John Harbison Comments to Palos Verdes Homes Association Annual Meeting
January 13, 2015

In 2010, you lived up to your responsibilities and successfully defended the CC&Rs against the attack of the Palos Verdes Unified School District, who argued that the Marketable Records Title Act gave them the right to sell property despite prohibitions in the CC&Rs from doing so. The courts rejected that argument and upheld the CC&Rs and deeds. Bravo to you for doing your job well.

Then in 2011 you did a total about face and sold 1.7 acres of parkland to a private individual on Via Panorama. This property was covered by the same CC&Rs and Deed restrictions as the Lots C & D that the PVUSD sought to sell. **Why have you abandoned your charter and mission and bylaws?**

We tried to convince you to reverse that transaction, but you ignored us. So we formed Citizens for Enforcement Parkland Covenants and filed a lawsuit. 147 Residents, 134 of whom live in PVE, have joined us in this grass roots opposition by signing our petition, writing letters to City Council, or sending emails indicating their opposition to the transaction.

Your response has been shocking. First, you argued that PVHA has "a right but not a duty" to enforce the restrictions because the word "shall" actually means "may" – meaning it is "optional." Really? Merriam Webster dictionary says "shall" is "used in laws, regulations, or directives to express what is mandatory." Further, PVE Municipal codes says **"'Must" and "Shall' are each mandatory" and "'May' is permissive."** Shall" is used in almost every sentence in the U.S. Constitution, so I guess PVHA believes that it all can be disregarded.

Now the latest response from your lawyers says that PVHA intends to argue that the Marketable Title Act gave them the right to sell property. This **reversal flies in the face of the doctrine of judicial estoppel** (which means that once you have taken a position in litigation and prevailed you may not thereafter take the opposite position).

So my questions are:

- Why would the Association which spent several hundred thousand dollars proving that the Marketable Records Title Act does **not** apply in the school district litigation take the exact opposite stance now?
- Why would an association which was formed for the purpose of "perpetuating the restrictions" ever take the position in any case that the Marketable Records Title Act ever applies? Isn't that contrary to your very core purpose?

In an article in Open Space Action in 1969, the manager of PVHA Patricia Gribbon said: "These restrictions are **stronger than the U.S. Constitution**. The way they are set up, they can hardly be amended." Gaybert Little (Harry Brandel's predecessor as President of the PVHA) was quoted as saying, "**In all these years, we haven't lost a single foot of the parkland we started with**."

Well, you all have **forsaken that legacy and sold not just a foot, but 1.7 acres**. Shame on you. You should all resign. Here is my ballot to vote against all of your elections.