

**July 6, 2015**

**To: Palos Verdes Estates City Council Members**  
**Subject: Thoughts on CEPC Via Panorama Litigation**

Now that Judge Meiers has issued her ruling, and you contemplate next steps, I wanted to share with you some perspective.

I view this ruling as a win not for CEPC but for all who live in this wonderful and special community of PVE, and for the City of PVE and PVHA. Let me explain why.

Open Space is a precious resource that our City forefathers recognized as special and worth protecting. Very few communities in America had 25% of the land area set aside for schools and open space, and further, few put in place such extensive restrictions and deed covenants at the formation that can't be changed without the expressed vote of the residents. Whether people walk the trails or just enjoy the sweeping views, this open space uplifts our spirits and enhances the value of our homes. So a ruling that helps preserve that resource is something for which we should all be thankful and which we should all embrace.

When I go back to the original City of PVE objectives for entering into the MOU, my understanding is that you wanted to:

1. Resolve the litigation between the PVPUSD and PVHA.
2. Prevent the PVPUSD from selling unused acreage to private developers; if that were allowed in the case of Lots C&D, it might then extend to PVPUSD selling whole campuses such as Valmonte or Malaga Cove. That in turn might lead to denser development (including low-income housing under state laws) which might negatively impact our community. While PVHA had won the PVPUSD lawsuit, PVHA and the City of PVE were concerned it might lose on appeal. It was hoped the MOU provided a solution that would bind the PVPUSD (through settlement) from ever selling its land. However, as you know, no board can be bound by past board decisions, so there was always the chance that PVPUSD might try to sell property again in the future. All you need is one lawyer willing to engage in a lawsuit.
3. Resolve over 40 years of fighting with the owners of 900 Via Panorama over encroachments.

With that in mind, the current ruling by Judge Meiers accomplishes all of the above, but also improves upon it. Under the ruling, the PVPUSD is now bound not merely by a settlement but by the most recent court ruling which incorporates the ruling in the earlier PVPUSD case. And importantly, the current ruling explicitly extends to all the original 800 or so acres -- not just Parcel A, Lots C&D and the other PVPUSD properties. All of PVE Parkland is now protected from sale. And the ruling provides for the removal of encroachments that had been problematic for more than 40 years, returning

parkland to its original state and in compliance with Municipal Code. This is a win for PVE Residents, the City of PVE and PVHA.

The ruling calls for the reversal of the 2012 deed on the sale of the Via Panorama parkland. This raises the issue of the \$1.5 million that the PVPUSD received as a tax-deductible gift from Dr. Lugliani, since PVPUSD lacks sufficient reserves. However, the crafters and signers of the MOU took great lengths to keep that separate and isolated the payment so it could be taken as a tax-deductible gift. Assuming that gift was filed with the IRS, it seems unlikely that Dr. Lugliani would now demand a return of his gift, since to do so, would amount to an admission of tax fraud. So instead, we are left with a very generous gift by Dr. Lugliani to PVPUSD, for which we are all grateful.

Meanwhile, the City's behavior in this matter has done great damage to public trust in government. Many people are angry and frustrated; for a sample of the outrage, see the comments posted in last few days on the latest article in the Daily Breeze: <http://www.dailybreeze.com/general-news/20150702/judge-rules-palos-verdes-estates-land-swap-with-wealthy-homeowner-was-illegal/1>. It's time to get back on the right track and rebuild the public trust. As such, I urge you to accept the ruling and not prolong a hopeless cause that serves no purpose. What exactly would you be fighting for? You really have won what you set out to achieve.

In addition, I'd like you to give careful consideration to the following statements made in *The Palos Verdes Estates 2013-2021 Housing Element* approved by the City Council January 28, 2014 (after the CEPC lawsuit was filed).

"All land in the City of Palos Verdes Estates is subject to private deed restrictions developed at the time the master planned Palos Verdes project was established. These restrictions include allowable land uses and architectural style.

"Deed restrictions also apply to dedicated City open space. Thus, such areas would not be available for other uses...

"These legally binding private restrictions were established prior to City incorporation. The Palos Verdes Homes Association currently oversees compliance with the deed restrictions. The Homes Association operates independently from the City and consists of owners of property within the planned community subdivision, both inside and outside the boundaries of the City of Palos Verdes Estates. The City has no authority to alter or override the deed restrictions or the decisions of the Homes Association.

"Any changes to a site that do not specifically conform to the restrictions must gain not only the approval of the Association, but must be approved in writing by two-thirds of the owners of property within three hundred feet of the site in question. The City has no authority to modify or remove these restrictions."

I suggest that you think carefully about potential ramifications should you continue to promote the sale of parkland by appealing Judge Meier's ruling. To do so would negate the statements made by the City in the Housing Element report with respect to the City and PVHA – the statements are either truthful, or not truthful. While the Homes Association ultimately transferred ownership rights of parkland to the Luglianis in direct violation of the deeds, the City was complicit in that sale in spite of statements made by the City Attorney to the contrary. Therefore it seems that both the City and Homes Association could open themselves up to the State mandating the sale of parkland for high density, low-income housing. Once the covenants are broken, you open yourselves up to unintended consequences.

In any event, before you consider your next steps, **it is essential that each of you, as part of your fiduciary duty, read the full ruling and the transcript of the Judge's comments in the May 29<sup>th</sup> meeting** (both are attached to this email). You'll see this was not even a close call by the Judge, and it is very unlikely that an appeals court would reverse the decision. *Please don't blindly follow the advice of your lawyers who have a vested interest in continuing the fight, regardless of how hopeless the prospects are.* If you don't have time to read the ruling and the transcript, then you really should resign because it is your fiduciary duty to be informed.

I look forward to getting this all behind us, and to moving forward to heal wounds and strengthen our community, working together once again.

Best regards,  
John