

July 9, 2015

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

Honorable Mayor and City Council Members:

This follows up on my email to you earlier this week. Renata and I assume you saw the front-page article in today's Peninsula News, titled "Judge Rules Land Swap Illegal" and we'd like to share some observations and comments. The article is attached in case you haven't seen it. Both of us were surprised at the quote from City Attorney Christi Hogin, suggesting she either hasn't read the most recent court documents or is consciously misrepresenting the ruling. Either way, we are very concerned about the counsel you are receiving from her and the misinformation she continues to spread to the public.

Specifically, she is quoted in the article:

"City Attorney Christi Hogin said the ruling may actually threaten open space elsewhere in Palos Verdes Estates. 'Even though the lawsuit is described as being for parkland, it's really just focusing on one particular property only in a certain respect,'" Hogin said. "The lawsuit is basically focused on a tree at the expense of a forest."

In contrast, the ruling says that the court is prepared to extend parkland protection to all properties governed by the "establishment documents" which includes all 800 acres of property owned by PVPUSD and the City of PVE. How does that threaten open space elsewhere in Palos Verdes Estates?

"In addition, this court is prepared, pursuant to the prayer for such additional relief as the court deems proper and just, to include in its declaratory relief ruling and injunction prohibiting the City and the Association from entering into any future contracts and from taking any other action in the future to eliminate the deed restrictions as to all properties governed by the "establishment documents" described below, other than as those documents provide for specific votes to be taken among property owners in the development. The court is inclined to include this relief because this is not the second lawsuit involving exactly the same issue where exactly the same pronouncements and rulings as to the inviolability of the deed restrictions in issue had to be made, at great cost to the courts and property owners and others giving rise to a situation where the need for such litigation ought to be, or must be brought to an end. No one should again have to litigate to establish the binding and significant nature of the deed restrictions in the Palos Verdes development. " (page 3 line 17 to page 4 line 6)

This is not the first time that the City Attorney has willfully misled both the City Council members and the public. For instance, in her staff reports, her verbal comments in City Council Meetings and in the legal briefs submitted, the City Attorney has repeatedly said that Area A (the parcel bought by Lugliani) is not as valuable to the public as Lots C&D (the area near the high school) because Area A is "steep and inaccessible" and not as useful to the public as Lots C&D. Further she represented in those same forums that the two properties were "comparable in size and value." We have pointed out multiple times going back to letters submitted and

comments made in the Planning Commission meeting of February 19, 2013 and the City Council Meeting of March 12, 2013 and in documents submitted to the court that these statements are clearly inaccurate and highly misleading. Yet she keeps repeating them. I've attached a document that we submitted to the court to present the facts that prove her representations have been wrong.

Less important, but perhaps still indicative of a pattern of misleading statements, the article said:

"So far the city has spent about \$55,000 in legal fees related to the case, Hogin said."

Aggregating the payments in the check registers over the course of the last three years (in the full packets for the City Council Meetings) by category does show \$55,023 for the two categories with "Citizens" label. However, that category was not initiated until March 2014, which was 10 months into the litigation. It's of course unlikely that no fees attributed to this lawsuit were paid during those ten months during which \$21,591 was spent on "litigation." Finally, it's reasonable to assume that some of the monthly retainer (\$6775 increasing to \$8500 recently) is related to this case. Not to mention the considerable legal time and expense that went into the original negotiation of the MOU in 2012 which, according to then Mayor George Bird, Christi Hogin spearheaded. Therefore, the statement made by the City Attorney in the newspaper most likely understated the cost to the City of pursuing her bad advice on this matter.

So once again, in your future discussion on this matter I encourage you to:

1. Please, become well informed by reading the Judge's June 29th ruling on the CEPC MSJ and the transcript of the May 29th hearing in their entirety. Is it not your fiduciary responsibility to be informed? Please, take the time to read the documents yourselves rather than as filtered by the City Attorney and her agenda.
2. Please, ask tough questions. Why is the City Attorney repeatedly misleading both City Council and the public on the facts? Ask her to explain why accepting the verdict does not accomplish your stated objective -- to prevent the future sale of parkland whether by the PVPUSD or by the City. How does the sale of 1.7 acres of parkland not become a precedent upon which others may base future claims?
3. You might also ask her why she attended the beginning of the May 29th court hearing, but left before the CEPC case came before the Judge. The attorney who represented her firm was quite uninformed on the case and could not answer simple questions posed by the Judge. You can read that for yourself in the transcript. But the question we would ask if we were a Council Member is "What was more important than participating in her firm's representation of the City in the pleading?"
- 4.

We remain available to any of you if you would like to discuss any of this.

Respectfully,
John and Renata Harbison