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10 **CITIZENS FOR ENFORCEMENT OF**  
11 **PARKLAND COVENANTS and JOHN**  
12 **HARBISON**

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

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

18 Plaintiffs,

19 vs.

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

Defendants.

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

**MAY 22 2015**

Sherril R. Carter, Executive Officer/Clerk  
By: Glorietta Robinson, Deputy

) Case No.: BS142768

) (Assigned for all purposes to  
) Hon. Barbara A. Meiers, Dept. 12)

) **PLAINTIFFS' EVIDENTIARY**  
) **OBJECTIONS TO THE**  
) **DECLARATIONS OF SIDNEY CROFT**  
) **AND LORE HILBURG**

) Hearing Date: May 29, 2015  
) Hearing Time: 9:30 a.m.  
) Department: 12

) Action Filed: May 13, 2013  
) Trial Date: None Set

**BY FAX**

BROEDLOW LEWIS LLP  
[www.BroedlowLewis.com](http://www.BroedlowLewis.com)

1 Plaintiffs Citizens for Enforcement of Parkland Covenants and John Harbison hereby  
 2 object to the following evidence filed by defendants in opposition to the motion for summary  
 3 judgment and further requests that the below described evidence be excluded from evidence  
 4 on the grounds set forth below:

Material Objected To	Grounds for Objection	Ruling
<p>7 <b><u>Objection No. 1.</u></b></p> <p>8 <u>Hilburg Decl. Pg. 1, ¶3, lns. 9-19:</u></p> <p>9 In my 35 years of working in the Title</p> <p>10 Insurance Industry, it is often necessary to</p> <p>11 review chains of recordable documents to</p> <p>12 decide on the effect of past conveyances and</p> <p>13 instruments on the ability to convey or use a</p> <p>14 parcel. I have reviewed hundreds of historic</p> <p>15 chains of title. In order to determine the</p> <p>16 intent of a particular conveyance or even a</p> <p>17 provision in a document, it is necessary to</p> <p>18 know the context that gives rise to the</p> <p>19 instrument which can include the use of</p> <p>20 property at the time, the financial conditions,</p> <p>21 the law, and the goal of the parties and allow</p> <p>22 for human error which can result in</p> <p>23 contradictory, awkward, ambiguous or even</p> <p>24 mistaken wording. My opinions herein are</p> <p>25 based on my lengthy experience and</p> <p>26 knowledge in this area, for which I have had</p> <p>27 hours of training both in-house with title</p> <p>28 insurers and through other seminars and</p>	<p>9 <b>Relevance</b> (Evid. Code,</p> <p>10 §§ 210, 350-351) and</p> <p>11 <b>improper expert</b></p> <p>12 <b>opinion</b> (Evid. Code,</p> <p>13 § 801): this expert</p> <p>14 declaration is offered to</p> <p>15 instruct the Court as to</p> <p>16 how the Court should</p> <p>17 interpret legal deeds.</p> <p>18 That is the exclusive</p> <p>19 province of the Court.</p> <p>20 “[A]n expert may not</p> <p>21 testify about issues of</p> <p>22 law or draw legal</p> <p>23 conclusions...”</p> <p>24 (<i>Nevarrez v. San Marino</i></p> <p>25 <i>Skilled Nursing and</i></p> <p>26 <i>Wellness Centre</i> (2013)</p> <p>27 221 Cal.App.4th 102,</p> <p>28 122 [hereinafter,</p> <p>“<i>Nevarrez</i>”); <i>Kasem v.</i></p> <p><i>Dion-Kindem</i> (2014) 230</p>	<p>9 [SUSTAINED]</p> <p>10 or</p> <p>11 [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 lectures that I have attended and that I have</p> <p>2 given to attorneys and title company</p> <p>3 employees, underwriters and real estate</p> <p>4 professionals.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p>	<p>Cal.App.4th 1395, 1401</p> <p>[holding that expert may</p> <p>not testify regarding</p> <p>intepretiation of</p> <p>contracts, hereinafter</p> <p>“<i>Kasem</i>”]; <i>Rosencrans v.</i></p> <p><i>Dover Images, Ltd.</i> (2011)</p> <p>192 Cal.App.4th 1072,</p> <p>1083 [holding that</p> <p>experts may not give</p> <p>opinions on matters that</p> <p>are within the province</p> <p>of the court to decide,</p> <p>hereinafter</p> <p>“<i>Rosencrans.</i>”].)</p>	
<p>18 <b><u>Objection No. 2.</u></b></p> <p>19 <u>Hilburg Decl. Pgs. 1-2, ¶4, lns. 20-28 and 1-5:</u></p> <p>20 I was asked to review the chain of title to</p> <p>21 Area A (as legally described at Evidence in</p> <p>22 Support of Plaintiffs' Motion for Summary</p> <p>23 Judgment or Adjudication ("Plaintiffs'</p> <p>24 Evidence"), Exhibit 3) to determine which</p> <p>25 documents affect its title and limit its use.</p> <p>26 Plaintiffs have focused on the 1940 Deeds</p> <p>27 and restrictions therein which effectuated the</p> <p>28 transfer of certain parcels of land in</p>	<p><b>Relevance</b> (Evid. Code,</p> <p>§§ 210, 350-351) and</p> <p><b>improper expert</b></p> <p><b>opinion</b> (Evid. Code,</p> <p>§ 801): (<i>Nevarrez</i>; <i>Kasem</i></p> <p>and <i>Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 Palos Verdes Estates from the Palos Verdes  2 Homes Association to the City of Palos  3 Verdes, identified as Plaintiffs' Evidence,  4 Exhibits 6 &amp; 7. However, the 1940 Deeds  5 incorporate the prior "provisions, conditions,  6 covenants and restrictions" and make the  7 1940 Deeds conveyance and covenants,  8 conditions, and restrictions ("CC&amp;Rs")  9 subject to the earlier ones in their entirety. So  10 the 1940 Deeds must be read, reviewed, and  11 analyzed as part of the earlier rights, powers,  12 goals and plans to arrive at a fair  13 understanding of what the owners of Area A  14 are entitled to do with the property.  15 Moreover, Area A is not a lone parcel. It is  16 part of an overall development. The entire  17 chain of documents makes it repeatedly clear  18 that all of the covenants imposed are done so  19 in the context of an overall plan. Thus, the  20 goal of preserving the nature of the  21 development must be considered when  22 attempting to effectuate a particular  23 provision.  24  25</p>		
<p>26 <b><u>Objection No. 3.</u></b>  27 <u>Hilburg Decl. Pg. 2, ¶5, lns. 6-8:</u>  28 Exhibit A, attached hereto, is a table I had</p>	<p><b>Relevance</b> (Evid. Code,  §§ 210, 350-351) and  <b>improper expert</b></p>	<p>[SUSTAINED]  or  [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 prepared which goes through the chain of 2 documents (instruments) applicable to Area 3 A, noting the key provisions I describe and 4 discuss below. 5 6</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	
<p>7 <b><u>Objection No. 4.</u></b> 8 <u>Hilburg Decl. Pg. 2, ¶6, lns. 9-14:</u> 9 I began my review with the Declaration of 10 Establishment of Basic Protective 11 Restrictions, Conditions, Covenants, 12 Reservations, Liens and Charges affecting the 13 real property known as Palos Verdes Estates 14 Parcels A and B et al. dated June 26, 1923, 15 recorded July 5, 1923 in Book 2360, page 231 16 as amended by Amendment No. 1 dated 17 Nov. 26, 1923 et.al. (the "Original 18 Declaration" or "Declaration No. 1"). 19 (Plaintiffs' Evidence, Exhibit 5 (portions of 20 Declaration No. 1).) 21</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p>22 <b><u>Objection No. 5.</u></b> 23 <u>Hilburg Decl. Pg. 2, ¶7, lns. 15-20:</u> 24 The preamble of the Original Declaration 25 begins with the declarant stating that it does 26 hereby establish the general plan for the 27 protection, maintenance, improvement and 28 development of the property which is fixed</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 by protective restrictions, conditions and 2 covenants etc. and charges upon all lots for 3 the benefit of the entire property. These 4 restrictions are binding and imposed as a 5 servitude on each parcel. The abhorrent racial 6 covenants at Article I, Section 2, are no 7 longer in effect. 8 9</p>		
<p>10 <b><u>Objection No. 6.</u></b> 11 <u>Hilburg Decl. Pg. 2, ¶8, lns. 21-28:</u> 12 Article I, Section 4 established the Palos 13 Verdes Homes Association ("Association") 14 and the Palos Verdes Art Jury with the power 15 to interpret and enforce the CC&amp;Rs created 16 by this Original Declaration and all future 17 documents. Many of the restrictions on 18 building and development are akin to zoning 19 regulations. See Article II. This section also 20 sets forth the many broad and specific 21 powers of the Association. See Article II, 22 Section 4. In particular, but not 23 insignificantly, the Association shall have "the 24 right and power to do and /or perform any of 25 the following things, for the benefit, 26 maintenance and improvement of the 27 property and owners thereof at any time: 28</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 7.</u></b></p> <p>2     <u>Hilburg Decl. Pg. 3, ¶8a, lns. 1-3:</u></p> <p>3     To maintain, purchase, construct, improve ...</p> <p>4     or dispose of parks, parkways, playgrounds,</p> <p>5     open spaces and recreation areas ... for the</p> <p>6     improvement and development of property</p> <p>7     herein referred to."</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>10    <b><u>Objection No. 8.</u></b></p> <p>11    <u>Hilburg Decl. Pg. 3, ¶8a(i), lns. 4-6:</u></p> <p>12    To acquire..., own ... and to convey, sell, lease,</p> <p>13    transfer ... and to otherwise dispose of realty</p> <p>14    and/or personal property within or</p> <p>15    without the boundaries of said property.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>17    <b><u>Objection No. 9.</u></b></p> <p>18    <u>Hilburg Decl. Pg. 3, ¶8a(k), lns. 8-14:</u></p> <p>19    To issue building permits for any and all</p> <p>20    improvements ... with the powers and rights</p> <p>21    conferred upon it by virtue of any and all</p> <p>22    restrictions or contractual agreements ...</p> <p>23    which may at any time be placed upon or</p> <p>24    exist in connection with any of said property</p> <p>25    ... and to provide for light, sanitation, health,</p> <p>26    comfort, and convenience for the occupants</p> <p>27    ... by establishing such requirements as are</p> <p>28    usually included in City housing codes or</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 zoning regulations."</p> <p>2</p> <p>3</p>		
<p>4 <b><u>Objection No. 10.</u></b></p> <p>5 <u>Hilburg Decl. Pg. 3, ¶8a(q), lns. 16-19:</u></p> <p>6 To exercise such powers of control,</p> <p>7 interpretation, construction, consent,</p> <p>8 decision, determination, modification,</p> <p>9 amendment, cancellation, annulment and/or</p> <p>10 enforcement of covenants, restrictions</p> <p>11 ... imposed upon said property.</p> <p>12</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>13 <b><u>Objection No. 11.</u></b></p> <p>14 <u>Hilburg Decl. Pg. 3, ¶8a(t), lns. 20-27:</u></p> <p>15 Generally, to do any and all lawful things</p> <p>16 which may be advisable, proper, authorized</p> <p>17 and/or permitted by the [Association]... by</p> <p>18 virtue of this declaration or of any</p> <p>19 restrictions, covenants, conditions or laws at</p> <p>20 any time affecting said property... (including</p> <p>21 areas now or hereafter dedicated to public</p> <p>22 use)...and to perform...all acts...either</p> <p>23 necessary for or incidental to the exercise of</p> <p>24 any of the foregoing powers or for the peace,</p> <p>25 health, comfort, safety, and/or general</p> <p>26 welfare of owners....</p> <p>27</p> <p>28</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	



Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 12.</u></b></p> <p>2     <u>Hilburg Decl. Pgs. 3-4, ¶8a(z), lns. 28 and 1-6:</u></p> <p>3     To make such agreements with county,</p> <p>4     township, state, national or other public</p> <p>5     officials or with any corporation or individual</p> <p>6     for and on behalf of the owners of said</p> <p>7     property ... for a division of the work upon</p> <p>8     the ... parks ... as well as enable the</p> <p>9     [Association] to [correspond] with the</p> <p>10    officials . . . to secure the greatest benefits to</p> <p>11    the said property that can be derived from ...</p> <p>12    funds or otherwise benefit the said property."</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>15    <b><u>Objection No. 13.</u></b></p> <p>16    <u>Hilburg Decl. Pg. 4, ¶8, lns. 7-11:</u></p> <p>17    Further, Article IV Zoning, Section 1</p> <p>18    provides that "The Protective restrictions in</p> <p>19    this article shall be known as "Building Zone</p> <p>20    Restrictions ... " Area A is a Class F Parcel.</p> <p>21    Article IV, continues in Section 2: "Class F -</p> <p>22    Public and Semi-Public Uses" which is</p> <p>23    further defined in Section 10 to include not</p> <p>24    only schools, parks, art galleries, or other</p> <p>25    public or semi-public buildings but also single</p> <p>26    family residences. Section 16(b) of Article IV</p> <p>27    allows for accessory buildings on Class F</p> <p>28    parcels.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 14.</u></b></p> <p>2     <u>Hilburg Decl. Pg. 4, ¶ 9, lns. 12-17:</u></p> <p>3     Article VI, Section 11 reiterates and restates</p> <p>4     the powers set forth in Article II,</p> <p>5     Section 4(q) which authorizes the Association</p> <p>6     to interpret and/or enforce any or all</p> <p>7     "restrictions ... herein or at any time created ...</p> <p>8     In case of uncertainty as to the meaning of</p> <p>9     said provisions, the [Association] shall in all</p> <p>10    cases INTERPRET THE SAME AND</p> <p>11    SUCH INTERPRETATION SHALL BE</p> <p>12    FINAL AND CONCLUSIVE UPON ALL</p> <p>13    INTERESTED PARTIES" (emphasis</p> <p>14    added).</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>17    <b><u>Objection No. 15.</u></b></p> <p>18    <u>Hilburg Decl. Pg. 4, ¶10, lns. 18-24:</u></p> <p>19    Amendment 10 to Declaration 20 (which</p> <p>20    applies to Tract 7330) and Declaration 25</p> <p>21    (which applies to Tract 8652), recorded July</p> <p>22    26, 1926 in Book 6052, page 86 is the next</p> <p>23    pertinent document in the chain of title. This</p> <p>24    document identifies Bank of America as the</p> <p>25    successor to Commonwealth Trust Company.</p> <p>26    This amendment confirms the various powers</p> <p>27    listed in the 1923 document and, in particular,</p> <p>28    restates Article VI, Section 11 of the 1923</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 document recited above. This document also 2 designated Lot A as a Class F district. Most of 3 Area A, at issue in this litigation, is located in 4 Lot A. 5 6</p>		
<p>7 <b><u>Objection No. 16.</u></b> 8 <u>Hilburg Decl. Pgs. 4-5, ¶11, lns. 25-28 and 1-</u> 9 <u>15:</u> 10 The grant deed recorded on January 22, 1931 11 in Book 10494, page 360, et seq. (the 12 "1931 Deed") is the next instrument in the 13 chain pertinent to this discussion. (Croft 14 Decl., Exhibit B (1931 Deed).) In this 15 conveyance, Bank of America deeds most of 16 Area A (that part contained in Tract 8652) to 17 the Association. Paragraph 2 recites that each 18 and every provision, condition, restriction, 19 reservation and covenant (which includes the 20 powers of the Association) contained in the 21 Original Declaration and successive 22 amendments thereto "are made a part of this 23 conveyance and expressly imposed upon said 24 realty as fully and completely as if herein set 25 forth in full." Paragraph 3 reserves the right 26 to "enter upon, develop, plan, improve or 27 maintain" the property. Section 3 provides 28 that the area is to be used and administered</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b> <b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

