 2 from Lot 3; Lot 13 from Lot 3, 4, 5 and 6; Lot 6 from Lot 5, 13, 12 and 11; Lot 7 from Lot 11; Lot 8 from Lot 9; Lot 11 from Lot 12.

In Block 1552, on each side of the line dividing Lots 1, 2 and 3 from Lot B.

In Block 1553, on each side of the line dividing Lot 2 from Lots 1 and 4; Lot 3 from Lot 4.



In Block 1554, on each side of the line dividing Lot 1 from Lot 2; Lot 3 from Lots 4 and 7; Lot 5 from Lot 7; In Block 1555, on each side of the line dividing Lot 1 from Lot D. (As amended by Amendment No. 6.)

(3) A strip three (3) feet in width adjoining every lot line in said tract, provided that this subsection shall not apply to a lot line adjoining a street, walk or alley; and except as otherwise provided in this section.

(4) In and over all streets, walks and alleys in said tract, as shown on said map of said Tract No. 7333.

(c) No building or structure shall be erected, constructed, altered or maintained upon locations affected by said easements or rights of way provided that Palos Verdes Homes Association may give temporary permits, revocable at any time, for structures covering such portions of any easement or right of way as in its opinion may not be necessary for other use during the time of said permits.

(d) Said easements shall at all times be open to Bank of America, its successors and assigns, and to Palos Verdes Homes Association, who shall have the right of ingress and egress thereto and therefrom, and the right, privilege and easement of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements and rights of way are reserved and shall not thereby in any manner be deemed guilty of trespass; and Bank of America shall have the right at any time to convey or, with the written approval of Palos Verdes Homes Association, to extinguish such easements and rights of way as to any or all of said property.

(e) The right is expressly reserved to Bank of America, its successors and assigns, to suspend, use, maintain and replace over any portion of any lot in said tract within five and one-half (5½) feet from any lot line or the line of any easement herein reserved to said Bank of America, wires, cross-arms, and appurtenances for conveying electric energy to be used for light, heat, power or other purposes, and use the same for such purposes, together with the right to alter the same in such manner as the requirements of Bank of America, its successors and assigns, may from time to time demand. No poles are to be placed within the space where such right to overhang is

reserved. Bank of America, its successors and assigns, and its and their agents and employees, shall at all times have free access to said wires, cross-arms and appurtenances for the purpose of repairing, removing, maintaining and operating the same.

Section 7. No title to land in any street, walk or alley is intended to be conveyed to purchasers of any property except where expressly so stated in deeds.

Section 8. All of the restrictions, conditions, covenants, reservations, liens and 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 9 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, exclusive of streets, parks and open spaces, be placed on record in the office of the County Recorder of Los Angeles County, by the terms of which agreement any of the said conditions, restrictions, covenants, reservations, liens or charges are changed, modified, or extinguished, in whole or in part, as to all or any part of the property originally subject thereto, in the manner and to the extent therein provided. In the event that any such written agreement of change or modification be duly executed and recorded, the original conditions, restrictions, covenants, reservations, liens and charges as therein modified shall continue in force for successive periods of twenty years each unless and until further changed, modified or extinguished in the manner herein provided.

Section 9. Any of the conditions, restrictions, covenants, reservations, liens and charges set forth herein or hereafter established in any declaration of additional restrictions or deed, contract of sale or lease legally filed of record unless otherwise provided therein, may be changed or modified by written instrument duly executed and

TITLE TO  
STREETS  
RESERVED

DURATION OF  
RESTRICTIONS

MODIFICATION OF  
RESTRICTIONS

placed on record: (1) as to any property then owned by Bank of America, by Palos Verdes Homes Association and Bank of America; (2) as to any other property, by Palos Verdes Homes Association, the owner or owners of record of two-thirds in area of such property and Bank of America, or its successors in interest, as owners of the reversionary rights therein; 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 in area of all lands held in private ownership within three hundred feet in any direction of the property concerning which a change or modification is sought to be made, and provided further that this shall not be construed as requiring the consent of the owners of any property not under jurisdiction of Palos Verdes Homes Association; and also provided that any approval given thereto by Palos Verdes Homes Association shall not be valid unless and until said Association shall first have had a public hearing thereon.

**RECORDS AND REPORTS** Section 10. (1) Any agent or officer of Palos Verdes Homes Association and/or the Art Jury may at any reasonable time enter, inspect and report upon any property subject to the jurisdiction of the Palos Verdes Homes Association and/or the Art Jury as to its maintenance or improvement in compliance with the provisions hereof; and Palos Verdes Homes Association, the Art Jury and/or any agent or officer thereof shall not thereby be deemed guilty of any manner of trespass for such entry or inspection. Palos Verdes Homes Association and/or the Art Jury may issue a certificate of completion and compliance as to any property so inspected and make and collect a charge therefor.

(2) For the purpose of making a search upon or guaranteeing or insuring title to, or any lien on and/or interest in any lot or parcel of said property, and for the purpose of protecting purchasers and encumbrancers for value and in good faith as against the performance or non-performance of any of the acts in this Declaration of Restrictions authorized, permitted or to be approved by Palos Verdes Homes Association and/or the Art Jury, the records of the Secretary of Palos Verdes Homes Association and/or of the Art Jury shall be conclusive as to all matters shown by such records and the

issuance of a certificate of completion and compliance by Palos Verdes Homes Association and by the Art Jury showing that the plans and specifications for the improvements or other matters herein provided for, or authorized, have been approved and that the said improvements have been made in accordance therewith, or of a certificate as to any matters relating to Palos Verdes Homes Association or to the Art Jury by the respective secretaries thereof shall be conclusive upon all persons and shall fully justify and protect any title company or person certifying, guaranteeing, or insuring the said title, or any lien thereon, and/or any interest therein, and shall also fully protect the purchaser or encumbrancer in good faith and for value in acting thereon, as to all matters within the jurisdiction of Palos Verdes Homes Association and/or the Art Jury. In any event after the expiration of one year from the date of the issuance of a building permit by Palos Verdes Homes Association for any structure, work, improvement or alteration, the said structure, work, improvement or alteration shall, in favor of purchasers and encumbrancers in good faith and for value, be deemed to be in compliance with all the provisions thereof, unless actual notice executed by Palos Verdes Homes Association and/or the Art Jury of such non-completion and/or non-compliance, shall appear of record in the office of the County Recorder of Los Angeles County, California, or legal proceedings shall have been instituted to enforce completion and/or compliance. (As amended by Amendment No. 6.)

Section 11. If, at any time, the owner or owners of lands adjoining or outside of said property shall agree with Bank of America, or its successors in interest, and/or Palos Verdes Homes Association to hold, sell and convey said land subject to restrictions, conditions, covenants, reservations, liens or charges set forth in an agreement and/or Declaration of Restrictions duly executed by such owner or owners and approved by Palos Verdes Homes Association and the Art Jury, and such agreement and/or Declaration of Restrictions shall thereafter be recorded in the office of the County Recorder of Los Angeles County, California, Palos Verdes Homes Association and the Art Jury shall from and after the date of said recordation have power to do and perform any and all of the acts, to fix, impose and collect charges, assessments

ANNEXATION  
OF ADDITIONAL  
PROPERTY



and dues from the owners of said property as therein provided and to grant said owner or owners membership in Palos Verdes Homes Association as therein agreed to and provided; provided, however, that the Art Jury shall have full jurisdiction over all lands and property over which Palos Verdes Homes Association may at any time have jurisdiction.

**REVERSION  
OF TITLE**

*Section 12.* 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. Each grantee of Bank of America of any part or portion of the said property by acceptance of a deed incorporating the substance of this Declaration either by setting it forth or by reference therein, accepts the same subject to all of such restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers of the Art Jury and of Palos Verdes Homes Association. A breach of any of the restrictions, conditions and covenants hereby established shall cause the real property upon which such breach occurs to revert to Bank of America, or its successors in interest, as owners of the reversionary rights herein provided for; and the owner of such reversionary rights shall have the right of immediate re-entry upon such real property, in the event of any such breach; and, as to each lot owner in the said property, the said restrictions, conditions and covenants shall be covenants running with the land, and the breach of any thereof, and the continuance of any such breach, may be enjoined, abated or remedied by appropriate proceedings by the owner of the reversionary rights or by any such owner of other lots or parcels in said property or by Palos Verdes Homes Association, but such reversion shall not affect or impair the lien of any bona fide mortgage or deed of trust which shall have been given in good faith and for value; provided, however, that any subsequent owner of said property shall be bound by the said restrictions, conditions and covenants, whether obtained by foreclosure or at trustee's sale or otherwise.

**VIOLATION OF  
CONDITIONS**

*Section 13.* The violation of any of the restrictions or conditions or breach of any

of the covenants hereby established shall also give to Bank of America, or its successors in interest, and/or to Palos Verdes Homes Association the right to enter upon the property upon or as to which such violation or breach exists, and to summarily abate and remove at the expense of the owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and Bank of America, or its successors in interest, or Palos Verdes Homes Association, shall not be deemed guilty of any manner of trespass for such entry, abatement or removal.

*Section 14.* Every act or omission whereby any restriction, condition or covenant in this Declaration set forth is violated in whole or in part is declared to be and shall constitute a nuisance, and may be abated by Bank of America, or its successors in interest, and/or Palos Verdes Homes Association and/or by any lot owner subject to the jurisdiction of Palos Verdes Homes Association; and such remedy shall be deemed cumulative and not exclusive.

**VIOLATION  
CONSTITUTES  
NUISANCE**

*Section 15.* All of said restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time, be held that any one of said restrictions, conditions, covenants, reservations, liens or charges or any part thereof is invalid, or for any reason becomes unenforceable, no other restriction, condition, covenant, reservation, lien or charge or any part thereof shall be thereby affected or impaired; and the grantor and grantee, their successors, heirs and/or assigns, shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid.

**CONSTRUCTION  
AND VALIDITY  
OF RESTRICTIONS**

*Section 16.* Any or all of the rights and/or powers of Bank of America herein contained as to any of the said property may be delegated, transferred, assigned or conveyed to any person, corporation or association or to Palos Verdes Homes Association and wherever Bank of America is herein referred to, such reference shall be deemed to include its successors in interest as owners of the reversionary rights herein provided for.

**ASSIGNMENT  
OF POWERS**



INTERPRETATION  
AND ENFORCEMENT  
BY PALOS  
VERDES HOMES  
ASSOCIATION

Section 17. In its own name, so far as it may lawfully do so, and/or in the name of Bank of America or of any lot or parcel owner subject to its jurisdiction, Palos Verdes Homes Association shall interpret and/or enforce any or all restrictions, conditions, covenants, reservations, liens, charges and agreements herein or at any time created for the benefit of the said property or any property which may hereafter be expressly made subject to its jurisdiction by the owners thereof, or to which said lots or any of them may at any time be subject. In case of uncertainty as to meaning of said provisions or of any provisions of this Declaration, Palos Verdes Homes Association shall, in all cases, interpret the same and such interpretation shall be final and conclusive upon all interested parties.

RIGHT TO  
ENFORCE

Section 18. The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Bank of America, Palos Verdes Homes Associa-

tion, the owner or owners of any property in said tract, their, and each of their, legal representatives, heirs, successors and assigns, and failure by Bank of America, Palos Verdes Homes Association or any property owner, or their legal representatives, heirs, successors, and assigns, to enforce any of such restrictions, conditions, covenants, reservations, liens or charges shall in no event be deemed a waiver of the right to do so thereafter.

EXCEPTIONS

Section 19. Any portion of the said property or any interest therein, title to which is acquired by the State of California and/or the United States of America and/or by any public authority, may with the written approval of the Bank of America, or its successors in interest to the reversionary rights provided for herein, and the Art Jury, be specifically exempted from any and all of the provisions herein except the provisions of Sections 8 to 19 inclusive hereof.

IN WITNESS WHEREOF, said Bank of America has this 27th day of August, 1925, hereunto caused its corporate name and seal to be affixed by its Vice-President and Assistant Secretary, thereunto duly authorized.

BANK OF AMERICA,

By JAY E. RANDALL,  
*Vice-President.*

By F. H. TOMKINS,  
*Assistant Secretary.*

(SEAL)

STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES, } ss.

On this 3rd day of September, in the year one thousand nine hundred and twenty-five, before me, L. R. Crassey, a Notary Public in and for said County, personally appeared Jay E. Randall, known to me to be the Vice-President, and F. H. Tomkins, known to me to be the Assistant Secretary of 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.

L. R. CRASSEY,  
Notary Public in and for the County of Los Angeles,  
State of California.

**AMENDMENT NO. 10 TO DECLARATION NO. 20  
OF ESTABLISHMENT**

**OF  
LOCAL PROTECTIVE RESTRICTIONS, CONDITIONS, COVENANTS, RESERVATIONS, LIENS  
AND CHARGES AFFECTING THE REAL PROPERTY KNOWN AS**

**TRACT NO. 7330, MONTEMALAGA,  
PALOS VERDES ESTATES  
AND**

**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**

**WHICH ARE SITUATED IN THE COUNTY OF LOS ANGELES,  
IN THE STATE OF CALIFORNIA**

**DATED: JULY 21ST, 1926**

**(FILED OF RECORD, JULY 26, 1926, IN BOOK 6052, PAGE 86 RE SEQ., OF OFFICIAL RECORDS OF  
LOS ANGELES COUNTY.)**

DECLARATION, made this 21st day of July, 1926, by the Bank of America, a corporation, organized and existing under and by virtue of the laws of the State of California.

WHEREAS, Bank of America is successor in interest to Commonwealth Trust Company, by virtue of a merger of said Commonwealth Trust Company into the said Bank of America, effective at close of business on the 6th day of October, 1923, by virtue of an agreement of merger made and entered into between said Commonwealth Trust Company and said Bank of America; and,

WHEREAS, said Bank of America as such successor to Commonwealth Trust Company is the owner of a certain tract of land in the County of Los Angeles, State of California, known as Tract 8652 of said County, as per map recorded May 27th, 1926, in Book 125, Pages 85 to 87, inclusive, of Maps in the office of the County Recorder of said Los Angeles County; and

WHEREAS, said Commonwealth Trust Company did on the 5th day of July, 1923, record in the office of said County Recorder, in Book 2360, Page 231, of Official Records, a certain Declaration of Establishment of Basic Protective Restrictions, et cetera, and said Bank of America as successor in interest to said Commonwealth Trust Company did on December 5th, 1923, record Amendment No. 1 thereto in Book 2940, Page 27, of Official Records, and on June 25th, 1924, Amendment No. 3 thereto in Book 4019, Page 274, of Official Records, in the office of said County Recorder, which said Declaration and Amendments are hereinafter together referred to as "Declaration No. 1," covering and applicable to certain property therein described; and

WHEREAS, said Bank of America did on the 24th day of March, 1924, record in Book 3168, Page 30, of Official Records of said County, Declaration No. 20 of Establishment of Local Protective Restrictions, et cetera, affecting Tract 7330 of said County, as per map recorded March 13th, 1924, in Book 90, Pages 37 to 39, inclusive, of Maps, in the office of said County Recorder, and on June 25th, 1924, did also record Amendment No. 3 thereto, in Book 4019, Page 274, of Official Records in the office of said County Recorder, which said Declaration and Amendment are hereinafter together referred to as "Declaration No. 20," for the purposes of this Amendment No. 10 and Declaration No. 25, and as relating to the property covered thereby, and

WHEREAS, said Bank of America did on the 27th day of May, 1926, record in Book 125, Pages 85 to 87, inclusive, of Maps in the office of said County Recorder, a resubdivision of Lots 13 and 14 in Block 1638, Lots 1 to 7 inclusive, in Block 1641, Lots 1 and 2 in Block 1650, Lots 1 and 2 in Block 1750, and Lot D, all in said Tract 7330 (together with portions of adjacent streets), said resubdivision being a part of that tract now known as said Tract 8652 of said County; and

[ 15 ]



WHEREAS, said Bank of America is the owner of record of two-thirds ( $\frac{2}{3}$ ) in area of all said above described property; and,

WHEREAS, said Bank of America is the owner of record of not less than two-thirds ( $\frac{2}{3}$ ) in area of all land held in private ownership within three hundred (300) feet in any direction of property concerning which amendment, change or modification is herein established and which is under jurisdiction of Palos Verdes Homes Association, and by executing this document does give as such owner its written consent to the modifications, changes and amendments herein provided for;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That pursuant to the provisions of Section 3 of Article VI of said Declaration No. 1, and pursuant to the provisions for modification of restrictions in said Declaration No. 20 hereinabove referred to, Bank of America hereby certifies and declares that it has established and does hereby establish, subject to the approval of Palos Verdes Homes Association, a California corporation, the following amendment to said Declaration No. 20 of Establishment hereinabove mentioned:

AMENDMENT TO  
DECLARATION  
No. 20

Section 1. Said Declaration No. 20 is hereby amended as follows:

(a) All of the local protective restrictions, conditions, covenants, reservations, liens and charges established by said Declaration No. 20, affecting Lots 13 and 14 in Block 1638, Lots 1 to 7 inclusive in Block

1641, Lots 1 and 2 in Block 1650, Lots 1 and 2 in Block 1750, and Lot D, of said Tract 7330, are hereby annulled, rescinded and removed, and wherever said lots, blocks or parcels are mentioned in said Declaration No. 20 they are hereby stricken out.

AND, WHEREAS, said Bank of America is about to sell, dispose of or convey certain portions of said property, which it desires to subject to certain additional local protective restrictions, conditions, covenants, reservations, liens and charges between it and the acquirers or users of said property, as hereinafter set forth; and,

WHEREAS, the power to interpret and enforce certain of the conditions, restrictions, and charges set forth in this Declaration is to reside in Palos Verdes Homes Association, a non-profit, co-operative association, organized and existing under and by virtue of the laws of the State of California, and in Palos Verdes Art Jury, created and established as provided in said Declaration No. 1;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That Bank of America hereby certifies and declares that in addition and supplemental to the basic plan set forth in said "Declaration No. 1," it has established and does hereby establish the local plan for the protection, maintenance, development and improvement of said Tract 8652, and has fixed and does hereby fix the local protective restrictions, conditions, covenants, reservations, liens and charges upon and subject to which all lots, parcels and portions of said tract shall be held, leased or sold and/or conveyed by it as such owner, each and all of which is and are for the benefit of all of said tract and of each owner of land therein and shall inure to and pass with said tract and each and every parcel of land therein and shall apply to and bind the respective successors in interest of the present owners thereof, 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, as follows, to-wit:

*Declaration of Establishment of Restrictions, et cetera, applicable to said Tract 8652:*

USES OF  
PROPERTY  
CLASS A  
DISTRICTS

Section 2. (a) The following lots and portions of said tract are hereby established as Residence Districts of Class A, as defined and limited in said Declaration No. 1:

All of the numbered lots and blocks of said tract not otherwise established or classified in this section.

(b) The following lots and portions of said tract are hereby established as Residence Districts of Class C-1, as defined and limited in said Declaration No. 1:

Is Block 1641, Lot 9.  
Is Block 1650, Lots 1 and 2.  
Is Block 1750, Lots 1 and 2.

CLASS C-1  
DISTRICTS





**IN BLOCK 1734**

Lot 1 not less than forty (40) feet from Granvia Altamira and not less than ten (10) feet from Via Panorama;  
 Lots 2 and 3 not less than ten (10) feet from Via Panorama;  
 Lot 4 not less than ten (10) feet from Via Panorama or Via Mirada;  
 Lots 5 and 6 not less than ten (10) feet from Via Mirada;  
 Lot 7 not less than forty (40) feet from Granvia Altamira and not less than ten (10) feet from Via Mirada;

**IN BLOCK 1750**

Lot 1 not less than ten (10) feet from Montemalaga Plaza or Granvia Altamira;  
 Lot 2 not less than ten (10) feet from Granvia Altamira or from Lot F;  
 Lot 3 not less than forty (40) feet from Granvia Altamira;  
 Lot 4 not less than forty (40) feet from Granvia Altamira and not less than ten (10) feet from Novato Place;  
 Lots 5 to 10, inclusive, not less than ten (10) feet from Novato Place;  
 Lots 11 to 14, inclusive, not less than forty (40) feet from Granvia Altamira;  
 Lot 15 not less than forty (40) feet from Granvia Altamira not less than ten (10) feet from Novato Place;  
 Lots 16 and 17 not less than ten (10) feet from Novato Place;

**IN BLOCK 1751**

Lots 1 and 2 not less than thirty (30) feet from Granvia Altamira;  
 Lots 3 and 4 not less than twenty (20) feet from Granvia Altamira;  
 Lots 5 and 6 not less than forty (40) feet from Granvia Altamira.

**SET-BACKS FROM  
SIDE LINES  
OF LOTS**

(b) On every lot in a residence district of Class A there shall be left a free space adjoining each of the side lot lines thereof, extending the full depth of the lot; and no building or part thereof, including porches, except a private garage, as provided in said Declaration No. 1, and steps, balconies or other architectural features approved by the Art Jury, shall be erected, permitted or maintained on or upon said free spaces of any numbered lot in said tract. The width of each of said free spaces, measured at any point in the depth of the lot, shall be not less than seven and one-half ( $7\frac{1}{2}$ ) feet plus one-tenth ( $1/10$ ) foot for each foot by which the width of the lot at that point exceeds fifty (50) feet up to a maximum required width of free space of twenty (20) feet; PROVIDED, however, that the width of the free space on one side of a lot may be reduced by not more than one-third ( $\frac{1}{3}$ ) of the width above required if the width of the free space on the opposite side of the lot is at all points greater than the width above required by a proportionate amount. PROVIDED, that the provisions of this section shall not apply to the common lot line between lots used jointly as one building site, or as to which an approved party-wall agreement exists, as pro-

vided in paragraph (c) of Section 27 of Article IV of said Declaration No. 1.

If the width or set-back lines of any lot be difficult of determination by reason of its irregular shape, or otherwise, or, if the extent or location of the free spaces required herein be uncertain, the Building Commissioner of Palos Verdes Homes Association shall in all cases determine what are to be deemed the width and set-back lines of such lot and the extent and location of such free spaces, and such determination in respect thereto shall be final.

(c) Anything to the contrary herein notwithstanding, the right and power is expressly reserved to Bank of America and its successors in interest, on account of the irregular topography in said tract, the difficulty of making garages accessible to the street, and other unforeseen conditions, which may work undue hardship in certain cases, to make by written agreement with the owner or owners of any lot in said tract reasonable variations in the set-back lines herein established as to said lot, including the location of private garages not less than five (5) feet from the street line on steeply sloping lots, provided said variations are not, in the opinion of the Art Jury, injurious or undesirable to the neighborhood in which they occur, and the approval of the Art Jury be given thereto in writing.

**VARIATIONS IN  
SET-BACK LINES**

Section 7. (a) Easements and rights of way are hereby specifically reserved to Bank of America, its successors and assigns, for the erection, construction, operation and maintenance of

**EASEMENTS AND  
RIGHTS OF WAY**

(1) Poles, wires and conduits for the transmission of electricity for lighting, heating, power, telephone and other purposes, and for the necessary attachments in connection therewith; and,

(2) Public and private sewers, storm water drains, land drains and pipes, water systems, water, heating and gas mains or pipes; and,

(3) Any other method of conducting and performing any public or quasi-public utility service or function beneath the surface of the ground.

(b) Such easements and rights of way are hereby specifically reserved on

(1) The rear five (5) feet of each and every numbered lot in said tract except as follows:

[ 15c ]



All of Block 1641.  
In Block 1650, Lot 2.  
In Block 1750, Lot 1.

(2) A five (5) foot strip adjoining the following lot lines:

In Block 1641 Along the rear lines of Lots 1 and 3;  
In Block 1650 Along the Southeastern line of Lot 1;  
In Block 1732 On each side of the line dividing Lot 1 from Lots 2, 3 and 4;  
Along the Eastern side of the line dividing Lot 1 from Lot A;  
On each side of the line dividing Lot 2 from Lot 3;  
In Block 1733 Along the Eastern line of Lots 1, 2, 3, 4, 5, 9, 10 and 11;  
On each side of the line dividing Lot 4 from Lot 5;  
On each side of the line dividing Lots 8 and 9 from Lots 5, 6 and 7;  
In Block 1734 On each side of the line dividing Lots 1, 2 and 3 from Lots 7, 6 and 5;  
On each side of the line dividing Lot 4 from Lots 3 and 5;  
In Block 1750 Along the Southeastern line of Lot 2;  
On each side of the line dividing Lot 5 from Lot 6, and Lot 8 from Lot 9;  
On each side of the line dividing Lots 10 and 11 from Lots 12 and 17;  
On each side of the line dividing Lots 16 and 17 from Lots 12, 13, 14 and 15;  
Along the Southern line of Lots 10 and 11;  
In Block 1751 On each side of the line dividing Lot 6 from Lots 2, 3 and 5;  
Along the Southwestern line of Lot 5;  
In Lots A, B, C, E, and F, adjoining each lot line excepting the lot line adjoining a street, walk or alley.

(3) A three (3) foot strip adjoining each and every lot line in a residence district of Class A in said tract, provided that this subsection shall not apply to a lot line adjoining a street, walk or alley; and except as otherwise provided in this section.

(4) In and over all streets, walks and alleys, except the Eastern half of that walk lying to the East of Block 1750 and Lots B and F of said tract.

(5) A ten (10) foot strip along the Western line of Lot 10 in Block 1750 where it adjoins Lot 17 for use as a driveway and walk from Lot 11 of said Block 1750 into Novato Place.

(c) No building or structure shall be created, constructed, altered or maintained upon locations affected by said easements or rights of way provided that Palos Verdes Homes Association may give temporary permits, revocable at any time, for structures covering such portions of any easement or right of way as in its opinion may

not be necessary for other use during the time of said permits.

(d) Said easements shall at all times be open to Bank of America, its successors and assigns, and to Palos Verdes Homes Association, who shall have the right of ingress and egress thereto and therefrom, and the right, privilege and easement of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements and rights of way are reserved, and shall not thereby in any manner be deemed guilty of trespass; and Bank of America shall have the right at any time to convey or, with the written approval of Palos Verdes Homes Association, to extinguish such easements and rights of way as to any or all of said property.

(e) The right is expressly reserved to Bank of America, its successors and assigns, to suspend, use, maintain and replace over any portion of any lot in said tract within five and one-half (5½) feet from any lot line or of the line of any easement herein reserved to said Bank of America, wires, cross-arms, and appurtenances for conveying electric energy to be used for light, heat, power or other purposes, and use the same for such purposes, together with the right to alter the same in such manner as the requirements of Bank of America, its successors and assigns, may from time to time demand. No poles are to be placed within the space where such right to overhang is reserved. Bank of America, its successors and assigns, and its and their agents and employees, shall at all times have free access to said wires, cross-arms and appurtenances for the purpose of repairing, removing, maintaining and operating the same.

(Sections 8 to 19, inclusive, of this Declaration No. 25 are the same as Sections 7 to 18, inclusive, of Declaration No. 23, printed on pages 11 to 14 of this booklet.)

Section 20. Any portion of the said property or any interest therein, title to which is acquired by the State of California and/or the United States of America and/or by any public authority, may with the written approval of the Bank of America, or its successors in interest to the reversionary rights provided for herein, and the Art Jury, be specifically exempted from any or all of the provisions herein, except the provisions of Sections 9 to 20, inclusive, hereof.

EXCEPTIONS



IN WITNESS WHEREOF, said BANK OF AMERICA, as successor of said Commonwealth Trust Company by virtue of the merger hereinbefore referred to, and also as owner of record of more than two-thirds ( $\frac{2}{3}$ ) in area of said property, and said BANK OF AMERICA, as owner of record of not less than two-thirds ( $\frac{2}{3}$ ) in area of all land held in private ownership within three hundred (300) feet in any direction of property concerning which amendment, change or modification is herein established, and which is under jurisdiction of Palos Verdes Homes Association, and PALOS VERDES HOMES ASSOCIATION, a California Corporation, this 21st day of July, 1926, have hereto caused their corporate names and seals to be affixed by their officers thereunto duly authorized.

**BANK OF AMERICA,**

By JAY E. RANDALL,  
*Vice-President.*

By F. H. TOMKINS,  
*Asst. Secretary.*

**PALOS VERDES HOMES ASSOCIATION,**

By J. C. LOW,  
*President.*

By C. H. CHENEY,  
*Secretary.*

STATE OF CALIFORNIA, } ss.  
COUNTY OF LOS ANGELES, }

On this 23rd day of July, 1926, before me, L. R. Crabtree, a Notary Public in and for said County, personally appeared Jay E. Randall, known to me to be the Vice-President, and F. H. Tomkins, known to me to be the Secretary, of BANK OF AMERICA, the corporation that executed the within instrument, and 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 the day and year in this certificate first above written.

L. R. CRABTREE,  
Notary Public in and for the County of Los Angeles,  
State of California.

STATE OF CALIFORNIA, } ss.  
COUNTY OF LOS ANGELES, }

On this 22nd day of July, 1926, before me, Nellie Grace Frantz, a Notary Public in and for the said County, personally appeared J. C. Low, known to me to be the President, and C. H. Cheney, known to me to be the Secretary of PALOS VERDES HOMES ASSOCIATION, the corporation that executed the within instrument, and 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 the day and year in this certificate first above written.

NELLIE GRACE FRANTZ,  
Notary Public in and for the County of Los Angeles,  
State of California.

THIS IS TO CERTIFY that said Amendment No. 10 as hereinabove set forth was approved by the Board of Directors of Palos Verdes Homes Association, a California corporation, at a meeting held on the 21st day of July, 1926, at the Lane Mortgage Building, Los Angeles, California, and that the said approval was preceded by a public hearing on said Amendment No. 10, duly advertised by publication in the Los Angeles Examiner.

**PALOS VERDES HOMES ASSOCIATION,**

By J. C. LOW,  
*President.*

By C. H. CHENEY,  
*Secretary.*

[15e]

STATE OF CALIFORNIA, } ss.  
COUNTY OF LOS ANGELES, }

On this 22nd day of July, 1926, before me, Nellie Grace Frantz, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared J. C. Low, known to me to be the President, and C. H. Cheney, known to me to be the Secretary of PALOS VERDES HOMES ASSOCIATION, the corporation that executed the foregoing certificate, known to me to be the persons who executed the foregoing certificate 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.

NELLIE GRACE FRANTZ,  
Notary Public in and for the County of Los Angeles,  
State of California.

THIS IS TO CERTIFY that said Amendment No. 10 hereinabove set forth was approved by the Palos Verdes Art Jury at a meeting held on the 14th day of July, 1926, at the Lane Mortgage Building, Los Angeles, California.

PALOS VERDES ART JURY,

By MYRON HUNT,  
*President.*

By C. H. CHENEY,  
*Secretary.*

STATE OF CALIFORNIA, } ss.  
COUNTY OF LOS ANGELES, }

On this 22nd day of July, 1926, before me, Nellie Grace Frantz, a Notary Public in and for the said County, personally appeared Myron Hunt, known to me to be the President, and C. H. Cheney, known to me to be the Secretary, of the PALOS VERDES ART JURY, that executed the foregoing certificate, known to me to be the persons who executed the foregoing certificate on behalf of the ART JURY named therein, and acknowledged to me that such Art Jury executed the same.

NELLIE GRACE FRANTZ,  
Notary Public in and for the County of Los  
Angeles, State of California.

DECLARATION NO. 1  
**DECLARATION OF ESTABLISHMENT**  
OF

BASIC PROTECTIVE RESTRICTIONS, CONDITIONS, COVENANTS, RESERVATIONS, LIENS AND  
CHARGES AFFECTING THE REAL PROPERTY TO BE KNOWN AS

**PALOS VERDES ESTATES—PARCELS A AND B**

WHICH IS SITUATED IN THE COUNTY OF LOS ANGELES, IN THE STATE OF CALIFORNIA.

DATED JUNE 25, 1923

(Recorded July 5, 1923, in Book 2360, Page 231, Official Records of Los Angeles County; as amended by Amendment No. 1 dated Nov. 25, 1923, recorded Dec. 5, 1923, in Book 2940, Page 27, Official Records of Los Angeles County; and as amended by Amendment No. 3 dated June 16, 1924, recorded June 25, 1924, in Book 4019, Page 274, Official Records of Los Angeles County.)

DECLARATION, made and dated this 26th day of June, 1923, by Commonwealth Trust Company, a corporation organized and existing under and by virtue of the laws of the State of California.

WHEREAS, Commonwealth Trust Company is the owner of a certain tract of land in the County of Los Angeles, State of California, described as follows:

These portions of Lot "H," as shown on map of Rancho Los Palos Verdes, in the County of Los Angeles, State of California, as partitioned in case No. 2373, in the District Court of the 17th Judicial District, in and for said County, and entered in Book 4, Page 57, of judgments in the Superior Court of said County and particularly described as follows:

Parcel "A." Beginning at an angle point in the Easterly line of said Lot "H," which angle point is North 26 $\frac{1}{2}$ °, East One Hundred Forty-nine and Nineteen Hundredths (149.19) chains from the most Southerly corner of Lot "H."

Thence along the Easterly line of said Lot "H," South Twenty-six degrees (26'), Forty-six Minutes (46'), Fifty-four and Five-tenths Seconds (54.5'), West Fifteen Hundred and Fifty-one and Six Hundredths (1551.06) feet.

Thence West Seven Hundred Seventeen and Eleven Hundredths (717.11) feet.

Thence North Thirtly-six Degrees (36'), Twenty-three Minutes (23'), Three and Seven-tenths Seconds (36.7'), West Fourteen Hundred Sixteen and Five Hundredths (1416.05) feet.

Thence North Twenty-eight Hundred Sixty (2860) feet.

Thence East Twenty-two Hundred Seventy and Six Hundredths (2270.06) feet more or less to a point in the Easterly line of said Lot "H."

Thence South no Degrees (0'), Eighteen Minutes (18'), Twenty-eight and One-tenth Seconds (28.1'), West Twenty-six Hundred Fifteen and Thirty-six Hundredths (2615.36) feet more or less to the place of beginning.

Parcel "B." Beginning at a point at high tide on the Shore of the Pacific Ocean at the South West corner of Lot "A," shown on said partition map.

Thence along the North line of said Lot "H," South Eighty-nine Degrees (89'), Forty-five Minutes (45'), Twenty-one and Three-tenths Seconds (21.3'), East Two Hundred Thirty and Six-tenths (230.6) feet more or less to a Two (2) inch capped iron pipe.

Thence along the North line of said Lot "H,"

South Eighty-nine Degrees (89'), Forty-five Minutes (45'), Twenty-one and Three-tenths Seconds (21.3'), East Ninety-six Hundred Forty-three and Fifty-one Hundredths (9643.51) feet to a Two (2) inch capped iron pipe; thence along the Northerly line of said Lot "H," South Forty-four Degrees (44'), Forty-one Minutes (41'), Twelve and Two-tenths Seconds (12.2'), East Forty-five Hundred Eighty-seven and Nine Hundredths (4587.09) feet to a point on said Northerly line of Lot "H."

Thence West Ninety-nine Hundred Thirty-five and Twenty-two Hundredths (9935.22) feet.

Thence South Eleven Degrees (11'), Forty-eight Minutes (48'), Twenty and Eight-tenths Seconds (20.8'), West Forty-nine Hundred Eighty-five and Forty-five Hundredths (4985.45) feet.

Thence West Fifty Hundred Forty (5040) feet.

Thence South Sixty-three Hundred Seventy (6370) feet.

Thence South Eighty-one Degrees (81'), Seven Minutes (07'), Thirty Seconds (30'), West Forty-four Hundred Twenty-eight (4428) feet, more or less to a point in the high tide line of the Pacific Ocean.

Thence along said high tide line of the Pacific Ocean in a general North Westerly and North Easterly direction to the place of beginning.

Spring and excepting therefrom that portion thereof described as follows:

Beginning at a point in the North Easterly boundary line of Lot "H," which is South 44 Degrees, 41 Minutes, 12.2 Seconds East, and 3883.42 feet South Easterly from an original corner of Lots "H" and "B," said original corner being marked by a two-inch capped iron pipe; thence South 69 Degrees and 30 Minutes West, a distance of 770.34 feet to a point in the South line of parcel "B"; thence Easterly on the Southerly line of parcel "B," a distance of 1089.62 feet to a point in the North Easterly line of Lot "H," said point being the South Easterly corner of parcel "B"; thence on a course bearing North 44 Degrees, 41 Minutes, 12.2 Seconds West, a distance of 703.67 feet to the point of beginning, the whole inclosing an area of 6.21 acres.