1 <b>Material Objected To</b>	2 <b>Grounds for Objection</b>	3 <b>Ruling</b>
<p>4 forever as park and/or recreation purposes</p> <p>5 for the benefit of those residents in Palos</p> <p>6 Verdes Estates, but under the regulations and</p> <p>7 subject to the conditions in this deed or set</p> <p>8 forth in the future by the Association for the</p> <p>9 purpose of safeguarding the land and</p> <p>10 protecting Palos Verdes Estates from uses or</p> <p>11 conditions which may be detrimental to the</p> <p>12 neighborhood amenities. Section 4 provides</p> <p>13 for improvements "that are properly</p> <p>14 incidental to the convenient and/or proper</p> <p>15 use of the area for park and/or recreation</p> <p>16 purposes." Section 5 states that the</p> <p>17 Association may for the purpose of</p> <p>18 rectification of boundaries re-convey title of</p> <p>19 portions of said land to Bank of America or</p> <p>20 its successors in interest, in exchange for</p> <p>21 other lands. Under Section 8 it states that all</p> <p>22 of the conditions, covenants and restrictions</p> <p>23 are part of the general plan for the</p> <p>24 improvement and development of the</p> <p>25 property described and imposed as a</p> <p>26 servitude on all parcels in the development.</p>		
<p>26 <b><u>Objection No. 17.</u></b></p> <p>27 <u>Hilburg Decl. Pgs. 5-6, ¶12, lns. 16-28 and 1-</u></p> <p>28 <u>4:</u></p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert</b></p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 With that backdrop, next up in the chain of  2 title of relevant documents are the 1940  3 documents. Bank of America grants various  4 parcels to the Association in anticipation of a  5 further grant by the Association to the City of  6 Palos Verdes (the "City"). (Croft Decl.,  7 Exhibit C (1940 Bank of America Deed).) In  8 its acceptance of the land, the City, in Section  9 2, page 11 recites that each and every  10 provision, condition, restriction, reservation  11 and covenant etc. contained in the documents  12 recited and listed herein above, remain fully  13 enforceable and effective as if set forth  14 therein. Paragraph 3 states that the land is to  15 be used and administered forever for park  16 and recreation purposes only as previously set  17 forth in the 1931 Deed. The same language in  18 the 1931 Deed on administering land is  19 repeated here with the addition of allowing  20 for a golf course and club house. The sections  21 on the kind of improvements to be allowed  22 are included from the 1931 Deed with a  23 further limitation on the right to amend the  24 CC&amp;Rs using the votes allowed in the prior  25 declarations. However, since the land is to be  26 owned by the City, it makes sense that the  27 landowners and Association would not have  28</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	

Material Objected To	Grounds for Objection	Ruling
<p>1 the power to amend the restrictions as they</p> <p>2 would no longer own the land. Only the</p> <p>3 landowner has the power to change the</p> <p>4 CC&amp;Rs applicable to the land to be</p> <p>5 burdened. See Cal. Civil Code Sections 804</p> <p>6 and 1468. But the right of reverter is fully set</p> <p>7 forth in the 1940 Deed in the event of a</p> <p>8 breach, subject to the application of the</p> <p>9 Marketable Record Title Act (Cal. Civil Code</p> <p>10 section 880.020 et seq.).</p> <p>11</p> <p>12</p>		
<p>13 <b><u>Objection No. 18.</u></b></p> <p>14 <u>Hilburg Decl. Pg. 6, ¶13, lns. 5-13:</u></p> <p>15 Lots C and D (designated as the School</p> <p>16 recreational spaces) came to be owned by the</p> <p>17 Palos Verdes Unified School District</p> <p>18 ("District"). (Croft Decl., Exhibit D (193 8</p> <p>19 Deed).) The District filed a lawsuit against the</p> <p>20 Association and the City to obtain the right to</p> <p>21 change the use of Lots C and D so they could</p> <p>22 be sold to developers. The Association</p> <p>23 opposed this change because it would</p> <p>24 adversely affect the general plan of the area.</p> <p>25 The Association successfully obtained a</p> <p>26 judgment whereby the court found that a</p> <p>27 violation of the restriction in the 1925</p> <p>28 Declaration and 1938 Deed would cause</p>	<p>13 <b>Relevance</b> (Evid. Code,</p> <p>14 §§ 210, 350-351) and</p> <p>15 <b>improper expert</b></p> <p>16 <b>opinion</b> (Evid. Code,</p> <p>17 § 801): (<i>Nevarrez; Kasem</i></p> <p>18 <i>and Rosencrans</i>).</p>	<p>13 [SUSTAINED]</p> <p>14 or</p> <p>15 [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 irreparable harm to the development plan of 2 Tract 7331. (The 1938 Deed is attached as 3 Exhibit D to the Croft Decl.) Further, the 4 Association relied on the Original 5 Declaration. 6 7</p>		
<p>8 <b><u>Objection No. 19.</u></b> 9 <u>Hilburg Decl. Pg. 6, ¶14, lns. 14-22:</u> 10 In a settlement of said lawsuit, which 11 judgment had then been appealed by all 12 parties, the District conveyed Lots C and D 13 to the Association. (Croft Decl., para. 29.a). 14 The City conveyed Area A to the Association. 15 (Plaintiffs' Evidence, Exhibit 9.) The 16 Association granted Area A to the owners of 17 900 Via Panorama, subject to an open space 18 easement and stringent zoning and building 19 restrictions which effectively limited the use 20 of Area A to recreational purposes. 21 (Plaintiffs' Evidence, Exhibit 10.) Then as 22 part of an exchange (pursuant to the powers 23 granted to the Association in the 1931 Deed), 24 the Association granted Lots C and D to the 25 City so that those parcels would be 26 maintained by the City in conformity with the 27 general plan. (Croft Decl., para. 29.c). 28</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b>Objection No. 20.</b></p> <p>2     <u>Hilburg Decl. Pgs. 6-7, ¶15, lns. 23-28 and 1-</u></p> <p>3     <u>8:</u></p> <p>4     Once the Association regained ownership of</p> <p>5     Area A, it had the right to interpret the</p> <p>6     restrictions consistent with the preservation</p> <p>7     of the overall general plan or if doing so</p> <p>8     would advance the interests and overall</p> <p>9     objectives as set forth in all the conveyancing</p> <p>10    documents and in consideration of the</p> <p>11    conditions and circumstances it then faced.</p> <p>12    (See Croft Decl. para. 22; 34.)</p> <p>13    Those requirements were met by the</p> <p>14    easements, regulations, and zoning and</p> <p>15    building restrictions listed in the deed from</p> <p>16    the City to the Association (Plaintiffs'</p> <p>17    Evidence, Exhibit 9) and from the</p> <p>18    Association to the owners of 900 Via</p> <p>19    Panorama. (Plaintiffs' Evidence, Exhibit 10.)</p> <p>20    They protect Area A in accordance with the</p> <p>21    parameters set forth in Declaration Nos. 1</p> <p>22    and 25. Whether or not the Association</p> <p>23    would have expected the restrictions it placed</p> <p>24    upon the City under the 1940 Deeds to apply</p> <p>25    to it should it ever reacquire the property in</p> <p>26    view of the circumstances under which it</p> <p>27    transferred the property to the City in 1940,</p> <p>28</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>



Material Objected To	Grounds for Objection	Ruling
<p>1 the Association would have rightly expected</p> <p>2 to have the ability, consistent with</p> <p>3 Declaration Nos. 1 and 25, to interpret the</p> <p>4 restrictions to serve the community's best</p> <p>5 interests and undertake appropriate land</p> <p>6 exchanges and to have that interpretation</p> <p>7 I be conclusive on all interested parties,</p> <p>8 including plaintiffs.</p> <p>9</p> <p>10</p>		
<p>11 <b><u>Objection No. 21.</u></b></p> <p>12 <u>Croft Decl., Pg. 2, ¶3, lns. 7-12:</u></p> <p>13 In my capacity as the longstanding General</p> <p>14 Counsel of the Association, I am familiar with</p> <p>15 the history of the Association, its governing</p> <p>16 documents, and the historical and more</p> <p>17 recent deed restrictions. I have personally</p> <p>18 either reviewed or drafting many of the</p> <p>19 Association's governing documents and deed</p> <p>20 restrictions. As relates to the present</p> <p>21 litigation, I have reviewed all potentially</p> <p>22 relevant Association documents and directly</p> <p>23 participated in the drafting of the various</p> <p>24 documents that resulted in the various</p> <p>25 property conveyances and agreements at</p> <p>26 issue.</p> <p>27</p> <p>28</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 22.</u></b></p> <p>2     <u>Croft Decl., Pg. 2, ¶4, lns. 13-18:</u></p> <p>3     For this declaration, I have undertaken</p> <p>4     additional review (to supplement my existing</p> <p>5     familiarity) of all of the Plaintiffs' various</p> <p>6     pleadings (including the numerous exhibits</p> <p>7     submitted and attached to those pleadings</p> <p>8     over the course of the litigation as well as the</p> <p>9     original versions of many of those documents</p> <p>10    that are Association documents) as well as all</p> <p>11    of the underlying documents including all of</p> <p>12    the various deeds, conveyances, and</p> <p>13    agreements at issue in this case.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>16    <b><u>Objection No. 23.</u></b></p> <p>17    <u>Croft Decl., Pg. 2, ¶5, lns. 19-23:</u></p> <p>18    I also participated and have personal</p> <p>19    knowledge about the decision of the</p> <p>20    Association to settle the previous litigation</p> <p>21    with the Palos Verdes Peninsula Unified</p> <p>22    School District ("School District" or</p> <p>23    "District"). The terms of that settlement are</p> <p>24    set forth in a document known as the</p> <p>25    Memorandum of Understanding ("MOU").</p> <p>26    transactions pursuant to which are</p> <p>27    challenged by the Plaintiffs in this case.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 24.</u></b></p> <p>2     <u>Croft Decl., Pg. 3, ¶9, lns. 17-22:</u></p> <p>3     Important to this case, and to the history of</p> <p>4     development of the City, is that there are</p> <p>5     several recorded documents, dating back to</p> <p>6     the time of formation of the Association, that</p> <p>7     have always governed, and have continued to</p> <p>8     govern, the use of open space. It is the</p> <p>9     Association, and specifically the Association's</p> <p>10    Board of Directors, that is charged with the</p> <p>11    duty to interpret together the many</p> <p>12    restrictions that are included in the recorded</p> <p>13    documents, and to balance the competing</p> <p>14    interests involved in interpreting and applying</p> <p>15    those restrictions.</p> <p>16</p> <p>17</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>18    <b><u>Objection No. 25.</u></b></p> <p>19    <u>Croft Decl., Pgs. 3-4, ¶10, lns. 23-28 and 1:</u></p> <p>20    Plaintiff in this case, are essentially doing the</p> <p>21    one thing that the Association can never do,</p> <p>22    which is focus on a single recorded</p> <p>23    document, and worse yet, focus on one or a</p> <p>24    few provisions in that one document, and</p> <p>25    then argue, based on those provisions, that</p> <p>26    there has somehow been a violation. The</p> <p>27    Association has (as it has always had) a much</p> <p>28    more complex task to interpret and apply the</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 provisions of the recorded documents in 2 accordance with the purposes of the 3 Association as reflected in its governing 4 documents and by-laws. It is that very 5 exercise of the Association's business 6 judgment that the Plaintiffs seek to challenge 7 in this case. 8 9</p>		
<p>10 <b><u>Objection No. 26.</u></b> 11 <u>Croft Decl., Pg. 4, ¶11, lns. 3-11:</u> 12 The first or original deed restrictions 13 governing the project are entitled Declaration 14 of Establishment of Basic Restrictions; 15 Conditions, Covenants, Reservations Liens 16 and Charges ("Declaration No. 1"). They 17 were executed on June 29, 1923 and recorded 18 July 5, 1923. A true and correct copy of 19 portions of Declaration No. 1 is attached as 20 Exhibit 5 to Evidence in Support of Plaintiffs' 21 Motion for Summary Judgment or 22 Adjudication ("Plaintiffs' Evidence"). Exhibit 23 5 also includes portions of Declarations 23 24 and 25, and Amendment 10 to Declaration 25 20, as well as the articles of incorporation and 26 by laws of the Association (collectively 27 referred to as "Declaration No. 1"). Of note, 28 Amendment 10 states that Bank of America</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 is the successor to Commonwealth Trust 2 3 Company (See page 9 of Exhibit 5). 4</p>		
<p>5 <b><u>Objection No. 27.</u></b> 6 <u>Croft Decl., Pg. 4, ¶12, lns. 13-17:</u> 7 In the introductory provisions of Declaration 8 No. 1 (page 4 of Exhibit 5), it states 9 "Whereas, the power to interpret and enforce 10 certain of the conditions, restrictions and 11 charges set forth in the Declaration is to 12 reside in Palos Verdes Homes Association, a 13 non-profit, cooperative association organized 14 and existing under and by virtue of the laws 15 of the State of California, and in Palos Verdes 16 Art Jury, created and established as provided 17 in said Declaration No. 1."</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p>19 <b><u>Objection No. 28.</u></b> 20 <u>Croft Decl., Pg. 4, ¶13, lns. 18-27:</u> 21 Declaration No. 1, under Article IV, Zoning, 22 Section 10, Business and Public Use 23 Districts, Class F, sets out the land use 24 classification that subsequently included the 25 subject Area A now owned by real parties, the 26 Luglianis. See Paragraph 18 below, which 27 discusses this in more detail. Section 10 states 28 as to property in this classification, "no</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>           1 building, structure or premises shall be            2 erected, constructed or designed or intended            3 to be used for any purpose other            4 than that of a public or private school,            5 playground, park, aeroplane or dirigible            6 landing field or accessory aerodrome or repair            7 shop, public art gallery, museum, library,            8 firehouse, nursery, or greenhouse or other            9 public or semi-public building, or a single            10 family dwelling." Of note, exhibit 5 to            11 Plaintiffs' Evidence does not include all the            12 pages of Declaration No. 1. So the entirety of            13 Declaration No. 1 is attached here as Exhibit            14 A (See page 29 of Declaration No. 1).            15            16         </p>		
<p>           17 <b><u>Objection No. 29.</u></b>            18 <u>Croft Decl., Pgs. 4-5, ¶14, lns. 28 and 1-13:</u>            19 Under Declaration No. I, Article II, Section            20 4, Powers of the Homes Association, page 19            21 et seq. (p. 16 of Exhibit 5), "The Association            22 shall have the right and power to do and/or            23 perform any of the following things, for the            24 benefit, maintenance and improvement of the            25 property and owners thereof at any time            26 within the jurisdiction of the Homes            27 Association, to wit: (a). To maintain,            28 purchase, construct, improve, repair, prorate,         </p>	<p> <b>Relevance</b> (Evid. Code,            §§ 210, 350-351) and  <b>improper expert</b>  <b>opinion</b> (Evid. Code,            § 801): (<i>Nevarrez, Kasem</i>  <i>and Rosencrans</i>).         </p>	<p>           [SUSTAINED]            or            [OVERRULED]         </p>