WHEREAS, the said Commonwealth Trust Company is about to sell, dispose of or convey in portions said hereinabove described property which it desires to subject to certain basic protective restrictions, conditions, covenants, reservations, liens and charges between it and the acquirers or users of said property as hereinafter set forth;



NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: that the Commonwealth Trust Company hereby certifies and declares that it has established and does hereby establish the general plan for the protection, maintenance, improvement and development of said property, and has fixed and does hereby fix the protective restrictions, conditions, covenants, reservations, liens and charges upon and subject to which all lots, parcels and portions of said property shall be held, leased or sold and/or conveyed by it as such owner, each and all of which is and are for the benefit of said property and of each owner of 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 present owner thereof, 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, as follows, to-wit:

## ARTICLE I

### GENERAL BASIC RESTRICTIONS

#### USES OF PROPERTY PROHIBITED

*Section 1.* There shall never at any time be erected, permitted, maintained or carried on upon said property or any part thereof any saloon or place for the sale or manufacture for sale of malt, vinous or spirituous liquors; any foundry, brickyard, cemetery, columbarium, crematory; any establishment for the care or cure of persons afflicted with tuberculosis, or for the care, cure or restraint of the mentally impaired or of victims of drink or drugs or any detention home, detention or reform school, asylum or institution of like or kindred nature; any building for the manufacture of gun powder or explosives, any product or by-product of kelp, fish meal, stock food made of fish, fish oil or fertilizer or for carrying on any copper or other smelting or for conducting a slaughter house, stock yard, tannery, oil refinery or fish cannery; or a building for any other business or industrial use not specifically mentioned herein unless such use is approved by the Board of Directors of the Palos Verdes Homes Association hereinafter referred to and is located in a use district permitting the same as provided in Article IV hereof, or any noxious trade or business or use of the property whatsoever.

#### LIMITATION OF OCCUPANCY AND OWNERSHIP

*Section 3.* No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of said property, nor shall any oil, natural gas, petroleum, asphaltum, or hydro-carbon products or substances be produced or extracted therefrom.

#### DRILLING FOR OIL, PROHIBITED

*Section 4.* There is hereby conferred upon Palos Verdes Homes Association, a non-profit, co-operative corporation, organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as the "Homes Association," and upon Palos Verdes Art Jury, appointed by Commonwealth Trust Company April 12, 1923, hereinafter referred to as the "Art Jury," the right and power as in this declaration provided to interpret and enforce the restrictions, conditions, covenants, reservations, liens and charges im-

#### ENFORCEMENT BY PALOS VERDES HOMES ASSOCIATION AND PALOS VERDES ART JURY

posed by the provisions of this declaration and/or by any conveyance, lease, contract of sale which may be created or existing upon said property or to which any portion thereof may at any time be subject.

## ARTICLE II

### PALOS VERDES HOMES ASSOCIATION

#### APPROVAL OF PLANS

*Section 1.* No building, fence, wall, sidewalk, steps, awning, tent, pole or structure shall be erected, altered or maintained upon any part of said property, unless plans and specifications therefor, showing the construction, nature, kind, shape, height, material and color scheme therefor, and block plan indicating the location of such structure on the building site, and, when specifically requested, the grading plans of the building site to be built upon, shall have been submitted to, and approved in writing by the Homes Association, and a copy of such plans and specifications, block plan (and grading plan if requested) as finally approved, deposited for permanent record with the Homes Association. After the expiration of one year from the date of approval of plans by the Art Jury and of the issuance of a building permit by the Homes Association, as hereinbefore provided, the structure or alteration described in such permit shall, in favor of purchasers and encumbrancers in good faith and for value from the owner causing such structure to be erected or alteration to be made, be deemed to be in compliance with all the provisions of all restrictions affecting said property, unless notice to the contrary executed by the Homes Association or the Art Jury shall appear of record in the office of the County Recorder of Los Angeles County, California. No bill-boards or signs of any character shall be erected, posted, pasted or displayed upon or about any part of said property without the written permission of the Homes Association and the Art Jury; and the Homes Association shall have the right in its discretion to prohibit or to restrict and control the size, construction, material and location of all signs and may summarily remove and destroy all unauthorized signs.

#### APPROVAL OF SUBDIVISION PLANS

*Section 2.* No lot, block, subdivision or part of said property shall be subdivided or any map of the same nor shall any declaration of further or additional restrictions upon said property or any part there-

of be recorded with the County Recorder of Los Angeles County, California, unless and until the same shall have been submitted to and approved in writing by the Homes Association and the Art Jury; provided however, that the approval of the Homes Association and the Art Jury shall not be necessary for any original lay-out, subdivision and landscaping of the said property for Commonwealth Trust Company, prepared by Olmsted Brothers, Landscape Architects of Brookline, Massachusetts.

*Section 3.* (1) When any portion of said property shall be sold on contract, conveyed (except for the sole purpose of placing encumbrances thereon), or leased for more than two years by Commonwealth Trust Company and/or any portion of said property owned by the Commonwealth Trust Company is subdivided, and a legal filing map thereof put of record with the County Recorder of the County of Los Angeles, said portion of said property (except streets, whether dedicated or not or hereafter opened, laid out or established, open spaces maintained for the general use of owners of said property, land taken for public uses and property segregated, retained, conveyed or set aside by the Commonwealth Trust Company for public, semi-public, or common purposes) shall then and thereafter be subject to a continuous maintenance lien securing payment of an annual assessment or charge to be fixed, established and collected from time to time as herein provided. The Homes Association shall have sole authority:

#### MAINTENANCE AND IMPROVEMENT CHARGES

(a) To fix and establish annually the amount of such annual charge or assessment on each and every lot or parcel of said real property or any interest therein, subject to such continuous lien which shall be based on the assessed valuation of said real property as established by the County Assessor of Los Angeles County, California, for the then current fiscal year at a rate never in any one year in excess of the total annual tax rate established for all purposes for the then current fiscal year by the City Council for the Old City of Los Angeles, or in accordance with some other legal and equitable plan to be adopted by the Homes Association, provided that the total amount of said charge or assessment under such alternate plan shall



never exceed the largest total amount that could have been raised under said first named plan.

(b) To expend for the purposes hereinafter specified the money paid in on such charges or assessments, provided that not less than one-fourth ( $\frac{1}{4}$ ) of the money so collected shall be placed at the disposal of and expended by the Park Department of the Homes Association for the maintenance and improvement work in its judgment necessary and advisable on the parks, playgrounds, planting in streets and other similar plantings and improvements under the control and care of said department.

The right to collect, and enforce the collection of such charges or assessments is retained by Commonwealth Trust Company until said right is transferred by it to Palos Verdes Homes Association, and Commonwealth Trust Company as to any property conveyed by it except as otherwise provided herein, has established and does hereby establish, reserve and impose a lien thereon securing such annual charges, or assessments.

(2) Such annual charge or assessment shall be fixed on or before the first Monday of October, 1923, for the fiscal year beginning July 1st, 1923, and annually thereafter for each current fiscal year, and said charge or assessment shall be paid annually in advance to Commonwealth Trust Company on the first Monday in November in each and every year, beginning in November, 1923, on which date such annual charge or assessment shall become enforceable against the said real property and so continue until full payment of said charge or assessment, together with all penalties and costs of collection (including reasonable attorney's fees) thereof. The purchasers of said property or of any portion thereof by the acceptance of deeds therefor, whether from Commonwealth Trust Company, or from subsequent owners of such property, or by the signing of contracts or agreements to purchase said property, shall become personally obligated to pay such annual charges and assessments as are fixed during the time of their ownership, and shall vest in Commonwealth Trust Company, its successors in interest, or assigns of the reversionary rights hereunder, the right and power to bring all actions for the collection of such charges

and assessments and the enforcement of such liens. Said charge or assessment shall be subordinate to the lien of any valid bona fide mortgage or trust deed which shall have been given in good faith and for value on the property subject thereto. Commonwealth Trust Company will promptly pay all the proceeds of such charges or assessments as may be paid to it, to the Homes Association, as they are collected.

(3) Said charge or assessment shall, and any other funds available therefor may, be applied by the Homes Association toward the payment of the expenses of carrying out any or all of the purposes set forth in the Articles of Incorporation, or Amendments thereto, of the Homes Association and/or for the following purposes or any of them.

Section 4. All conveyances, contracts of sale or leases for two or more years hereafter executed by Commonwealth Trust Company are hereby made subject to the condition that the grantee, vendee and/or lessee by the acceptance of deed, contract of sale or lease covenants for himself, his heirs, assigns, executors, administrators and successors in interest that the Homes Association shall have the right and power to do and/or perform any of the following things, for the benefit, maintenance and improvement of the property and owners thereof at any time within the jurisdiction of the Homes Association, to-wit:

(a) To maintain, purchase, construct, improve, repair, prorate, care for, own, and/or dispose of parks, parkways, playgrounds, open spaces and recreation areas, tennis courts, golf courses and/or club houses, swimming pools, bath houses, bathing beaches, boats, boat houses, boat landings, life rafts, life guards, life saving apparatus, skating rinks, hangars and fields for aircraft, band stands, dancing pavilions, casinos, places of amusement, hospitals, museums, aquariums, community facilities appropriate for the use and benefit of the owners of and/or for the improvement and development of the property herein referred to.

(b) To improve, light and/or maintain streets, roads, alleys, trails, bridge paths, courts, walks, gateways, fences and ornamental features now existing or hereafter to be erected or created, fountains, shelters, comfort stations, and/or buildings and im-

#### POWERS OF THE HOMES ASSOCIATION



provements ordinarily appurtenant to any of the foregoing, grass plots, and other areas, trees and plantings within the lines of the streets immediately adjoining or within the property herein referred to.

(c) To maintain, purchase, construct, and operate water works, pumping plants, and systems for the transportation and distribution of water and/or purchase and distribute water for irrigation, domestic and/or other purposes in connection with the maintenance and use of property under its jurisdiction and care.

(d) To construct, improve, purchase, and/or maintain sewer systems, storm-water sewers, drains, and other utilities installed or to be installed upon property under its jurisdiction and care.

(e) To care for any lots and plots in said property, clean up and/or burn grass and weeds, and to remove any unsightly or obnoxious thing therefrom, and to take any action with reference to such lots and plots as may be necessary or desirable in the opinion of the Board of Directors of the Homes Association, to keep the property neat and in good order; and to make and collect additional charges therefor. Any portion of said property, subject to the maintenance and improvement charges established by Section 3 hereof, shall also be subject to a continuous additional lien securing payment of such clean-up charges as are provided in this paragraph. The Homes Association shall have full authority to do said clean-up work and to fix and establish annually the amount of such charge, if any, necessary or advisable, to do said work on any lot or parcel, provided that said charge shall only be made when the amount of work done on any such lot or parcel is greater than the ordinary proportionate amount for which funds are available from the general annual maintenance charge; and provided further that the charges so collected from the owner of any such lot or parcel shall be expended solely for cleaning up and keeping in good order such lot or parcel. The Homes Association shall have the right to collect and enforce the collection of such charges or assessment; and Commonwealth Trust Company as to any property conveyed by it, except as otherwise provided herein, has established and does hereby establish, reserve and impose, a lien thereon securing such annual charge. The amount of such

charge, if any, shall be fixed on or before the first Monday of October, of each year, and entered upon and collected with the bill for the general annual maintenance charge provided for in Section 3 hereof, provided that said additional clean-up charge shall never in any one year exceed two mills per square foot.

(f) To provide for the sweeping, cleaning, and sprinkling of streets, collection and disposition of street sweepings, garbage, ashes, rubbish and the like; and to make and collect charges therefor.

(g) To provide, so far as it may be lawful so to do, for community fire and/or police protection for the protection of all or any portion of the said property and/or the owners of said property and/or residents thereon.

(h) So far as it can legally do so, to grant franchises, rights-of-way, and easements for public utility or other purposes upon, over and/or under any of said property.

(i) To acquire by gift, purchase, lease or otherwise acquire and to own, hold, enjoy, operate, maintain, and to convey, sell, lease, transfer, mortgage and otherwise encumber, dedicate for public use and/or otherwise dispose of, real and/or personal property either within or without the boundaries of said property.

(j) To acquire by purchase, gift or otherwise, and to own and/or dispose of such works of art as may be approved by the Art Jury as herein provided.

(k) To create, maintain, and operate a Department of Buildings, to issue building permits for any and all improvements or construction work of any kind within the jurisdiction of said corporation, and to inspect and supervise the construction of buildings and structures in or upon said property in accordance with the powers and rights conferred upon it by virtue of any and all restrictions or contractual agreements hereby established or which may at any time be placed upon or exist in connection with any of said property; to provide for the safety of building construction by establishing and enforcing regulations for the granting of building permits, and for making and collecting a charge therefor, including such provisions as are usually contained in City building codes; and to provide for light, air, sanitation, health, comfort, and convenience

for the occupants of existing and/or hereafter erected buildings by establishing such regulations as are usually included in city housing codes or zoning regulations; such regulations shall have full force and effect from and after the time of their adoption as provided in the By-laws of the Homes Association and shall thereafter be binding upon the owners of said property and all of them, as if set out in full herein.

(l) To employ a manager, secretaries, engineers, auditor, technical consultants or any other employees or assistants and to pay all expenses necessary and incidental to the conduct and carrying on of the business of the Homes Association; and to pay the expenses incident to examination and approval as to those matters prescribed in this Article, and for such supervision of construction as may, in the opinion of the Board of Directors of the Homes Association, or of the Art Jury, be necessary.

(m) To keep records of building permits and/or other approvals or disapprovals made or issued by the Homes Association and to keep books and records showing all charges, levies, and assessments made, and to furnish certified copies of any record which the Board of Directors may authorize to be furnished and from time to time, to issue certificates of completion and compliance covering respective parcels of property with respect to which buildings, structures, and/or other improvements or changes have been made as herein provided; and to make and collect charges therefor.

(n) To enforce liens and charges and to enforce the restrictions, conditions and covenants at any time created for the benefit of lots or parcels over which the Homes Association has jurisdiction and to which said lots at any time may be subject, and to pay all expenses incidental thereto; to enforce decisions and rulings of the Art Jury, and to pay the expenses in connection therewith, and such other expenses of the Art Jury as the Board of Directors may approve, provided that the decisions of the Art Jury shall be conclusive and binding on the Homes Association and shall not be set aside or changed by it.

(o) To pay the taxes and assessments which may be levied by any public authority upon property used or set apart for streets, parks or recreation areas, and improvements thereon, now or thereafter

opened, laid out or established in said property, or on such other open recreation spaces as shall be maintained for the general benefit and use of the owners of lots in said property, and their successors in interest, and also on ornamental features, tennis courts, pumping plants, water systems, community club house, sewers, and other utilities and storm drains established in or upon said property whether taxed or assessed as a part of said property or separately, and on any property of the Homes Association or which may be held in trust for the Art Jury.

(p) To establish or make provision for the establishing of a Planning Board, Park Board, Health Board, Library Board, Recreation Board, and/or any other board for the general welfare of the owners of said property or residents thereon provided for in the By-laws of the Homes Association, and for these purposes to have authority to delegate to such boards such powers as the Homes Association may lawfully delegate, and to make provision for the use by any such board and/or boards of such funds of the Homes Association as the Board of Directors of the Homes Association may, from time to time, deem advisable.

(q) To exercise such powers of control, interpretation, construction, consent, decision, determination, modification, amendment, cancellation, annulment, and/or enforcement of covenants, reservations, restrictions, liens, and charges imposed upon said property as are herein or may be vested in, delegated to, or assigned to the Homes Association and such duties with respect thereto as are herein or may be assigned to and assumed by the Homes Association, including the enforcement of State and County laws and ordinances, as far as legally may be done.

(r) To nominate to the proper person or corporation and/or to make appointments of members of the Art Jury.

(s) To receive, file, and preserve such reports as may, from time to time, be made to it; and to publish and distribute bulletins and reports.

(t) Generally, to do any and all lawful things which may be advisable, proper, authorized and/or permitted to be done by Palos Verdes Homes Association under or by virtue of this declaration or of any restrictions, conditions and/or covenants



or laws at any time affecting said property or any portion thereof (including areas now or hereafter dedicated to public use) and to do and perform any and all acts which may be either necessary for, or incidental to the exercise of any of the foregoing powers or for the peace, health, comfort, safety, and/or general welfare of owners of said property, or portions thereof, or residents thereon. In exercising any of said powers, the Board of Directors may, so far as may be legally done, follow the same procedure as followed by Boards of Trustees of cities of the 6th Class of the State of California, so far as same are not in conflict with any of the provisions contained in restrictions, conditions, and covenants affecting said property, and provided that such method of procedure may be discontinued at any time as to said property or any portion thereof or as to any portion of said property which is or shall be annexed to or become a part of an incorporated city.

(u) To borrow money and mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred and to do any and all things that a corporation organized under the said laws of the State of California may lawfully do when operating for the benefit of its members or the property of its members, and without profit to said corporation.

(v) To exercise such control over streets, alleys, walks, courts, or other easements or rights of way as may be within its powers, and as it may deem necessary or desirable; to issue permits for plumbers or other parties to make cuts or excavate in streets when necessary and to accept bonds or deposits for the repaving of the same. The Homes Association shall have full authority to prevent any excavation or cuts in streets, alleys, walks, courts or other easements or rights of way without first requiring a reasonable deposit to insure the repair and future maintenance of such repairs, it being further understood that the Homes Association may reserve the full right to make any and all excavations in streets; the right to refill any excavation; the right to repave any cuts; and/or the right to repair any damages, in its opinion, to any improvements in the streets and pay the cost of same out of the deposits made as above provided; subject at all times to such control of county or

other proper officials as may have jurisdiction over streets.

(w) To care for, trim, protect, plant and replant trees, shrubs, or other planting on streets, parks, playgrounds, school grounds, or upon any property over which it may have and/or assume control or jurisdiction and/or on any property adjoining the same.

(x) To care for, trim, protect, and plant or replant any vacant or private property it may assume charge of and to make a reasonable charge therefor.

(y) To erect, care for, and maintain adequate signs approved by the Art Jury for marking streets, parks or other property.

(z) To make such agreements with county, township, state, national or other public officials or with any corporation or individual for and in behalf of the owners of said property subject to this agreement for a division of the work upon the streets, parks or other portions of said property or for any other work to be done or utilities to be furnished, as will enable the Homes Association to co-operate with the said officials, corporations or individuals to secure the greatest benefits to the said property or portions thereof that can be derived from the pro rata share of any county, township, or other funds that may be available for use thereon, or otherwise benefit the said property.

Section 5. If for any reason the Homes Association or the Board of Directors thereof shall, for ninety (90) consecutive days, fail to meet and carry on or perform the duties hereby conferred upon and granted unto said corporation or if said corporation shall be dissolved by operation of law or otherwise, any committee of not less than fifteen (15) owners of record title of at least as many separate parcels of said property may at any time within six (6) months thereafter call a meeting of all owners of record title of any and all portions of said property, provided notice of said meeting is published at least three (3) times in a Los Angeles daily newspaper of general circulation and/or at least once in a newspaper, if there be one, published in Redondo Beach and in San Pedro. At said meeting each owner of record title to any portion of said property present shall have one vote for each building site as defined in Article V hereof and

ACTION WHEN  
HOMES  
ASSOCIATION  
FAILS TO ACT



said owners may elect by majority vote a Board of three trustees, and provide for appointment of successors in the event of a vacancy arising for any cause, which board shall thereupon and thereafter serve and act in lieu and instead of, and with all the rights, powers and duties provided in this Declaration for the Homes Association. In the event said board is so elected, then whenever in this Declaration the Homes Association is referred to, said board of three trustees shall be substituted therefor, with the same force and effect as if named herein, whether or not specifically named in each case.

### ARTICLE III

#### ART JURY

#### APPROVAL OF STREETS SUBDIVISIONS AND GENERAL PLANTING

*Section 1.* No part of the said property and/or of any property at any time within the jurisdiction of the Art Jury or of Palos Verdes Homes Association shall be subdivided, laid out or improved by street work, buildings, structures, landscaping or planting, or its physical contours cut into, altered or changed, or any premises maintained except with the approval of the Art Jury as to a uniform and reasonably high standard of artistic result and attractiveness, in exterior and physical appearance of said property and improvements; provided, that this shall not be deemed to apply to any original layout, subdivision and landscaping of the said property for Commonwealth Trust Company by Olmsted Brothers, Landscape Architects, of Brookline, Massachusetts, the Art Jury shall not have any jurisdiction or power of approval other than to make suggestions unless specifically requested to do so by Commonwealth Trust Company; and provided also that at the end of ninety days after submission by Commonwealth Trust Company to the Art Jury of a subdivision map of or any proposed declaration of additional restrictions covering any portion of the said property, legal title to which is held by Commonwealth Trust Company, the said map or declaration shall be deemed to have been given full and final approval by the Art Jury, regardless of any action by it in the interim.

#### APPROVAL OF PLANS AND IMPROVEMENTS

*Section 2.* No building, fence, wall, sidewalk, steps, awning, tent, pole or other structure, improvement, utility, parking, sculpture, or planting shall be erected, constructed, altered or maintained upon, under

or above any portion of said property or of any property at any time within the jurisdiction of the Art Jury or of Palos Verdes Homes Association (except as provided in Section 1 hereof) unless plans and specifications therefor, including the exterior color scheme, together with a block plan indicating location, shall have been submitted to, approved in writing by the Art Jury and a copy of such plans, specifications and block plans as finally approved deposited for permanent record with the Art Jury. No alteration shall be made in the exterior color or design of any structure unless written approval of such alteration shall have been obtained from the Art Jury. No sign of any kind or for any use shall be erected, posted, pasted, painted or displayed upon or about any property under the jurisdiction of the Art Jury without the written approval of the Art Jury.

#### APPROVAL OF WORKS OF ART

*Section 3.* No work of art located or to be located upon said property or any part thereof shall become the property of Commonwealth Trust Company, Palos Verdes Homes Association, or of any corporation, organization or public or semi-public board which may succeed or be substituted for any of them, whether acquired by purchase, gift, or otherwise, unless such work of art or a design of the same, together with a statement showing the proposed location of such work of art, shall first have been submitted to and approved in writing by the Art Jury; nor shall any work of art until so approved be contracted for, erected, placed in or upon, or allowed to extend over or under any street, avenue, square, park, recreation ground, school, public buildings, or other public or semi-public property over which the Art Jury has jurisdiction. The Art Jury may, when it deems proper, also require a model of any proposed work of art, or a map, drawing or profile of any proposed site therefor. The term "Work of Art," as used in this section, shall apply to and include all paintings, mural decorations, stained glass, statues, bas-reliefs, tablets, sculptures, monuments, fountains, arches, entrance gateways, or other structures of a permanent character intended for ornament or commemoration. No work of art over which the Art Jury has jurisdiction shall be removed, relocated or in any way altered without the approval in writing of the Art Jury.

**CUSTODIAN OF MEMBERSHIP ART WORKS**      **Section 4.** The Art Jury shall be custodian of such works of art as it may accept charge of.

**Section 5.** (1) The Art Jury shall be composed of one member ex-officio, named by Commonwealth Trust Company, and of six other members appointed by Commonwealth Trust Company, of whom three shall be persons engaged in the practice of the fine arts, in the instance of the first appointment selected from the membership of the Southern California Chapter of the American Institute of Architects, and in case a vacancy among these three members occurs, Commonwealth Trust Company shall appoint his successor from a list of three persons engaged in the practice of the fine arts, nominated by the Board of Directors of the Southern California Chapter of the American Institute of Architects. One member shall be a City Planner named by Commonwealth Trust Company and if a vacancy occurs as to this member, Commonwealth Trust Company shall name his successor from a list of three city planners nominated by the Board of Governors of the American City Planning Institute. One member shall be appointed by Commonwealth Trust Company from a list of three persons nominated by the Governing Board of the University of California, Southern Branch. And one member shall be appointed by Commonwealth Trust Company from a list of three persons nominated by the Board of Directors of the Homes Association.

(2) The six members of the Art Jury appointed by Commonwealth Trust Company shall in the first instance serve for two years and thereafter shall choose by lot terms of office as follows: two for one year, two for two years, and two for three years, and their successors shall be appointed by Commonwealth Trust Company for terms of three years each, except on appointment to fill a vacancy, which shall be for the unexpired portion of the term. In case any of the organizations entitled to make nominations, as hereinbefore provided, shall fail to make such nominations within sixty days after written notification by Commonwealth Trust Company of the expiration of a term or the occurrence of a vacancy, Commonwealth Trust Company shall appoint a member to fill the vacancy upon its own nomination. In the event that such appointees or any of them shall fail to ac-

cept said appointment, Commonwealth Trust Company shall have the right to revoke such appointment, and to appoint any other person or persons in its judgment qualified to act as members of said Art Jury. If the Art Jury for any reason shall fail to meet and perform its duties for a period of thirty consecutive days, Commonwealth Trust Company may remove one or all of the members and appoint any person or persons in its judgment qualified to act as members of said Art Jury in the place of the member or members so removed; provided appointees shall in all cases in number and qualifications fulfill as nearly as possible the provisions of paragraph (1) of this section as to membership.

(3) Any member of the Art Jury who shall be employed to execute a work of art or structure of any kind requiring the approval of the Art Jury, or who shall take part in competition for such work of art or structure, shall be disqualified from voting thereon; and, in such instance the Art Jury may, in its discretion, invite an expert advisor to give his opinion as to such work of art or structure.

(4) On July 1, 1932, or at any time prior thereto, Commonwealth Trust Company may terminate the term of office and its own power of appointment of the ex-officio member of the Art Jury, by written notification to the President of the Homes Association. On July 1, 1932, the right of Commonwealth Trust Company to appoint members of the Art Jury as provided in paragraph (1) of this section shall cease; or Commonwealth Trust Company prior to said date may resign and transfer said power of appointment to the President of the Homes Association, by notice thereof to him in writing. From an after said date or upon receipt of such notification or either of them, the President of the Homes Association shall, as the case may be, become a member ex-officio of the Art Jury, as successor to the ex-officio member named by Commonwealth Trust Company and/or shall have power, as successor to Commonwealth Trust Company to appoint members thereof, as provided in paragraph (1) of this section, except as provided herein.

(5) The members of the Art Jury shall elect from their own number a President and Vice-President and shall adopt rules of procedure and prescribe regulations for



submission of all matters within their jurisdiction. Four members shall constitute a quorum and shall have full power to act as the Art Jury during the period of any vacancy or vacancies in the membership thereof. The Art Jury shall designate and appoint a trust company to act as its Treasurer and to act as Trustee of all property of the Art Jury. The name of such Treasurer and of the Secretary shall be certified to the Homes Association.

(6) If for any reason Commonwealth Trust Company, or the President of the Homes Association after the right of appointment shall have been transferred to him, shall fail, for ninety (90) days after the occurrence of a vacancy on the Art Jury, to appoint a member as provided herein, the then President of the Art Jury shall then and thereafter have sole power to appoint the member to fill the said vacancy, provided such appointments shall, in all cases, fulfill in number and qualifications as nearly as possible the provisions of paragraph (1) of this section as to membership.

#### ART JURY PURPOSES AND FUNDS

*Section 6.* Any funds available therefor may be used by the Art Jury to pay its members for time in attendance at meetings, and other expenses which in its judgment are incidental to carrying out the purposes for which it is established, to enforce its decisions and rulings and/or to promote art education and community embellishment. The Art Jury may accept bequests and donations of, and through its trustee take and hold, title to real and/or personal property and shall have power to administer, disburse and/or dispose of the same and/or to use the income and/or proceeds therefrom for the purposes for which it is established.

#### RECORDS AND REPORTS

*Section 7.* (1) The Secretary of the Art Jury shall keep minutes of each approval, recommendation or other official act of the Art Jury and furnish certified copies thereof or certificate of the result thereof, on request to any person, and the Art Jury may make a reasonable charge therefor. Said records shall be open to the public.

(2) The Art Jury may authorize the Secretary thereof to issue a certificate of completion and compliance as to any property so inspected and to make and collect a reasonable charge therefor.

## ARTICLE IV

### ZONING

### DEFINITIONS

*Section 1.* The protective restrictions in this article shall be known as "Building Zone Restrictions"; and for the purposes hereof the following explanations and definitions of words, terms, and phrases shall govern unless the context thereof clearly indicates a different meaning:

(a) Words used in the present tense include the future; the singular includes the plural, and the plural includes the singular; the word "lot" includes the word "plot" and the word "building" includes the word "structure."

(b) An "Apartment House" is a building containing three or more separate single family dwellings using a common passage or stairway and a common entrance on the ground floor.

(c) An "Attic" is a story under a sloping roof at the top of a building, of which the top of the plate or wall carrying the main roof rafters is not more than two feet above the floor of such attic.

(d) The term "Back to back" applies to lots or portions of lots when the same are on opposite sides of the same part of a rear line common to both and the opposite street lines on which the lots front are parallel to each other or make an angle with each other of not over forty-five degrees.

(e) A "Building site" shall be taken to be a lot (exclusive of streets, open recreation areas, and lands excepted, reserved, segregated or retained in accordance with the restrictions, conditions and covenants affecting same, shown on any map of record):

(a) Of any original subdivision of said land subject to the jurisdiction of the Homes Association.

(b) Of any re-subdivision of any plots or parcels of said land which re-subdivision is approved by the Homes Association and is permitted by the restrictions, applicable thereto and thereby allowed to be used as a building site; or

(c) Of any subdivision or re-subdivision of any land which hereafter becomes subject to the jurisdiction of the Homes Association by virtue of restrictions, conditions, covenants, and/or con-



tracts relating thereto, and by acceptance of jurisdiction by the Board of Directors of said corporation.

(f) A "Court" is an open unoccupied space, other than a rear yard, on the same lot with a building. A court, one entire side or end of which is bounded by a front yard, a rear or side yard, or by the front of the lot, or by a street or a public alley, is an "outer court." Every court which is not an "outer court" is an "inner court." Every court shall be open and unobstructed to the sky, from a point not more than two feet above the floor line of the lowest story in the building in which there are windows in rooms or apartments abutting on such court, except that a cornice on the building may extend into an "outer court" two inches for each one foot in width of such court, and a cornice may extend into an "inner court" one inch for each one foot in width of such court.

(g) The "curb level" for the purpose of measuring the height of any portion of a building is the mean level of the curb in front of such portion of the building. But where a building is on a corner lot, the curb level is the mean level of the curb on the street of greatest width. If such greatest width occurs on more than one street, the curb level is the mean level of the curb on the street of greatest width which has the highest curb elevation. The curb level for the purpose of regulating and determining the area of yards, courts, and open spaces is the mean level of the curb on the front of the building where there is the highest curb elevation. Where no curb elevation has been established or the building does not adjoin the street, the average ground level of the lot shall be considered the curb level.

(h) The "depth of a rear yard" shall be measured at right angles from the rear lot line to the extreme rear part of the building.

(i) A "detached building" is one that is not less than five feet distant, measured horizontally, from any portion of any other building.

(j) A "flat" is a building having two or more separate single family habitations therein whether one above another or on the same floor and having a separate outside entrance on the ground floor for each such habitation.

(k) The "height" of a building is the vertical distance measured from the curb level to the top of the roof of the highest part of the building (excepting towers or spires).

(l) The "height of a yard or a court" at any given level shall be measured from the lowest level of such yard or court as actually constructed.

(m) A "House Court" is a group of two or more single family dwellings on the same lot, whether detached or in solid rows, having a separate outside entrance on the ground floor level for each single family dwelling.

(n) The "least dimensions" of a yard or court at any level is the least of the horizontal dimensions of such yard or court at such level. If two opposite sides of a yard or court are not parallel, the horizontal dimension between them shall be deemed to be the mean distance between them.

(o) The "length of an outer court" at any given point shall be the measured distance in the general direction of the side lines of such court from the end opposite the end opening on a street or a rear yard, to such point.

(p) A "lot" is any piece of land fronting on a street as provided herein, the description of which is filed with the Building Commissioner, regardless of plats recorded in the office of the County Recorder. The "depth of a lot" is the mean distance from the street line of the lot to its rear line, measured between the centers of the end lines of the lot. A "corner lot" is a lot bounded on two sides by public streets provided that, for this purpose, no street, alley, court or open space less than thirty feet in width shall be deemed a public street. The "front line" or "front" of a lot is the boundary line of the lot bordering on the street upon which it abuts. In case of a corner lot, either frontage may be the front provided that the front line shall be taken to include any cut-off corners. If a lot runs through from street to street, either street line may be taken as the front lot line. The "rear line" of a lot is the boundary line of said lot opposite the front line. All other boundary lines of a lot are "side lines." (As amended by Amendment No. 3.)

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(q) A "multiple dwelling" is a building designed or used for flats, apartments, tenements, hotel, dormitory or any dwelling other than a single family dwelling.

(r) A "rear yard" is an open, unoccupied space on the same lot with and immediately behind a building; and wherever required shall extend the full width of the lot.

(s) A "single family dwelling" is a dwelling for one family alone, having but one kitchen and within which not more than five (5) persons may be lodged for hire at one time, provided that reasonable quarters may be built and maintained in connection therewith for the use and occupancy of servants or guests of said family, and that such quarters may be built and maintained as a part of the main building or with the written approval of Palos Verdes Homes Association and the Art Jury in a separate detached accessory building or buildings on the same lot, provided said accessory buildings be not at any time rented or let to persons outside the said family and that they be occupied and used only by persons who are employed by or are the guests of said family. (As amended by Amendment No. 3.)

(t) A "story" is that portion of a building included between the surface of any floor and the finished ceiling above it.

(u) A "street wall" of a building at any level is the wall of that part of the building nearest to the street line.

(v) The "width of the street" is the mean distance between the sides from property line to property line thereof within a block. Where a street borders a public place, or public park, the width of the street is the mean width of such street plus the width measured at right angles to the street line of such public place or public park.

(w) The word "use" means the purpose for which the building is designed, arranged or maintained or for which it is or may be occupied or maintained.

#### CLASSES OF USE DISTRICTS

Section 2. The following general plan of zoning or districting is hereby adopted for said property and there are hereby established and defined for said property certain classes of use districts which shall be known as:

##### Residence Districts of:

Class A—Single Family Dwellings.

Class B—House Courts, Flats and Dwellings.

Class C-1—Apartments and other kinds of dwellings.

Class C-2—Same as Class C-1 until 1930, afterward Class D.

Class C-3—Same as Class C-1 until 1930, afterward Class H.

##### Business and Public Use Districts of:

Class D—Retail business, offices and dwellings.

Class E—Business, theatres and dwellings.

Class F—Public and semi-public uses.

Class G—Religious edifices.

Class H—General business, garages and dwellings.

Class J—Wholesale and material business.

Class K—Hospitals and Institutions.

The districts of said classes and of each thereof are hereby established for said property with location, extent and boundaries thereof as may be defined and established in supplemental and additional restrictions hereafter filed of record by Commonwealth Trust Company with said County Recorder, provided that further and/or different classes of use districts may be established and defined by Commonwealth Trust Company in said supplemental and additional restrictions. Any reference to said property or any part thereof in any declaration of restrictions or in deeds, contracts of sale or leases which shall classify any portion of said property as being within any district or any class of use district of said property, unless referring specifically to some other declaration, shall be construed as referring to the district of the class defined in this declaration or amendment thereof.

No building or premises or any portion of said property shall be used or structure erected to be used for any purpose other than a use permitted in the use district of the class in which such building or premises or property is located.

Section 3. In Residence Districts of Class A no building, structure, or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than that of one detached single family dwelling on any building site.

RESIDENCE  
DISTRICTS  
OF CLASS A  
SINGLE FAMILY  
DWELLINGS



**RESIDENCE DISTRICTS OF CLASS B—**  
**HOUSE COURTS, FLATS AND DWELLINGS**

*Section 4.* In Residence Districts of Class B no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than that of a house court, two family dwelling, flat, boarding house, fraternity house and/or a single family dwelling.

**RESIDENCE DISTRICTS OF CLASS C-1—**  
**APARTMENTS AND OTHER KINDS OF DWELLINGS**

*Section 5.* In Residence Districts of Class C-1 no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than an apartment house, hotel (not containing a store or stores), private school, fraternity dwelling, club, dormitory, boarding house or lodging house, flat, multiple dwelling, two family dwelling and/or single family dwelling.

**RESIDENCE DISTRICTS OF CLASS C-2—**  
**SAME AS C-1 UNTIL 1930; AFTERWARD CLASS D**

*Section 6.* In Residence Districts of Class C-2 no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than those specified for Residence Districts of Class C-1; provided that from and after January 1, 1930, all then existing Districts of Class C-2 shall, without further notice, action or agreement, become Business and Public Use Districts of Class D, as defined and established in Section 8 hereof.

**RESIDENCE DISTRICTS OF CLASS C-3—**  
**SAME AS CLASS C-1 UNTIL 1930; AFTERWARD CLASS H**

*Section 7.* In Residence Districts of Class C-3 no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than those specified for Residence Districts of Class C-1; provided that from and after January 1, 1930, all then existing Districts of Class C-3 shall, without further notice, action or agreement, become Business and Public Use Districts of Class H, as defined and established in Section 12 hereof.