Material Objected To	Grounds for Objection	Ruling
<p>1 care for, own/and or dispose of parks, 2 parkways, playgrounds, open space and 3 recreational areas .... for the use and benefit 4 of the owners of and/or for the improvement 5 and development of the property herein 6 referred to ... (i) To acquire, by gift, purchase, 7 lease or otherwise acquire and to own, hold, 8 enjoy, operate, maintain, and to convey, sell, 9 lease, transfer, mortgage and otherwise 10 encumber, dedicate for public use and/or 11 otherwise dispose of real and/or personal 12 property either within or without the 13 boundaries of said property ... (q) To exercise 14 such power of control, interpretation, 15 construction, consent, decision, 16 determination, modification, amendment, 17 cancellation, annulment, and/or enforcement 18 of covenants, reservations, restrictions, liens, 19 and charges imposed upon said property as 20 are herein or may be vested in, delegate to, or 21 assigned to the Homes Association ... "</p>		
<p>24 <b><u>Objection No. 30.</u></b> 25 <u>Croft Decl., Pg. 5, ¶15, lns. 14-24:</u> 26 Under Declaration No. 1, Article VI, Section 27 11, page 40 (page 23 of Exhibit 5), it 28 provides: "In its own name, so far as it may</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b> <b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem</i></p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 lawfully do so, or in the name of  2 Commonwealth Trust Company or of any lot  3 or parcel owner subject to its jurisdiction,  4 Palos Verdes Homes Association shall  5 interpret and/or enforce any or all  6 restrictions, conditions, covenants,  7 reservations, liens, charge and agreements  8 herein or any time created for the benefit of  9 the said property or in any property which  10 may thereby be expressly made subject to its  11 jurisdiction by the owners thereof, or to  12 which said lots or any of them, may at any  13 time be subject. In case of uncertainty as to  14 meaning of said provisions or of any  15 provisions of this declaration, the Homes  16 Association shall (except as to the provisions  17 of Article III hereof, which shall be  18 interpreted by the Art Jury) in all cases  19 interpret the same and such interpretation  20 shall be final and conclusive upon all  21 interested parties."  22  23</p>	<p>and <i>Rosencrans</i>).</p>	
<p>24 <b><u>Objection No. 31.</u></b>  25 <u>Croft Decl., Pgs. 5-6, ¶16, lns. 25-28 and 1:</u>  26 Declaration No. 1, Article VI Section 12,  27 page 41 (page 24 of Exhibit 5), provides that  28 "The provisions contained in this declaration</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and  <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem</i></p>	<p>[SUSTAINED]  or  [OVERRULED]</p>