**BUSINESS AND PUBLIC USE DISTRICTS OF CLASS D—**  
**RETAIL BUSINESS, OFFICES AND DWELLINGS**

*Section 8.* (a) In Business and Public Use Districts of Class D no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than those specified for Residence Districts of Classes A, B and C-1 hereof, or a retail business office, professional office, retail trade, telephone exchange, fraternal society, printing office

or store, with the exception of those uses of property specifically prohibited by paragraphs (b) and (c) of this section.

(b) In any Business and Public Use District of Classes D, E, F, G, H or J, no building or premises shall be used or be erected to be used or maintained for any trade, industry, or use that is obnoxious or offensive by reason of the emission of odor, smoke, gas, dust or noise.

(c) *Businesses prohibited in Class D Districts:* In a Business and Public Use District of Class D, no building or premises shall be used, or be erected to be used, for any of the following specified trades, industries or uses, viz: acid works; ammonia manufacture; commercial recreation park; asphalt manufacture or refining; assaying by the furnace method with more than one furnace of a capacity of two (2) cubic feet; blacksmithing or horseshoeing; bleaching powder manufacture; boilermaking or repairing; bottle or glass factory; brick, tile or terra cotta manufacture or storage; building for treatment of insane or feeble minded; candle or chemical factory; carpet cleaning or carpet beating; celluloid manufacture; car barn; chlorine manufacture; coal yard; construction material yard; creameries employing over five persons; crematory; dog pound; distillation of coal, wood or bones; dyeing or dry cleaning; electric central station power plant; fat rendering; feed yard; fertilizer manufacture; fish cannery; foundry; garage for more than six motor vehicles, other than a salesroom where motor vehicles are kept for sale or for demonstration purposes only; gas (illuminating or heating) manufacture or storage plants or tanks with a capacity of over five hundred cubic feet of gas; glue, size or gelatine manufacture; gun powder, fire works or explosives manufacture or storage; hay or grain barn or warehouse; hides or skins (uncured); hospital or sanitarium; incineration or reduction of garbage, offal, dead animals or refuse; iron, steel, brass or copper works; junk, scrap paper or rag storage or baling shop or yard; lamp black manufacture; livery stable; cement or plaster of paris manufacture; laundry or washhouse; lumber yard; machine shop; mattress or bed spring factory; milk bottling station; moving picture theatre; nursery or greenhouse; oil cloth or linoleum manufacture; oil or gasoline supply station; packing house or plant; paint, oil, varnish or turpentine



manufacture or storage; petroleum refining or storage; planing mill, or sash and door factory; pickle, sauerkraut, sausage or vinegar manufacture; powder factory; printing ink manufacture; railroad freight yard, team track, freight depot or shed, shops or roundhouse; rawhide or skin storage, curing or tanning; repair shop for motor vehicles; riding academy; rolling mill; scrap iron works or storage; roller or ice skating rink; rubber manufacture from crude material; rock, sand or gravel loading, distributing or receiving station; saw mill; public school; fire house; sheet metal works; silk or cotton mill; shoddy manufacture or wool scouring; slaughtering of animals or fowls; smelting; soap manufacture; stable for more than one animal; starch, glucose or dextrine manufacture; stone or monument works, stone crusher or quarry; crushed stone yard or bunker; stoneware or earthenware factory; saddle factory; stock yard; storage warehouse; warehouse for storage of household goods; sugar refining; sulphurous, sulphuric, nitric or hydrochloric acid manufacture; tallow, grease or lard manufacturing or refining; tannery; tar distillation or manufacture; tar roofing or tar water-proofing manufacture; theatre; undertaking parlor; veterinary hospital; wholesale business; wool pullery; wood yard; or any plant, works or factory where power is used to operate any such plant, works or factory, except that this shall not prohibit any machine operated by two horsepower or less, and except as provided in paragraph (d) of this section.

(d) In any Business or Public Use District of Class D, no building or premises shall be used or be erected to be used for any kind of manufacturing except that any kind of manufacturing of garments or food products, not included within the prohibition of paragraph (b) of this section, may be carried on; provided not more than twenty-five per cent of any one store or of the ground floor space or of the total floor space of the building is so used. The printing of a newspaper or a printing shop shall not be deemed manufacturing.

Section 9. In Business and Public Use Districts of Class E no building, structure or premises shall be erected, constructed or maintained, which shall be used or designed or intended to be used for any purpose other than those specified for

BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS E—  
BUSINESS,  
THEATRES  
AND DWELLINGS

Business or Public Use Districts of Class D, or a theatre, moving picture theatre or dance hall.

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

Section 11. In Business and Public Use Districts of Class G, no building, structure or premises shall be erected, constructed, altered, or maintained which shall be used or designed or intended to be used for any purpose other than that of a church, religious edifice, parish house, or a single family dwelling.

Section 12. In Business and Public Use Districts of Class H, no building, structure or premises shall be erected, constructed, altered, or maintained which shall be used or designed or intended to be used for any purpose other than that permitted in Residence Districts of Classes A, B, or C-1, or in Business and Public Use Districts of Classes D, E, F and G hereof, and that of an undertaking parlor, garage for more than six motor vehicles, automobile repair shop, gasoline or oil supply station, dyeing or dry cleaning establishment or plumbing shop.

Section 13. In Business and Public Use Districts of Class J no building, structure or premises shall be erected, constructed, altered or maintained which shall be used or designed or intended to be used for any purpose other than that of business permitted in Business and Public Use Districts of Class H hereof and that of a blacksmith shop; building material yard; carbarn; coal yard; creamery; feed or fuel business; household furniture warehouse; lumber yard; milk bottling or distributing station; railroad freight depot, yard, team track or freight shed; riding academy; roller or ice skating rink; stable for more than one horse; warehouse for any business permitted in Class J Districts; wholesale business or wood yard; provided that the approval of the Homes Association thereto and the issuance by it of a tempor-

BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS F—

PUBLIC AND  
SEMI-PUBLIC  
USES

BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS G—

RELIGIOUS  
EDIFICES

BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS H—

GENERAL  
BUSINESS,  
GARAGES AND  
DWELLINGS

BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS J—

WHOLESALE AND  
MATERIAL  
BUSINESS



ary, revocable permit therefor, may permit temporary planing mills; and provided further that in Business and Public Use Districts of Class J no building or structure or any part thereof shall be designed, erected, altered or maintained for any single or multiple dwelling, sleeping or human habitation purposes, except that in connection with any warehouse or business building one single family dwelling quarters for one watchman employed on said building may be used by him and his family only.

**BUSINESS AND  
PUBLIC USE  
DISTRICTS OF  
CLASS K—**

**HOSPITALS AND  
INSTITUTIONS**

*Section 14.* In Business and Public Use Districts of Class K, no building, structure or premises shall be erected, constructed, altered, or maintained which shall be used for any purpose other than that of a public or private hospital, sanitarium (except an establishment for the care or cure of persons afflicted with tuberculosis or for the care, cure or restraint of the mentally impaired or of victims of drink or drugs, which are prohibited by Article I hereof), clinic, day nursery, or charitable institution or a use permitted in a Residence District of Classes A, B, or C-1.

**ACCESSORY  
BUILDINGS,  
DOCTORS'  
OFFICES IN  
DWELLINGS, ETC.**

*Section 15.* Nothing contained herein shall prevent the usual accessories to uses which are permitted by the provisions hereof, such as the use by a physician, surgeon, dentist, or other person practicing the art of healing, artist or musician of his or her residence as an office or studio. Customary outbuildings or bridges may be located or maintained as accessory to any building lawfully within the boundaries of any district herein specified. The term accessory shall not include a business nor shall it include any building or use not on the same lot with the building or use to which it is accessory. A private garage for more than six motor vehicles shall not be deemed accessory in a Use District of Classes A, B, C-1, C-2, C-3, F, G, or K, except with the approval of the Homes Association.

**LOCATION OF  
ACCESSORY  
BUILDINGS**

*Section 16.* (a) Accessory buildings shall include and permit the building of a private garage for each existing single family dwelling, and for each apartment of any multiple dwelling on the same lot for the sole use of the occupants thereof, provided that the area, yard and court requirements thereof be not thereby diminished. (As amended by Amendment No. 3.)

(b) Except as otherwise provided in further restrictions applicable thereto filed

of record with said County Recorder by Commonwealth Trust Company, accessory buildings in Residence Districts of Classes A, B, C-1, C-2, C-3, F, G and K shall conform to the following regulations as to their location upon the lot, provided, however, that where the slope of the lot is greater than one foot rise in six feet of run, a private garage may, with the approval of the Homes Association, be built nearer to the street.

1. In the case of an interior lot fronting upon only one street, no accessory building shall be erected or altered so as to encroach upon that half of the lot depth nearest the street.

2. In the case of an interior lot fronting upon two or more streets, no accessory building shall be erected or altered so as to encroach upon either fourth of the lot depth nearest such streets.

3. In the case of a corner lot fronting upon two streets, no accessory building shall be erected or altered so as to encroach upon the area between such respective streets and lines drawn parallel to such streets respectively in a manner to divide the lot into two equal areas.

4. In the case of a corner lot fronting upon three or more streets, no accessory building shall be erected or altered so as to encroach upon any fourth of the lot depth nearest such streets.

5. No accessory building shall be located within ten feet of its rear or side lot line when such line forms part of the front half of the side line of an adjacent interior lot, or the front quarter of an adjacent lot whether the latter be an interior or corner lot.

6. Notwithstanding any requirement in this section, the foregoing rules shall not prohibit an accessory building where permitted by this declaration seventy-five (75) feet or more from the street bounding the block.

7. The limitations imposed by this section upon the location of an accessory building shall be waived when the accessory building is incorporated as an integral part of, and enclosed by the same enclosing walls as the building to which it is accessory.

(c) No garage for more than six motor vehicles or theatre or dance hall shall be established in any Use District so as to have a street entrance or exit for use by automobiles upon any street within 200

**RESTRICTIONS  
AS TO PUBLIC  
GARAGES AND  
THEATRES NEAR  
SCHOOLS,  
HOSPITALS, ETC.**



feet of the entrance to or exit from a public or private school, or playground, church, hospital, or children's home for children under 16 years of age, except where said school, playground, church, hospital, or children's home is in a Business and Public Use District of Class H. This restriction, however, shall not apply to places which are attended by not more than twelve (12) children per day.

**CLASSES OF  
HEIGHT  
DISTRICTS**

*Section 17.* For the purpose of regulating and limiting the height and bulk of buildings erected, there are hereby established and defined for the said property certain classes of Height Districts as follows:

- 1 Story Height Districts
- 2 Story Height Districts
- 2½ Story Height Districts
- 3 Story Height Districts

as herein further defined and limited, with location, extent and boundaries thereof as may be defined and established in supplemental and additional restrictions hereafter filed of record with said County Recorder, provided that further and/or different classes of height districts may be established and defined in said restrictions. No building or premises or any part thereof shall be erected, constructed, altered or maintained except in conformity with the regulations herein provided for the Height District in which said premises, building or part thereof is located. Any further restrictions hereafter established and placed of record with said County Recorder which shall classify any of said property as being within any district or any class of height district unless referring specifically to some other recorded restrictions, shall be construed as referring to the district of the class defined in this declaration, or amendment thereof.

**1 STORY HEIGHT  
DISTRICTS**

*Section 18.* In a 1 Story Height District no building or structure shall be erected, constructed, altered or maintained with a height in excess of one story and basement, nor more than twenty-five (25) feet, except as provided in Section 22 hereof.

**2 STORY HEIGHT  
DISTRICTS**

*Section 19.* In a 2 Story Height District no building or structure shall be erected, constructed, altered or maintained with a height in excess of two stories, nor more than thirty-five (35) feet, except as provided in Section 22 hereof.

**2½ STORY HEIGHT  
DISTRICTS**

*Section 20.* In a 2½ Story Height District no building or structure shall be

erected, constructed, altered or maintained with a height in excess of two stories and a finished attic, nor more than forty (40) feet, except as provided in Section 22 hereof.

*Section 21.* In a 3 Story Height District no building or structure shall be erected, constructed, altered or maintained with a height in excess of three stories, nor more than forty-five (45) feet, except as provided in Section 22 hereof.

**3 STORY HEIGHT  
DISTRICTS**

*Section 22.* (a) The height limitations hereof shall not apply to gables, spires, flag-poles, chimneys and wireless aerials and supports, provided same are approved by the Homes Association and the Art Jury, and provided further that where the slope of the lot is greater than one foot rise in six (6) feet of run an additional story may be permitted by the Homes Association on the downhill side of the building in any Height District.

**SPECIAL HEIGHT  
DISTRICT  
PROVISIONS**

(b) Except in Residence Use Districts of Classes A and B, towers, pent-houses or water tanks closed in with walls down to the ground or to main part of the building, may with the approval of Palos Verdes Homes Association and the Art Jury be built and used to a greater height than permitted in the height District in which the structure is located; provided that no tower of any apartment house shall be erected, constructed, altered or maintained with rooms used or designed or intended to be used for sleeping rooms on more than three stories of said apartment house; and provided that no tower of any hotel or lodging house shall be erected, constructed, altered or maintained with rooms used or designed or intended to be used for sleeping purposes on more than five floors of said hotel or lodging house; and provided that no such tower, pent-house, or water tank shall cover at any level more than fifteen (15) percent in area of the lot, nor have a base area greater than sixteen hundred (1600) square feet; and provided further that no part of any building or structure on any part of said property shall ever exceed a maximum height of one hundred and fifty (150) feet. (As amended by Amendment No. 1.)

**TOWERS, TANKS  
AND  
PENT-HOUSES  
ABOVE  
HEIGHT LIMIT**

*Section 23.* (a) For the purpose of regulating and determining the area of yards, courts and other open spaces for buildings erected on said property the fol-

**GENERAL AREA  
REQUIREMENTS**

lowing area requirements are hereby established:

No building or part of a building shall be erected except in conformity with the area regulations herein prescribed for the Use District in which said building is located. Unless otherwise expressly provided the terms "rear yard," "side yard," "outer court" or "inner court" when used herein shall be deemed to refer only to a rear yard, side yard, outer court or inner court required herein.

(b) If a lot extends through from one street to another street, public alley, walk, court or public park one-half of the narrowest street, alley, walk, court or public park on which such lot abuts may be considered as a part of the lot in computing the size of the rear yard required except that if such one-half of the narrowest street, walk, court, alley or park is greater than the rear yard required, then only as much of said street as is required for the rear yard shall be considered as a part of said yard and provided that in no event shall the open and unoccupied space on the rear of the lot be less than five feet in depth.

**PERCENTAGE OF  
LOT OCCUPIED**

Section 24. No building or structure shall be erected, constructed, altered or maintained which shall occupy either alone or with other buildings, a greater percentage of the area of the lot than as follows:

(a) In Residence Districts of Class A not more than thirty (30) per centum.

(b) In Residence Districts of Classes B, C-1, C-2, C-3, and in Business and Public Use Districts of Classes F, G and K, and for multiple dwellings in any use district, in the case of corner lots not more than seventy (70) per centum and in the case of interior lots not more than sixty (60) per centum.

The measurements shall be taken at the ground level; except that in the case of hotels the measurement may be taken at the floor level of the lowest bedroom story and in the case of other multiple dwellings where there are stores or shops on the entrance story, the measurements may be taken at the story above the top of such entrance story. No measurements of lot area shall include any portion of any street or alley. Any portion of a corner lot distant more than sixty (60) feet, from the corner line measured along the front line of the lot, shall be treated as an interior lot.

Section 25. (a) Immediately behind every dwelling erected in any Use District there shall be a rear yard extending across the entire width of the lot. Such yard shall be at every point open and unobstructed from the ground to the sky and shall be of the depth described in Section 27 hereof. Every part of such yard shall be directly accessible from every other part thereof. The depth of said yard shall be measured at right angles from the extreme rear part of the dwelling:

(1) To the middle line of the alley where an alley immediately abuts a lot and extends across its entire width;

(2) To the rear lot line, where there is no such alley;

(3) To the nearest wall of the building, where there is another building at the rear as permitted herein.

The provisions of this Section shall not apply to hotels nor to Business and Public Use Districts of Class J.

(b) In Business and Public Use Districts of Classes D, E and H the lowest level of the rear yard shall not be above the sill level of the second story windows nor in any case more than 18 feet above the curb level.

In Residence Districts of Classes A, B, C-1, C-2, C-3, and in Business and Public Use Districts of Classes F, G and K the lowest level of a rear yard shall not be above the curb level, except that a private garage or other out-building not more than one story in height may be built in the open space required for the rear yard if the required rear yard area be not thereby diminished, and egress from said rear yard to rear lot line be provided and maintained open and unobstructed to the sky of a width equal to the minimum width of required rear yard, and provided further that not more than one private garage may be built on any one lot in a Residence District of Class A.

Section 26. If a room in which persons live, sleep, work or congregate receives its light and air in whole or in part directly from an open space on the same lot with the building, there shall be at least one inner court, outer court, side yard or rear yard upon which a window or ventilating skylight opens from such room. Such inner court, outer court or side yard shall be at least of the area and dimensions herein prescribed for an inner court in the

**REAR YARDS**

**COURTS**



Use District in which it is located. In Business and Public Use Districts of Class J such inner court, side yard or rear yard shall be at least of the area and dimension herein prescribed for a court in such district. The unoccupied space within the lot in front of every part of such window shall be not less than five (5) feet measured at right angles thereto and not less than thirty-five (35) square feet in area. Courts, yards, and other open spaces if provided in addition to those required need not be of the area and dimensions herein prescribed.

**AREA REQUIREMENTS IN BUSINESS AND PUBLIC USE DISTRICTS OF CLASSES D, E, H, AND J**

**Section 27.** (a) In Business and Public Use Districts of Classes D, E, H, and J yards and courts shall not be required except where windows are required, in which case the provisions of Sections 24 and 25 hereof shall apply and the dimensions of said yards and courts shall be the same as required in a Class C-1 District by paragraph (b) hereof, provided that said provisions shall not apply to windows opening on an open porch or arcade.

**AREA REQUIREMENTS IN CLASS A, B, C-1, C-2, C-3, F, G, AND K USE DISTRICTS**

(b) In Residence Districts of Classes A, B, C-1, C-2, C-3, and in all Business and Public Use Districts of Classes F, G and K, and for each multiple or single dwelling erected in any Use District, the minimum width of outer courts, inner courts and rear yards shall be as follows: (Height of building based on full number of stories in the building measured upward from and including the lowest story in which there is an apartment or bedroom.) (As amended by Amendment No. 1.)

Stories	Height of Building (ft.)	Outer Court and Side Court		Rear Yard on Inside Lot	
		Minimum Width (ft.)	Minimum Area (sq. ft.)	Minimum Width (ft.)	Minimum Depth (ft.)
1	25	5	80	7	12
2	35	7	100	8	15
2½	40	8	120	10	18
3	45	10	160	12	20

**Rear Yard on Corner Lot**

The minimum depth of a rear yard on a corner lot shall be as follows:

Depth of Corner Lot	Depth of Rear Yard
Not exceeding 100 feet.	Not less than 10% of the depth of the lot nor less than five feet, nor less than the minimum width required for an outer court, based on the number of stories in such building.

Exceeding 100 feet. Not less than twelve (12) feet.

**SIDE YARDS**

(c) In Residence Districts of Classes A, B, F, G and K, along each side lot line there shall be a side yard of a minimum

width of five (5) feet; provided, however, that upon the presentation of a duly executed party wall agreement between owners of two adjoining lots and with the written approval of the Art Jury, this requirement shall not apply as to said lot line. In Residence Districts of Classes C-1, C-2 and C-3, and in Business and Public Use Districts of Classes D, E and H, side yards shall not be required except where windows are required, in which case said side yards shall be of the width required for outer courts or side courts in paragraph (b) above. (As amended by Amendment No. 3.)

**Section 28.** No building for Residence use shall be built nearer in any part than ten (10) feet from any other building for single or multiple residence use on the same lot. If a building is erected on the same lot with another building, the several buildings shall for the purpose of this declaration be considered as a single building. Any structure, whether independent of or attached to a building, shall for the purposes hereof be deemed a building or a part of a building.

No building or structure of any kind shall be placed upon the same lot with an existing building or structure so as to decrease the minimum size of courts or yards as herein prescribed, excepting a one-story accessory private garage or out-building, as provided in Section 25 hereof.

**Section 29.** (a) The area required in a court or yard at any given level shall be open from such level to the sky unobstructed, except for the ordinary projections of sky-lights and parapets above the bottom of such court or yard, and except for the ordinary projections of window sills, belt courses, cornices, and other ornamental features to the extent of not more than four inches. However, where a side yard or an outer court opens on a street, a cornice may project not over five feet into such side yard or outer court within five feet of the street wall of the building. And provided also that in a Residence District of Class A a single family dwelling having a side yard of a clear and unobstructed width of not less than five feet may have a cornice or eave projecting not more than two feet into the side yard on the opposite side.

(b) An open or latticed enclosed iron fire escape or stairway may project not more than four feet into a rear yard or an inner court.

**ADDITIONAL BUILDINGS ON THE SAME LOT**

**AREA REQUIREMENT EXCEPTIONS**

(c) A corner of a court or yard may be cut off between walls of the same building provided that the length of the wall of such cut-offs does not exceed four feet.

(d) An offset to a court or yard may be considered as a part of such court or yard provided that it is no deeper in any part than it is wide on the open side and that such open side be in no case less than six feet wide.

#### INTERPRETATION

**Section 30.** In interpreting and applying the provisions of this declaration they shall be held to be the minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the owners and occupants of said property. It is not intended by this declaration to interfere with any provisions of law or ordinances or any rules, regulations, or permits previously adopted or issued or which may be adopted or issued pursuant to law relating to the use of buildings or premises; nor is it intended by this declaration to interfere with or abrogate or annul easements, covenants or other agreements between parties; provided, however, that where this declaration imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such easements, covenants or agreements, then and in that case the provisions of this declaration shall control.

#### ALTERATIONS AND CHANGE IN OCCUPANCY

**Section 31.** No building or structure erected, constructed, or premises used on any part of said property shall at any time be altered so as to be in violation of this declaration.

#### BUILDING PERMITS

**Section 32.** No building permit shall be issued by the Building Commissioner of the Homes Association for the erection or alteration of any building or structure contrary to the provisions of this declaration.

#### NO USE PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLETION AND COMPLIANCE

**Section 33.** No owner or lessor of any portion of said property shall use or permit the use of any building or premises or part thereof created, erected, changed, or converted wholly or partly in its use or structure until a certificate of completion and compliance, to the effect that the building or premises or the part thereof so created, erected, changed or converted and the proposed use thereof conform to the provisions of this declaration, shall have been issued by the Homes Association.

**Section 34.** (a) To preserve the attractiveness of the said property and to prevent the erection, alteration or maintenance of buildings of undesirable and inharmonious design that would depreciate their neighbors, there are hereby established and defined for said property certain districts combining the usual architectural forms as follows:

#### GENERAL REQUIREMENTS AS TO ARCHITECTURE

Type I Architecture District, Type II Architecture District and Type III Architecture District, as herein further defined and limited, with location, extent and boundaries thereof as may be defined and established in supplemental declarations of restrictions hereafter filed by Commonwealth Trust Company of record with said County Recorder, provided that further classes of architecture districts may be established and defined in such declarations. No building or structure shall be erected, constructed, altered or maintained on said property or any part thereof, except in conformity with the regulations herein provided for the Type of Architecture District in which said building or structure is located, and except as provided in Article III of this declaration.

(b) A design must be reasonably good of its kind in order to be approved by the Art Jury. A poorly designed example of any sort of architecture, regardless of its nominal "style," or of its cost, shall be disapproved.

(c) Materials, color and forms must be used honestly, actually expressing what they are, and not imitating other materials (such as tin, tile, wood and sheet metal, shamming stone, etc.), as for instance, wood being treated frankly as wood and not in imitation of stone, wherever it is used. In this hilly country, roofs will be much seen from above, and their form and color are important to the success and attractiveness of the property. The design of the building must be of such a kind or type as will, in the opinion of the Art Jury, be reasonably appropriate to its site and harmonize with its surroundings, including the architectural character of neighboring improvements for which designs have previously been approved. The word "type" is used rather than "style" because attempts to reproduce "archaeological" or "period" styles shall be discouraged.

**Section 35.** In Type I Architecture Districts buildings or structures shall conform to the following general requirements and

#### TYPE I ARCHITECTURE DISTRICTS

[ 34 ]



definitions, subject to the discretion of the Art Jury:

Type I shall be that distinctive type of architecture which for two decades or more has been successfully developing in California, deriving its chief inspiration directly or indirectly from Latin types, which developed under similar climatic conditions along the Mediterranean.

**COLOR:** Generally light in tone (of shades to be approved for each individual case).

**MATERIALS:** Plaster or stucco exterior wall surfaces of a durable construction, or where they can be afforded, concrete stone or an approved artificial stone, are to be preferred. In rare cases an exterior finish of wood or clay products may be approved in Type I districts, but only when treated in harmony with the dominant note of neighboring building.

**ROOFS:** Low roofs are desired in Type I districts, preferably not steeper than thirty (30) degrees and never to exceed thirty-five (35) degrees maximum. They should be of tile of an approved color, or if of shingles the natural weather tone shall be preferred. Roof if flat, enclosed by parapet walls. Paper or other approved prepared roofings of these flat roofs to be sprinkled with gravel or other natural material, generally light in tone.

**TYPE II  
ARCHITECTURE  
DISTRICTS**

*Section 36.* In Type II Architecture Districts buildings and structures shall conform to the following general requirements and definitions, subject to the discretion of the Art Jury:

Type II varies from Type I in greater latitude of architectural character. Type I designs may be approved in Type II districts. However, where some special local start of a variant type is made, with the approval of the Art Jury, other nearby buildings may be required to harmonize.

**COLOR, MATERIALS and ROOFS:** Requirements the same in general as for Type I, with local variations subject to the approval of the Art Jury. A greater use of wood exterior finish may be approved than in Type I districts, with an accompanying latitude in steepness of roof pitch. The maximum allowable pitch for story and a half houses in Type II districts shall be forty (40) degrees, and for two-story houses forty-five (45) degrees maximum, preferably less.

*Section 37.* In Type III Architecture Districts buildings and structures shall conform to the following general requirements and definitions, subject to the discretion of the Art Jury:

**TYPE III  
ARCHITECTURE  
DISTRICTS**

Type III varies from Type II as follows and Type II buildings will not be discouraged in Type III districts where they are made to harmonize with the adjacent improvements, but Type I buildings may not be approved:

**COLOR AND MATERIALS:** To be varied as occasion warrants with the approval of the Art Jury. Greater use of clay products exterior finish may be approved in Type III districts.

**ROOFS:** A slope or pitch of as much as sixty (60) degrees may be allowed in some cases, when not considered inharmonious with the neighboring buildings or contour of the surrounding ground.

*Section 38.* In Type IV Architecture Districts all buildings or structures shall conform to the requirements of Type II Architecture Districts as defined and limited in said Declaration No. 1, provided that the Bank of America reserves to itself, its successors and assigns the sole right to establish a general group design and color scheme, with the approval of the Art Jury, for any and all buildings and structures to be erected in said Type IV Districts, which said design shall indicate the general spacing of bays or openings, exterior facades, roof lines, gables and towers. No building or structure shall be erected, constructed, altered or maintained on any lots in said District except in conformity with said design and color scheme, as interpreted by the Art Jury; provided that if within ninety (90) days after the receipt in writing by Bank of America, its successors or assigns, of a request for the completion of said design for any lot in said Type IV Architecture District from the owner thereof, reasonably adapted to the uses and purposes of said lot and permitted and authorized by the restrictions applicable thereto under the terms of the deed or contract of sale of said lot, said Bank of America, its successors or assigns, shall fail to complete said design and color scheme as to said lot to the satisfaction of the Art Jury, the Art Jury shall without further notice be empowered to establish a design and color scheme as to said property and no building or structure shall thereafter be erected,

**TYPE IV  
ARCHITECTURE  
DISTRICTS**

constructed, altered or maintained on said property except in conformity with said last named design and color scheme or such changes therein as may be approved by the Art Jury. (Added by Amendment No. 3.)

## ARTICLE V

### OTHER RESTRICTIONS

#### KEEPING OF STOCK OR POULTRY

*Section 1.* No cattle, hogs, or other animals, rabbits or poultry, may be kept in any part of said property unless written permission be obtained from the Homes Association, which permission shall be granted and shall be revocable at the pleasure of said Association, under uniform regulations.

#### CONSTRUCTION TO BE DILIGENTLY PROSECUTED AND NEW MATERIAL USED

*Section 2.* No building, any part of which is for dwelling purposes, shall be in any manner occupied while in the course of original construction or until made to comply with all requirements as to cost and with all other conditions set forth or referred to herein or in any further restrictions established and applicable thereto. The work of construction of any building or structure shall be prosecuted diligently and continuously from the time of commencement until the same shall be fully completed. Every building, fence, wall or other structure placed on any part of said property shall be constructed from new material only and not from old or second hand material, and no building constructed elsewhere shall be moved to or constructed on said property, except with the approval of the Homes Association and the Art Jury.

#### STATUS OF SPLIT LOT OWNERSHIP

*Section 3.* An ownership or single lot holding comprising parts or portions of two or more adjoining lots, or all of one lot and parts of one or more lots adjacent thereto or other re-subdivision approved as herein provided, the total average width of which is not less than fifty (50) feet shall be deemed to be a single lot or building site for the purposes hereof.

#### COST OF IMPROVEMENTS

*Section 4.* The cost or value of the first building to be erected on any lot, including a reasonable fee of architect and reasonable profit for builder, shall be not less than the amount specified for that lot in any subsequent restrictions affecting the same and said minimum cost at any future date is to be taken as that sum which will build the

same amount of building as in the judgment of the Board of Directors of the Homes Association was possible to be built for the sum named on July 1, 1923. Nothing in this clause is intended to prevent the building of private garages or other approved accessory buildings, after or at the same time with the construction of the main building.

*Section 5.* Commonwealth Trust Company reserves the right to make such cuts and fills as are necessary to grade the streets or private ways, whether dedicated or not dedicated, within the boundaries thereof, in accordance with such grades as it may establish, including the right so far as is reasonable and proper for the necessary support and protection of streets so graded, to slope upon abutting lots, and may assign said rights or any of them to Palos Verdes Homes Association. (As amended by Amendment No. 3.)

#### STREET GRADES, CUTS AND FILLS

*Section 6.* If in the opinion of the Homes Association any public improvement, planting, tree or utility of any character shall be damaged by the negligence or carelessness of any property owner or of any person working by or through any property owner, then the Homes Association shall have the right to repair such damage, and/or to replace such planting and/or tree, to pay for same out of the general fund and to assess the cost thereof against the property of such owner; and it is hereby expressly stipulated that such expense shall constitute a lien against such property, and such lien is hereby reserved and established and shall be enforceable by the Homes Association in its own name or in the name of any property owner in said property in any court having competent jurisdiction. When paid by the property owner against whom the same has been assessed, the amount of said expense shall be returned to the general fund of the Homes Association.

#### OWNED LIABLE FOR DAMAGE TO STREETS CAUSED BY NEGLECTANCE

*Section 7.* No tree over twenty feet in height above the ground shall be trimmed, cut back, removed or killed except with the approval of the Homes Association, and representatives of the Homes Association and/or of the Art Jury shall have the right at any time to enter on or upon any property for the purpose of cutting back trees or other plantings which may grow up to a greater height than in the opinion

#### TRIMMING AND REMOVAL OF TREES AND SHRUBS



of the Homes Association is warranted to maintain the view and protect adjoining property. The Homes Association shall have sole authority and right to trim, remove, replace, plant or re-plant or otherwise care for the trees, shrubs and plantings in the sidewalk or other spaces in front of lots or adjoining them, subject to any county or other officials having superior jurisdiction.

**RIGHT TO PLANT  
AND MAINTAIN  
VACANT AND  
UNIMPROVED  
LOTS**

*Section 8.* The Homes Association shall have the right at all times to enter on or upon any lot or parcel of said property that is vacant or unimproved by the owner thereof, and to plant or re-plant, trim, cut back, remove, replace and/or maintain hedges, trees, shrubs or flowers on the front half and/or on the area within fifteen (15) feet of any rear or within ten (10) feet of any side line and/or keep cultivated and/or grow, reap and remove crops on the whole area of any parcel, lot or building site of said property, and the said Homes Association or any officer or agent thereof, shall not thereby be deemed guilty of any manner of trespass. When the owner of a parcel or lot so planted or maintained by the Homes Association shall give bona fide evidence and written notice to said corporation of his intention to improve the same within thirty days, the Homes Association may within said thirty days and until work on said improvements is commenced, transplant, remove or dispose of any or all of the plantings which may have been made by it.

**PRIVIES AND  
CESSPOOLS**

*Section 9.* No privy shall be erected, maintained or used upon any part of said real property, but a temporary privy may with the approval of Palos Verdes Homes Association be permitted during the course of construction of a building. Any lavatory, toilet or water-closet that shall be erected, maintained or used thereon shall be enclosed and located within a building herein permitted to be erected on said premises; and, until an adequate public sewerage system shall be provided therefor, the same shall be properly connected with an underground cesspool, so constructed, covered and operated that no offensive odors shall arise or otherwise escape therefrom; and provided further, that no such cesspool shall be constructed, altered or maintained unless a proper building and plumbing permit therefor

shall first have been obtained from Palos Verdes Homes Association, and that before any use thereof a Certificate of Completion and Compliance shall also have been issued therefor by said Association. (Added by Amendment No. 1.)

*Section 10.* To maintain the health, safety and general welfare of people residing on said property, and to prevent danger from fires, street traffic or other hazards to life and limb or property, Palos Verdes Homes Association shall adopt such rules and regulations as it may from time to time deem advisable and necessary and all parts of said property shall at all times be maintained subject to said rules and regulations; provided, however, that all such rules and regulations shall be in addition to and not interfere with any regulations of County, State or other duly constituted public authority. No fires shall be built or maintained except in chimneys, fireplaces or other fire arrangements for which a written permit has been issued by said Association. (Added by Amendment No. 1.)

*Section 11.* No obstruction, diversion, bridging or confining of the existing channels, through which surface water in time of storms naturally flows upon and across any lot, shall be made by any lot owner in such a manner as to cause damage to other properties or, except with the approval of Palos Verdes Homes Association as to the adequacy of such constructed, diverted, bridged or confined channel in such a manner as to carry the amount of storm water liable to flow into it, and the right is expressly reserved to Bank of America, its successors and assigns, as an incident of the development of the entire properties including the construction of streets, gutters, ditches and otherwise, to cause reasonable increases or decreases in the amount of water which would in a state of nature flow into and through any such natural storm water channels. (Added by Amendment No. 1.)

*Section 12.* No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon any part of said property and no plants or seeds shall be brought upon any part of said property except in accordance with regulations established by and subject to inspection by the Park Department of Palos Verdes Homes Association.

**MAINTENANCE  
OF HEALTH,  
SAFETY  
AND WELFARE**

**MAINTAINING  
NATURAL  
DRAINAGE**

**INSECT PESTS  
AND  
PLANT DISEASES**

elation as to their freedom from insect pests and plant disease. The right is specifically reserved to said Park Department to enter upon any part of said property and inspect all plants and seeds thereon at any time, and if after due notice from said Park Department of the existence on any part of said property of infectious plant diseases or insect pests the owner thereof fails or neglects to take such measures for the eradication or control of the same as said Park Department deems necessary for the protection of the community, to enter thereon and at the expense of the owner thereof to destroy or remove infected or diseased plants and/or spray the same and/or take such other measures as may be necessary in the opinion of said Park Department to protect the same and/or take such other measures as may be necessary in the opinion of said Park Department to protect the community from the spread of such infection. (Added by Amendment No. 1.)

#### ARTICLE VI

##### DURATION, ENFORCEMENT, AMENDMENT

##### DURATION OF RESTRICTIONS

*Section 1.* All of the restrictions, conditions, covenants, liens and 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 Sections 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, exclusive of streets, parks, and open spaces be placed on record in the office of the County Recorder of Los Angeles County by the terms of which agreement any of said conditions, restrictions, covenants, liens or charges are changed, modified or extinguished in whole or in part, as to all or any part of the property originally subject thereto, in the manner and to the extent therein provided. In the event that any such written agreement of change or modification be

duly executed and recorded, the original conditions, restrictions, covenants, liens and charges as therein modified shall continue in force for successive periods of twenty years each unless and until further changed, modified or extinguished in the manner herein provided.

*Section 2.* Amendment, change, modification or termination of any of the conditions, restrictions, reservations, covenants, liens or charges set forth and established in Articles I, II, III and VI hereof (except the maintenance and improvement charges as provided in Section 3 of Article II hereof) may be made by Commonwealth Trust Company or its successors in interest, as the owner of the reversionary rights herein provided for, by mutual written agreement with the then owners of record (including the mortgagees under a recorded mortgage and the trustee under a recorded deed of trust) 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 and with the Homes Association, duly executed and placed of record in the office of the County Recorder of Los Angeles County, California.