Material Objected To	Grounds for Objection	Ruling
<p>1 shall bind and inure to the benefit of and be</p> <p>2 enforceable by Commonwealth Trust</p> <p>3 Company. Palos Verdes Homes Association,</p> <p>4 by the owner or owners of any property in</p> <p>5 said tract, their, and each of their, legal</p> <p>6 representatives, heirs, successors and assigns</p> <p>7 ... "</p> <p>8</p> <p>9</p>	<p>and <i>Rosencrans</i>).</p>	
<p>10 <b><u>Objection No. 32.</u></b></p> <p>11 <u>Croft Decl., Pg. 6, ¶17, lns. 2-11:</u></p> <p>12 The by laws of the Association are attached</p> <p>13 to Declaration No. 1 (page 35 of Exhibit 5)</p> <p>14 and among the provisions of the by laws, is</p> <p>15 Article XIV, entitled Park and Recreation</p> <p>16 Board, and provides for the formation of the</p> <p>17 Board. The enumerated powers (section (a))</p> <p>18 include the power to devise and adopt and</p> <p>19 care for and maintain a system of parks,</p> <p>20 regulation and open space, under the overall</p> <p>21 direction of the Association's Board. This is</p> <p>22 important, because initially the Association</p> <p>23 maintained all open space and recreational</p> <p>24 areas, which, together with the obligation to</p> <p>25 pay tax on these properties, imposed a</p> <p>26 significant burden on the Association. As</p> <p>27 discussed below at Paragraph 20 and above in</p> <p>28 Paragraph 8, subsequently the Association</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 transferred to the City all of its open space 2 pursuant to the 1940 Deeds so that the 3 maintenance and tax burdens which the 4 Association could not handle fell upon the 5 City. 6 7</p>		
<p>8 <b><u>Objection No. 33.</u></b> 9 <u>Croft Decl., Pg. 6, ¶18, lns. 13-19:</u> 10 Bank of America then executed and recorded 11 on July 26, 1926, restrictions entitled 12 Local Protective Restrictions, Conditions, 13 Covenants, Reservations, Liens and Charges 14 Affecting Real Property known as Tract 8652 15 ("Declaration No. 25"). Of note, Plaintiffs' 16 Evidence, Exhibit 5, only includes portions of 17 Declaration No. 25. The complete 18 Declaration No. 25 is attached as part of 19 Exhibit A. Section 2(d) of Declaration 25 20 designated Lot A of Tract 8652, which 21 includes most of Area A, as a Business and 22 Public Use District of Class F, the permitted 23 uses in which are described in Paragraph 13 24 above. 25</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p>26 <b><u>Objection No. 34.</u></b> 27 <u>Croft Decl., Pgs. 6-7, ¶19, lns. 21-28 and 1-3:</u> 28 As development of the project proceeded, on</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b></p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 January 21, 1931, Bank of America deeded</p> <p>2 Tract 8652, as well as other open space tracts,</p> <p>3 to the Association “to be used and</p> <p>4 administered forever for park and/or</p> <p>5 recreation purposes.” That deed (the "1931</p> <p>6 Deed .. ) contains a number of notable</p> <p>7 provisions, including: (a) in Section 3, the</p> <p>8 right of the Association (through its Park and</p> <p>9 Recreation Board) to establish regulations</p> <p>10 governing the use of the property; (b) in</p> <p>11 Section 3(a), a reservation by the grantor of</p> <p>12 the right to "enter upon, develop, plant,</p> <p>13 improve, or maintain any part or all of said</p> <p>14 realty for the benefit of all of Palos Verdes</p> <p>15 Estates in a manner not inconsistent with the</p> <p>16 purposes for which said realty is hereby</p> <p>17 conveyed after due notice to/and</p> <p>18 consultation with the Park and Recreation</p> <p>19 Board" of the Association; and (c) in Section</p> <p>20 5, the right of the Association to enter into</p> <p>21 exchanges of this property for other land.</p> <p>22 The 1931 Deed is not attached to Plaintiffs'</p> <p>23 Evidence, so it is attached here as Exhibit B.</p> <p>24</p> <p>25</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	
<p>26 <b><u>Objection No. 35.</u></b></p> <p>27 <u>Croft Decl., Pgs. 7-8, ¶21, lns. 27-28 and 1-</u></p> <p>28 <u>21:</u></p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert</b></p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

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<b>Material Objected To</b>	<b>Grounds for Objection</b>	<b>Ruling</b>
<p>Each of the 1940s Deeds apply only to certain named "Lots" of certain defined Tracts. I am confident that the 1940s Deeds' property descriptions include Area A now owned by real parties, the Luglianis, and at issue in this case, even though some of the terminology over time has changed slightly as I explain next. Declaration No. 1 used terminology "Parcels A and B", referring to the properties comprising the project as a whole, whereas the 1940 Deeds used terminology "Lots A, B, C, D, etc." of certain specific tract numbers, which came into existence as phases of the project were platted. Page 6 of the 1940 Deed from the Association to the City and page 3 of the second 1940 Deed from the Association to the City (pages 6 of Exhibit 6 and page 3 of Exhibit 7, the 1940s Deeds) both state in paragraph 2 that "Each and every provision, condition, restriction ... contained in the previous Declarations [identified by Book and page numbers] are hereby made a part of this conveyance and expressly imposed upon said realty as fully and completely as if herein set forth in full." This incorporation by reference of the previous Declarations means that the</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	

Material Objected To	Grounds for Objection	Ruling
<p>1 authority of the Association to interpret the 2 relevant restrictions and the conclusive effect 3 of that interpretation (as discussed in 4 Paragraph 15 above) are expressly applicable 5 to the 1940s Deeds. Then in paragraph 3 of 6 each of the 1940s Deeds (Exhibits 6 and 7 7), those deeds provide “That, except as 8 hereinafter provided, said realty is to be used 9 and administered forever for park and/or 10 recreation purposes only ... for the benefit of 11 (1) residents and (2) non residents property 12 owners .... for the purpose of safeguarding 13 said realty and any vegetation and/or 14 improvements thereon from damage.... 15 Paragraphs 4, 5 and 6 of the 1940s 16 Deeds state that structures are allowed if 17 incidental to recreation purposes (4 ); may be 18 sold as allowed in paragraph 3, i.e. for the 19 benefit of residents and owners (5); and 20 owners may be permitted to develop paths, 21 steps and other improvements for egress, 22 views, etc. consistent with the recreational use 23 (6). 24 25</p>		
<p>26 <b><u>Objection No. 36.</u></b> 27 <u>Croft Decl., Pg. 8, ¶22, lns. 22-28:</u> 28 The regular and consistent practice of the</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b></p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 Association when tasked with interpretation 2 of deed language and its meaning, has always 3 been to read the language of the various 4 Declarations (here Declarations no. 1 and 25) 5 and any applicable deeds (here the 1931 and 6 1940s Deeds) together, as a whole, and to 7 determine, based on that combined reading, 8 the best course of action for the Association 9 in the best interests of its members. 10 Declaration No. 1. Article VI, Section 9 11 provides: "All of said restrictions, conditions, 12 covenants, liens and charges contained in this 13 declaration shall be construed together ...."</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem</i> and <i>Rosencrans</i>).</p>	
<p>16 <b><u>Objection No. 37.</u></b> 17 <u>Croft Decl., Pg. 9, ¶23, lns. 1-3:</u> 18 The real parties in this case, the Luglianis, are 19 the owners of a home directly adjacent to 20 Area A, and have sought to make recreational 21 use of a small unusable portion of mostly 22 steep hillside directly behind and below their 23 adjacent home (i.e. Area A).</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b> <b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p>25 <b><u>Objection No. 38.</u></b> 26 <u>Croft Decl., Pg. 9, ¶24, lns. 4-11:</u> 27 As set forth in detail below, the terms of the 28 MOU resolved many issues for the City and</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b> <b>opinion</b> (Evid. Code,</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 the Association. The Association's express</p> <p>2 decision to enter into the MOU was an</p> <p>3 exercise of its business judgment to settle the</p> <p>4 litigation with School District, which at the</p> <p>5 time was on appeal. The significant additional</p> <p>6 benefit of the MOU was that the Association</p> <p>7 and City were able to preserve more usable</p> <p>8 flat land for park space (areas known as Lots</p> <p>9 C and D under the MOU) in exchange for</p> <p>10 allowing the Luglianis to use the small portion</p> <p>11 of adjacent hillside property for recreational</p> <p>12 use (Area A). In addition and also of</p> <p>13 substantial importance, the School District</p> <p>14 affirmed the application of all protective and</p> <p>15 use restrictions to all properties conveyed in</p> <p>16 1938.</p>	<p>§ 801): (<i>Nevarrez, Kasem</i> and <i>Rosencrans</i>).</p>	
<p>19 <b><u>Objection No. 39.</u></b></p> <p>20 <u>Croft Decl., Pg. 9, ¶25, lns. 13-22:</u></p> <p>21 In 1938, the Association conveyed 13</p> <p>22 properties to the School District subject to</p> <p>23 the restrictions set forth in the deed (the</p> <p>24 "1938 Deed"). The deed to the School</p> <p>25 District states: "AND SUBJECT TO</p> <p>26 conditions, restrictions and reservations of</p> <p>27 record; and to the express condition that said</p> <p>28 reality shall not be used for any other purpose</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 than for the establishment and maintenance 2 of public schools, playgrounds and/or 3 recreation areas:". In the opinion of the 4 Association's Board based upon the 1938 5 Deed, the properties could not be sold by the 6 District for development to raise funds or 7 otherwise for uses in conflict with the 1938 8 Deed. The District planned to create four lots 9 from the two lots, C and D of Tract 7331, 10 and sell them for development. The 1938 11 Deed is not attached to Plaintiffs' Evidence 12 and is attached here as Exhibit D.</p>		
<p>15 <b><u>Objection No. 40.</u></b> 16 <u>Croft Decl., Pgs. 9-10, ¶26, lns. 23-28 and 1:</u> 17 On February 1, 2010, the District filed a 18 lawsuit against the City and Association 19 seeking a declaration that the land use 20 restrictions in the 1938 Deed and Declaration 21 No. 25 were no longer enforceable. Palos 22 Verdes Peninsula Unified School District v. 23 Palos Verdes Homes Association, Los 24 Angeles Superior Court Case No. BC431020 25 (the "District Lawsuit"). On September 22, 26 2011, the trial court entered judgment in 27 favor of the Association, and found that 28 the Association deed to the District and the</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez; Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>