##### MODIFICATION OF BASIC RESTRICTIONS

*Section 3.* Any of the conditions, restrictions, covenants, reservations, liens or charges set forth in Articles IV and V hereof or hereafter established in any declaration of additional restrictions or deed, contract of sale or lease legally filed of record unless otherwise provided therein, may be changed or modified by written instrument duly executed and placed of record: (1) As to any property then owned by Commonwealth Trust Company, by Palos Verdes Homes Association and Commonwealth Trust Company; (2) as to any other property, by Palos Verdes Homes Association, the owner or owners of record of two-thirds in area of such property and Commonwealth Trust Company or its successors in interest as owner of the reversionary rights herein; 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 in area of all lands held in private ownership within three hundred feet in any direction of the property concerning which a change or modification is sought to be made, and provided further that this shall

##### MODIFICATION OF OTHER RESTRICTIONS



not be construed as requiring the consent of the owners of any property not under jurisdiction of the Homes Association; and also provided that any approval given thereto by the Homes Association shall not be valid unless and until it shall first have had a public hearing thereon.

#### RECORDS AND REPORTS

Section 4. (1) Any agent or officer of the Homes Association and/or of the Art Jury may at any reasonable time enter, inspect and report upon any property subject to the jurisdiction of the Homes Association and/or the Art Jury as to its maintenance or improvement in compliance with the provisions hereof; and the Homes Association, the Art Jury and/or any agent or officer thereof shall not thereby be deemed guilty of any manner of trespass for such entry or inspection. The Homes Association and/or the Art Jury may issue a certificate of completion and compliance as to any property so inspected and make and collect a charge therefor.

(2) For the purpose of making a search upon or guaranteeing or insuring title to, or any lien on and/or interest in any lot or parcel of said property, and for the purpose of protecting purchasers and encumbrancers for value and in good faith as against the performance or non-performance of any of the acts in this declaration of restrictions authorized, permitted or to be approved by the Homes Association and/or the Art Jury, the records of the Secretary of the Homes Association and/or of the Art Jury shall be conclusive as to all matters shown by such records and the issuance of a certificate of completion and compliance by the Homes Association and by the Art Jury showing that the plans and specifications for the improvements or other matters herein provided for, or authorized, have been approved and that the said improvements have been made in accordance therewith, or of a certificate as to any matters relating to the Homes Association or to the Art Jury by the respective secretaries thereof shall be conclusive upon all persons and shall fully justify and protect any title company or person certifying, guaranteeing, or insuring the said title, or any lien thereon, and/or any interest therein, and shall also fully protect any purchaser or encumbrancer in good faith and for value in acting thereon, as to all matters within the jurisdiction of the Homes Association and/or the Art Jury. In any

event after the expiration of one year from the date of the issuance of a building permit by the Homes Association for any structure, work, improvement or alteration, the said structure, work, improvement or alteration shall, in favor of purchasers and encumbrancers in good faith and for value be deemed to be in compliance with all the provisions hereof, unless actual notice executed by the Homes Association and/or the Art Jury of such non-completion and/or non-compliance, shall appear of record in the office of the County Recorder of Los Angeles County, California, or legal proceedings shall have been instituted to enforce completion and/or compliance.

Section 5. If at any time the owner or owners of lands adjoining or outside of said property shall agree with Commonwealth Trust Company or its successors in interest and/or Paloa Verdes Homes Association to hold, sell and convey said land subject to restrictions, conditions, covenants, reservations, liens or charges set forth in a Declaration of Restrictions by such owner or owners approved by the Homes Association and the Art Jury, and such agreement and/or Declaration of Restrictions shall thereafter be recorded in the office of the County Recorder of Los Angeles County, California, the Homes Association and the Art Jury shall then and thereafter have power to do and perform any and all of the acts, to fix, impose and collect charges, assessments and dues from the owners of said property as therein provided and to grant said owners membership in the Homes Association as therein agreed to and provided; provided, however, that the Art Jury shall have full jurisdiction over all lands and property over which the Homes Association may at any time have jurisdiction.

#### ANNEXATION OF ADDITIONAL PROPERTY

Section 6. Each and all of said restrictions, conditions and 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 Commonwealth Trust Company. Each grantee of Commonwealth Trust Company of any part or portion of the said property by acceptance of a deed incorporating the substance of this declaration either by setting it

#### REVERSION OF TITLE

forth or by reference therein, accepts the same subject to all of such restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers of the Art Jury and of the Homes Association. A breach of any of the restrictions, conditions and covenants hereby established shall cause the real property upon which such breach occurs to revert to Commonwealth Trust Company or its successor in interest as owner of the reversionary rights therein provided for, and the owner of such reversionary rights shall have the right of immediate re-entry upon such real property, in the event of any such breach; and, as to each lot owner in the said property, the said restrictions, conditions, and covenants shall be covenants running with the land, and the breach of any thereof, and the continuance of any such breach may be enjoined, abated or remedied by appropriate proceedings by the owner of the reversionary rights or by any such owner of other lots or parcels in said property or by the Homes Association, but such reversion shall not affect or impair the lien of any bona fide mortgage or deed of trust which shall have been given in good faith, and for value; provided, however, that any subsequent owner of said property shall be bound by the said restrictions, conditions, and covenants, whether obtained by foreclosure or at trustee's sale or otherwise.

**VIOLATION OF  
CONDITIONS**

*Section 7.* The violation of any of the restrictions or conditions or breach of any of the covenants hereby established shall also give to Commonwealth Trust Company or its successors in interest and/or to Palos Verdes Homes Association the right to enter upon the property upon or as to which such violation or breach exists, and to summarily abate and remove at the expense of the owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and Commonwealth Trust Company or its successors in interest or Palos Verdes Homes Association shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

**VIOLATION  
CONSTITUTES  
NUISANCE**

*Section 8.* Every act or omission, whereby any restriction, condition or covenant in this declaration set forth, is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by Commonwealth Trust Company

or its successors in interest and/or by Palos Verdes Homes Association and/or by any lot owner subject to the jurisdiction of the Homes Association; and such remedy shall be deemed cumulative and not exclusive.

*Section 9.* All of said restrictions, conditions, covenants, reservations, liens and charges contained in this declaration shall be construed together, but if it shall at any time be held that any one of said restrictions, conditions, covenants, reservations, liens or charges or any part thereof, is invalid, or for any reason becomes unenforceable no other restriction, condition, covenant, reservation, lien or charge or any part thereof, shall be thereby affected or impaired; and that the grantor and grantee, their successors, heirs and/or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this declaration irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid.

**CONSTRUCTION  
AND VALIDITY  
OF RESTRICTIONS**

*Section 10.* Any or all of the rights and/or powers of Commonwealth Trust Company herein contained as to any of the said property may be delegated, transferred, assigned or conveyed to any person, corporation or association or to Palos Verdes Homes Association, and wherever the Commonwealth Trust Company is herein referred to, such reference shall be deemed to include its successors in interest as owner of the reversionary rights herein provided for.

**ASSIGNMENT  
OF POWERS**

*Section 11.* In its own name, so far as it may lawfully do so, and/or in the name of Commonwealth Trust Company or of any lot or parcel owner subject to its jurisdiction, Palos Verdes Homes Association shall interpret and/or enforce any or all restrictions, conditions, covenants, reservations, liens, charges and agreements herein or at any time created for the benefit of the said property or in any property which may thereby be expressly made subject to its jurisdiction by the owners thereof, or to which said lots or any of them, may at any time be subject. In case of uncertainty as to meaning of said provisions or of any provisions of this declaration, the Homes Association shall (except as to the provisions of Article III hereof, which shall be interpreted by the Art Jury) in all cases interpret the same

**INTERPRETATION  
AND ENFORCE-  
MENT BY HOMES  
ASSOCIATION**



and such interpretation shall be final and conclusive upon all interested parties.

RIGHT TO  
ENFORCE

Section 12. The provisions contained in this declaration shall bind and inure to the benefit of and be enforceable by Commonwealth Trust Company, Palos Verdes Homes Association, by the owner or owners of any property in said tract, their, and each of their, legal representatives, heirs, successors and assigns and failure by the Commonwealth Trust Company, Palos Verdes Homes Association or any property owner, or their legal representatives, heirs, successors or assigns, to enforce any of such restrictions, conditions, covenants,

reservations, liens or charges shall in no event be deemed a waiver of the right to do so thereafter.

Section 13. Any portion of the said property or any interest therein, title to which is acquired by the State of California and/or the United States of America and/or by any public authority, may with the written approval of the Commonwealth Trust Company or its successors in interest to the reversionary rights provided for herein, and the Art Jury, be specifically exempted from any or all of the provisions herein except the provisions of Article I hereof.

EXCEPTIONS

IN WITNESS WHEREOF, said COMMONWEALTH TRUST COMPANY has this 26th day of June, 1923, herewith caused its corporate name and seal to be affixed by its President and Assistant Secretary, thereunto duly authorized.

COMMONWEALTH TRUST COMPANY,

By JONATHAN S. DODGE, *President.*

By W. E. PINNEY, *Assistant Secretary.*

(Seal)

STATE OF CALIFORNIA. { ss  
COUNTY OF LOS ANGELES. }

On this 26th day of June, in the year one thousand nine hundred and twenty-three, before me, GRACE A. WAGNER, a Notary Public in and for the said County, personally appeared Jonathan S. Dodge, known to me to be the President, and W. E. Pinney, known to me to be the Asst. Secretary of the corporation that executed the within instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

GRACE A. WAGNER,

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

(Seal)

## ARTICLES OF INCORPORATION OF PALOS VERDES HOMES ASSOCIATION

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, a majority of whom are citizens and residents of the State of California, have this day voluntarily associated ourselves together for the purpose of forming a non-profit co-operative corporation, under the provisions of Title XXII of Part IV of Division First of the Civil Code, State of California, approved March 21, 1872, as thereafter amended, and we hereby certify:

### I.

The name of the corporation shall be "PALOS VERDES HOMES ASSOCIATION."

### II.

The purposes for which it is formed are:

(1) To purchase, construct, improve, repair, maintain, operate, care for, own, and/or dispose of parks, parkways, playgrounds, open spaces and recreation areas, tennis courts, golf courses and/or club houses, swimming pools, bath houses, bathing beaches, boats, boat houses, boat landings, life rafts, life guards, life saving apparatus, skating rinks, hangars and fields for aircraft, band stands, dancing pavilions, casinos, places of amusement, hospitals, museums, aquariums, community buildings, community club houses, and, in general, community facilities appropriate for the use and benefit of its members and/or for the improvement and development of the property hereinafter described.

(2) To improve, light and/or maintain streets, roads, alleys, trails, bridle paths, courts, walks, gateways, fences, and ornamental features now existing or hereafter to be erected or created, fountains, shelters, comfort stations, and/or buildings and improvements ordinarily appurtenant to any of the foregoing, grass plots and other areas, trees and plantings within the lines of the streets immediately adjoining or within the property hereinafter referred to.

(3) To purchase, construct, maintain, and operate water works, pumping plants, and systems for the transportation and distribution of water and/or to purchase and distribute water for irrigation, domestic and/or other purposes in connection with the maintenance and use of property under its jurisdiction and care.

(4) To purchase, construct, improve, and/or maintain sewer systems, storm-water sewers, drains, and other utilities in-

stalled or to be installed upon said lands in connection therewith.

(5) To care for any lots and plots in said property, remove grass, weeds, and any unsightly or obnoxious thing therefrom, and to take any action with reference to such lots and plots as may be necessary or desirable in the opinion of the Board of Directors of this corporation, to keep the property neat and in good order; and to make and collect charges therefor.

(6) To provide for the sweeping, cleaning, and sprinkling of streets, collection and disposition of street sweepings, garbage, ashes, rubbish, and the like; and to make and collect charges therefor.

(7) To provide, so far as it may be lawful so to do, for community fire and/or police protection for the protection of all or any portion of the said property and/or the owners of said property and/or residents thereon.

(8) So far as it can legally do so, to grant franchises, rights-of-way, and easements for public utility or other purposes upon, over and/or under any of said property.

(9) To acquire by gift, purchase, lease or otherwise acquire and to own, hold, enjoy, operate, maintain, and to convey, sell, lease, transfer, mortgage and otherwise encumber, dedicate for public use and/or otherwise dispose of, real and/or personal property either within or without the boundaries of said property.

(10) To acquire by purchase, gift or otherwise, and to own and/or dispose of such works of art as may be approved by the Palos Verdes Art Jury established by restrictions effective upon said property or portions thereof.

(11) To create, maintain, and operate a Department of Buildings which shall be in charge of a Building Commissioner named by the Board of Directors of said corpora-



tion to serve at their pleasure, which Building Commissioner shall have full and sole authority to approve or disapprove in the name of said corporation and to issue building permits for any and all plans, specifications or construction work of any kind within the jurisdiction of said corporation, and shall inspect and supervise the construction of buildings and structures in or upon said property in accordance with the powers and rights conferred upon it by virtue of any restrictions or contractual agreements which may be placed upon or exist in connection with any of said property; to provide for the safety of building construction by establishing regulations for the granting of building permits, and for making and collecting a charge therefor, including such provisions as are usually contained in building codes; and to provide for light, air, sanitation, health, comfort and convenience for the occupants of existing and/or hereafter erected buildings by establishing such regulations as are usually included in housing codes or zoning regulations.

(12) To keep records of building permits and/or other approvals or disapprovals made or issued by this corporation and to keep books and records showing all charges, levies, and assessments made, and to furnish certified copies of any record which the Board of Directors may authorize to be furnished and, from time to time, to issue certificates of completion and compliance covering respective parcels of property with respect to which buildings, structures, and/or other improvements or changes have been made, all as provided in the restrictions, conditions, and covenants affecting said property or portions thereof; and to make and collect charges therefor.

(13) To enforce liens, charges, restrictions, conditions, and covenants existing upon and/or created for the benefit of parcels of real property over which said corporation has jurisdiction and to which said parcels may be subject to the extent that this corporation has the legal right to enforce the same; and to pay all expenses incidental thereto; and to enforce the decisions and rulings of the Palos Verdes Art Jury having jurisdiction over any of said property to the extent that said corporation is authorized in said restrictions, conditions, and covenants to enforce same and to pay the expenses in connection there-

with and such other expenses of the Art Jury as this corporation may assume.

(14) To pay the taxes and assessments which may be levied by any public authority upon property used or set apart for streets, parks or recreation areas, and improvements thereon, now or hereafter opened, laid out or established in said property or on such other open recreation spaces as shall be maintained for the general benefit and use of the owners of lots in said property, and their successors in interest, and also on ornamental features, tennis courts, pumping plants, water systems, community club houses, sewers, and other utilities and storm drains established in or upon said property whether taxed or assessed as a part of said property or separately, and on any property of the Palos Verdes Homes Association or which may be held in trust for the Palos Verdes Art Jury, as provided in any restrictions, conditions or covenants to which said property may be subject.

(15) To establish or make provisions for the establishing of such Planning Board, Park Board, Health Board, Library Board, Recreation Board, and/or any other board specified in or permitted by the By-laws of this corporation for the general welfare of the owners of said property or residents thereon, and for these purposes to have authority to delegate to such boards such powers as the Palos Verdes Homes Association may lawfully delegate, and to make provision for the use by any such board and/or boards of such funds as the Board of Directors of the Palos Verdes Homes Association may, from time to time, deem advisable.

(16) To exercise such powers of control, interpretation, construction, consent, decision, determination, modification, amendment, cancellation, annulment, and/or enforcement of covenants, reservations, restrictions, liens, and charges imposed upon said property, as may be vested in, delegated to, or assigned to this corporation and such duties with respect thereto as may be assigned to and assumed by this corporation.

(17) To nominate to the proper person or corporation and/or to make appointments of members of the Palos Verdes Art Jury having jurisdiction over said property in accordance with the provisions of such restrictions, conditions, and covenants

as may be in effect upon any of said property.

(18) To receive, file, and preserve such reports as may, from time to time, be made to it; and to publish and distribute bulletins and reports.

(19) To approve and/or disapprove, as provided by restrictions, conditions, and covenants affecting said property, plans and specifications for and/or location of fences, walls, poles and structures to be erected or maintained upon said property or any portion thereof, and to approve or disapprove the kind, shape, height, and material for same and/or the block plan indicating the location of such structures on their respective building sites and such grading plans as may be required, and to issue or refuse to issue permits for the same; to pay any and all expenses and charges in connection with the performance of any of said powers or the carrying out of any of said purposes; to supervise construction of any buildings or structures to the extent deemed necessary by the Board of Directors, and to establish rules therefor.

(20) To approve or disapprove of subdivisions or re-subdivisions of any of said property from time to time to the extent and in the manner that it may exercise such approval or disapproval as provided in restrictions, conditions, and covenants affecting said property.

(21) To regulate and/or prohibit the erection, posting, pasting or displaying upon any of said property of bill-boards and/or signs of all kinds and character, and to remove and/or destroy all signs placed, erected or maintained upon said property without the authority of this corporation and/or the Palos Verdes Art Jury as provided in such restrictions, conditions, and covenants, as may affect the said property or any portion thereof.

(22) To fix, establish, levy, and collect annually such charges and/or assessments upon each and every lot or parcel of said property which may be subject to and in accordance with the restrictions, conditions, and covenants affecting said property; provided, that the amount of such annual charges or assessments shall be determined as provided in said restrictions, conditions, and covenants by the Board of Directors of this corporation.

(23) To expend the moneys collected by this corporation from assessments and charges and other sums received for the payment and discharge of costs, expenses, and obligations incurred by said corporation in carrying out any or all of the purposes for which this corporation is formed.

(24) Generally, to do any and all lawful things which may be advisable, proper, authorized, and/or permitted to be done by Palos Verdes Homes Association under or by virtue of any restrictions, conditions, and/or covenants or laws affecting said property or any portion thereof (including areas now or hereafter dedicated to public use) and to do and perform any and all acts which may be either necessary for, or incidental to the exercise of any of the foregoing powers or for the peace, health, comfort, safety, and/or general welfare of owners of said property, or portions thereof, or residents thereon. In exercising any of said powers, the Board of Directors may, so far as may legally be done, follow the same procedure as followed by Boards of Trustees of cities of the 6th Class of the State of California, so far as same are not in conflict with any of the provisions contained in restrictions, conditions, and covenants affecting said property, and provided that such method of procedure may be discontinued at any time as to said property or any portion thereof or as to any portion of said property which is or shall be annexed to or become a part of an incorporated city.

(25) To borrow money and mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred and to do any and all things that a corporation organized under the said laws of the State of California may lawfully do when operating for the benefit of its members or the property of its members, and without profit to said corporation.

All of the foregoing purposes and powers are to be carried into effect and exercised for the purpose of doing, serving, and applying the things above set forth for the benefit of that certain district or area and/or the people residing therein, situate in the County of Los Angeles, State of California, being a portion of Lot "H" of the Rancho Los Palos Verdes as set forth and described in that certain deed dated March 1, 1923, executed by Jay Lawyer, et al,



to Commonwealth Trust Company, a corporation, and recorded in Book 1849, page 389 of Official Records, Records of Los Angeles County, California, together with any and all other property which may hereafter, through the operation of restrictions, conditions, covenants, and/or contracts pertaining to same be placed under or submitted to the jurisdiction of this corporation and be accepted as within the jurisdiction of this corporation by resolution of the Board of Directors of this corporation.

### III.

The principal place of business of said corporation shall be in the City of Los Angeles, State of California.

### IV.

The term for which said corporation is to exist is fifty (50) years from the date of its incorporation.

### V.

The number of directors of said corporation shall be five (5), and the names and residence of the directors who are appointed for the first year and to serve until the election or qualification of their successors are as follows:

NAMES	RESIDING AT
James F. Dawson	Redondo Beach, Cal.
John C. Low	Hermosa Beach, Cal.
Jay Lawyer	Los Angeles, Cal.
J. H. Coverley	Los Angeles, Cal.
M. V. Boaz	Los Angeles, Cal.

### VI.

The voting power and property rights and interests of the members shall be unequal and shall be determined and fixed as follows:

For the purpose of determining the voting power and the property rights and interests of each member of the corporation, a building site shall be taken to be a lot (exclusive of streets, open recreation areas, and lands excepted, reserved, segregated or retained in accordance with the restrictions, conditions, and covenants affecting same, shown on any map of record);

(a) Of any ordinary subdivision of said land subject to the jurisdiction of this corporation, or

(b) Of any re-subdivision of any plots or parcels of said land which re-subdivision is permitted by this corporation

and is approved by the restrictions applicable thereto and thereby allowed to be used as a building site, or

(c) Of any subdivision or re-subdivision of any land which hereafter becomes subject to the jurisdiction of the Palos Verdes Homes Association by virtue of restrictions, conditions, covenants, and/or contracts relating thereto, and by acceptance of jurisdiction by the Board of Directors of this corporation.

That each member of this corporation shall have the right to cast as many votes at any meeting of the members of this corporation as the number of building sites to which, as shown by the records of this corporation, he holds the legal or equitable title, and/or contract of purchase; provided, however, that no person or corporation holding title as security for the payment of money or performance of other obligations shall have the right to a vote by reason thereof; and provided, further, that when the legal or equitable title to, or contract for purchase of, a building site is vested in or is in the name of two or more persons in joint tenancy or otherwise, the several owners or contract holders or purchasers of said building site shall collectively be entitled to only one vote, which vote may be cast in the manner provided by the By-laws of this corporation.

Each member of this corporation shall have such an interest in all the property owned by this corporation as is represented by the ratio of the number of votes to which said member is entitled to the total number of votes to which all members of this corporation are entitled; provided, however, that during the continuance and life of this corporation and renewals thereof, no member of this corporation shall have the right of distribution of any real or personal property held by or in the possession or control of this corporation; provided, however, that those persons who are members of this corporation at the time of its dissolution may, upon said dissolution, be and become entitled to such property as may be owned by this corporation and as may be subject to distribution among its members in proportion to their interests and property rights as above determined and according to the law then in force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 16th day of May, 1923.

JAMES F. DAWSON	(SEAL)
JOHN C. LOW	(SEAL)
JAY LAWYER	(SEAL)
J. H. COVERLEY	(SEAL)
M. V. BOAZ	(SEAL)

STATE OF CALIFORNIA, {  
COUNTY OF LOS ANGELES. } ss.

On this 16th day of May, A. D., 1923, before me, NELLIE GRACE FRANTZ, a Notary Public in and for the County of Los Angeles, State of California, personally appeared James F. Dawson, John C. Low, Jay Lawyer, J. H. Coverley and M. V. Boaz, known to me to be the persons whose names are subscribed to the within instrument, and who acknowledged to me that they executed the same.

NELLIE GRACE FRANTZ,  
*Notary Public in and for the  
County of Los Angeles,  
State of California.*

(Notarial Seal)

104057  
ENDORSED  
FILED

IN THE OFFICE OF THE  
SECRETARY OF STATE OF THE  
STATE OF CALIFORNIA

May 24, 1923

FRANK C. JORDAN, *Secretary of State,*  
By FRANK H. CORY, *Deputy.*

STATE OF CALIFORNIA  
DEPARTMENT OF STATE

I, FRANK C. JORDAN, Secretary of State of the State of California, do hereby certify that I have carefully compared the annexed copy of Articles of Incorporation of

"PALOS VERDES HOMES ASSOCIATION"

with the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof. I further certify that this authentication is in due form and by the proper officer.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of California to be affixed hereto this 25th day of May, A. D., 1923.

FRANK C. JORDAN,  
*Secretary of State.*

(GREAT SEAL OF THE  
STATE OF CALIFORNIA)

By \_\_\_\_\_  
*Deputy.*

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**BY-LAWS**  
**OF**  
**PALOS VERDES HOMES ASSOCIATION**

*Adopted June 25, 1923, Amended Dec. 5, 1923*

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**ARTICLE I**

**MEMBERSHIP AND DUES**

**BUILDING SITE  
DEFINED**      *Section 1.* A "building site" shall be taken to be a lot (exclusive of streets, open recreation areas, and lands excepted, reserved, segregated or retained in accordance with the restrictions, conditions, and covenants affecting same, shown on any map of record):

(a) Of any original subdivision which is now on file or which shall hereafter be filed in the office of the County Recorder of the County of Los Angeles, California, of that certain tract of land situated in the County of Los Angeles, State of California, being a portion of Lot "H" of the Rancho Palos Verdes as set forth and described in that certain deed dated March 1, 1923, executed by Jay Lawyer et ux, to Commonwealth Trust Company, a corporation, and recorded in Book 1849, page 389 of

Official Records of Los Angeles County, California, or

(b) Of any re-subdivision of any plots or parcels of said land which re-subdivision is approved by this corporation and is permitted by the restrictions applicable thereto and thereby allowed to be used as a building site, or

(c) Of any subdivision or re-subdivision of any land which hereafter becomes subject to the jurisdiction of Palos Verdes Homes Association by virtue of restrictions, conditions, covenants, and/or contracts relating thereto, and by acceptance of jurisdiction by the Board of Directors of this corporation.

The members of this corporation shall be all who hold legal title of record to any such building site or who, while holding a contract for the purchase of any such building site from Commonwealth Trust

Company, shall reside upon the building site described in such contract. Such holding of legal title or such residence shall be the sole qualification for membership in the corporation. Contract holders shall establish their right to membership to the satisfaction of the Secretary of this corporation.

#### QUALIFICATIONS OF MEMBERS

Section 2. The following persons shall be qualified to be, and shall become members of this corporation:

(a) Persons holding legal title to or an interest in any such building site, except as provided in (b) of this paragraph and provided, further, that no person or corporation taking title hereafter as security for the payment of money or performance of other obligations shall thereby become entitled to membership.

(b) Persons holding a contract for the purchase of any building site, who shall reside upon the property described in such contract, in which case the holder of the legal title shall not be qualified for membership by virtue of holding the title to such building site.

(c) The owner or owners of land adjoining or adjacent to said property when such land shall have been placed under the jurisdiction of the Art Jury and Palms Verdes Homes Association in accordance with the provisions of Section 6 of this Article.

#### CREATION OF MEMBERSHIP

Section 3. (a) The acceptance by a grantee of a deed conveying to him such real property as to qualify him for membership in said Association shall ipso facto constitute such grantee a member of said Association.

(b) The acceptance by a purchaser of a contract of sale covering such real property as shall qualify him for membership, together with the act of residing thereon by such purchaser, shall ipso facto constitute such purchaser a member of said Association.

(c) The certificate of the Secretary certifying that a person is a member of this corporation shall be conclusive evidence in favor of all third persons as to the facts recited therein.

#### TERMINATION OF MEMBERSHIP

Section 4. Whenever a member of said Association becomes disqualified for membership, as hereinabove provided, such person shall ipso facto cease to be a mem-

ber of said Association; if the member holds the legal title to more than one such building site, then upon the transfer of record of the legal title to all his building sites, or, if the member does not hold the legal title to any building site, then upon such member ceasing to be the holder of a contract for the purchase of any such building site or upon his ceasing to reside upon the building site described in such contract. A member holding the legal title of record to more than one building site may transfer membership with each building site transferred and retain membership for each building site not transferred. When a building site is owned of record in joint tenancy or tenancy-in-common, the membership as to such building site shall be joint and the rights of such membership shall be exercised only by the joint action of all owners of such building site.

Section 5. No membership fee shall be charged, nor shall members be required to pay at any time any amount to carry on the business of the corporation, except to pay annually the maintenance charge or assessment, which is or may be made a lien on the respective properties of the members, and such other liens, fees and charges as are set forth, authorized or permitted in the Declaration of Establishment of restrictions and conditions of Commonwealth Trust Company, dated June 26th, 1923, and recorded on July 5th, 1923, in the office of the County Recorder of the County of Los Angeles, State of California, in Volume 2360 of Official Records of Los Angeles County at page 231 and following pages, or any amendments thereof, or as set forth in any other Declaration of Commonwealth Trust Company, its assigns or successors in interest, applicable to said property on file or hereafter filed in the office of said County Recorder.

#### FEES AND DUES OF MEMBERS

Section 6. If at any time the owner or owners of land adjoining, adjacent or within a distance deemed reasonable by the directors hereof of any portion of said property shall agree with the directors subject to hold, sell and convey said land subject to conditions, restrictions, covenants, reservations, liens or charges set forth in a declaration of restrictions by such owner or owners approved by the Board of Directors of this corporation and the Art Jury, and such agreement and declaration are

#### ANNEXATION OF ADDITIONAL PROPERTY



hereafter recorded in the office of the Recorder of the County of Los Angeles, the Board of Directors of this corporation and the Art Jury shall have power to do and perform any and all of the acts and to fix, impose and collect charges, assessments and dues from the owners of lots in such property, on such basis, authority and power as they may have for the said property. Owners and contract holders of such additional property shall be entitled to membership in Palos Verdes Homes Association with property rights and voting power upon the same basis and conditions as herein provided for owners and contract holders already under the jurisdiction of the Palos Verdes Homes Association and the Board of Directors of this corporation and the Art Jury shall thenceforth have and assume the enforcement of the restrictions, conditions, covenants, reservations, liens or charges created for the benefit of the owners of building sites in said last named property, or to which said building sites may at any time be subject.

**PROPERTY RIGHTS AND INTEREST**

**Section 7.** No member of this corporation shall have any right of property in any of the real or personal property held by, or in the possession and control of this corporation, except those persons who are members of this corporation at the time of its dissolution, and their rights shall be determined by the law then in force and effect. Each member of this corporation shall have such an interest in all the property owned by this corporation as is represented by the ratio of the number of votes to which said member is entitled to the total number of votes to which all members of this corporation are entitled; provided, however, that during the continuance and life of this corporation and renewals thereof, that no member of this corporation shall have the right of distribution of any real or personal property held by or in the possession or control of this corporation, provided, however, that those persons who are members of this corporation at the time of its dissolution may, upon said dissolution, be and become entitled to such property, as may be owned by this corporation and as may be subject to distribution among its members in proportion to their interests and property rights as above determined and according to the law then in force and effect.

**ARTICLE II**

**VOTING POWER**

At all corporate meetings the voting power of the members of this corporation shall be unequal according to the following rules, to-wit:—

(a) Except as provided in (d) of this paragraph, each member of this corporation shall have at least one vote at any meeting of the members of the corporation.

(b) Except as provided in (d) of this paragraph, each member of this corporation holding legal title to more than one building site shall have the right as such member, at any meeting of the members of this corporation, to cast a number of votes equal to the total number of building sites, the title to which is held by him.

(c) Except as provided in (d) of this paragraph, each person who is a member of this corporation by reason of being a purchaser of more than one building site located in any subdivision of the said property under a contract or contracts of purchase shall have the right to cast as many votes, at any meeting of the members of this corporation, as shall equal the total number of building sites covered by his contract or contracts.

(d) When legal title to a building site is vested in, or subject to contract or agreement to convey to two or more persons in joint tenancy or otherwise, the several owners or purchasers of said building site shall collectively be entitled to one vote only therefor.

**ARTICLE III**

**CORPORATE POWERS**

The corporate powers of this corporation shall, except as otherwise provided herein, be vested in a Board of Directors who shall be members of this corporation, and three shall constitute a quorum for the transaction of business but a smaller number may adjourn from time to time.

**ARTICLE IV**

**THE BOARD OF DIRECTORS**

**Section 1.** The Directors shall be elected by secret ballot at the Annual Meeting of the members to serve in the first instance as follows: one for a period of one year, two for a period of two years and two for a period of three years, and to serve until their successors are elected. Their successors shall be elected for a term

**ELECTION OF DIRECTORS.**

of three years. The Board of Directors shall be the judge of the election and qualifications of its own members subject to review by the courts. Any member of the Board of Directors who shall have been convicted of a crime while in office shall thereby forfeit his office.

**VACANCIES  
IN THE BOARD  
OF DIRECTORS**

Section 2. Vacancies in the Board of Directors shall be filled by the remaining Directors when assembled as a Board and such appointees shall hold office until the next Annual or Special Meeting of the members thereafter at which time an election for the unexpired portion of the term shall be held.

**POWERS OF  
DIRECTORS**

Section 3. The Directors shall have power:

(a) To call special meetings of the members whenever they deem it necessary, and they shall call a meeting at any time upon the written request of members holding the legal title of record of 20% in number of all said building sites.

(b) To select from their own number a president and vice-president and to appoint and remove a secretary, building commissioner, manager, and as herein further provided one or more members of the Art Jury, but no director shall serve as any of such officers; and subject to the further provisions hereof, to adopt appropriate resolutions prescribing their duties, fixing their compensation and requiring from them security for faithful service.

(c) Except as otherwise herein provided, to conduct, manage, and control the affairs and business of this corporation and to make regulations and rulings not inconsistent with the laws of the State of California, or of the By-Laws of this corporation for the guidance of the officers and management thereof, provided that not less than one-fourth of the receipts of the total annual maintenance charge or assessment, mentioned in Article I hereof, shall be appropriated and set aside for the sole use and support of the Park and Recreation Board as hereinafter provided.

(d) To determine its own rules of procedure, punish directors for misconduct and compel attendance of directors.

(e) To determine, levy and assess annually the maintenance charge or assessment mentioned in Article I hereof, and such other charges or fees as it may have power or jurisdiction over and to fix the

rate per annum of such maintenance charge or assessment, but never to exceed in any one year the total annual tax rate established for all purposes for the then current fiscal year by the City Council of the old City of Los Angeles.

(f) To make all needful rules and regulations for the conduct of election, for the prevention of fraud in elections and for the recount of the ballots in case of doubt or fraud.

**Section 4. It shall be the duty of the  
Directors:**

(a) To cause to be kept a complete record of all their minutes and acts, and of the proceedings of the members, and present a full statement at the regular annual meeting of the members, showing in detail the assets and liabilities of the corporation, and generally the condition of its affairs. A similar statement shall be presented at any other meeting of the members when required by persons holding of record the legal title to at least one-half of the said building sites.

(b) Except as otherwise provided herein, to supervise all officers and see that their duties are properly performed, and cause certificates of membership to be issued to the members of the corporation.

(c) To hold, after due notice, such public hearings as may be necessary or advisable for the modification, amendment, or approval of any restrictions, conditions, covenants, reservations, liens or charges applicable to any property subject to the jurisdiction of this corporation, or applying for acceptance thereof.

**ARTICLE V**

**MEETINGS**

Section 1. The annual meeting of the members shall be held in the City of Los Angeles, County of Los Angeles, on the second Tuesday in January of each year, and shall be called by a notice in writing mailed to each member at his last known place of residence or business, or directed to each member at Los Angeles; such notice to be deposited in the United States post-office at Los Angeles at least ten days preceding the date of meeting, and postage thereon must be prepaid.

Special meetings of the members shall be called in like manner after five days' notice.

**DUTIES OF  
DIRECTORS**

**MEETINGS OF  
MEMBERS**



No meeting of members shall be competent to transact business unless the record holders of legal title to a majority of the said building sites be represented, except to adjourn from day to day or until such time as may be deemed proper.

At such annual meeting of the members, Directors for the ensuing year shall be elected by secret ballot, to serve as herein provided and until their successors are elected. If, however, for want of a quorum or other cause, a member's meeting shall not be held on the day above named, or should the members fail to complete their elections, or such other business as may be presented for their consideration, those present may adjourn from day to day until the same shall be accomplished.

#### MEETINGS OF DIRECTORS

Section 2. Regular meetings of the Directors shall be held on the second and fourth Wednesday of each month, at the office of this corporation at two o'clock, p.m. provided that the Board of Directors may change, by regulation, the day of holding the regular meeting. No notice of the regular meeting of the Board of Directors need be given. The President or any two of the Directors, may call special meetings of the Directors at any time, and notice shall be given of such called meeting by depositing in the United States Post Office at Los Angeles, California, a written or printed notice thereof, with the postage thereon prepaid, addressed to each Director at the last address left with the Secretary, at least four days before the time of meeting, or by serving personally such notice on each Director one day before such meeting. Such service of notice shall be entered on the minutes of the corporation, and the said minutes, upon being read and approved at a subsequent meeting of the Board shall be conclusive upon the question of service.

Notice specified in this Article for the members need be given only to members appearing as such on the books of the corporation.

All meetings of Directors and sessions of their committees shall be open to members.

#### ARTICLE VI

##### REGULATIONS AND RESOLUTIONS

The Board of Directors shall act only by the adoption of a regulation or a resolution; and all regulations and resolutions,

except regulations making appropriations, shall be confined to one subject which shall be clearly expressed in the title. The regulations making appropriations shall be confined to the subject of appropriations. No regulation shall be passed until it has been read on two separate days or the requirement of readings on two separate days has been dispensed with by an affirmative vote of four Directors. The final reading shall be in full, unless the regulation shall have been typed or printed and a copy thereof furnished to each member prior to such reading. The ayes and noes shall be taken upon the passage of all regulations on resolutions and entered upon the journal of the proceedings of the Board of Directors, and every regulation or resolution shall require on final passage the affirmative vote of three Directors. No Director shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial interests are involved. Provisions shall be made for the printing and publication in full of every regulation within thirty (30) days after its final passage.

#### ARTICLE VII

##### THE RECALL

Section 1. The Board of Directors or any director may be removed from office by the members as herein provided.

Any member may make and file with the secretary an affidavit containing the name or names of the director or directors whose removal is sought and a statement of the grounds for removal. The secretary shall thereupon deliver to the member making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the secretary with his signature and official seal thereto attached; they shall be dated and addressed to the directors, shall contain the name of the person to whom issued, the number of blanks so issued, the name of the director or directors whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the secretary. The petition before being returned and filed shall be signed by members who are holders of record title of at least fifty (50) per cent of all of said building sites owned by members and to every signature shall be added the place of residence of the signer, giving the street and number

PROCEDURE  
FOR FILING  
RECALL  
PETITION

or other description sufficient to identify the place. Such signatures need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

EXAMINATION  
AND AMEND-  
MENT OF  
RECALL  
PETITIONS

Section 2. Within ten days after the filing of the petition the secretary shall ascertain whether or not the petition is signed by the requisite number of members and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same, and the petition may be amended at any time within ten days after the giving of said notice, by the filing of a supplementary petition upon additional petition papers, issued, signed and filed as provided herein for the original petition. The secretary shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

CALLING OF  
RECALL  
ELECTION

Section 3. If the petition or amended petition shall be certified by the secretary to be sufficient he shall submit the same with his certificate to the Board of Directors at its next meeting and shall notify the director or directors whose removal is sought of such action. The Board of Directors shall thereupon, within ten days of the receipt of the secretary's certificate, call a special members' meeting for the purpose of a recall election to be held not less than thirty nor more than forty-five days thereafter. Provided, that if an annual members' meeting is to occur within sixty days after the receipt of said certificate, the Board of Directors may in its discretion provide for the holding of the recall election on the date of such annual meeting.

Section 4. Unless the director or directors whose removal is sought shall have resigned within ten days after the receipt by the Board of Directors of the secretary's certificate the form of ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?" etc., the name of the director or directors whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates to be elected in place of the men recalled, as follows: "Candidate for the place of A, if recalled; candidate for the place of B, if recalled," etc., but the director or directors whose recall is sought shall not themselves be candidates upon such ballot.

FORM OF  
BALLOT  
TO RECALL  
DIRECTOR

In case of those voting for or against the recall of any director the members who are holders of record title of two-thirds (%) of all said building sites owned by members, shall vote in favor of recalling such director he shall be thereby removed, and in that event the candidate who receives the highest number of votes for his place shall be elected thereto for the balance of the unexpired term.

If the director or directors sought to be removed shall have resigned within ten days after the receipt by the Board of Directors of the secretary's certificate referred to in this section above hereof, the form of ballot at the election shall be the same, as nearly as may be, as the form in use at an annual members' meeting.

ARTICLE VIII  
OFFICERS

The officers shall be a President, Vice-President, Secretary, Building Commissioner and Manager, which officers shall be elected by and hold office at the pleasure of the Board of Directors, except as provided herein; and a Park and Recreation Board, Planning Board, Health Board, and Art Jury as provided in these By-laws.

ARTICLE IX  
PRESIDENT AND VICE-PRESIDENT

The Board of Directors shall, at their first regular meeting, elect one of their number to act as President and another to act as Vice-President, to serve for one year and until their successors are elected; and, if at any time the President shall be unable to act, the Vice-President, shall take his place and perform his duties; and, if



the Vice-President, from any cause, shall be unable to act, they shall appoint some other member of the Board to act, in whom shall be vested for the time being all the duties and functions of the office of President, or in his absence, or inability to act, the Vice-President, or, in the absence or inability to act of both the President and the Vice-President, the Director appointed as above provided, who:

1st. Shall preside over all meetings of the members and Directors and shall have the casting vote.

2nd. Shall sign as President all certificates of membership and all instruments of writing which have been first approved by the Board of Directors.

3rd. Shall have such other powers consistent with the office as may be conferred upon him by the Board of Directors.

4th. Shall be recognized as the official head of Polos Verdes Homes Association for all ceremonial purposes and by the courts for serving civil processes.

## ARTICLE X

### SECRETARY

The Board of Directors shall elect a Secretary to serve at the pleasure of the Board, with the following duties:

1. To keep a record of all the proceedings of the Board of Directors and of the members.

2. To keep the corporate seal of the corporation and the book of blank certificates of membership; to fill up and countersign all certificates issued, and make the corresponding entries in the margin of such book of issuance; and he shall affix said corporate seal to all papers requiring a seal.

3. To serve all notices required either by law or the By-laws of the corporation, and in case of his absence, inability, refusal or neglect so to do, then such notices may be served by any person thereunto directed by the President or Vice-President of the corporation.

4. To keep proper books showing the date of issuance of each certificate of membership and the name of the person to whom issued, and showing the date of and parties to each transfer of membership.

## ARTICLE XI

### THE BUILDING COMMISSIONER

**Section 1.** The Department of Buildings shall be in charge of a Building Commissioner named by the Board of Directors to serve at their pleasure, who shall have full, sole and final authority to approve or disapprove in the name of said corporation and to issue Building Permits and Certificates of Completion and Compliance for any and all plans, specifications or construction work of any kind within the jurisdiction of said corporation, and shall inspect and superintend the construction of buildings and structures in or upon said property in accordance with the powers and rights conferred upon it by virtue of any and all restrictions or contract agreements which may at any time be placed upon or exist in connection with any of said property or any property over which this corporation shall have or accept jurisdiction.

**Section 2.** The Board of Directors shall provide for the safety of building construction by establishing and enforcing regulations for the granting of said Building Permits and Certificates of Completion and Compliance by the Building Commissioner and for making and collecting a charge therefor, including such provisions as are usually contained in city building codes; and to provide for light, air, sanitation, health, comfort, and convenience for the occupants of existing and/or hereafter erected buildings by establishing such regulations as are usually included in city housing, sanitation, plumbing, electric wiring and other codes or zoning regulations.

**Section 3.** The Building Commissioner shall keep records of all building permits and/or other approvals or disapprovals made or issued by and in the name of this corporation and furnish certified copies of any record which the Board of Directors may authorize to be furnished and, from time to time, to issue Certificates of Completion and Compliance covering respective parcels of property with respect to which buildings, structures, and/or other improvements or changes have been made, as herein provided.

**Section 4.** The Homes Association and every officer, board, or employee thereof, performing any act or erecting, constructing, altering or maintaining any building,

BUILDING  
CODE

RECORDS

PERMIT FOR  
ASSOCIATION  
WORK

structure, improvement, work of art, etc., shall secure a Building Permit and a Certificate of Completion and compliance and approval of the Building Commissioner and/or the Art Jury, in the same manner as required of any private owner subject to the jurisdiction of the Homes Association and the Art Jury.

Section 5. No building permit shall be issued by the Building Commissioner for any building or structure or any part thereof unless and until it conforms to all the then requirements of ordinances of the County of Los Angeles, California, applicable thereto, and to the California State Housing Act, State Tenement House Act, State Hotel and Lodging House Act, State Dwelling House Act, and all other State Acts and requirements as to housing and sanitation applicable to incorporated cities, and said laws and amendments thereto shall have the same force and effect as if property were all within an incorporated city of the State of California, except such modifications and variations thereto as may be adopted by regulation by the Board of Directors. (As amended Dec. 5, 1923.)

## ARTICLE XII THE MANAGER

**THE MANAGER** Section 1. The Manager shall be the chief executive officer of the corporation. He shall be chosen by the Board of Directors solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the said property. The Manager shall be appointed for an indefinite period. He shall be removable by the Board of Directors. If removed at any time after six months he may demand written charges and a public hearing on the same before the Board of Directors prior to the date on which his final removal shall take effect, but during such hearing the Board of Directors may suspend him from office. During the absence or disability of the Manager the Board of Directors shall designate some properly qualified person to perform the duties of the office.

**POWERS AND DUTIES OF THE MANAGER** Section 2. The Manager shall be responsible to the Board of Directors for the proper administration of all affairs of the corporation, and to that end shall make all appointments, except as otherwise provided in these By-laws. Except when the Board

of Directors is considering his removal, he shall be entitled to be present at all meetings of the Board of Directors and of its committees and to take part in their discussions.

Section 3. The Manager shall prepare ANNUAL and submit to the Board of Directors the BUDGET annual budget after receiving estimates made by the heads of the departments.

## ARTICLE XIII

### ADMINISTRATIVE DEPARTMENTS

Section 1. There shall be administrative departments as follows:

Law, works and utilities, safety and welfare, library, and finance, and a Park and Recreation Board, Planning Board, Health Board, and Art Jury, the functions of which shall be prescribed by the Board of Directors except as otherwise provided herein. The Board of Directors shall fix all salaries, which in the classified service shall be uniform for each grade, as established by the Service Commission, and the Board of Directors may, by a four-fifths vote, create new departments, combine or abolish existing departments or establish temporary departments for special work, except the Art Jury and the Park and Recreation Board and except as otherwise provided herein.

ADMINISTRATIVE DEPARTMENTS CREATED

Section 2. At the head of the departments of law, works and utilities, safety and welfare, library, and finance, there shall be a director. Each director shall be chosen on the basis of his general executive and administrative experience and ability and of his education, training and experience in the class of work which he is to administer. The director of the department of law shall be a lawyer; of the library, a trained librarian; of works and utilities, an experienced and qualified engineer; of safety and welfare, a man who has had administrative experience; of finance, a man who has had experience in banking, or other financial matters; or in each case the person must have rendered active service in the same department in this or some other community. The manager may appoint an advisory Library Board, to serve at his pleasure and to advise and aid him and the librarian in library matters, and for other advisory boards.

DUTIES OF DIRECTORS OF DEPARTMENTS



**DEPARTMENT DIRECTORS** Section 3. Each department director shall be appointed by the manager and may be removed by him at any time.

**RESPONSIBILITY OF DEPARTMENT DIRECTORS** Section 4. The department directors and the various boards and officers thereof, except as otherwise provided herein, shall be immediately responsible to the manager for the administration of their departments, and their advice in writing may be required by him on all matters affecting their departments. They shall prepare departmental estimates, which shall be open to public inspection, and they shall make all other reports and recommendations, concerning their departments at stated intervals or when requested by the manager. The Board of Directors, the manager, and any officer or board authorized by them, or either of them, shall have power to make investigations as to corporation affairs, and compel the production of books and papers.

#### ARTICLE XIV

##### PARK AND RECREATION BOARD

Section 1. The Department of Parks, Boulevards, Forestry, Music and Recreation shall be under the control and management of a Board to be known as the Park and Recreation Board composed of the manager and three persons named by the manager, well known for their intelligence and integrity, and whose term of office shall be for a period of three (3) years; provided, that the first members of said Board shall so classify themselves by lot that the term of one member shall expire at the end of one year, one at the end of two years, and one at the end of three years from the date of their first appointment, and at the expiration of the term of each member his successors shall be appointed by the manager for a term of three years from the date of expiration of the official term of his predecessor. Vacancies shall be filled by the manager for the unexpired portion of the term. Said commissioners shall serve without compensation. They shall elect their own officers, adopt their own rules and regulations and shall meet at least once a month. Two members of the Board shall constitute a quorum for the transaction of business and an affirmative vote of at least two appointed members shall be necessary to authorize any action of the Board.

Section 2. Said Board shall keep record of its proceedings and shall appoint a Secretary who shall not be a member of the Board and who shall hold office at the pleasure of the Board.

Section 3. The Park and Recreation Board shall also appoint a Landscape Architect, to advise the Board, and a Chief Executive Officer as superintendent under the Board who shall hold office at the pleasure of the Board and who shall in behalf of said Board and of this corporation have charge, supervision and direction of all work and of all officers and employees under said Board and may dismiss any officer or employee under him except the Secretary and Landscape Architect of the Board or other consulting expert who may be called in to render special service.

Section 4. The Park and Recreation Board shall have power and it shall be its duty:

(a) To devise and adopt a system of parks, parkways, boulevards, playgrounds, recreation areas and open spaces for the use of the members of this corporation and the inhabitants of said land, and by and with the approval and authority by regulations of the Board of Directors, to lease, purchase, and/or otherwise acquire in the name of this corporation lands for parks, parkways, playgrounds, recreation areas and/or common lands for general welfare and by and with the approval and authority by regulation of the Board of Directors to establish, change and/or re-establish the grade of any boulevard, parkway or other property under its supervision or control, and no change shall be made in the grade of any street subject to the jurisdiction of the Park and Recreation Board unless the Park and Recreation Board shall approve such change of grade.

(b) To superintend, control and manage any and all parks, parkways, boulevards, playgrounds, open spaces and recreation areas, tennis courts, golf courses and/or club houses, swimming pools, bath houses, bathing beaches, boats, boat houses, boat landings, life rafts, life guards, life saving apparatus, skating rinks, hangars and fields for air craft, band stands, dancing pavilions, casinos, places of amusement, community buildings, aquariums, and in general community facilities appropriate

for the use and benefit of members and/or for the improvement and development of said property, grass plots and other areas, and all trees or plantings, within the lines of streets, parkways, walks, or other easements or rights-of-way, or on school or other public grounds by arrangement with public authorities having jurisdiction therein, and except as otherwise provided herein all improvements in, on, or upon the same belonging to or under control of this corporation, and of such other grounds and thoroughfares as may upon the recommendation of the Park and Recreation Board be placed under the control and management of said Board and by and with the approval of the Board of Directors to construct, improve, adorn, regulate and maintain the same in such manner as it may deem best, and to establish a width of sidewalk on all boulevards and parkways. And the Board of Directors shall, upon the recommendation of the Park and Recreation Board, pass regulations for the control and orderly government of the same, and other lands subject to its control, and prescribe penalties for the violation thereof. No building, structure, planting or improvement of any kind shall be erected, constructed, altered or maintained in, on, or upon any land or portion of said property under the jurisdiction of the Park and Recreation Board except with the approval and authority of the Park and Recreation Board; nor shall any land or any portion of said property be acquired or leased by the Homes Association, nor any property once subject to the jurisdiction of the Park and Recreation Commission be at any time sold, conveyed, mortgaged, leased, encumbered, or in any way disposed of except with the approval of the Park and Recreation Board. No building or structure for any purpose other than a park purpose shall be erected, constructed, altered or maintained upon any land subject to the jurisdiction of the Homes Association, when such land has been accepted for park purposes only.

(c) To plant or replant, trim, cut back, remove or replace, care for and/or maintain hedges, trees, shrubs, or flowers on vacant or unimproved lots or on other private property as far as may be permitted by the restrictions applicable thereto and thereby allowed, and to remove and/or burn grass, weeds, or any unsightly or obnoxious thing therefrom.

(d) To make such agreements with county, township, state, national or other public officials, or with any corporation or individual, for and in behalf of the owners of said property and of this corporation, for a division of the work upon any property subject to the jurisdiction of the Park and Recreation Board or for the care, maintenance and improvement of the same, as will enable the Homes Association to co-operate with the said officials, corporations or individuals to secure the greatest benefit to the said property or portions thereof.

(e) By and with the approval of the Board of Directors, to accept bequests and donations, and to take and hold title to real and/or personal property, and to administer and disburse and/or dispose of the same and/or to use the income and/or proceeds therefrom for the purposes for which it is established.

## ARTICLE XV

### PLANNING BOARD

Section 1. There shall be a Planning Board of five members consisting of the Manager, the Director of Works and Utilities, and three members of the Homes Association, one of whom may also be a member of the Park and Recreation Board, named by the Manager whose term of office shall be for a period of three years; provided that the first appointed members of said Board shall so classify themselves by lot that the term of one member shall expire at the end of one year, one at the end of two years and one at the end of three years from the date of their first appointment, and at the expiration of said term his successor shall be appointed by the Manager for a term of three years. Vacancies shall be filled by the Manager for the unexpired portion of the term. Said board members shall serve without compensation. They shall elect their own officers, adopt their own rules and regulations and shall meet at least once a month. Three board members, at least two of whom shall be appointed members, shall constitute a quorum for the transaction of business.

Section 2. The Planning Board shall appoint a Consultant in City Planning to advise the Board and a Secretary who shall have some knowledge of city planning. The Engineer of the Department of Works

SECRETARY  
AND OTHER  
EMPLOYEES



and Utilities shall also serve as Chief Engineer of the Planning Board, and it shall be his particular duty to make recommendations designed to bring all the engineering work of this corporation into harmony as parts of one comprehensive plan. The Planning Board shall have power to call upon any officer or department or board of this corporation at any time for information and advice, which in its opinion, will insure the efficiency of its work.

**POWERS AND  
DUTIES OF THE  
PLANNING  
BOARD**

Section 3. (a) The Planning Board shall have full and sole authority on behalf of this corporation to give approval in the name of the Homes Association for each subdivision or re-subdivision plat or map of any property subject to the jurisdiction of the Homes Association. Each such approval shall be certified to the Secretary of the Homes Association who shall thereupon affix the official seal of the corporation.

(b) It shall be the duty of the Planning Board to keep itself informed of the progress of city planning in this and other countries, to make studies and recommendations for the improvement of the general plan of the Palos Verdes region and vicinity with a view to the present and future movement of traffic, the convenience, amenity, health, recreation, general welfare, and other needs of this area dependent on such plan; to consider and report upon the designs and their relation to the general plan, of all new public ways, lands, buildings, bridges, and all other public places and structures, of additions to and alterations in those already existing, and of the layout or plotting of new subdivisions of this area or of territory adjacent thereto.

(c) All acts of the Board of Directors, officers or boards of this corporation affecting the general regional plan for Palos Verdes Rancho or any part thereof, shall be submitted to the Planning Board for report and recommendations. The Board of Directors may at any time call upon the Planning Board to report with recommendations, and the Planning Board of its own volition may also report to the Board of Directors with recommendations on any matter which in the opinion of either body, affects the general regional plan. Any matter referred by the Board of Directors to the Planning Board shall be acted upon by the Planning Board within thirty days of the date of reference, unless a longer or

shorter period is specified. No action by the Board of Directors involving any points hereinbefore set forth shall be legal or binding until it has been referred to the Planning Board and until the recommendations of the Planning Board thereon have been accepted or rejected by the Board of Directors.

**ANNUAL  
REPORT**

(d) The Planning Board shall submit to the Board of Directors an annual report summarizing the activities of the Planning Board for the fiscal year, the recommendations made by it to the Board of Directors during the year and the action of the Board of Directors during the year on any and all recommendations made by the Planning Board in that or former years. The annual report of the Planning Board shall also contain a program for improvements to the regional plan year by year during the three years next ensuing, with estimates of the cost thereof and recommendations as to how the cost shall be met.

**ARTICLE XVI  
HEALTH BOARD**

Section 1. The Department of Health shall be under the control and management of the Health Board composed of the Manager and three persons named by the Manager because of their special knowledge of public health and welfare matters, provided that at least one of said members shall be selected from a list of three persons nominated by the County Medical Society of Los Angeles County. The term of office of said members shall be for a period of three years, provided that the first members of said Board shall so classify themselves by lot that the term of one member shall expire at the end of one year, one at the end of two years and one at the end of three years from the date of their first appointment. And at the expiration of the term of each member his successor shall be appointed by the Manager for a term of three years from the date of expiration of the official term of his predecessor. Vacancies shall be filled by the Manager for the unexpired portion of the term. They shall elect their own officers, adopt their own regulations, and meet at least once a month.

Section 2. The Board shall appoint a Health Officer who shall be a person well trained in matters of public health, and necessarily an inhabitant of said property,

**HEALTH  
OFFICER**

who shall act as Chief Executive Officer under the Board, hold office at the pleasure of the Board, and who shall in behalf of said Board and of this corporation have charge, supervision and direction of all work and of all officers and employees under said Board and may dismiss any officer or employee under him. The Health Board shall have charge and control of the administration of all health and sanitation measures within the jurisdiction of said corporation.

## ARTICLE XVII

### THE ART JURY

*Section 1.* The Palos Verdes Art Jury appointed by Commonwealth Trust Company of Los Angeles, April 12, 1923, is hereby adopted, confirmed and established as the Art Jury of this corporation. The Art Jury shall have full jurisdiction over all lands and property over which Palos Verdes Homes Association has jurisdiction.

#### APPROVAL OF STREETS, SUBDIVISIONS AND GENERAL PLANTING

*Section 2.* No part of the said property and/or of any property at any time within the jurisdiction of the Art Jury or of Palos Verdes Homes Association shall be subdivided, laid out or improved by street work, buildings, structures, landscaping or planting, or its physical contours cut into, altered or changed, or any premises maintained except with the approval of the Art Jury as to a uniform and reasonably high standard of artistic result and attractiveness, in exterior and physical appearance of said property and improvements; provided, that as to any original layout, subdivision and landscaping of the said property for Commonwealth Trust Company by Olmsted Brothers, Landscape Architects of Brookline, Massachusetts, the Art Jury shall not have any jurisdiction or power of approval other than to make suggestions unless specifically requested to do so by Commonwealth Trust Company; and provided also that at the end of ninety days after submission by Commonwealth Trust Company to the Art Jury of a subdivision map or of any proposed declaration of additional restrictions covering any portion of the said property, legal title to which is held by Commonwealth Trust Company, the said map or declaration shall be deemed to have been given full and final approval by the Art Jury, regardless of any action by it in the interim.

#### APPROVAL OF PLANS

*Section 3.* No building, fence, wall, sidewalk, steps, awning, tent, pole, or other structure, improvement, utility, parking or planting shall be erected, constructed, altered or maintained upon, under or above any portion of said property or of any property at any time within the jurisdiction of the Art Jury or of Palos Verdes Homes Association (except as provided in Section 2 hereof) unless plans and specifications therefor, including the exterior color schemes together with a block plan indicating location, shall have been submitted to, approved in writing by the Art Jury and a copy of such plans, specifications and block plans as finally approved deposited for permanent record with the Art Jury. No alteration shall be made in the exterior color or design of any structure unless written approval of such alteration shall have first been obtained from the Art Jury. No sign of any kind or for any use shall be erected, posted or displayed upon or about any property under the jurisdiction of the Art Jury without the written approval of the Art Jury.

#### APPROVAL OF WORKS OF ART

*Section 4.* No work of art shall become the property of Palos Verdes Homes Association, or of any corporation, organization or public or semi-public body which may succeed or be substituted for any of them, whether acquired by purchase, gift or otherwise, unless such work of art or a design of the same, together with a statement showing the proposed location of such work of art, shall first have been submitted to and approved in writing by the Art Jury; nor shall any work of art until so approved be contracted for, erected, placed in or upon, or allowed to extend over or under any street, avenue, square, park, recreation grounds, school or public buildings, or other public or semi-public property over which the Art Jury has jurisdiction. The Art Jury may, when it deems proper, also require a model of the proposed work of art, or a map, drawing or profile of any proposed site therefor. The term "Work of art" as used in this section shall apply to and include all paintings, mural decorations stained glass, statues, bas-reliefs, tablets, sculptures, monuments, fountains, arches, entrance gateways, or other structures of a permanent character intended for ornament or commemoration. No work of art over which the Art Jury has jurisdiction shall be removed, relocated or in any way altered



without the approval in writing of the Art Jury.

**CUSTODIAN OF  
ART WORKS**

Section 5. The Art Jury shall be custodian of all works of art owned or accepted by Palos Verdes Homes Association; and shall have sole charge of the care and preservation thereof, and of such other works of art as it may accept charge of.

**MEMBERSHIP**

Section 6. (1) The Art Jury shall be composed of one member ex-officio named by Commonwealth Trust Company and of six other members appointed by Commonwealth Trust Company, of whom three shall be persons engaged in the practice of the fine arts in the instance of the first appointment selected from the membership of the Southern California Chapter of the American Institute of Architects and in case a vacancy among these three members occurs, Commonwealth Trust Company shall appoint his successor from a list of three persons engaged in the practice of the fine arts nominated by the Board of Directors of the Southern California Chapter of the American Institute of Architects. One member shall be a City Planner named by Commonwealth Trust Company and if a vacancy occurs as to this member Commonwealth Trust Company shall name his successor from a list of three City Planners, nominated by the Board of Directors of the American City Planning Institute. One member shall be appointed by Commonwealth Trust Company from a list of three persons nominated by the governing board of the University of California, Southern Branch, and one member shall be appointed by Commonwealth Trust Company from a list of three persons nominated by the Board of Directors of Palos Verdes Homes Association.

(2) The six members of the Art Jury appointed by Commonwealth Trust Company shall in the first instance serve for two years and thereafter shall choose by lot terms of office as follows: Two for one year, two for two years, and two for three years, and their successors shall be appointed by Commonwealth Trust Company for terms of three years each, except on appointment to fill a vacancy, which shall be for the unexpired portion of the term. In case any of the organizations entitled to make nominations, as heretofore provided, shall fail to make

such nominations within sixty days after written notification by Commonwealth Trust Company of the expiration of a term or the occurrence of a vacancy, Commonwealth Trust Company shall appoint a member to fill the vacancy upon its own nomination. Said appointees shall meet, organize and notify Commonwealth Trust Company and the Board of Directors of this corporation that the organization of the Art Jury has been effected and the duties thereof assumed, and furnish Commonwealth Trust Company and the Board of Directors with a certified copy of its rules of procedure. In the event that such appointees or any of them shall fail to accept said appointment Commonwealth Trust Company shall have the right to revoke such appointment, and to appoint any other person or persons in its judgment qualified to act as members of said Art Jury. If the Art Jury for any reason shall fail to meet and perform its duties for a period of thirty consecutive days, Commonwealth Trust Company may during the thirty days next thereafter remove one or all of the members and appoint any person or persons in its judgment qualified to act as members of said Art Jury in the place of the member or members so removed; provided appointees shall in all cases in number and qualifications fulfill as nearly as possible the provisions of paragraph (1) of this section as to membership.

(3) Any member of the Art Jury who shall be employed to execute a work of art or structure of any kind requiring the approval of the Art Jury, or who shall take part in competition for such work of art or structure, shall be disqualified from voting thereon; and, in such instance the Art Jury may, in its discretion, invite an expert adviser to give his opinion as to such work of art or structure.

(4) On July 1, 1932, or at any time prior thereto, Commonwealth Trust Company may terminate the term of office and its own power of appointment of the ex-officio member of the Art Jury, by written notification to the President of Palos Verdes Homes Association. On July 1, 1932, the right of Commonwealth Trust Company to appoint members of the Art Jury as provided in paragraph (1) of this section shall cease; or Commonwealth Trust Company prior to said date may resign and transfer said power of appointment to the President

of Palos Verdes Homes Association, by notice thereof to him in writing. From and after said date or upon receipt of such notification or either of them, the President of Palos Verdes Homes Association shall, as the case may be, become a member ex-officio of the Art Jury, as successor to the ex-officio member named by Commonwealth Trust Company and/or shall have power, as successor to Commonwealth Trust Company to appoint members thereof, as provided in paragraph (1) of this section, except as provided herein.

(5) The members of the Art Jury shall elect from their own number a President and Vice-President and shall adopt rules of procedure and prescribe regulations for submission of all matters within their jurisdiction. Four members shall constitute a quorum and shall have full power to act as the Art Jury during the period of any vacancy or vacancies in the membership thereof. The Art Jury shall designate and appoint a trust company to act as its Treasurer and to act as Trustee of all property of the Art Jury. The name of such Treasurer and of the Secretary shall be certified to Commonwealth Trust Company and to Palos Verdes Homes Association.

Section 7. Any funds available therefor may be used by the Art Jury to pay its members for time in attendance at meetings, and for other expenses which in its judgment are incidental to carrying out the purpose for which it is established, to enforce its decisions and rulings and/or to promote art education and community embellishment. The Art Jury may accept bequests and donations of, and through its Trustee take and hold, title to real and/or personal property and shall have power to administer, disburse, and/or dispose of the same and/or to use the income and/or proceeds therefrom for the purposes for which it is established. The Art Jury may file estimates of its annual budget needs with the manager and the Board of Directors and the Board of Directors shall carefully consider the same and may appropriate such sums for the Art Jury as to them may seem advisable.

#### RECORDS AND REPORTS

Section 8. The Art Jury shall, on or before the first of May of each year, make a written report to Commonwealth Trust Company and to Palos Verdes Homes Association of its general proceedings, receipts and disbursements, during the preceding

calendar year and shall also furnish on written request by Commonwealth Trust Company or the Board of Directors a similar report covering any designated period.

(2) The Secretary of the Art Jury shall keep minutes of each approval, recommendations or other official act of the Art Jury and furnish certified copies of the result thereof, on request to any person, and the Art Jury may make a reasonable charge therefor. Said records shall be open to the public. The Secretary of the Art Jury or his duly authorized agent or deputy may at any time enter, inspect, and report upon any portion of said property as to its compliance with the provisions hereof, or as to the decisions of the Art Jury, or any officer or agent thereof shall not thereby be deemed guilty of any manner of trespass for such entry, and the Art Jury may authorize the Secretary thereof to issue a certificate of completion and compliance as to any property so inspected and to make and collect a reasonable charge therefor. In the absence of such certificate and after the expiration of one year from the date of approval by the Art Jury of plans of any structure or alteration, or of any matter requiring approval, the said structure or alteration or matter requiring approval shall, in favor of purchasers and encumbrancers in good faith and for value from the owner causing such structure to be erected or alteration to be made or matter approved, be deemed to be in compliance with all the provisions hereof, unless notice to the contrary shall appear of record in the office of the County Recorder of Los Angeles County.

#### ARTICLE XVIII FINANCIAL PROVISIONS

Section 1. The Director of Finance shall have direct supervision over the Department of Finance and the administration of the financial affairs of the corporation, including the keeping of accounts and financial records; the levy, assessment and collection of charges or assessments, and other fees and revenues (except as otherwise provided herein); the custody and disbursement of corporation funds and moneys and the deposit of the same in such bank or banks as the Board of Directors shall designate; the control over expenditures; and such other duties as the Board of Directors may, by regulation, provide.

THE DIRECTOR  
OF FINANCE



**ACCOUNTS AND  
RECORDS**

*Section 2.* Accounts shall be kept by the Department of Finance showing the financial transaction for all departments of the corporation. Forms for all such accounts shall be prescribed by the Director of Finance with the approval of the manager; and shall be adequate to record all cash receipts and disbursements, all revenues accrued and liabilities incurred, and all transactions affecting the acquisition, custody, and disposition of values, and to make such reports of the financial transactions and conditions of the city as may be required by law or regulations of the Board of Directors. Financial reports shall be prepared for each quarter and each fiscal year, and for such other periods as may be required by the manager, or the Board of Directors.

**ANNUAL  
BUDGET**

*Section 3.* Not later than one month before the end of each fiscal year the manager shall prepare and submit to the Board of Directors an annual budget for the ensuing year, based upon detailed estimates furnished by the several departments and other divisions of the corporation, according to a classification as nearly uniform as possible. The budget shall present the following information:

(a) An itemized statement of the appropriation recommended by the manager for current expenses and for permanent improvements for each department and board and each division thereof for the ensuing fiscal year, with comparative statements in parallel columns of the appropriations and expenditures for the current and next preceding fiscal year, and the increases or decreases in the appropriations recommended;

(b) An itemized statement of the charges or assessments required and of the estimated revenues of the corporation from all other sources for the ensuing fiscal year, with comparative statements in parallel columns of the revenues for the current and next preceding fiscal year, and of the increases or decreases estimated or proposed;

(c) A statement of the financial condition of the corporation and

(d) Such other information as may be required by the Board of Directors. Copies of the budget shall be available for distribution not later than two weeks after its submission to the Board of Directors; and a public hearing shall be given thereon by

the Board of Directors or a committee thereof before action by the Board of Directors.

*Section 4.* Not later than one week after the beginning of the fiscal year the Board of Directors shall pass an annual appropriation regulation, which shall be based on the budget submitted by the manager, except as provided in Article III hereof. The total amount of appropriations shall not exceed the estimated revenues of the corporation. Before the annual appropriation regulation has been passed, the Board of Directors, with the approval in writing of the manager, may make such appropriations for current department expenses, chargeable to the appropriations of the year when passed, in an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation is in force. No other liabilities shall be incurred by any officer or employee of the corporation, except in accordance with the provisions of the annual appropriation regulation or under continuing contracts and loans authorized under the provisions hereof or as otherwise provided herein. At any meeting after the passage of the appropriation regulation and after at least one week's public notice, the Board of Directors, by affirmative vote of four members thereof, may amend such regulation, so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues not included in the annual budget.

*Section 5.* On or before the 15th day of October, in each year the Board of Directors shall, by regulation, fix and establish the amount of the annual maintenance charge or assessment mentioned in Article I hereof, necessary to meet the appropriations made (less the estimated amount of revenue from other sources).

*Section 6.* Money may be borrowed, in anticipation of the receipts from maintenance charges or assessments during any fiscal year, by the issue of notes or certificates of indebtedness; but the aggregate amount of such loans at any time outstanding shall not exceed twenty (20%) per cent of the receipts from maintenance charges or assessments during the preceding fiscal year.

**APPROPRIATION  
REGULATIONS;  
TEMPORARY  
APPROPRIATIONS;  
TRANSFERS**

**FIXING THE  
ANNUAL  
MAINTENANCE  
CHARGES**

**TEMPORARY  
LOANS**

**COLLECTION  
OF MONIES  
AND CUSTODY**

**Section 7.** All charges and assessments, and fees accruing to the corporation shall be collected by officers of the department of finance. All moneys received by any officer or employee of the corporation for or in connection with the business of the corporation shall be paid promptly into the corporation treasury, and shall be deposited with such responsible banking institutions as furnish such security as the Board of Directors may determine and shall agree to pay the highest rate of interest; and all such interest shall accrue to the benefit of the corporation. The Board of Directors shall provide by regulation for the prompt and regular payment and deposit of all moneys as required by this section; provided, however, that all funds received on account of the Art Jury or Park and Recreation Board shall be kept in separate accounts subject to the respective order of said boards.

**CONTRACTS  
AND  
PURCHASES**

**Section 8.** No continuing contract (which involves the payment of money out of the appropriations of more than two years) except public utility franchises shall be made for a period of more than ten years; and no such contract shall be valid without public hearing thereon.

Any work or improvement costing more than one thousand (\$1000.00) dollars shall be executed by contract, except where a specific work or improvement is authorized by the Board of Directors based on detailed estimates submitted by the department authorized to execute such work or improvement. All contracts for more than one thousand dollars shall be awarded to the lowest responsible bidder, after public advertisement and competition as may be prescribed by regulation. But the manager shall have the power to reject all the bids and to advertise again; and all advertisement shall contain a reservation of this right.

**PAYMENT  
OF CLAIMS**

**Section 9.** Payments by the corporation shall be made only upon vouchers certified by the head of the appropriate department or other division of the corporation, and by means of warrants on the corporation treasury issued by the Director of Finance and countersigned by the manager. The Director of Finance shall examine all payrolls, bills and other claims and demands against the corporation and shall issue no warrants for payment unless he finds that the claim is in proper form, correctly com-

puted, and duly certified; that it is justly and legally due and payable; that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized; and that there is money in the corporation treasury to make payment. He may require any claimant to make oath as to the validity of a claim. He may investigate any claim, and for such purpose may examine witnesses under oath; and if he finds it is fraudulent, erroneous, or otherwise invalid, shall not issue a warrant therefor.

**Section 10.** Upon the death, resignation, removal or expiration of the term of any officer of the corporation, other than the Director of Finance, the Director of Finance shall make an audit and investigation of the accounts of such officer, and shall report to the manager and Board of Directors.

As soon as practicable after the close of each fiscal year an annual audit shall be made of all the accounts of all the corporation's officers; and upon the death, resignation, removal or expiration of the term of the Director of Finance, an audit shall be made of his accounts. Such audit shall be made under the provisions of any law for the inspection and audit of corporation accounts; and by qualified public accountants, selected by the Board of Directors, who have no personal interest, direct or indirect, in the financial affairs of the corporation or of any of its officers or employees. The Board of Directors may at any time provide for an examination or audit of the accounts of any officer or department of the corporation.

**Section 11.** All accounts and the records of every office and department of the corporation shall be open to the members at all reasonable times under reasonable regulations, except records and documents from which might be secured information which might defeat the lawful purpose of the officer or department withholding them from access to the members.