Material Objected To	Grounds for Objection	Ruling
<p>1925 Declaration remained enforceable. The judgment is attached to Plaintiffs' Evidence as Exhibit 11. The District appealed the judgment.</p>		
<p><b><u>Objection No. 41.</u></b> <u>Croft Decl., Pg. 10, ¶27, lns. 2-8:</u> The Association spent nearly two years in expensive litigation, incurred significant legal fees and costs of over \$450,000, representing approximately half of the Association's reserves at the time. PVHA faced a long road of appeal expenses in the foreseeable future, as well as continued controversy that was dividing the Palos Verdes community. The parties, the District, Association, City, and the real parties in this case, the Luglianis, decided to enter into a complex settlement agreement, as set forth below to resolve many issues that posed significant challenges to the Palos Verdes community, including the District litigation.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p><b><u>Objection No. 42.</u></b> <u>Croft Decl., Pg. 10, ¶28, lns. 10-13:</u> After many months of back and forth negotiations, the parties (Association,</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code,</p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>District, City and the Luglianis) entered into a four-party settlement agreement, known as the MOU, which was approved by the governing boards of the District, City and Association. The MOU (without attachments) is attached as Exhibit 12 to Plaintiffs' Evidence.</p>	<p>§ 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	
<p><b><u>Objection No. 43.</u></b> <u>Croft Decl., Pg. 10, ¶29a, lns. 15-17:</u> The School District agreed that Lots C and D were to revert back to the control of the Association (they were no longer subject to potential sale by the District for profit and for development);</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p><b><u>Objection No. 44.</u></b> <u>Croft Decl., Pg. 10, ¶29b, lns. 18-20:</u> The District agreed the District would not attempt to sell the other eleven lots that were originally deeded to the District by the Association, and would abide by the terms of the 1938 Deeds and Declaration No. 25;</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>
<p><b><u>Objection No. 45.</u></b> <u>Croft Decl., Pg. 10, ¶29c, lns. 21-23:</u> The Association, subsequently, agreed to</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert</b></p>	<p>[SUSTAINED] or [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>transfer Lots C and D to the City for use as open space (park and/or recreational uses), and in return, the City transferred Area A to the Association;</p>	<p><b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	
<p><b><u>Objection No. 46.</u></b>  <u>Croft Decl., Pg. 10, ¶29d, lns. 24-26:</u>            The Association then sold and conveyed Area A to the Luglianis, subject to a restrictive open space easement, for a price of \$500,000 paid to the Association;</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and  <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]            or            [OVERRULED]</p>
<p><b><u>Objection No. 47.</u></b>  <u>Croft Decl., Pg. 10, ¶29e, lns. 27-28:</u>            The District and the Association dismissed their appeals, which allowed the trial court judgment to become final.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and  <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]            or            [OVERRULED]</p>
<p><b><u>Objection No. 48.</u></b>  <u>Croft Decl., Pg. 11, ¶29f, lns. 1-2:</u>            Although not part of the MOU, following entry into the MOU, the Luglianis donated \$1.5 million to the District.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and  <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]            or            [OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1     <b><u>Objection No. 49.</u></b></p> <p>2     <u>Croft Decl., Pg. 11, ¶30, lns. 3-6:</u></p> <p>3     The transfer of Lots C and D to the City was</p> <p>4     accomplished by two quit claim deeds,</p> <p>5     Quitclaim Deed No. 20121327411, from the</p> <p>6     School District to the Association, and</p> <p>7     Quitclaim Deed No. 20123277412, from the</p> <p>8     Association to the City. The Quitclaim deeds</p> <p>9     are not included in Plaintiffs' Evidence and</p> <p>10    are attached here and Exhibits E and F.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>13    <b><u>Objection No. 50.</u></b></p> <p>14    <u>Croft Decl., Pg. 11, ¶31, lns. 7-10:</u></p> <p>15    Area A is approximately 75,930 square feet</p> <p>16    and roughly equivalent in size to Lots</p> <p>17    C and D, although much less useful when</p> <p>18    compared to Lots C and D as Area A is</p> <p>19    comprised mainly of steep slopes. Having</p> <p>20    Lots C and D restricted to open space (lots</p> <p>21    not previously part of the City as they were</p> <p>22    owned by the District) is a key element in the</p> <p>23    City's General Plan.</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem and Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>
<p>25    <b><u>Objection No. 51.</u></b></p> <p>26    <u>Croft Decl., Pg. 11, ¶32, lns. 11-18:</u></p> <p>27    Area A is much less useful as open space than</p> <p>28    Lots C and D. I know this about Area A as I</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert opinion</b> (Evid. Code,</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 have visited the property and walked Area A</p> <p>2 with PVHA's counsel of record in the case.</p> <p>3 Area A is largely steep and inaccessible to the</p> <p>4 public, contrasted with Lots C and D, which</p> <p>5 are relatively flat and much more usable as</p> <p>6 open space. My office is in Palos Verdes</p> <p>7 Estates, and I regularly drive by Lots C and</p> <p>8 D, and I have witnessed school age children</p> <p>9 regularly crossing the Lots which are next to a</p> <p>10 school. In contrast, Area A is inaccessible to</p> <p>11 the public, due to the steep grade and the fact</p> <p>12 that it is located behind the Luglianis'</p> <p>13 residence. No such constant use of the</p> <p>14 public is made of the steep area behind the</p> <p>15 Luglianis' home.</p> <p>16</p> <p>17</p>	<p>§ 801): (<i>Nevarrez, Kasem</i> and <i>Rosencrans</i>).</p>	
<p>18 <b><u>Objection No. 52.</u></b></p> <p>19 <u>Croft Decl., Pg. 11, ¶33, lns. 19-26:</u></p> <p>20 As explained in "Article I-Purpose of the</p> <p>21 MOU and Parties Authority to Enter," the</p> <p>22 purpose of the MOU is to (1) reaffirm</p> <p>23 application of the use restrictions on the</p> <p>24 properties conveyed by the Association to the</p> <p>25 District under the 1938 Deed; (2) create a</p> <p>26 mechanism to resolve the District Lawsuit</p> <p>27 without further expense; (3) subject future</p> <p>28 lighting on the athletic field for Palos Verdes</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and</p> <p><b>improper expert</b> <b>opinion</b> (Evid. Code, § 801): (<i>Nevarrez, Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED]</p> <p>or</p> <p>[OVERRULED]</p>