**Section 12.** No member of the Board of Directors nor any officer or employee of the corporation shall have a financial interest, direct or indirect, in any contract with the corporation, or be financially interested, directly or indirectly, in the sale to the corporation of any land, materials,

**AUDIT OF  
ACCOUNTS**

**PUBLICITY OF  
ACCOUNTS**

**NO PERSONAL  
INTEREST**



supplies or services, except on behalf of the corporation as a member of the Board of Directors, officer or employee; no officer or employee of a public utility operating on the Palos Verdes Rancho shall be a member of the Board of Directors. Any willful violation of this section shall constitute malfeasance in office, and any member of the Board of Directors, officer, or employee found guilty thereof, shall thereby forfeit his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with this corporation, shall render the contract involved voidable by the manager or the Board of Directors.

#### ARTICLE XIX BOOKS AND PAPERS

The books and such papers as may be placed on file by vote of the members or Directors shall, at all times in business hours, be subject to the inspection of the Board of Directors or of any member.

#### ARTICLE XX CERTIFICATE OF MEMBERSHIP

Certificates of membership shall be of such form and device as the Board of Directors may direct, and each certificate shall be signed by the President and by the Secretary, and express on its face its number, date of issuance, the description of the building sites for which, and the person to whom it is issued, and shall contain a statement that the property rights and interest in the corporation, evidenced by said certificates, shall be appurtenant to the building site therein described, and that the membership, represented by the certificate, shall be transferred only with a building site described in the certificate.

If a certificate shall be lost or destroyed,

the Board of Directors may order a new certificate issued upon such guaranty by the parties claiming the same as the Directors may deem satisfactory.

#### ARTICLE XXI

##### TRANSFER OF MEMBERSHIP

Upon satisfactory evidence of such transfer of a building site the membership of the transferor shall be marked "cancelled" on the books of the corporation as to the building site transferred, without requiring a surrender or cancellation of the transferor's certificate of membership and a new certificate of membership may thereupon be issued to such transferee.

If a certificate shall be lost or destroyed, the Board of Directors may order a new certificate issued upon such guaranty by the parties claiming the same as the Directors may deem satisfactory.

#### ARTICLE XXII

##### AMENDMENTS

The By-Laws may be repealed or amended or new By-Laws may be adopted at any meeting of the members by a vote representing two-thirds of all the said building sites owned by members, or by the Board of Directors when thereunto authorized at any meeting of the members, by a vote representing two-thirds of all the said building sites, or by the written assent of the record holders of the legal titles to two-thirds of all the said building sites.

#### ARTICLE XXIII

##### SEAL

The corporation shall have a common seal, consisting of a circle, having conveniently arranged on said seal the words, "PALOS VERDES HOMES ASSOCIATION, California, Incorporated May, 1923."

### WRITTEN ASSENT TO BY-LAWS

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, being the holders of more than two-thirds of the memberships of PALOS VERDES HOMES ASSOCIATION, a corporation under the laws of the State of California, and having its principal place of business in the City of Los Angeles, County of Los Angeles, in said State, hereby assent to the foregoing By-Laws contained on page 1 to page 27, both inclusive, of this "Book of By-Laws," and we hereby adopt the same as and for the By-Laws of said corporation.

[ 63 ]

IN WITNESS WHEREOF, we have hereunto subscribed our names this 25th day of June, 1923.

(Signed) JAY LAWYER,  
JOHN C. LOW,  
JAMES FREDERICK DAWSON,  
J. H. COVERLEY,  
M. V. BOAZ.

---

### CERTIFICATE TO BY-LAWS

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, being and constituting a majority of the Directors, and the Secretary of PALOS VERDES HOMES ASSOCIATION, a corporation under the laws of the State of California, and having its principal place of business in the City of Los Angeles, County of Los Angeles, in said State, do hereby certify and declare that the above and foregoing By-Laws set forth and contained on pages 1 to 27, both inclusive, of this "Book of By-Laws," were duly made and adopted as and for the By-Laws of said corporation, and do now constitute and are the By-Laws thereof.

IN WITNESS WHEREOF, we have hereunto subscribed our names this 25th day of June, 1923.

(Signed) JAY LAWYER,  
JOHN C. LOW,  
JAMES FREDERICK DAWSON,  
J. H. COVERLEY,  
M. V. BOAZ.

Attest:  
M. V. BOAZ, Secretary.



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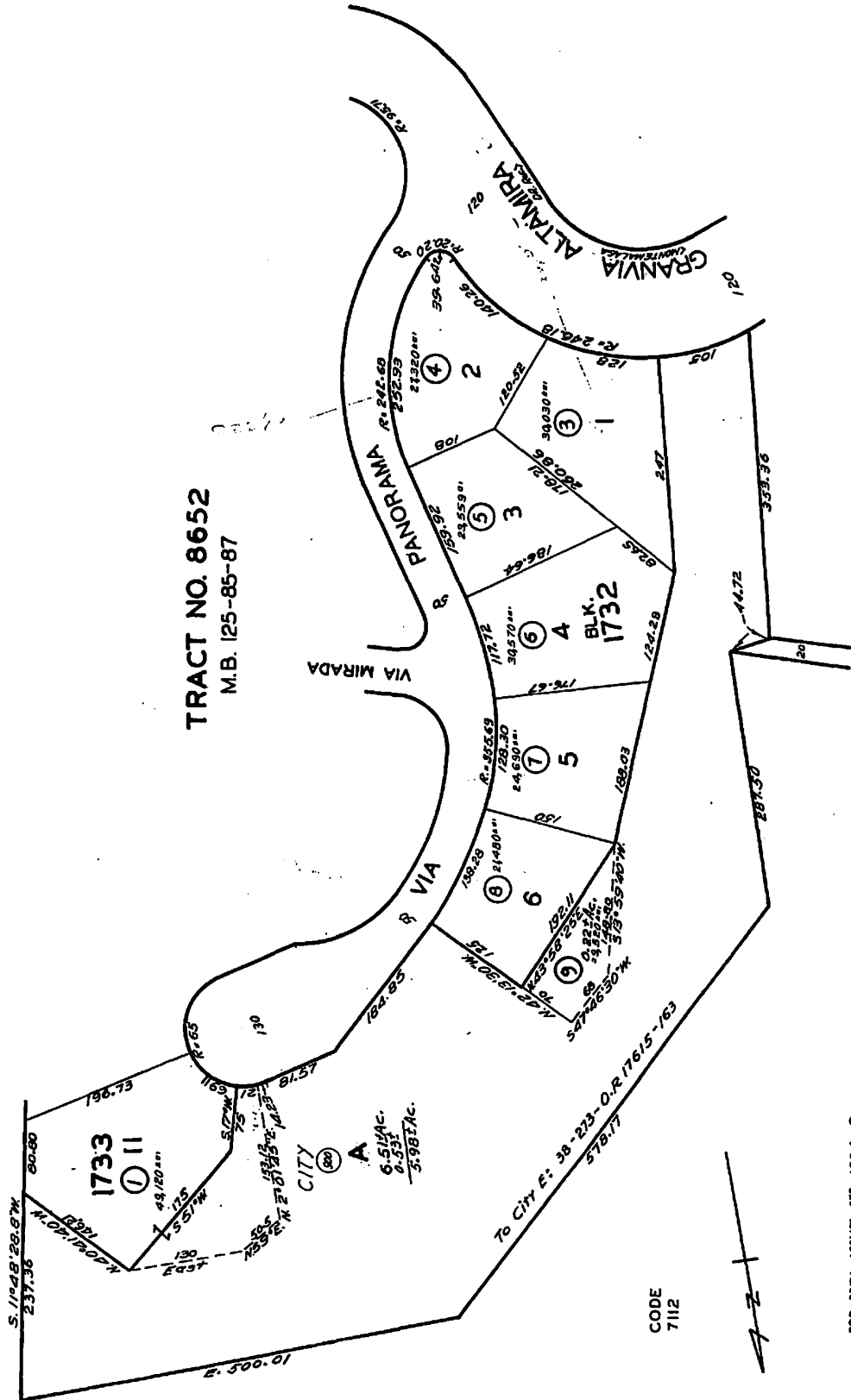
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REVISED  
8-5-58  
690210

7545 2  
SCALE 1" = 100'



ASSESSOR'S MAP  
PREPARED BY THE COUNTY OF LOS ANGELES

FOR PREV. ASSMT. SEE: 1604-2

CODE  
7112





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**20121327415**



Pages:  
0020

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

09/05/12 AT 08:00AM

FEES:	93.00
TAXES:	550.00
OTHER:	0.00
PAID:	643.00

**PCOR SURCHARGE \$20.00**



LEADSHEET



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004255022

SEQ:  
10

DAR - Title Company (Hard Copy)



**THIS FORM IS NOT TO BE DUPLICATED**

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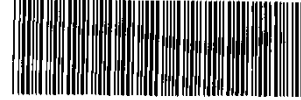
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RECORDING REQUESTED BY:  
FIRST AMERICAN TITLE COMPANY  
NATIONAL HOMEBUILDER SERVICES  
SUBDIVISION DEPARTMENT

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Thomas J. Lieb  
25550 Hawthorne Blvd.  
Torrance, CA 90505

09/05/2012



\*20121327415\*

4132274-50

APN: 7545-002-900

SPACE ABOVE THIS LINE FOR  
RECORDER'S USE

**DOCUMENTARY TRANSFER TAX**

\$ 350.00

Computed on the consideration or value of property  
conveyed; OR

Computed on the consideration or value less liens or  
encumbrances remaining at time of sale.

*[Signature]* First American Title  
Signature of Declarant or Agent determining tax Firm  
Name

**GRANT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the PALOS VERDES HOMES ASSOCIATION, a California corporation ("Grantor"), hereby GRANTS to THOMAS J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST U/DO MAY 2, 2012 ("Grantee"), the real property ("Property") in the County of Los Angeles, State of California, described on Exhibit "A" and shown on Exhibit "B," attached hereto and by this reference made a part hereof, together with all tenements and appurtenances thereunto belonging or in anywise appertaining.

**THIS DEED IS SUBJECT TO THE FOLLOWING EXPRESS CONDITIONS:**

1. Grantee acknowledges that the Property is subject to certain easements in favor of the City of Palos Verdes Estates ("City") and other conditions and restrictions as stated in the quitclaim deed transferring the Property from the City to the Grantor and the conditions, restrictions and reservations of record stated in Section 10 herein.
2. Unless expressly provided for herein, Grantee shall not construct any structure on the Property and the Property shall be restricted to open space. It is the intent of the parties, subject to compliance with the requirements for such development of accessory structures of the City and Grantor, that Grantee may construct any of the following: a gazebo, sports court, retaining wall, landscaping, barbeque, and/or any other uninhabitable "accessory structure," as defined by Palos Verdes Estates Municipal Code ("PVEMC") Section 18.32.010.D within the area described on Exhibit "C," attached hereto and by this

Mail Tax Statements to Return Address Above



reference made a part hereof, and shown as Area 3 on Exhibit "B." Grantee shall apply for approval of any such permitted structures by Grantor and the City in accordance with standard procedure and in conformance with applicable covenants, ordinances, and codes. Any such structure shall comply with any and all requirements of City, Grantor, and the Art Jury including but not limited to height, size, orientation, design, and setback. Grantee shall not perform, or allow others to perform, any act on or affecting the Property that is inconsistent with this paragraph.

3. Grantee shall keep and maintain the Property free of weeds and trash and shall provide landscaping in Area 3 that is compatible with adjoining properties and that is satisfactory to City. Grantee shall be solely responsible for such maintenance.
4. This Deed shall not cause the Property to be merged with any adjacent lot and any such merger shall be prohibited.
5. All terms and conditions in this Deed shall be binding upon Grantee and their successors and assigns. The benefits and burdens described herein are intended to and shall run with the land. Every person or entity who now or hereafter owns or acquires any right, title, or interest in and to any portion of the Property is and shall be conclusively deemed to have consented and agreed to the conditions stated herein, whether or not any reference to this Deed is contained in the instrument by which such party acquired an interest in the Property.
6. Grantee acknowledges and agrees that Grantor would not convey the Property without the conditions being set forth herein and that Grantee would not accept the conveyance without the statements of the parties' intent set forth herein. In the event of any violation by Grantee of said conditions, Grantor shall have the right, without posting bond or security, to enjoin such violation, to bring an action for specific performance of declaratory relief in a court of competent jurisdiction, to request that any improvements installed and/or maintained by Grantee on the Property be removed, or bring an action at law for damages. In the event a party brings an action to enforce or seek redress for breach of these conditions, the prevailing party in such action shall be entitled to its costs and reasonable attorneys' fees incurred in trial, on appeal or in petition for review, in addition to other appropriate relief.
7. No breach of the conditions stated herein shall entitle any person or entity to terminate the conditions or any of them, but such limitation shall not affect in any manner any other rights or remedies which any person or entity may have under this Deed by reason of any breach thereof.
8. Grantee, for itself, its successors and assigns, with respect to the Property, acknowledges and agrees to be bound by all of the terms and provisions of this Deed.
9. This Deed may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same

date.

10. This conveyance is made and accepted and said realty is hereby conveyed subject to conditions, restrictions and reservations of record, including but not limited to, that certain Declaration No. 1 - Declaration of Establishment of Basic Protective Restrictions, Conditions, Covenants, Reservations, Liens and Charges for Palos Verdes Estates recorded July 5, 1923 in Book 2360, page 231 of the Official Records of Los Angeles County (including all amendments thereto of record) (Declaration No. 1) and that certain Declaration No. 25 of Establishment of Local Protective Restrictions, Conditions, Covenants, Reservations, Liens and Charges for Tract 8562 Palos Verdes Estates recorded July 26, 1926, in Book 6052, page 86 et. seq. of Official Records of Los Angeles County (including all amendments thereto of record) (Declaration No. 25). It is the intent of the parties that the structures permitted under Section 2 hereof are permitted under the conditions, restrictions and reservations cited herein, subject to compliance with the application and approval requirements of Section 2.

IN WITNESS WHEREOF, Grantor has executed this instrument this 13 day of August 2012.

**GRANTOR:**

Palos Verdes Homes Association

By: Dale P. Hoffman  
Dale P. Hoffman

Agreed and accepted this 14 day of August 2012

**GRANTEE:**

Thomas J. Lieb, Trustee, the Via Panorama Trust u/do May 2, 2012

By: Thomas J. Lieb, Trustee  
Thomas J. Lieb



State of California )  
 )  
County of Los Angeles )

On August 13, 2012 before me, VICKIE KRONEBERGER, a Notary Public in and for said State, Dale P. Hoffman personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Vickie Kroneberger



(This area for notary stamp)

State of California )  
 )  
County of LOS ANGELES )

On Aug 14, 2012 before me, IRMA MARQUEZ, a Notary Public in and for said State, Thomas J. Lieb, Trustee, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Irma Marquez



(This area for notary stamp)

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
}

On August 13, 2012, before me, Vickie Kroneberger, a notary public, personally appeared Dale P. Hoffman, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Vickie Kroneberger



(This area for official notaries seal)

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.  
}

On August 14, 2012, before me, Irma Marquez, a notary public, personally appeared Thomas J. Lieb, Trustee, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(This area for official notaries seal)



STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

}  
} SS.  
}

7

On August 13, 2012, before me, Vickie Kroneberger, a notary public, personally appeared Dale P. Hoffman, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(This area for official notaries seal)

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

}  
} SS.  
}

On August 14, 2012, before me, Irma Marquez, a notary public, personally appeared Thomas J. Lieb, Trustee, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Irma Marquez



(This area for official notaries seal)

8

**EXHIBIT A  
PROPERTY LEGAL DESCRIPTION**



**EXHIBIT "A"****LEGAL DESCRIPTION OF PROPERTY**

THOSE PORTIONS OF THE FOLLOWING PARCELS: LOT A, TRACT 8652 OF THE MAP RECORDED IN MAP BOOK 125, PAGES 85-87, LOT 12, TRACT 26341 OF THE MAP RECORDED IN MAP BOOK 902, PAGES 98- 100 AND LOT A, TRACT 7540 OF THE MAP RECORDED IN MAP BOOK 104, PAGES 56-59, IN THE CITY OF PALOS VERDES ESTATES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 11, BLOCK 1733, TRACT 8652 OF THE MAP RECORDED IN MAP BOOK 125, PAGES 85-87, OF SAID COUNTY RECORDER, SAID POINT BEING ON THE RIGHT OF WAY OF VIA PANORAMA, A PUBLIC STREET AS SHOWN ON THE MAP OF SAID TRACT 8652, AND THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 65.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 17°00'16" WEST;

THENCE WESTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY, THROUGH A CENTRAL ANGLE OF 18°30'39", AN ARC DISTANCE OF 21.00 FEET, TO **TRUE POINT OF BEGINNING**;

THENCE CONTINUING WESTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY, THROUGH A CENTRAL ANGLE OF 12°32'37", AN ARC DISTANCE OF 14.23 FEET (C1);

THENCE SOUTH 75°57'00" WEST, 81.57 FEET (L1);

THENCE SOUTH 47°46'30" WEST, 30.82 FEET (L2);

THENCE DEPARTING FROM SAID RIGHT OF WAY NORTH 13°38'09" WEST, 170.82 FEET (L3);

THENCE NORTH 31°07'01" EAST, 141.69 FEET (L4);

THENCE NORTH 67°23'03" EAST, 144.69 FEET (L5) TO A SOUTHERLY LINE OF SAID LOT A, TRACT 7540;

THENCE CONTINUING NORTH 67°23'03" EAST, 53.61 FEET (L6);

THENCE SOUTH 63°38'17" EAST, 46.43 FEET (L7) TO THE NORTHERLY LINE OF SAID LOT A, TRACT 8652;

THENCE CONTINUING SOUTH 63°38'17" EAST, 109.59 FEET (L8);

THENCE SOUTH 44°16'41" EAST, 55.79 FEET (L9);

THENCE SOUTH 23°40'31" EAST, 42.75 FEET (L10) TO THE WESTERLY LINE OF SAID LOT 12, TRACT 26341;

THENCE CONTINUING SOUTH 23°40'31" EAST, 18.58 FEET (L11);

THENCE SOUTH 9°29'24" EAST, 55.29 FEET (L12);

THENCE SOUTH 42°31'34" WEST, 28.99 FEET (L13);

THENCE SOUTH 11°48'21" WEST, 135.81 FEET (L14);

THENCE NORTH 77°50'33" WEST, 7.82 FEET (L15);

THENCE SOUTH 11°48'21" WEST, 121.49 FEET (L16);

THENCE NORTH 78°56'11" WEST, 8.24 FEET (L17) TO SOUTHEAST CORNER OF LOT 10, BLOCK 1733 OF SAID TRACT 8652;

EXHIBIT "A"

1 OF 2

THENCE ALONG THE EASTERN LINE OF SAID LOT 10 AND LOT 11, BLOCK 1733 OF SAID TRACT 8652, NORTH 11°48'21" EAST, 242.08 FEET (L18) TO THE NORTHEASTERLY CORNER OF SAID LOT 11;

THENCE NORTH 40°41'40" WEST, 146.21 FEET (L19) ALONG THE NORTHEASTERLY LINE OF SAID LOT 11;

THENCE NORTH 90°00'00" WEST, 130.00 FEET (L20) ALONG THE NORTHERN LINE OF A PORTION OF LOT A, TRACT 8652, AS PER DEED RECORDED IN INSTRUMENT NO. 20071588481 ON JULY 3, 2007 O.R.;

THENCE SOUTH 59°00'00" WEST, 50.50 FEET (L21) ALONG THE NORTHWESTERLY LINE OF SAID PORTION OF LOT A;

THENCE SOUTH 2°01'45" WEST, 153.12 FEET (L22) ALONG THE WESTERLY LINE OF SAID PORTION OF LOT A, TO THE TRUE POINT OF BEGINNING.

CONTAINS 77,349 SQUARE FEET, MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART  
HEREOF.

PREPARED BY BOLTON ENGINEERING CORPORATION:

Ross N. Bolton      Aug 30, 2012  
Ross N. Bolton, R.C.E. 26120      DATE



**EXHIBIT B  
PROPERTY MAP**



**EXHIBIT "B"**  
**AREA A**  
**LEGAL DESCRIPTION OF AREA A**  
**SHEET 1 OF 7**

SEE SHEET 2  
FOR DETAILS

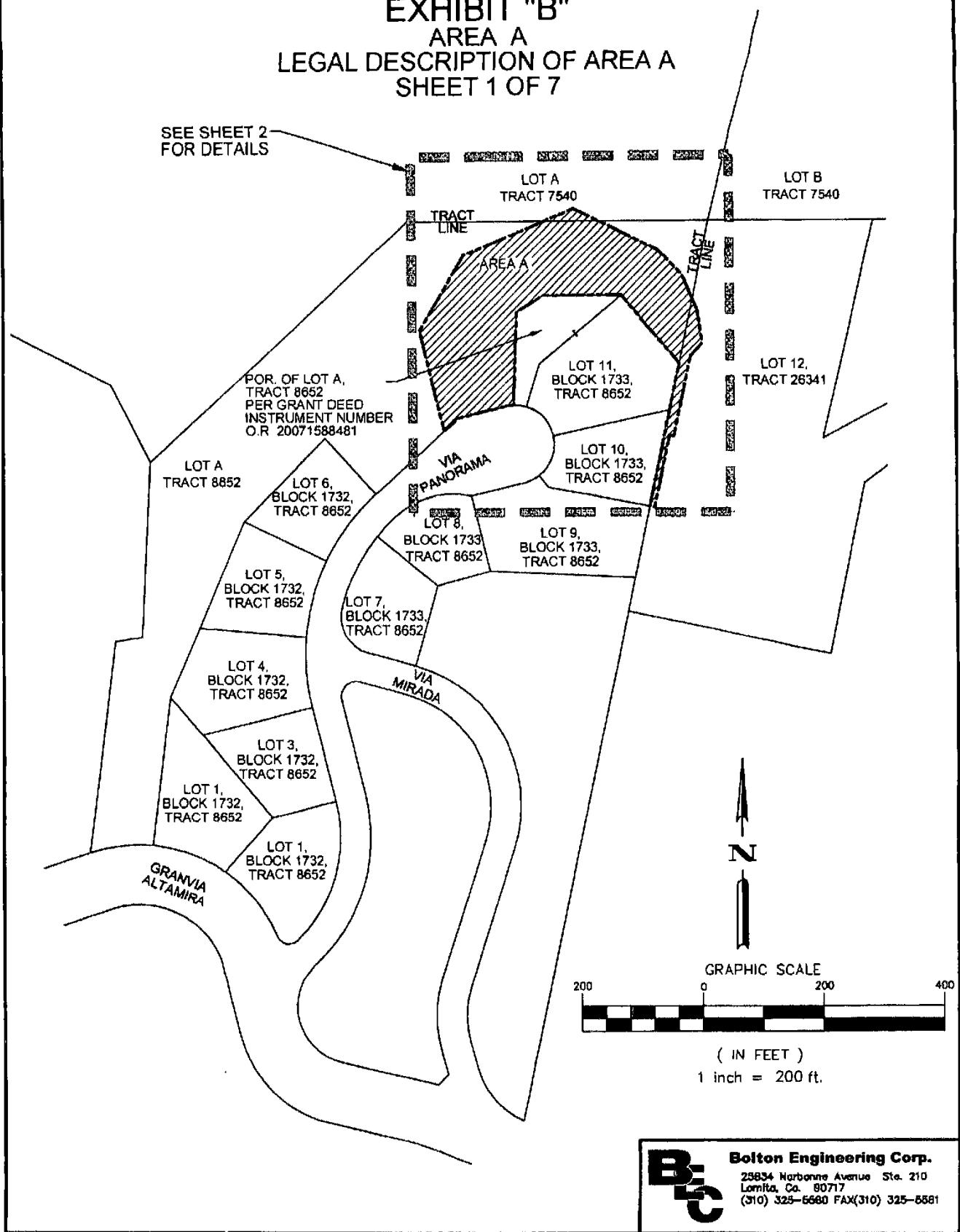
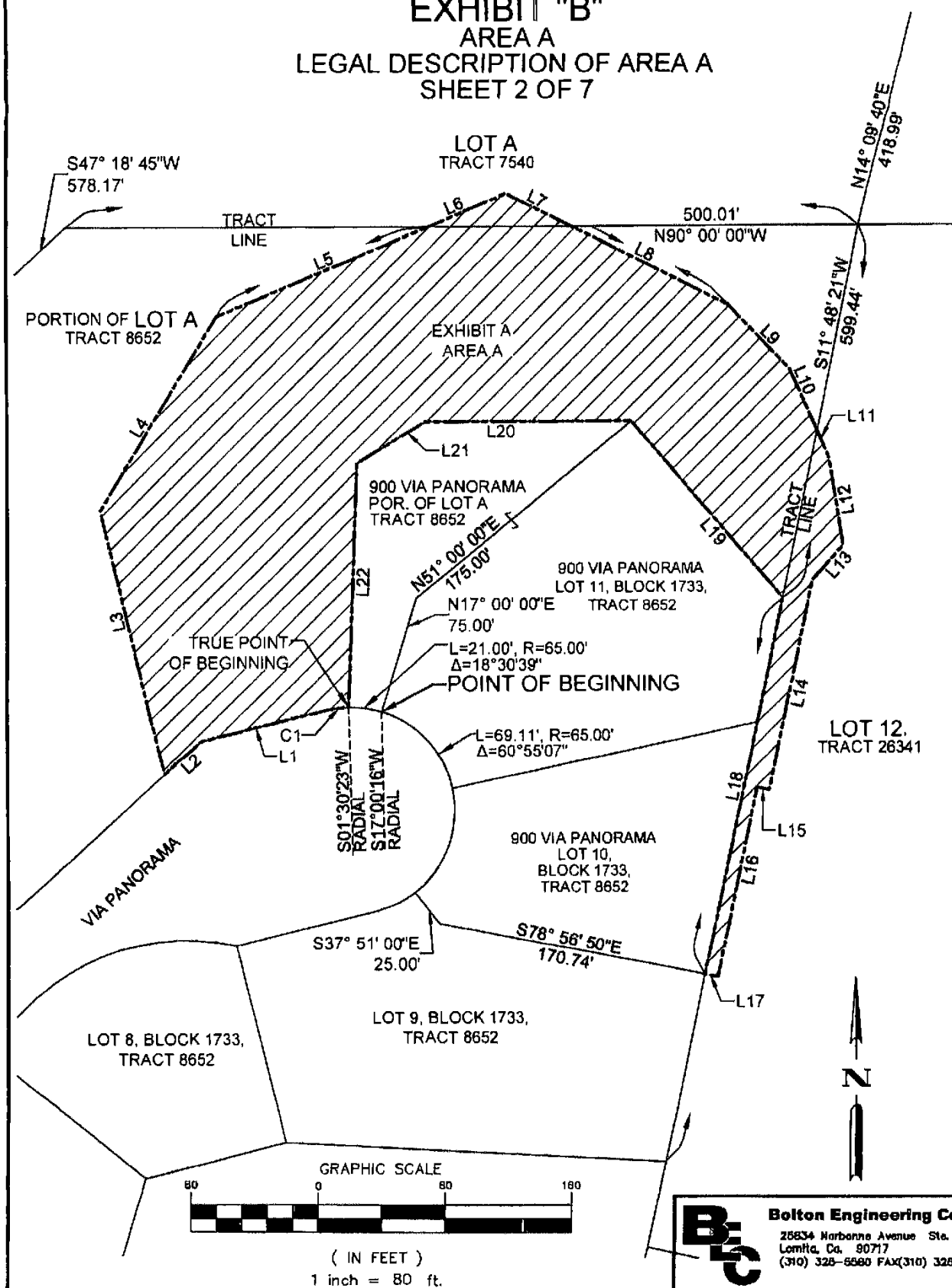


EXHIBIT "B"  
AREA A  
LEGAL DESCRIPTION OF AREA A  
SHEET 2 OF 7



14

**EXHIBIT "B"**  
**AREA A**  
**LEGAL DESCRIPTION OF AREA A**  
**SHEET 3 OF 7**

Parcel Table- Area A			
Line #/Curve #	Length	Direction/Delta	Radius
C1	14.23'	012°32'37"	65.00'
L1	81.57'	S75° 57' 00"W	
L2	30.82'	S47° 46' 30"W	
L3	170.82'	N13° 38' 09"W	
L4	141.69'	N31° 07' 01"E	
L5	144.69'	N67° 23' 03"E	
L6	53.61'	N67° 23' 03"E	
L7	46.43'	S83° 38' 17"E	
L8	109.59'	S63° 38' 17"E	
L9	55.79'	S44° 16' 41"E	
L10	42.75'	S23° 40' 31"E	
L11	18.58'	S23° 40' 31"E	
L12	55.29'	S09° 29' 24"E	
L13	28.99'	S42° 31' 34"W	
L14	135.81'	S11° 48' 21"W	
L15	7.82'	N77° 50' 33"W	
L16	121.49'	S11° 48' 21"W	
L17	8.24'	N78° 56' 11"W	
L18	242.08'	N11° 48' 21"E	
L19	146.21'	N40° 41' 40"W	
L20	130.00'	N90° 00' 00"W	
L21	50.50'	S59° 00' 00"W	
L22	153.12'	S02° 01' 45"W	

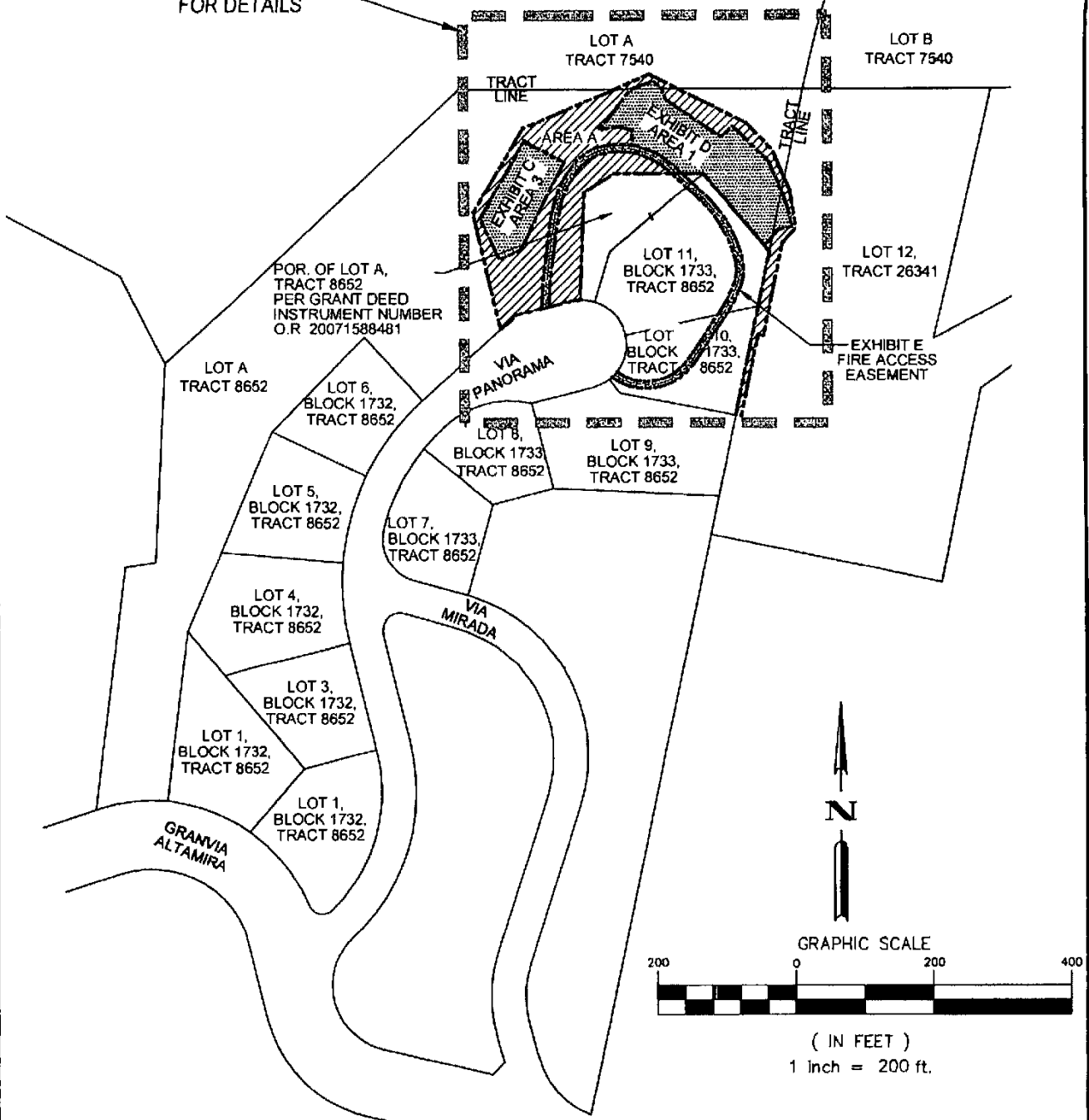


**Bolton Engineering Corp.**  
 25834 Norbonne Avenue Ste. 210  
 Lomita, Ca. 90717  
 (310) 325-6580 FAX(310) 325-6581



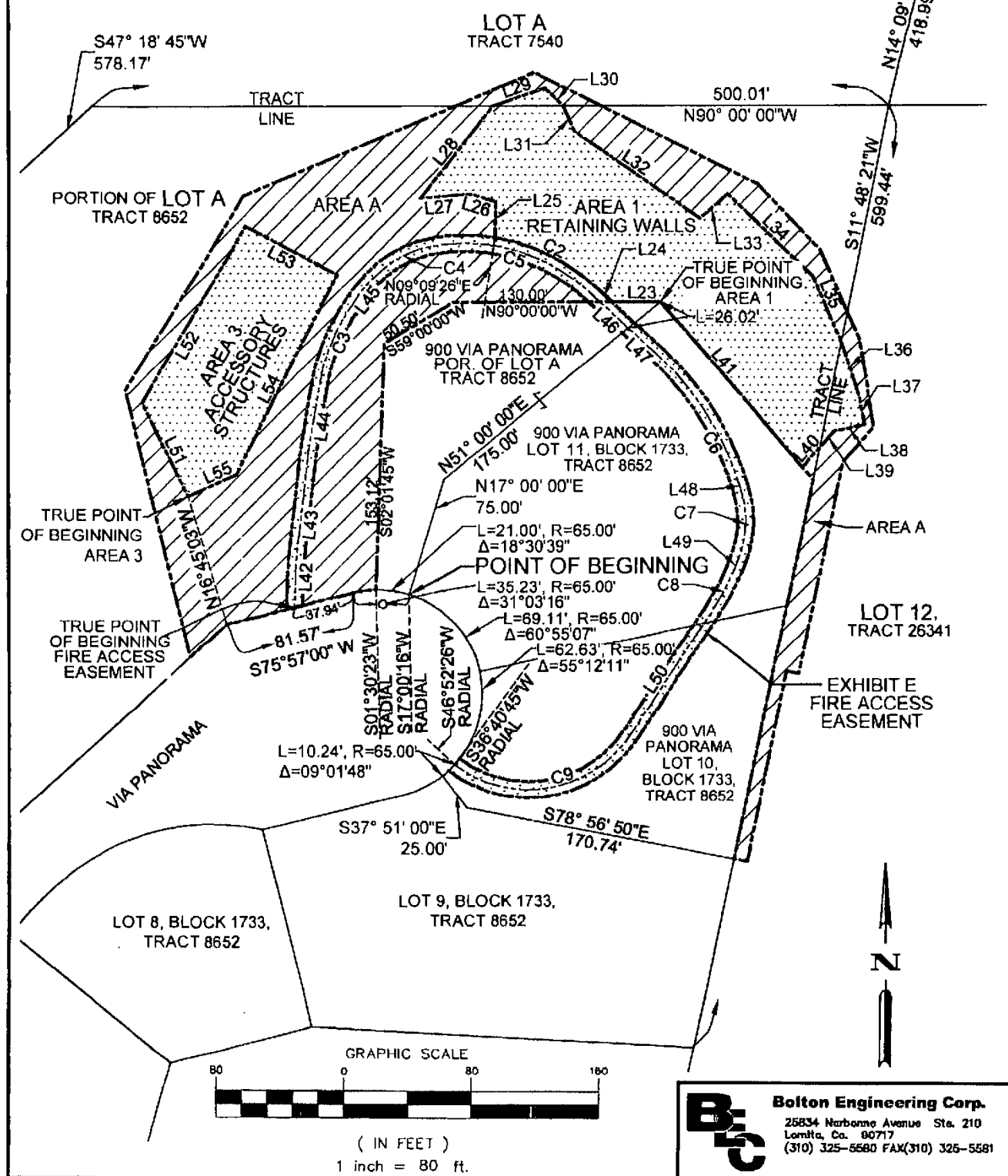
# EXHIBIT "B" LEGAL DESCRIPTION OF ADDITIONAL AREAS SHEET 4 OF 7

SEE SHEET 5  
FOR DETAILS



**BEC** **Bolton Engineering Corp.**  
28834 Norborne Avenue Ste. 210  
Lomita, Ca. 90717  
(310) 328-8580 FAX(310) 328-5581

EXHIBIT "B"  
LEGAL DESCRIPTION  
OF ADDITIONAL AREAS  
SHEET 5 OF 7



**EXHIBIT "B"**  
**LEGAL DESCRIPTION**  
**OF ADDITIONAL AREAS**  
**SHEET 6 OF 7**

Parcel Table- Area 1: Retaining Walls			
Line #/Curve #	Length	Direction/Delta	Radius
L23	30.50'	N90° 00' 00"W	
L24	14.31'	N46° 51' 25"W	
C2	70.90'	033° 51' 03"	120.00'
L25	21.80'	N01° 28' 14"E	
L26	17.17'	N73° 44' 50"W	
L27	31.15'	S85° 10' 03"W	
L28	73.26'	N38° 54' 47"E	
L29	34.44'	N71° 43' 24"E	
L30	15.72'	S46° 36' 20"E	
L31	17.27'	S23° 22' 57"E	
L32	95.37'	S55° 41' 39"E	
L33	22.70'	N48° 56' 32"E	
L34	73.24'	S46° 33' 00"E	
L35	45.24'	S23° 13' 00"E	
L36	35.63'	S18° 30' 58"E	
L37	17.79'	S11° 06' 09"E	
L38	20.22'	S78° 08' 50"W	
L39	12.97'	S41° 19' 15"W	
L40	16.83'	S41° 19' 15"W	
L41	135.76'	N40° 41' 40"W	



**Bolton Engineering Corp.**  
 28834 Narbonne Avenue Ste. 210  
 Lomita, Ca. 90717  
 (310) 328-8880 FAX(310) 328-8881



**EXHIBIT "B"**  
**LEGAL DESCRIPTION**  
**OF ADDITIONAL AREAS**  
**SHEET 7 OF 7**

Parcel Table- Fire Access Easement			
Line #/Curve #	Length	Direction/Delta	Radius
L42	29.17'	N02° 04' 55"E	
L43	69.90'	N06° 34' 58"E	
L44	38.76'	N09° 36' 03"E	
C3	62.18'	026°23'26"	135.00'
L45	5.00'	N35° 59' 29"E	
C4	53.82'	044°03'01"	70.00'
C5	106.31'	052°57'59"	115.00'
L46	33.00'	S46° 59' 31"E	
L47	26.08'	S46° 59' 31"E	
C6	94.11'	029°08'47"	185.00'
L48	3.60'	S17° 50' 44"E	
C7	45.26'	039°53'30"	65.00'
L49	6.91'	S22° 02' 45"W	
C8	29.79'	011°22'38"	150.00'
L50	90.67'	S33° 25' 23"W	
C9	126.64'	093°15'22"	77.80'

Parcel Table- Area 3: Accessory Structures			
Line #/Curve #	Length	Direction/Delta	Radius
L51	64.31	N26° 27' 12"W	
L52	128.00	N30° 04' 46"E	
L53	65.00	S62° 26' 47"E	
L54	139.90	S26° 45' 41"W	
L55	32.96	S66° 06' 05"W	



**Bolton Engineering Corp.**  
 25834 Norbonne Avenue Ste. 210  
 La Jolla, Ca. 92037  
 (310) 325-5680 FAX (310) 325-5681

**EXHIBIT C- ACCESSORY STRUCTURES  
AREA 3 LEGAL DESCRIPTION**

28

## EXHIBIT "C"

### AREA 3 ACCESSORY STRUCTURES

THOSE PORTIONS OF LOT A, TRACT 8652 OF THE MAP RECORDED IN MAP BOOK 125, PAGES 85-87 IN THE CITY OF PALOS VERDES ESTATES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 11, BLOCK 1733, TRACT 8652 OF THE MAP RECORDED IN MAP BOOK 125, PAGES 85-87, OF SAID COUNTY RECORDER, SAID POINT BEING ON THE RIGHT OF WAY OF VIA PANORAMA, A PUBLIC STREET AS SHOWN ON THE MAP OF SAID TRACT 8652, AND THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 65.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 17°00'16" WEST;

THENCE WESTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY, THROUGH A CENTRAL ANGLE OF 31°03'16", AN ARC DISTANCE OF 35.23 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY SOUTH 75°57'00" WEST, 81.57 FEET;

THENCE DEPARTING FROM SAID RIGHT OF WAY NORTH 16°45'03" WEST 83.37 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE NORTH 26°27'12" WEST, 64.31 FEET (L51);

THENCE NORTH 30°04'46" EAST, 128.00 FEET (L52);

THENCE SOUTH 62°26'47" EAST, 65.00 FEET (L53);

THENCE SOUTH 26°45'41" WEST, 139.90 FEET (L54);

THENCE SOUTH 66°06'05" WEST, 32.96 FEET (L55) TO THE **TRUE POINT OF BEGINNING**.