Material Objected To	Grounds for Objection	Ruling
<p>1 High School to the City's zoning regulations 2 and approval of the Association; (4) resolve 3 encroachments into Area A by the Luglianis, 4 who accepted responsibility for maintaining 5 the retaining walls on the steep slope and an 6 open space easement restricting use of Area 7 A; and (5) establish lots C and D as open 8 space in the City. 9 10</p>		
<p>11 <b><u>Objection No. 53.</u></b> 12 <u>Croft Decl., Pgs. 11-12, ¶34, lns. 27-28 and 1-</u> 13 <u>24:</u> 14 As part of the Association's review, 15 evaluation, balancing of interests, and 16 business judgment, the Association 17 interpreted the relevant documents as a whole 18 to provide that the restrictions in the 1931 19 Deed and those placed upon the City in the 20 1940s Deeds by the Association no longer 21 applied to Area A as a result of the 22 reconveyance of Area A to the 23 Association, which either imposed the 24 restrictions itself in the first instance or was 25 the successor to the entity that did. The 26 Association's interpretation was that the 27 restrictions in these Deeds were not intended 28 to apply to the Association should it reacquire</p>	<p><b>Relevance</b> (Evid. Code, §§ 210, 350-351) and <b>improper expert opinion</b> (Evid. Code, § 801): (<i>Nevarrez</i>, <i>Kasem</i> and <i>Rosencrans</i>).</p>	<p>[SUSTAINED] or [OVERRULED]</p>

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<b>Material Objected To</b>	<b>Grounds for Objection</b>	<b>Ruling</b>
<p>Area A, as the Association required the discretion - subject to the various Declarations discussed above - to respond to changing circumstances just as it did when it conveyed Area A to the City because of financial distress in 1940. This interpretation is distinguishable from the position taken by the Association in the School District litigation, which was that the restrictions at issue continued to apply to Lots C and D for so long as these were owned by the District or by any private party (i.e., other than the Association) to whom the District may have sought to transfer Lots C and D. The Association further interpreted the relevant documents to provide that the remaining restrictions applicable to Area A (as to the Association and the Luglianis) were the Class F restrictions (as set forth in Declaration Nos. 1 and 25) and that the uses set forth in the 2012 Grant Deed from the Association to the Luglianis were consistent with the Class F applicable restrictions. Moreover, reading Declaration Nos. 1 and 25, together with the more recent deeds, the Board concluded that all the restrictions taken together did not preclude the Luglianis, as property owners,</p>		

Material Objected To	Grounds for Objection	Ruling
<p>1 from making recreational use of adjacent</p> <p>2 mostly-inaccessible hill property subject to a</p> <p>3 restrictive open space easement. The lack of</p> <p>4 any express prohibition, together with the fact</p> <p>5 that the Association was exchanging Lots C</p> <p>6 and D for Area A, and School District was</p> <p>7 agreeing to preserve 11 other School District</p> <p>8 lots from development, weighed heavily in</p> <p>9 favor of the Association's approval of the</p> <p>10 MOU. The Association would not have</p> <p>11 proceeded with the transactions contemplated</p> <p>12 by the MOU without its determination that</p> <p>13 these transactions were consistent with the</p> <p>14 applicable restrictions.</p> <p>15</p> <p>16</p>		
<p>17 <b><u>Objection No. 54.</u></b></p> <p>18 <u>Croft Decl., Pgs. 12-13, ¶35, lns. 25-28 and 1:</u></p> <p>19 On April 19, 2012, the Association's Board</p> <p>20 formally approved the MOU, stating in the</p> <p>21 Resolution that approving the MOU was in</p> <p>22 the best interest of the Association. The</p> <p>23 Association's Resolution (Resolution 166) is</p> <p>24 attached as Exhibit 21 to Plaintiffs' Evidence.</p> <p>25 The Association's Board complied with its</p> <p>26 required notice provisions as set forth in its</p> <p>27 by laws for the April 12, 2012 Board Meeting.</p> <p>28</p>	<p>17 <b>Relevance</b> (Evid. Code,</p> <p>18 §§ 210, 350-351) and</p> <p>19 <b>improper expert</b></p> <p>20 <b>opinion</b> (Evid. Code,</p> <p>21 § 801): (<i>Nevarrez, Kasem</i></p> <p>22 <i>and Rosencrans</i>).</p>	<p>17 [SUSTAINED]</p> <p>18 or</p> <p>19 [OVERRULED]</p>



Material Objected To	Grounds for Objection	Ruling
<p data-bbox="289 233 553 268"><b><u>Objection No. 55.</u></b></p> <p data-bbox="289 300 732 331"><u>Croft Decl., Pg. 13, ¶36, lns. 2-5:</u></p> <p data-bbox="289 363 906 842">Prior to the April 19, 2012 PVHA meeting, Phil Frengs, the President of PVHA, and I attended a public meeting of the Palos Verdes Estates City Council where the terms of the MOU were subject to a public meeting. Both Mr. Frengs and I spoke, as did numerous residents. Opinions were expressed both for and against the MOU.</p>		<p data-bbox="1304 233 1515 268">[SUSTAINED]</p> <p data-bbox="1393 300 1425 331">or</p> <p data-bbox="1295 363 1523 399">[OVERRULED]</p>

DATED: May 21, 2015

BROEDLOW LEWIS LLP

By:  \_\_\_\_\_  
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