CONTAINS 10,280 SQUARE FEET, MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED BY BOLTON ENGINEERING CORPORATION:

  
Ross N. Bolton, R.C.E. 26120

Aug 30, 2012  
DATE



EXHIBIT "C"  
1 OF 1



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 and Defendant

7 **PALOS VERDES HOMES ASSOCIATION**

8  
9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 **CITIZENS FOR ENFORCEMENT OF**  
13 **PARKLAND COVENANTS, an**  
unincorporated association; JOHN  
14 **HARBISON, an individual,**

15 **Plaintiff and Petitioners,**

16 **vs.**

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

20 **Defendants and Respondents.**

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

24 **Defendants and Real Parties in**  
25 **Interest.**

**CASE NO. BS142768**

[Assigned to Hon. Joanne O'Donnell, Dept. 86]

**DEFENDANT AND RESPONDENT**  
**PALOS VERDES HOMES**  
**ASSOCIATION'S REPLY TO**  
**OPPOSITION TO DEMURRER,**  
**MEMORANDUM OF POINTS AND**  
**AUTHORITIES**

**Hearing Date:** January 3, 2014

**Time:** 1:30 p.m.

**Dept.:** 86

**Action filed:** May 13, 2013

**Trial Date:** June 20, 2014

1 **I. INTRODUCTION**

2 This is not a writ of mandamus case, as the Palos Verdes Homes Association (the  
3 “Association”) clearly is acting within its discretion in deciding whether or not to exercise its right  
4 of reversion of property under the Historical Deed Restrictions.<sup>1</sup> Notwithstanding what Petitioners  
5 Citizens for Enforcement of Parkland Covenants and John Harbison (collectively herein “CEPC  
6 and Harbison” or “Petitioners”), argue in their Opposition, Petitioners continue to fail to establish  
7 any ministerial duty required of the Association. Petitioner’s Opposition here repeats the same  
8 arguments and case law as its earlier Opposition to the original Demurrer, and the Demurrer  
9 should again be sustained, this time without leave to amend. The Opposition ignores the clear  
10 provisions in the Historical Deed Restrictions which directly contradict Petitioners’ allegations  
11 that the Association has the affirmative duty to exercise its reversion rights, or that somehow the  
12 Association violated the deed restrictions in entering in the settlement agreement/MOU and  
13 conveying Area A to Real Parties Robert Lugliani et. al. (collectively “Lugliani”). As shown in  
14 detail below, longstanding statute and case law is clear that Petitioners’ claimed ministerial duty of  
15 reversion is, as a matter of law, only the right or possibility of reversion, which is discretionary  
16 and therefore cannot be compelled—notwithstanding use of the word “shall.” The power of  
17 reversion (now called termination) is, as a matter of law, discretionary. The Opposition seeks to  
18 add new facts from newly attached documents (*See* Exhibit A to Request for Judicial Notice in  
19 Support of Opposition), which are not part of the Amended Petition. Moreover, the new facts  
20 actually add nothing new, and cannot save the defective pleading. Although Petitioners argue that  
21 the new documents show a two-thirds voting requirement, the actual exhibit (restrictions for a  
22 different tract number) clearly states that the two-thirds voting requirement only applies to specific  
23 zoning and building restrictions in Articles IV and V, which have no applicability to this case.

24  
25  
26  
27  
28 <sup>1</sup> Historical Deed Restrictions is defined in the Association’s Demurrer, p. 3, fn. 1.

1 **II. ANALYSIS**

2 **A. The Exhibits Attached to the Amended Petition Clearly State That the**  
3 **Association Has Discretion**

4 The Opposition continues to ignore that this Demurrer is not about whether the Association  
5 properly exercised its discretion, but rather, is about whether the Amended Petition alleges  
6 sufficient facts to show that the Association has the affirmative duties CEPC and Harbison claim it  
7 has and upon which Petitioners seek a writ of mandamus.

8 Notwithstanding anything in the Opposition, the exhibits attached to the Amended Petition  
9 still contradict Petitioners' allegation that the Association has an affirmative duty to exercise its  
10 reversionary rights, or that the Association somehow violated the deed restrictions in entering into  
11 the settlement agreement/MOU and conveying Area A to Real Parties Lugliani. In its Amended  
12 Petition, Petitioners quote language from the same exhibits attached to the original Petition that,  
13 "The 1925 and 1928 deeds demonstrate that the very purpose of the creation of the  
14 ASSOCIATION was to 'maintain the parks...and to perpetuate the restrictions.'" (Amended  
15 Petition, p. 16:10-12, citing Exhibit 1, p. 7.) That language, however, must be read together with  
16 the other express powers of the Association to "convey, sell...or otherwise encumber...for public  
17 use and/or otherwise dispose of, real...property..." and the "right and power to...dispose of parks,  
18 parkways, playgrounds, open space and recreation areas..." (Amended Petition, Exhibit 1, pp.28-  
19 29 of 77.) Petitioners ignore the clear statements that the power to dispose of park and open space  
20 clearly grants the Association the authority to convey Area A to Real Parties Lugliani, particularly  
21 when the purpose of that conveyance is to accomplish an exchange for more useful parkland.

22 Exhibit 1 to the Amended Petition grants the Association the "power of control,  
23 interpretation, construction, consent, decision, determination, modification, amendment,  
24 cancellation...and/or enforcement of [deed restrictions]" (Amended Petition, Exhibit 1, p.30 of  
25 77.) The Association exercised its discretion to interpret the deed restrictions in the settlement  
26 agreement as follows: "As of the date of transfer of Area A, the Homes Association represents  
27 and warrants to Property Owners that the condition of Area A does not violate any recorded  
28 covenant, condition or declaration enforceable by the Homes Association, which could allow the



1 exercise of any reversionary interest to the Homes Association in Area A.” (MOU, Article III,  
2 sub. E. Amended Petition, Exhibit 4, p. 7 of 19.) Moreover, the settlement agreement clearly  
3 states that the Association has the right, but not the obligation, to exercise its reversionary rights.

4 Furthermore, Section 11 of Exhibit 1 to the Amended Petition expressly grants the  
5 association the right to interpret or enforce the deed restrictions and the Association’s  
6 interpretation “shall be final and conclusive upon all interested parties.” (Amended Petition,  
7 Exhibit 1, p. 50 of 77.)

8 In *Springmeyer v. City of South Lake Tahoe* (1982) 132 Cal.App.3d 375, 380- 382, a case  
9 involving a claimed automatic reversion, the court held that “[a] provision relied upon for  
10 reversion must use language that leaves no doubt of an intention to work a forfeiture upon the  
11 occurrence of the declared condition (citation omitted)... ‘such conditions are not favored in law  
12 because they tend to destroy estates, and no condition in a deed relied on to create a condition  
13 subsequent will be so interpreted if the language of the provision will bear any other reasonable  
14 construction.’” (*Id.* at 380).<sup>2</sup> (*See also* Cal. Civ. Code § 1442.) The language of a deed is strictly  
15 construed against forfeiture and will not be interpreted as a condition subsequent if any other  
16 reasonable construction is possible. *See Sanders v. East Bay Mun. Utility Dist.* (1993) 16  
17 Cal.App.4<sup>th</sup> 125, 130, 132-133.

18 If the court here were to accept the Opposition’s argument that the Association has the  
19 mandatory duty to exercise its reversionary interest, then the provisions identified in the Demurrer  
20 and above in the Historical Deed Restrictions (the discretion to convey property, interpret and  
21 enforce the restrictions) would have no meaning or purpose.

22 The Association clearly has discretion, and no ministerial duty exists, and the Demurrer  
23 should be sustained without leave to amend.

24  
25  
26 <sup>2</sup> In *Springmeyer*, 132 Cal. App. 3d at 380, fn 3, the court said regarding reversion. “Automatic  
27 reversion is a troublesome doctrine of dubious value. The authority for it in California law is  
28 sparse, with the exception of oil and gas leases. (See, e.g. *Dabney v. Edwards* (1935) 5 Cal. 2d 1,  
53 P. 2d 962, 103 A.L.R. 822]. That it can be extended beyond this case [oil and gas leases] is  
questionable.”

1           B.     The Alleged Duty of Reversion is Discretionary As a Matter of Law

2           The Amended Petition, in paragraphs 32 and 34 (p.16), alleges that the Association has a  
3 mandatory duty to exercise its reversionary rights. See also the prayer for relief for the Third  
4 Cause of Action (Amended Petition, p. 25).

5           Petitioner ignores longstanding statutory and case law, which clearly states that the power  
6 of reversion is discretionary as a matter of law.

7           The future interest retained by a grantor who conveys a fee simple subject to a restriction  
8 in the form of a condition subsequent is a power of termination regardless of whether the power is  
9 characterized in the instrument that creates or evidences it as a power of termination, right of entry  
10 or re-entry, right of possession or repossession, reserved power of revocation , or otherwise (Cal.  
11 Civ. Code § 885.010 (a)). Civ. Code § 885.010 was enacted in 1982 as part of a substantial  
12 revision of the law related to reversionary interests.

13           Cal. Civil Code §885.010(a)(1) states:

14                     ‘Power of termination’ means **the power to terminate a fee simple**  
15                     estate in real property to enforce a restriction in the form of a  
16                     condition subsequent to which the fee simple estate is subject,  
17                     whether the power is characterized in the instrument that creates or  
18                     evidences it as a power of termination, right of entry or reentry, right  
                      of possession or repossession, reserve power of revocation, or  
                      otherwise, and includes a possibility of reverter that is deemed to be  
                      and is enforceable as a power of termination pursuant to Section  
                      885.020. (Emphasis added.)

19           Cal. Civ. Code §791 states, “[w]henver the right of reentry is given to a grantor or a lessor  
20 in any grant or lease or otherwise, such reentry **may be made** at any time after the right has  
21 accrued...” (Emphasis added.)

22           Cal Civil Code §793 states, “[a]n action for the possession of real property leased or  
23 granted, with a right of re-entry, **may be maintained** at any time, after the right to re-enter has  
24 accrued, without the notice prescribed in Section [791].” (Emphasis added)

25           In *People ex rel. Department of Public Works v. Los Angeles* (1960) 179 Cal.App.2d 558,  
26 570-572, the deed in that case (an older deed similar to this case), provided that the lands are “[t]o  
27 be used as a public park...And this gift and grant is made, and said property is hereby  
28 conveyed...upon the further condition that the name of said park now established by ordinance of



1 said city, to wit, 'Griffith Park' be continued as the official name and designation of said  
2 park...and if said city... shall any time change the official name of said park...then the lands  
3 hereby conveyed shall immediately...revert to said parties of the first part or their heirs." (*Id.* at  
4 570.)

5 The Court held as follows:

6 The words "upon condition" are common to, and manifest the intent  
7 to create an estate in fee simple subject to a condition subsequent  
8 (*Rest., Property*, § 45, p. 140), the effect of which is to convey the  
9 entire estate; but upon the occurrence of the condition imposed, **to**  
10 **give the holder of the reversionary interest the right to reenter**  
11 **and declare the termination of the estate--if no reentry is made**  
12 the estate continues. A similar description is found in a deed  
13 conveying lands to the city of Long Beach "upon the condition" they  
14 be used exclusively as and for a public park and "upon the further  
15 condition" that no buildings or structures be erected on the premises  
16 that would obstruct the view of the Pacific Ocean from lots north of  
17 and opposite the property (*Taylor v. Continental Southern Corp.*,  
18 131 Cal. App. 2d 267 [280 P.2d 514]). Holding the instrument to be  
19 a conveyance upon a condition subsequent, the court stated at page  
20 274: "... **the mere possibility of forfeiture of title for breach of**  
21 **condition subsequent could not affect that vested interest, not**  
22 **unless or until the owner of the reversionary right has invoked**  
23 **the condition by reentering** or suing in some form for declaration  
24 of termination of the grantee's title"; and relative to the right of  
25 reentry: "... when the grantor conveys the fee simple on condition  
26 subsequent, he has no actual estate remaining with him. The grantee  
27 takes the entire estate of the grantor, and unless he breaches the  
28 condition is in the same position as an owner in fee simple absolute.  
The interest of the grantor in such case is not, strictly speaking, a  
residue of the estate left in him; **it is merely a right or power to**  
**terminate the estate of the grantee** and retake the same, if there is  
a breach of condition (Citations). (P. 275.) (*Id.* at 571) (Emphasis  
added.)

21 Restatement Property § 45 states: "[a]n estate in fee simple subject to a condition  
22 subsequent is created by any limitation which, in an otherwise effective conveyance of land,  
23 (a) creates an estate in fee simple; and (b) provides that upon the occurrence of a stated event the  
24 conveyor or his successor in interest **shall have the power to terminate** the estate so created.  
25 (Emphasis added.)

26 The leading California real estate treatise, *Miller & Starr, Cal. Real Estate* (3<sup>rd</sup> Edition  
27 2011) §9.8 states: "[a]n estate in fee simple subject to a condition subsequent does not terminate  
28 automatically upon the happening of the condition expressed in the grant. The person having the



1 power of termination must exercise the right. Even if the stated condition occurs, **the estate is**  
2 **divested if, and only if, the grantor elects to exercise the power of termination.**" (Emphasis  
3 added.) (citing *People ex rel. Department*, 179 Cal.App.2d at 570-572); *see also Taylor v.*  
4 *Continental Southern Corp.* (1955) 131 Cal.App.2d 267, 274-277.

5 Petitioners' Opposition misleads in arguing the meaning of the term "shall," as the clear  
6 statute and case law holds that in all circumstances, use of the word "shall" or otherwise, the  
7 power of reversion is a discretionary right that may be exercised. Similarly, Petitioners discussion  
8 of the fact specific *Welwood* case over two pages of the Opposition is misplaced.<sup>3</sup> *Welwood* does  
9 not contradict the longstanding statute and case law that reversion is discretionary. Moreover,  
10 *Welwood* held that the City had considerable discretion when acting for a library purpose  
11 including removing sections of the library and conveying easements over library property, with  
12 the only limitation being that the City cannot act "primarily for a non library purpose." (*Welwood*,  
13 215 Cal. App. 3d at 1016). Here, under the clear terms of the settlement agreement/MOU, the  
14 parties are preserving the more beneficial parkland use on parcels C and D. (See MOU Recitals,  
15 Amended Petition, Exhibit 4, p. 2 of 19)

16 For this reason as well, the Demurrer should be sustained without leave to amend.

17 C. **The Reference to a Two-Thirds Voting Requirement in Newly Added**  
18 **Restrictions Only Applies To Certain Specific Zonign and Building**  
19 **Restrictions, Which Are Not Applicable Here**

20 First, Petitioners admit that the Historical Deed Restrictions attached to the Amended  
21 Petition are only applicable to Tract 6888, which does not include the subject property. (See  
22 Opposition p.2, fn. 1) Petitioners are now asking for judicial notice of new and different deed  
23 restrictions, which are not actually part of the Amended Petition, which is admittedly improper.  
24 (See Exhibit A to Request for Judicial Notice in Support of Opposition.) The court, however,  
25 should not let Petitioners again amend their pleading, because the two-thirds voting requirement in  
26 \_\_\_\_\_

27 <sup>3</sup> *Save the Welwood Murray Memorial Library Com. V. City Council* (1989) 215 Cal. App. 3d  
28 1003.

1 the newly attached restrictions does not by its express terms apply in this case. The new deed  
2 restrictions attached as Exhibit A to the Request for Judicial Notice specifically state that the two-  
3 thirds vote requirement applies only to the "conditions....set forth in Articles IV and V, hereof..."  
4 (See page 45 of 76 of Exhibit A to Request for Judicial Notice.) Review of Articles IV and V  
5 (pages 32 and 43 of 76) shows that on their face they apply to only to very specific zoning  
6 restrictions (Section IV) and specific miscellaneous building restrictions (Section V), which do not  
7 apply in this case.

8 **III. CONCLUSION**

9 For the reasons stated in the Demurrer and this Reply, the Demurrer should be sustained  
10 without leave to amend.

11  
12 DATED: December 26, 2013

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

13  
14 By: 

15 Brant H. Dveirin

16 Attorneys for Respondent and Defendant PALOS  
17 VERDES HOMES ASSOCIATION  
18  
19  
20  
21  
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1 **CALIFORNIA STATE COURT PROOF OF SERVICE**

2 File No. 50013.1840

3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 At the time of service, I was over 18 years of age and not a party to the action. My  
5 business address is 221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012.

6 On December 26, 2013, I served the following document(s): **DEFENDANT AND**  
7 **RESPONDENT PALOS VERDES HOMES ASSOCIATION'S REPLY TO OPPOSITION**  
8 **TO DEMURRER, MEMORANDUM OF POINTS AND AUTHORITIES**

9 I served the documents on the following persons at the following addresses (including fax  
10 numbers and e-mail addresses, if applicable):


11 **SEE ATTACHED SERVICE LIST**

12 The documents were served by the following means:

- 13 ☒ (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package  
14 provided by an overnight delivery carrier and addressed to the persons at the addresses  
15 listed above. I placed the envelope or package for collection and delivery at an office or a  
16 regularly utilized drop box of the overnight delivery carrier.

17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct.

19 Executed on December 26, 2013, at Los Angeles, California.

20  
21  
22  
23  
24  
25  
26  
27  
28  
  
Nancy Valenzuela



SERVICE LIST

1  
2 Terry T. Tao, Esq.  
3 ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
4 12800 Center Court Drive, Suite 300  
5 Cerritos, CA 90703  
6 Telephone: (562) 653-3000  
7 Facsimile: (562) 653-3333  
8 E-Mail: TTao@AALRR.com

9 Christi Hogin, Esq.  
10 JENKINS & HOGIN, LLP  
11 1230 Rosecrans Avenue, Suite 110  
12 Manhattan Beach, CA 90266  
13 Telephone: (310) 643-8448  
14 Facsimile: (310) 643-8441  
15 E-Mail: CHogin@LocalGovLaw.com

16 Jeffrey Lewis, Esq.  
17 BROEDLOW LEWIS, LLP  
18 734 Silver Spur Road, Suite 300  
19 Rolling Hills Estates, CA 90274  
20 Telephone: (310) 935-4001  
21 Facsimile: (310) 872-5389  
22 E-Mail: Jeff@BroedlowLewis.com

23 R.J. Comer, Esq.  
24 Damon Mamalakis, Esq.  
25 ARMBRUSTER GOLDSMITH & DELVAC LLP  
26 11611 San Vicente Boulevard  
27 Suite 900  
28 Los Angeles, CA 90049  
Telephone: (310) 209-8800  
Facsimile: (310) 209-8801  
E-Mail: damon@agd-landuse.com

19 Sidney F. Croft, Esq.  
20 LAW OFFICE OF SIDNEY CROFT  
21 314 Tejon Place  
22 Palos Verdes Estates, CA 90274  
23 Telephone: (310) 849-1992  
24 E-Mail: SFCroftlaw@aol.com

25 Andrew Haley, Esq.  
26 GREENWALD, PAULY, FOSTER & MILLER APC  
27 1299 Ocean Avenue, Suite 400  
28 Santa Monica, CA 90401  
Telephone: (310) 451-8001  
E-Mail: ahaley@gpfm.com

1 ARMBRUSTER GOLDSMITH & DELVAC LLP  
2 DAMON MAMALAKIS, ESQ. (SBN: 184489)  
3 R.J. COMER, ESQ. (SBN: 186284)  
4 11611 San Vicente Blvd., Suite 900  
5 Los Angeles, CA 90049  
6 Phone: (310) 209-8800 / Fax: (310) 209-8801  
7 damon@agd-landuse.com

8 Attorneys for Defendants and Real Parties In  
9 Interest ROBERT LUGLIANI and DOLORES  
10 A. LUGLIANI, as co-trustees of THE  
11 LUGLIANI TRUST; THOMAS J. LIEB,  
12 TRUSTEE, THE VIA PANORAMA TRUST

9  
10 **SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 CITIZENS FOR ENFORCEMENT OF  
12 PARKLAND COVENANTS, an  
unincorporated association,

13 Plaintiff and Petitioner,

14 vs.

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

21 Defendants and Respondents.

22 ROBERT LUGLIANI and DOLORES  
23 A. LUGLIANI, as co-trustees of THE  
24 LUGLIANI TRUST; THOMAS J.  
25 LIEB, TRUSTEE, THE VIA  
26 PANORAMA TRUST

27 Defendants and Real Parties In Interest.  
28

Case No.: BS142768

**NOTICE OF RULING**

Hon. Robert H. O'Brien  
Dept. 86

Petition Filed: May 13, 2013  
Hearing Date: January 3, 2014  
Hearing Time: 1:30 pm

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that on January 3, 2014, at approximately 1:30 p.m. in  
3 Department 86 of the above-captioned Court, located at 111 North Hill Street, Los Angeles,  
4 California, a hearing was held to consider Demurrers to the Third Cause of Action set forth in the  
5 First Amended Petition for Writ of Mandate and Complaint for Injunctive Relief AND Motion to  
6 Strike John Harbison from the First Amended Petition and Complaint.

7 The Court GRANTED the Motion to Strike John Harbison from the First Amended  
8 Petition and Complaint without prejudice to file a motion seeking leave of court to add John  
9 Harbison as Plaintiff.

10 After taking the Demurrers under submission, the Court issued a Minute Order on January  
11 6, 2014, in which the Court SUSTAINED the Demurrers to the Third Cause of Action  
12 WITHOUT LEAVE TO AMEND for the reasons set forth in the Court's Order, a copy of which  
13 is attached hereto as Exhibit A.

14  
15  
16 DATED: January 9, 2014

Respectfully submitted,  
ARMBRUSTER GOLDSMITH & DELVAC LLP

17  
18 By: 

R.J. COMER

19 Attorneys for Real Parties in Interest, ROBERT  
20 LUGLIANI and DOLORES A. LUGLIANI, as co-  
21 trustees of THE LUGLIANI TRUST; THOMAS J.  
22 LIEB, TRUSTEE, THE VIA PANORAMA TRUST  
23  
24  
25  
26  
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28



## **EXHIBIT A**

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/06/14

DEPT. 86

HONORABLE Joanne O'Donnell  
BY ROBERT H. O'BRIEN  
HONORABLE

JUDGE B. GREGG

DEPUTY CLERK

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

12:00 pm

BS142768

Plaintiff

Counsel

CITIZENS FOR ENFORCEMENT OF

NO APPEARANCES

VS

Defendant

Counsel

VS

CITY OF PALOS VERDES ESTATES ET

## NATURE OF PROCEEDINGS:

NOTICE OF RULING OF MATTER TAKEN UNDER SUBMISSION

The Court, having taken the matter under submission on 1-3-2014, hereby makes its ruling as follows:

The Demurrer to the third cause of action is sustained without leave to amend.

At this time, Plaintiff has not presented any possible amendment that would establish a ministerial duty of the city to act as requested.

This case is now ordered transferred to Department 1 for re-assignment to a trial department, as there are now three remaining causes of action.

## CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the minute order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/06/14

DEPT. 86

HONORABLE Joanne O'Donnell  
BY ROBERT H. O'BRIEN  
HONORABLE

JUDGE B. GREGG

DEPUTY CLERK

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

12:00 pm

BS142768

Plaintiff

Counsel

CITIZENS FOR ENFORCEMENT OF

NO APPEARANCES

VS

Defendant

Counsel

VS

CITY OF PALOS VERDES ESTATES ET

## NATURE OF PROCEEDINGS:

California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 1-6-2014

Sherri R. Carter, Executive Officer/Clerk

By: B. GREGG \_\_\_\_\_

JEFFREY LEWIS ESQ  
734 SILVER SPUR ROAD, #300  
ROLLING HILLS ESTATES, CA 90274

GREGG KOVACEVICH ESQ  
JENKINS & HOGIN LLP  
1230 ROSECRANS AVE., #110  
MANHATTAN BEACH, CA 90266

BRANT DVEIRIN ESQ  
LEWIS BRISBOIS BISGAARD & SMITH  
221 N. FIGUEROA STREET, #1200  
LOS ANGELES, CA 90012



# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/06/14

DEPT. 86

HONORABLE Joanne O'Donnell  
BY ROBERT H. O'BRIEN  
HONORABLE

JUDGE B. GREGG

DEPUTY CLERK

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

12:00 pm

BS142768

Plaintiff

Counsel

CITIZENS FOR ENFORCEMENT OF

NO APPEARANCES

VS

Defendant

Counsel

VS

CITY OF PALOS VERDES ESTATES ET

## NATURE OF PROCEEDINGS:

R.J. COMER ESQ  
ARMBRUSTER GOLDSMITH & DELVAC  
11611 SAN VICENTE BLVD., #900  
LOS ANGELES, CA 90049

### **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 January 9, 2014, I served the within Documents:

#### **(1) NOTICE OF RULING**

- ☐ 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 each of the persons named 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 each of the person(s) named 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.

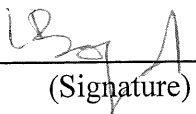
#### **SEE ATTACHED SERVICE LIST**

I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- ☒ (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 January 9, 2014, at Los Angeles, California.

Bogdana Koiso  
(Type or print name)

  
(Signature)

## **SERVICE LIST**

### **Terry T. Tao, Esq.**

ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
12800 Center Court Drive, Suite 300  
Cerritos, CA 90703  
Tel: (562) 653-3000  
Fax: (562) 653-3333  
Email: TTao@AALRR.com

### **Christi Hogin, Esq.**

JENKINS & HOGIN, LLP  
1230 Rosecrans Avenue, Suite 110  
Manhattan Beach, CA 90266  
Tel: (310) 643-8448  
Fax: (310) 643-8441  
Email: CHogin@LocalGovLaw.com

### **Jeffrey Lewis, Esq.**

BROEDLOW LEWIS, LLP  
734 Silver Spur Road, Suite 300  
Rolling Hills Estates, CA 90274  
Tel: (310) 935-4001  
Fax: (310) 872-5389  
Email: Jeff@BroedlowLewis.com

### **Sidney F. Croft, Esq.**

LAW OFFICE OF SIDNEY CROFT  
314 Tejon Place  
Palos Verdes Estates, CA 90274  
Tel: (310) 849-1992  
Email: SFCroftLaw@aol.com

### **Andrew Haley, Esq.**

GREENWALD, PAULY, FOSTER & MILLER APC  
1299 Ocean Avenue, Suite 400  
Santa Monica, CA 90401  
Tel: (310) 451-8001  
Email: ahaley@gpfm.com

### **Daniel V. Hyde, Esq.**

LEWIS BRISBOIS BISGAARD & SMITH LLP  
221 North Figueroa Street, Suite 1200  
Los Angeles, CA 90012  
Tel: 213.680.5103  
Email: Daniel.Hyde@lewisbrisbois.com

## **DOCUMENT(S) SENT**

1. Notice of Ruling

1. Notice of Ruling

1. Notice of Ruling

1. Notice of Ruling

1. Notice of Ruling

1. Notice of Ruling



1 ARMBRUSTER GOLDSMITH & DELVAC LLP  
2 DAMON P. MAMALAKIS (SBN NO. 184489)  
3 R.J. COMER (SBN NO. 186284)  
4 11611 San Vicente Blvd., Suite 900  
5 Los Angeles, CA 90049  
6 Phone: (310) 209-8800  
7 Fax: (310) 209-8801  
8 Damon@agd-landuse.com

9 Attorneys for Defendants and Real Party in Interest  
10 DOLORES A.LUGLIANI, ROBERT LUGLIANI &  
11 THE VIA PANORAMA TRUST

12 **SUPERIOR COURT OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 CITIZENS FOR ENFORCEMENT OF  
15 PARKLAND COVENANTS,

16 Plaintiff and Petitioner,

17 vs.

18 CITY OF PALOS VERDES ESTATES,  
19 etc. et al.

20 Defendants.

21 ROBERT LUGLIANI and DELORES A.  
22 LUGLIANI, as co-trustees of THE  
23 LUGLIANI TRUST; THOMAS J. LIEB,  
24 TRUSTEE, THE VIA PANORAMA  
25 TRUST

26 Defendants and Real Party In Interest.

Case No.: BS142768

**DEFENDANT AND REAL PARTY IN  
INTEREST ROBERT LUGLIANI'S  
RESPONSE TO PLAINTIFF'S REQUEST FOR  
ADMISSIONS, SET ONE**

Hon. Joanne O'Donnell  
Dept. 86

Action Filed:  
Trial Date:

May 13, 2013  
None Set

27 **PROPOUNDING PARTY: PLAINTIFF AND PETITIONER CITIZENS FOR**  
28 **ENFORCEMENT OF PARKLAND COVENANTS**  
**RESPONDING PARTY: DEFENDANT AND REAL PARTY IN INTEREST**  
**ROBERT LUGLIANI**  
**SET NUMBER: ONE**

1 Pursuant to the California Code of Civil Procedure sections 2030.010 *et seq.*, Defendant and  
2 Real Party in Interest Robert Lugliani (“R. Lugliani”) responds to Plaintiff and Petitioner Citizens  
3 for Enforcement of Parkland Covenants (“Plaintiff”) First Set of Requests for Admissions (the  
4 “RFAs”) as follows:

5 **I.**

6 **PRELIMINARY STATEMENT**

7 The following responses are based upon the facts, documents, and information presently  
8 known and available to R. Lugliani following a reasonable investigation. Discovery, investigation,  
9 research, and analysis are ongoing and may disclose the existence of additional facts or documents,  
10 affect the meaning of known facts or documents, or lead to additions, variations or changes to these  
11 responses.

12 Without undertaking any obligation to do so beyond any requirement of the California Code  
13 of Civil Procedure, R. Lugliani reserves the right to change or supplement these responses as  
14 additional facts or documents are discovered, revealed, recalled or otherwise ascertained, and as  
15 further analysis, research, investigation, and discovery disclose additional facts, documents,  
16 contentions or legal theories which may apply. R. Lugliani specifically reserves the right to utilize  
17 subsequently discovered documents or evidence at trial. By these reservations, R. Lugliani does not  
18 in any way assume a continuing responsibility to update his responses to this set of Requests. R.  
19 Lugliani objects to each request to the extent it may seek to impose any continuing duty.

20 The general and specific objections set forth below are intended to apply to all information  
21 produced or provided pursuant to the RFAs. Furthermore, these responses do not in any way waive  
22 any objections by R. Lugliani, in this or in any subsequent proceeding, on any grounds, including  
23 objections to the competency, relevancy, materiality, privilege or admissibility of the responses, or  
24 the subject matter thereof.

1 II.

2 **GENERAL OBJECTIONS**

3 The following general objections (“General Objections”) shall apply to each RFA and are  
4 hereby incorporated into each response. Each individual response is made subject to, and without  
5 waiver of, the following General Objections:

6 1. The only discovery permitted in this action is associated with Cause of Action 1 –  
7 Declaratory Relief. Discovery does not attach to and is not permitted under either Cause of Action  
8 2 or 3. The parties have filed demurrers to all three causes of action. Should Cause of Action 1 be  
9 dismissed, the responses provided herein cannot be used as “evidence” in either of the remaining  
10 causes of action, should either or both remain in the action.

11 2. R. Lugliani’s responses herein are based upon the facts known at this time. R.  
12 Lugliani’s investigation into this matter is ongoing. During the continuing course of discovery, R.  
13 Lugliani may become aware of additional data, documentation and/or other and more specific facts  
14 which may be material to his responses herein. Accordingly, R. Lugliani reserves his right to  
15 supplement or modify these responses, in his sole discretion, except to the extent required under the  
16 California Code of Civil Procedure.

17 3. R. Lugliani objects generally to the RFAs as overbroad and unduly burdensome  
18 insofar as Plaintiff seeks to discover information about matters outside the scope of discovery  
19 permitted pursuant to the California Code of Civil Procedure. Without waiver of his objections, R.  
20 Lugliani will respond to the extent the RFAs are reasonably calculated to lead to the discovery of  
21 admissible evidence relevant to the claim or defense of any party to this action.

22 4. R. Lugliani objects generally to the RFAs insofar as they may be construed as  
23 calling for information that is protected from disclosure by the attorney–client privilege, the work–  
24 product doctrine or any other applicable privilege, protection or doctrine of similar effect.

25 5. R. Lugliani objects generally to the RFAs insofar as they may be construed as  
26 calling for information which is subject to the right of privacy and/or confidentiality of third parties.  
27 To the extent such information implicates the privacy rights of such third parties, R. Lugliani will  
28 not respond to such RFA.



6. R. Lugliani objects generally to the RFAs as overbroad, unduly burdensome, oppressive, vague, ambiguous and uncertain insofar as the instructions and definitions used in the RFAs purport to impose obligations on R. Lugliani beyond the scope of the California Code of Civil Procedure. Without waiver of his objections, R. Lugliani will respond consistent with the requirements of the California Code of Civil Procedure.

7. R. Lugliani objects generally to the RFAs as overbroad and unduly burdensome insofar as the information requested is not clearly identified or is not identified with sufficient particularity. Without waiver of his objections, R. Lugliani has made reasonable interpretations of Plaintiff's intended meaning and will respond accordingly as set forth below.

8. R. Lugliani objects generally to the RFAs as overbroad and unduly burdensome insofar as the information requested is (or was) in the possession of Plaintiff.

9. R. Lugliani objects to the RFAs to the extent they call for a legal conclusion.

10. R. Lugliani objects to the RFAs in their entirety to the extent they prematurely seek expert discovery.

11. Each of these General Objections is by this reference incorporated fully in each individual response set forth below, and each individual response is made subject to and without waiver of these General Objections.

## II.

## SPECIFIC OBJECTIONS

**Request for Admission No. 1.:**

Admit that AREA A was included in the real property that Frank A. Vanderslip, Sr. purchased from the Bixby family in 1913 (for purposes of these requests, the term “AREA A” when set forth in all capital letters shall mean and refer to the real property commonly known as Assessor’s parcel Number 7545-002-900 and legally described as follows:

TRACT # 8652 LOT COM AT MOST E COR OF LOT A

TH S 11 48'28.8" W 237.36 FT TH N 40 41'40 W 146.21 FT

1 TH W 130 FT TH S 59 W 50.5 FT TH S 2 01'45" W 153.12 FT  
2 TH W AND FOLLOWING BDRY LINE LOT A.  
3

4 **Response to Request for Admission No. 1.:**

5 R. Lugliani objects to this RFA on the grounds that the information sought is equally  
6 available to Plaintiff. R. Lugliani objects to this RFA on the grounds that the legal description in  
7 Plaintiff's definition for "AREA A" is not accurate, thereby rendering this request vague and  
8 ambiguous. R. Lugliani further objects to this RFA to the extent that it calls for a legal conclusion  
9 and/or expert opinion. R. Lugliani further objects on the grounds that the information sought is  
10 verifiable only by documents for which R. Lugliani is not in possession of.

11 Subject to and without waiver of the foregoing General and Specific Objections, which are  
12 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
13 deny this request.  
14

15 **Request for Admission No. 2.:**

16 Admit that the use of AREA A is subject to DECLARATION NO. 1 (for purposes of these  
17 requests, the term "DECLARATION NO. 1" when set forth in all capital letters shall mean and  
18 refer to Declaration No. 1 – Declaration of Establishment of Basic Protective Restrictions,  
19 Conditions, Covenants, Reservations, Liens and Charges for Palos Verdes Estates, recorded July 5,  
20 1923 in Book 2360, Page 231 of the Official Records of Los Angeles County.)  
21

22 **Response to Request for Admission No. 2.:**

23 R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based on,  
24 among other things, an analysis of title and recorded documents, surveys, and/or real estate law. R.  
25 Lugliani objects to this RFA on the grounds that the legal description in Plaintiff's definition for  
26 "AREA A" is not accurate, thereby rendering this request vague and ambiguous. R. Lugliani  
27 objects to this RFA to the extent that it calls for a legal conclusion. R. Lugliani further objects on  
28

1 the grounds that the information sought is verifiable only by documents for which R. Lugliani is not  
2 in possession of.

3 Subject to and without waiver of the foregoing General and Specific Objections, which are  
4 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
5 deny this request.

6  
7 **Request for Admission No. 3.:**

8 Admit that DECLARATION NO. 1 is valid and enforceable.

9  
10 **Response to Request for Admission No. 3.:**

11 R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based on,  
12 among other things, an analysis of title and recorded documents, surveys, and/or real estate law. R.  
13 Lugliani objects to this RFA on the grounds that the terms “valid” and “enforceable” are vague and  
14 ambiguous. R. Lugliani objects to this RFA on the grounds that it calls for a legal conclusion.

15 Subject to and without waiver of the foregoing General and Specific Objections, which are  
16 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
17 deny this request.

18  
19 **Request for Admission No. 4.:**

20 Admit that the use of AREA A is subject to DECLARATION NO. 21 (for purposes of these  
21 requests, the term “DECLARATION NO. 21” when set forth in all capital letters shall mean and  
22 refer to Declaration No. 21 – Declaration of Establishment of Local Protective Restrictions,  
23 Conditions, Covenants, Reservations, Liens and Charges for Tract 7331 – Lunada Bay – Palos  
24 Verdes Estates, recorded September 29, 1924 in Book 3434, Page 165 of the Official Records of  
25 Los Angeles County (including all amendments thereto of record)



1 **Response to Request for Admission No. 4.:**

2 R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based on,  
3 among other things, an analysis of title and recorded documents, surveys, and/or real estate law. R.  
4 Lugliani objects to this RFA on the grounds that the legal description in Plaintiff's definition for  
5 "AREA A" is not accurate, thereby rendering this request vague and ambiguous. R. Lugliani  
6 objects to this RFA to the extent that it calls for a legal conclusion. R. Lugliani further objects on  
7 the grounds that the information sought is verifiable only by documents for which R. Lugliani is not  
8 in possession of.

9 Subject to and without waiver of the foregoing General and Specific Objections, which are  
10 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
11 deny this request.

12  
13 **Request for Admission No. 5.:**

14 Admit that DECLARATION NO. 21 is valid and enforceable.  
15

16 **Response to Request for Admission No. 5.:**

17 R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based on,  
18 among other things, an analysis of title and recorded documents, surveys, and/or real estate law. R.  
19 Lugliani objects to this RFA on the grounds that the terms "valid" and "enforceable" are vague and  
20 ambiguous. R. Lugliani objects to this RFA on the grounds that it calls for a legal conclusion. R.  
21 Lugliani further objects on the grounds that the information sought is verifiable only by documents  
22 for which R. Lugliani is not in possession of.

23 Subject to and without waiver of the foregoing General and Specific Objections, which are  
24 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
25 deny this request.  
26  
27  
28

1 **Request for Admission No. 6.:**

2 Admit that prior to May 2012, AREA A was subject to land use restrictions that it not be  
3 used for any purpose other than for the establishment and maintenance of public schools, parks,  
4 playgrounds and/or recreation areas.

5  
6 **Response to Request for Admission No. 6.:**

7 R. Lugliani objects to this RFA on the grounds that the terms “land use restrictions” and  
8 “used for any purpose” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds  
9 that it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an  
10 expert opinion, based on, among other things, an analysis of title and recorded documents, surveys,  
11 and/or real estate law. R. Lugliani objects to this RFA on the grounds that the legal description in  
12 Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this request vague and  
13 ambiguous.

14 Subject to and without waiver of the foregoing General and Specific Objections, which are  
15 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani did not own AREA  
16 A prior to May 2012 and therefore has no knowledge of what restrictions, if any, were applicable to  
17 the property. As such, R. Lugliani cannot admit or deny this request.

18  
19 **Request for Admission No.7.:**

20 Admit that after May 2012, AREA A was subject to land use restrictions that it not be used  
21 for any purpose other than for the establishment and maintenance of public schools, parks,  
22 playgrounds and/or recreation areas.

23  
24 **Response to Request for Admission No.7.:**

25 R. Lugliani objects to this RFA on the grounds that the terms “land use restrictions” and  
26 “used for any purpose” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds  
27 that it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an  
28 expert opinion, based on, among other things, an analysis of title and recorded documents, surveys,

1 and/or real estate law. R. Lugliani objects to this RFA on the grounds that the legal description in  
2 Plaintiff's definition for "AREA A" is not accurate, thereby rendering this request vague and  
3 ambiguous.

4 Subject to and without waiver of the foregoing General and Specific Objections, which are  
5 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani cannot admit or  
6 deny this request.

7  
8 **Request for Admission No. 8.:**

9 Admit that prior to May 2012, AREA A was not subject to land use restrictions that it not be  
10 used for any purpose other than for the establishment and maintenance of public schools, parks,  
11 playgrounds and/or recreation areas.

12  
13 **Response to Request for Admission No. 8.:**

14 R. Lugliani objects to this RFA on the grounds that the terms "land use restrictions" and  
15 "used for any purpose" are vague and ambiguous. R. Lugliani objects to this RFA on the grounds  
16 that it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an  
17 expert opinion, based on, among other things, an analysis of title and recorded documents, surveys,  
18 and/or real estate law. R. Lugliani objects to this RFA on the grounds that the legal description in  
19 Plaintiff's definition for "AREA A" is not accurate, thereby rendering this request vague and  
20 ambiguous.

21 Subject to and without waiver of the foregoing General and Specific Objections, which are  
22 incorporated herein by reference, R. Lugliani responds as follows: R. Lugliani did not own AREA  
23 A prior to May 2012 and therefore has no knowledge of what restrictions, if any, were applicable to  
24 the property. As such, R. Lugliani cannot admit or deny this request.



1 **Request for Admission No. 9.:**

2 Admit that after May 2012, AREA A was not subject to land use restrictions that it not be  
3 used for any purpose other than for the establishment and maintenance of public schools, parks,  
4 playgrounds and/or recreation areas.  
5

6 **Response to Request for Admission No. 9.:**

7 R. Lugliani objects to this RFA on the grounds that the terms “land use restrictions” and  
8 “used for any purpose” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds  
9 that it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an  
10 expert opinion, based on, among other things, an analysis of title and recorded documents, surveys,  
11 and/or real estate law. R. Lugliani objects to this RFA on the grounds that the legal description in  
12 Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this request vague and  
13 ambiguous. R. Lugliani objects to this RFA on the grounds that it contains a double-negative and is  
14 therefore vague, ambiguous and incomprehensible as phrased.  
15

16 **Request for Admission No. 10.:**

17 Admit that the value of AREA exceeds \$500,000.  
18

19 **Response to Request for Admission No. 10.:**

20 R. Lugliani objects to this RFA on the grounds that the term “value” and “AREA” are vague  
21 and ambiguous. As to “AREA” it is assumed for the purposes of this response that “AREA” refers  
22 to “AREA A” as set forth in the Grant Deed (Instrument Number 20121327415). R. Lugliani  
23 objects to this RFA on the grounds that it calls for an expert opinion, based on, among other things,  
24 an analysis of title and recorded documents, surveys, and/or real estate law. R. Lugliani objects to  
25 this RFA on the grounds that the legal description in Plaintiff’s definition for “AREA A” is not  
26 accurate, thereby rendering this request vague and ambiguous. R. Lugliani objects to this RFA on  
27 the grounds that it is vague and ambiguous as to time.  
28

1 Subject to and without waiver of the foregoing General and Specific Objections, which are  
2 incorporated herein by reference, R. Lugliani responds as follows: The purchase price paid for  
3 AREA A was \$500,000 as set forth in the Memorandum of Understanding among the City of Palos  
4 Verdes, the Palos Verdes Homeowners Association, Inc., Palos Verdes Peninsula Unified School  
5 District and Thomas J. Lieb, the Via Panorama Trust U/DO May 2, 2012 dated May 14, 2012 (the  
6 “MOU”). The MOU speaks for itself.

7  
8 **Request for Admission No. 11.:**

9 Admit that by quitclaim deed recorded September 5, 2012 as instrument number  
10 20121327414, the City of Palos Verdes Estates conveyed AREA to the Palos Verdes Homes  
11 Association.

12  
13 **Response to Request for Admission No. 11.:**

14 R. Lugliani objects to this RFA on the grounds that the terms “AREA” and “conveyed” are  
15 vague and ambiguous. As to “AREA” it is assumed for the purposes of this response that “AREA”  
16 refers to “AREA A”. R. Lugliani further objects to this RFA to the extent that it calls for a legal  
17 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
18 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
19 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
20 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.

21 Subject to and without waiver of the foregoing General and Specific Objections, which are  
22 incorporated herein by reference, R. Lugliani responds as follows: The “quitclaim deed” speaks for  
23 itself: Quitclaim Deed (recorded on September 5, 2012, Instrument Number 20121327414)  
24 conveyed “AREA A,” as it is legally described therein, from the City of Palos Verdes to Palos  
25 Verdes Homeowners Association, Inc.

1 **Request for Admission No. 12.:**

2 Admit that by grant deed recorded September 5, 2012 as instrument number 20121327415,  
3 the Palos Verdes Homes Association conveyed AREA A to Thomas J. Lieb as trustee of the Via  
4 Panorama Trust U/DO May 2, 2012.

5  
6 **Response to Request for Admission No. 13.:**

7 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “conveyed”  
8 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
9 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
10 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
11 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
12 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.

13 Subject to and without waiver of the foregoing General and Specific Objections, which are  
14 incorporated herein by reference, R. Lugliani responds as follows: The “grant deed” speaks for  
15 itself: the Grant Deed (recorded on September 5, 2012, Instrument Number 20121327415)  
16 conveyed “AREA A,” as it is legally described therein, from the Palo Verdes Homeowners  
17 Association, Inc. to Thomas J. Lieb, Trustee, The Via Panorama Trust U/DO May 2, 2012.

18  
19 **Request for Admission No. 13.:**

20 Admit that express condition number 2 included in the grant deed recorded September 5,  
21 2012 as instrument number 20121327415 violated DECLARATION NO. 1.

22  
23 **Response to Request for Admission No. 13.:**

24 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “violated”  
25 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
26 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
27 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
28 R. Lugliani objects to this RFA on the grounds that it is over broad, vague and ambiguous in that



1 Declaration No. 1 is an extensive document with many Articles and Sections and Plaintiff does not  
2 reference any specific section or clause. R. Lugliani further objects to this RFA on the grounds that  
3 the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby rendering this  
4 request vague and ambiguous.

5 Subject to and without waiver of the foregoing General and Specific Objections, which are  
6 incorporated herein by reference, R. Lugliani responds as follows: Denies.

7  
8 **Request for Admission No. 14.:**

9 Admit that express condition number 2 included in the grant deed recorded September 5,  
10 2012 as instrument number 20121327415 violated DECLARATION NO. 21.

11  
12 **Response to Request for Admission No. 14.:**

13 R. Lugliani objects to this RFA on the grounds that the terms "grant deed" and "violated"  
14 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
15 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
16 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
17 R. Lugliani objects to this RFA on the grounds that it is over broad, vague and ambiguous in that  
18 Declaration No. 21 is an extensive document with many Articles and Sections and Plaintiff does not  
19 reference any specific section or clause. R. Lugliani further objects to this RFA on the grounds that  
20 the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby rendering this  
21 request vague and ambiguous.

22 Subject to and without waiver of the foregoing General and Specific Objections, which are  
23 incorporated herein by reference, R. Lugliani responds as follows: Denies.

24  
25 **Request for Admission No. 15.:**

26 Admit that express condition number 2 included in the grant deed recorded September 5,  
27 2012 as instrument number 20121327415 was a breach of land use restrictions for AREA A.

1 **Response to Request for Admission No. 15.:**

2 R. Lugliani objects to this RFA on the grounds that the terms “grant deed”, “breach” and  
3 “land use restrictions” are vague and ambiguous. R. Lugliani objects to this RFA to the extent that  
4 it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an  
5 expert opinion, based on, among other things, an analysis of title and recorded documents, surveys,  
6 and/or real estate law. R. Lugliani objects to this RFA on the grounds that the legal description in  
7 Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this request vague and  
8 ambiguous.

9 Subject to and without waiver of the foregoing General and Specific Objections, which are  
10 incorporated herein by reference, R. Lugliani responds as follows: Denies; the “grant deed” speaks  
11 for itself.

12  
13 **Request for Admission No. 16.:**

14 Admit that express condition number 2 included in the grant deed recorded September 5,  
15 2012 as instrument number 20121327415 triggered a reversionary interest in favor of the Palos  
16 Verdes Homes Association.

17  
18 **Response to Request for Admission No. 16.:**

19 R. Lugliani objects to this RFA on the grounds that the terms “grant deed”, “triggered”, “in  
20 favor of” and “reversionary interest” are vague and ambiguous. R. Lugliani objects to this RFA to  
21 the extent that it calls for a legal conclusion. R. Lugliani objects to this RFA on the grounds that it  
22 calls for an expert opinion, based on, among other things, an analysis of title and recorded  
23 documents, surveys, and/or real estate law. R. Lugliani objects to this RFA on the grounds that the  
24 legal description in Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this  
25 request vague and ambiguous.

26 Subject to and without waiver of the foregoing General and Specific Objections, which are  
27 incorporated herein by reference, R. Lugliani responds as follows: Denies; the “grant deed” speaks  
28 for itself.

1 **Request for Admission No. 17.:**

2 Admit that the City of Palos Verdes Estates has not issued an “after-the-fact permit pursuant  
3 to PVEMC Section 17.04.110 permitting the existing retaining walls located” within AREA A.

4  
5 **Response to Request for Admission No. 17.:**

6 R. Lugliani objects to this RFA on the grounds that the term “issued” is vague and  
7 ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal conclusion. R.  
8 Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based on, among  
9 other things, an analysis of title and recorded documents, surveys, permits, and/or real estate law.  
10 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
11 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.

12 Subject to and without waiver of the foregoing General and Specific Objections, which are  
13 incorporated herein by reference, R. Lugliani responds as follows: Admit; the City of Palos Verdes  
14 Estates has not issued an “after-the-fact permit pursuant to PVEMC Section 17.04.110 permitting  
15 the existing retaining walls located” within AREA A.

16  
17 **Request for Admission No. 18.:**

18 Admit that AREA A is not presently “free of weeds and trash.”  
19

20 **Response to Request for Admission No. 18.:**

21 R. Lugliani objects to this RFA on the grounds that the term “presently” is vague and  
22 ambiguous. R. Lugliani objects to this RFA as it seeks information that is irrelevant and will not  
23 lead to admissible evidence. R. Lugliani objects to this RFA on the grounds that the legal  
24 description in Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this request  
25 vague and ambiguous.

26 Subject to and without waiver of the foregoing General and Specific Objections, which are  
27 incorporated herein by reference, R. Lugliani responds as follows: Because AREA A is not  
28 accurately defined, R. Lugliani is unable to admit or deny this request.



1 **Request for Admission No. 19.:**

2 Admit that AREA A is not presently landscaped in a manner “that is compatible with  
3 adjoining properties.”  
4

5 **Response to Request for Admission No. 19.:**

6 R. Lugliani objects to this RFA on the grounds that the term “presently” is vague and  
7 ambiguous. R. Lugliani objects to this RFA as it seeks information that is irrelevant and will not  
8 lead to admissible evidence. R. Lugliani objects to this RFA on the grounds that the legal  
9 description in Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this request  
10 vague and ambiguous.

11 Subject to and without waiver of the foregoing General and Specific Objections, which are  
12 incorporated herein by reference, R. Lugliani responds as follows: The Grant Deed provision to  
13 which this RFA refers does not apply to “AREA A” as described therein, but rather to Area 3  
14 within “Area A” (Grant Deed Condition 3).  
15

16 **Request for Admission No. 20.:**

17 Admit that by grant deed recorded September 5, 2012 as instrument number 20121327415,  
18 the Palos Verdes Homes Association authorized the construction of a gazebo within AREA A.  
19

20 **Response to Request for Admission No. 20.:**

21 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “authorized”  
22 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
23 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
24 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
25 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
26 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.  
27  
28

1 Subject to and without waiver of the foregoing General and Specific Objections, which are  
2 incorporated herein by reference, R. Lugliani responds as follows: The “grant deed” speaks for  
3 itself.  
4

5 **Request for Admission No. 21.:**

6 Admit that by grant deed recorded September 5, 2012 as instrument number 20121327415,  
7 the Palos Verdes Homes Association authorized the construction of a sports court within AREA A.  
8

9 **Response to Request for Admission 21.:**

10 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “authorized”  
11 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
12 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
13 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
14 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
15 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.

16 Subject to and without waiver of the foregoing General and Specific Objections, which are  
17 incorporated herein by reference, R. Lugliani responds as follows: The “grant deed” speaks for  
18 itself: Condition 2: “It is the intent of the parties, subject to compliance with the requirements for  
19 such development of accessory structures of the City and Grantor, that Grantee may construct any  
20 of the following: a gazebo, sports court, retaining wall, landscaping, barbeque, and/or any other  
21 uninhabitable “accessory structure,” as defined by [PVEMC] Section 18.32.010.D within the area  
22 described on Exhibit “C,” attached hereto and by this reference made a part hereof, and shown Area  
23 A on Exhibit “B.””  
24  
25  
26  
27  
28

1 **Request for Admission No. 22.:**

2 Admit that by grant deed recorded September 5, 2012 as instrument number 20121327415,  
3 the Palos Verdes Homes Association authorized the construction of a retaining wall within AREA  
4 A.

5  
6 **Response to Request for Admission No. 22.:**

7 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “authorized”  
8 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal  
9 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
10 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
11 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff’s definition for  
12 “AREA A” is not accurate, thereby rendering this request vague and ambiguous.

13 Subject to and without waiver of the foregoing General and Specific Objections, which are  
14 incorporated herein by reference, R. Lugliani responds as follows: The “grant deed” speaks for  
15 itself: Condition 2: “It is the intent of the parties, subject to compliance with the requirements for  
16 such development of accessory structures of the City and Grantor, that Grantee may construct any  
17 of the following: a gazebo, sports court, retaining wall, landscaping, barbeque, and/or any other  
18 uninhabitable “accessory structure,” as defined by [PVEMC] Section 18.32.010.D within the area  
19 described on Exhibit “C,” attached hereto and by this reference made a part hereof, and shown Area  
20 A on Exhibit “B.””

21  
22 **Request for Admission No. 23.:**

23 Admit that by grant deed recorded September 5, 2012 as instrument number 20121327415,  
24 the Palos Verdes Homes Association authorized the construction of a barbecue within AREA A.

25  
26 **Response to Request for Admission No. 23.:**

27 R. Lugliani objects to this RFA on the grounds that the terms “grant deed” and “authorized”  
28 are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls for a legal



1 conclusion. R. Lugliani objects to this RFA on the grounds that it calls for an expert opinion, based  
2 on, among other things, an analysis of title and recorded documents, surveys, and/or real estate law.  
3 R. Lugliani objects to this RFA on the grounds that the legal description in Plaintiff's definition for  
4 "AREA A" is not accurate, thereby rendering this request vague and ambiguous.

5 Subject to and without waiver of the foregoing General and Specific Objections, which are  
6 incorporated herein by reference, R. Lugliani responds as follows: The "grant deed" speaks for  
7 itself: Condition 2: "It is the intent of the parties, subject to compliance with the requirements for  
8 such development of accessory structures of the City and Grantor, that Grantee may construct any  
9 of the following: a gazebo, sports court, retaining wall, landscaping, barbeque, and/or any other  
10 uninhabitable "accessory structure," as defined by [PVEMC] Section 18.32.010.D within the area  
11 described on Exhibit "C," attached hereto and by this reference made a part hereof, and shown Area  
12 A on Exhibit "B.""

13  
14 **Request for Admission No. 24.:**

15 Admit that Robert and Delores Lugliani donated \$1.5 million to the Palos Verdes Unified  
16 School District in 2012.

17  
18 **Response to Request for Admission No. 24.:**

19 R. Lugliani objects to this RFA on the grounds that the term "donated" is vague and  
20 ambiguous. R. Lugliani objects to this RFA on the grounds that the term "Palos Verdes Unified  
21 School District" is vague and ambiguous; the local school district is called "Palos Verdes Peninsula  
22 Unified School District." R. Lugliani objects to this RFA to the extent that it calls for a legal  
23 conclusion.

24 Subject to and without waiver of the foregoing General and Specific Objections, which are  
25 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
26 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
27 Unified School District in 2012 to address the school budgetary deficit.  
28

1 **Request for Admission Number 25.:**

2 Admit that Robert and Delores Lugliani's \$1.5 million donation to the Palos Verdes  
3 Peninsula Unified School District was made with the expectation by Robert and Delores Lugliani  
4 that AREA A would be conveyed to Thomas J. Lieb.  
5

6 **Response to Request for Admission No. 25.:**

7 R. Lugliani objects to this RFA on the grounds that the terms "donation", "conveyed" and  
8 "expectation" are vague and ambiguous. R. Lugliani objects to this RFA to the extent that it calls  
9 for a legal conclusion. R. Lugliani objects to this RFA on the grounds that the term "Palos Verdes  
10 Unified School District" is vague and ambiguous; the local school district is called "Palos Verdes  
11 Peninsula Unified School District." R. Lugliani objects to this RFA as it seeks information that is  
12 irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the grounds  
13 that the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby rendering  
14 this request vague and ambiguous.

15 Subject to and without waiver of the foregoing General and Specific Objections, which are  
16 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
17 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
18 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
19 MOU transactions would be completed and that required governmental authorizations referred to in  
20 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
21 standards and conditions.  
22

23 **Request for Admission No. 26.:**

24 Admit that Robert and Delores Lugliani would not have made a \$1.5 million donation to the  
25 Palos Verdes Unified School District but for the expectation of Robert and Delores J. Lugliani that  
26 AREA A would be conveyed to Thomas J. Lieb.  
27  
28

1 **Response to Request for Admission No. 26.:**

2 R. Lugliani objects to this RFA on the grounds that the terms “donation”, “conveyed” and  
3 “expectation” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
4 term “Palos Verdes Unified School District” is vague and ambiguous; the local school district is  
5 called “Palos Verdes Peninsula Unified School District.” R. Lugliani objects to this RFA to the  
6 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
7 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
8 grounds that the legal description in Plaintiff’s definition for “AREA A” is not accurate, thereby  
9 rendering this request vague and ambiguous.

10 Subject to and without waiver of the foregoing General and Specific Objections, which are  
11 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
12 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
13 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
14 MOU transactions would be completed and that required governmental authorizations referred to in  
15 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
16 standards and conditions.

17  
18 **Request for Admission No. 27.:**

19 Admit that Robert and Delores Lugliani’s \$1.5 million donation to the Palos Verdes Unified  
20 School District was made with the expectation of Robert and Delores Lugliani that the City of Palos  
21 Verdes Estate would grant an “after the fact” permit for the existing retaining walls within AREA  
22 A.

23  
24 **Response to Request for Admission No. 27.:**

25 R. Lugliani objects to this RFA on the grounds that the terms “donation”, “grant” and  
26 “expectation” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
27 term “Palos Verdes Unified School District” is vague and ambiguous; the local school district is  
28 called “Palos Verdes Peninsula Unified School District.” R. Lugliani objects to this RFA to the



1 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
2 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
3 grounds that the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby  
4 rendering this request vague and ambiguous.

5 Subject to and without waiver of the foregoing General and Specific Objections, which are  
6 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
7 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
8 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
9 MOU transactions would be completed and that required governmental authorizations referred to in  
10 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
11 standards and conditions.

12  
13 **Request for Admission No. 28.:**

14 Admit that Robert and Delores Lugliani would not have made a \$1.5 million donation to the  
15 Palos Verdes Unified School District but for the expectation of Robert and Delores Lugliani that the  
16 City of Palos Verdes Estates would grant an "after the fact" permit for the existing retaining walls  
17 within AREA A.

18  
19 **Response to Request for Admission No. 28.:**

20 R. Lugliani objects to this RFA on the grounds that the terms "donation", "grant" and  
21 "expectation" are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
22 term "Palos Verdes Unified School District" is vague and ambiguous; the local school district is  
23 called "Palos Verdes Peninsula Unified School District." R. Lugliani objects to this RFA to the  
24 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
25 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
26 grounds that the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby  
27 rendering this request vague and ambiguous.

1 Subject to and without waiver of the foregoing General and Specific Objections, which are  
2 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
3 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
4 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
5 MOU transactions would be completed and that required governmental authorizations referred to in  
6 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
7 standards and conditions.

8  
9 **Request for Admission No. 29.:**

10 Admit that Robert and Delores Lugliani's \$1.5 million donation to the Palos Verdes Unified  
11 School District was made with the expectation of Robert and Delores Lugliani that the City of Palos  
12 Verdes Estate would authorize the construction of a gazebo within AREA A.

13  
14 **Response to Request for Admission No. 29.:**

15 R. Lugliani objects to this RFA on the grounds that the terms "donation", "authorize" and  
16 "expectation" are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
17 term "Palos Verdes Unified School District" is vague and ambiguous; the local school district is  
18 called "Palos Verdes Peninsula Unified School District." R. Lugliani objects to this RFA to the  
19 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
20 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
21 grounds that the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby  
22 rendering this request vague and ambiguous.

23 Subject to and without waiver of the foregoing General and Specific Objections, which are  
24 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
25 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
26 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
27 MOU transactions would be completed and that required governmental authorizations referred to in  
28

1 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
2 standards and conditions.

3  
4 **Request for Admission No. 30.:**

5 Admit that Robert and Delores Lugliani would not have made a \$1.5 million donation to the  
6 Palos Verdes Unified School District but for the expectation of Robert and Delores Lugliani that the  
7 City of Palos Verdes Estates would authorize the construction of a gazebo within AREA A.

8  
9 **Response to Request for Admission No. 30.:**

10 R. Lugliani objects to this RFA on the grounds that the terms “donation”, “authorize” and  
11 “expectation” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
12 term “Palos Verdes Unified School District” is vague and ambiguous; the local school district is  
13 called “Palos Verdes Peninsula Unified School District.” R. Lugliani objects to this RFA to the  
14 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
15 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
16 grounds that the legal description in Plaintiff’s definition for “AREA A” is not accurate, thereby  
17 rendering this request vague and ambiguous.

18 Subject to and without waiver of the foregoing General and Specific Objections, which are  
19 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
20 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
21 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
22 MOU transactions would be completed and that required governmental authorizations referred to in  
23 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
24 standards and conditions.



1 **Request for Admission No. 31.:**

2 Admit that Robert and Delores Lugliani's \$1.5 million donation to the Palos Verdes Unified  
3 School District was made with the expectation of Robert and Delores Lugliani that the City of Palos  
4 Verdes Estates would authorize the construction of a sports court within AREA A.

5  
6 **Response to Request for Admission No. 31.:**

7 R. Lugliani objects to this RFA on the grounds that the terms "donation", "authorize" and  
8 "expectation" are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
9 term "Palos Verdes Unified School District" is vague and ambiguous; the local school district is  
10 called "Palos Verdes Peninsula Unified School District." R. Lugliani objects to this RFA to the  
11 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
12 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
13 grounds that the legal description in Plaintiff's definition for "AREA A" is not accurate, thereby  
14 rendering this request vague and ambiguous.

15 Subject to and without waiver of the foregoing General and Specific Objections, which are  
16 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
17 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
18 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
19 MOU transactions would be completed and that required governmental authorizations referred to in  
20 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
21 standards and conditions.

22  
23 **Request for Admission No. 32.:**

24 Admit that Robert and Delores Lugliani would not have made a \$1.5 million donation to the  
25 Palos Verdes Unified School district but for expectation of Robert and Delores Lugliani that the  
26 City of Palos Verdes Estates would authorize the construction of a sports court within AREA A.

1 **Response to Request for Admission No. 32.:**

2 R. Lugliani objects to this RFA on the grounds that the terms “donation”, “authorize” and  
3 “expectation” are vague and ambiguous. R. Lugliani objects to this RFA on the grounds that the  
4 term “Palos Verdes Unified School District” is vague and ambiguous; the local school district is  
5 called “Palos Verdes Peninsula Unified School District.” R. Lugliani objects to this RFA to the  
6 extent that it calls for a legal conclusion. R. Lugliani objects to this RFA as it seeks information  
7 that is irrelevant and will not lead to admissible evidence. R. Lugliani objects to this RFA on the  
8 grounds that the legal description in Plaintiff’s definition for “AREA A” is not accurate, thereby  
9 rendering this request vague and ambiguous.

10 Subject to and without waiver of the foregoing General and Specific Objections, which are  
11 incorporated herein by reference, R. Lugliani responds as follows: Admit; as part of the MOU  
12 transactions, Robert and Dolores Lugliani provided \$1.5 million to the Palos Verdes Peninsula  
13 Unified School District in 2012 to address the school budgetary deficit with the expectation that the  
14 MOU transactions would be completed and that required governmental authorizations referred to in  
15 the MOU would be granted provided the applications for such authorizations satisfied all applicable  
16 standards and conditions.

17  
18 **Request for Admission No. 33.:**

19 Admit that the retaining wall that presently exists within AREA was constructed during the  
20 time that Robert and Delores Lugliani owned 900 Via Panorama.

21  
22 **Response to Request for Admission No. 33.:**

23 R. Lugliani objects to this RFA on the grounds that the terms “presently”, “AREA” and  
24 “retaining wall” are vague and ambiguous. As to “AREA” it is assumed for the purposes of this  
25 response that “AREA” refers to “AREA A”. R. Lugliani objects to this RFA on the grounds that  
26 the legal description in Plaintiff’s definition for “AREA A” is not accurate, thereby rendering this  
27 request vague and ambiguous.

1 Subject to and without waiver of the foregoing General and Specific Objections, which are  
2 incorporated herein by reference, R. Lugliani responds as follows: AREA A contains a number of  
3 retaining walls, most of which were not constructed during the time Robert and Dolores Lugliani  
4 have owned 900 Via Panorama but rather by the prior owner of 900 Via Panorama. One retaining  
5 wall was constructed in AREA A during the Lugliani's ownership of 900 Via Panorama in response  
6 to an emergency situation. That retaining wall was permitted by the City of Palos Verdes Estates.

7  
8 DATED:

9/16/13

ARMBRUSTER GOLDSMITH & DELVAC LLP

BY 

DAMON P. MAMALAKIS

ATTORNEYS FOR ROBERT LUGLIANI AND  
DOLORES A. LUGLIANI, AS CO-TRUSTEES OF THE  
LUGLIANI TRUST; THOMAS J. LIEB, TRUSTEE, THE  
VIA PANORAMA TRUST



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I am a party to this action. The matters stated in the forgoing document are true of my own knowledge except as to those matters which are stated on information and belief, and to those matters I believe them to be true.

Executed at Palos Verdes Estates, California, this 16 day of September 2013.

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## **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 September 16, 2013, I served the within Documents:

**(1) DEFENDANT AND REAL PARTY IN INTEREST ROBERT LUGLIANI'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS, SET ONE**

- ☐ By transmitting the document(s) listed above via facsimile from sending facsimile machine number 310.209.8801 to the fax number(s) set forth on the attached Service List on this date before 5:00 p.m. and receiving confirmed transmission reports indicating that the document(s) were successfully transmitted.
- ☐ 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 each of the persons named 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 each of the person(s) named 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.

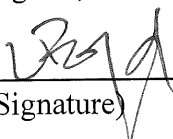
**SEE ATTACHED SERVICE LIST**

I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- ☒ (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 September 16, 2013 at Los Angeles, California.

\_\_\_\_\_  
Bogdana Koiso  
(Type or print name)

  
\_\_\_\_\_  
(Signature)

## **SERVICE LIST**

### **Terry T. Tao, Esq.**

ATKINSON, ANDELSON, LOYA, RUUD &  
ROMO  
12800 Center Court Drive, Suite 300  
Cerritos, CA 90703

Tel: (562) 653-3000  
Fax: (562) 653-3333  
Email: TTao@AALRR.com

### **Christi Hogin, Esq.**

JENKINS & HOGIN, LLP  
1230 Rosecrans Avenue, Suite 110  
Manhattan Beach, CA 90266

Tel: (310) 643-8448  
Fax: (310) 643-8441  
Email: CHogin@LocalGovLaw.com

### **Jeffrey Lewis, Esq.**

BROEDLOW LEWIS, LLP  
734 Silver Spur Road, Suite 300  
Rolling Hills Estates, CA 90274

Tel: (310) 935-4001  
Fax: (310) 872-5389  
Email: Jeff@BroedlowLewis.com

### **Sidney F. Croft, Esq.**

LAW OFFICE OF SIDNEY CROFT  
314 Tejon Place  
Palos Verdes Estates, CA 90274

Tel: (310) 849-1992  
Email: SFCroftLaw@aol.com

### **Andrew Haley, Esq.**

GREENWALD, PAULY, FOSTER & MILLER APC  
1299 Ocean Avenue, Suite 400  
Santa Monica, CA 90401

Tel: (310) 451-8001  
Email: ahaley@gpfm.com

## **DOCUMENT(S) SENT**

1. Defendant and Real Party in Interest Robert Lugliani's Response to Plaintiff's Request for Admissions, Set One
1. Defendant and Real Party in Interest Robert Lugliani's Response to Plaintiff's Request for Admissions, Set One
1. Defendant and Real Party in Interest Robert Lugliani's Response to Plaintiff's Request for Admissions, Set One
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