



Citizens for Enforcement of Parkland Covenants

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916 Via Panorama

Palos Verdes Estates, California 90274

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Three justices in the Appeals court for the Superior Court of the State of California issued their ruling on January 30, 2018 on the Motion for Summary Judgment in the case (# BS 142768) CITIZENS FOR ENFORCEMENT OF PARKLAND COVENANTS and JOHN HARBISON (Plaintiffs) vs. CITY OF PALOS VERDES ESTATES, a municipal corporation, PALOS VERDES HOMES ASSOCIATION (PVHA - a California corporation), ROBERT LUGLIANI and DORIS LUGLIANI as co-trustees of the Lugliani Trust, THOMAS J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST U/DO May 2, 2012 (Defendants). The case was filed in May 2013.

The Appeals court unanimously found in favor of the Trial Court’s decision that the PHVA had violated deed restrictions by selling Parkland to a private individual – ordering the sale reversed and encroachments removed. The Appeals Court rejected all the arguments made by the PVHA in the appeal. However, the Appeals Court concluded that the decision was “overly broad” in extending it explicitly to all such deed restricted parkland in PVE, and remanded the matter back to the Trial Judge to narrow the decision to the Panorama Parklands. It also concluded that the City of Palos Verdes had the right to transfer the property to the PVHA, unless it was aware of the PVHA’s intent to sell the parkland to a private party and thereby violate deed restrictions; that matter is sent back to the Trial court to ascertain whether the City was aware of that. We are confident that the Trial court will conclude that the City was aware of the issue since the MOU signed by all Parties specifies that the PVHA would immediately sell the parkland to Lugliani once it received the Parcel A Parkland from the City.

In the original ruling, Judge Barbara A. Meiers wrote that the court granted the motion for summary judgment of the plaintiff (CEPC and John Harbison) as against all defendants and denied the City’s cross-motion. The Superior Court ruling:

- Found both the City and PVHA acted ultra vires (beyond their legal power and authority)
- Provided for reversal of the sale of the 1.7 acres of parklands on Via Panorama to Robert Lugliani as a private owner, and called for removal of all “illegal encroachments” on the parkland
- Prohibited the City and PVHA from ever trying to do this ever again — not just on this property BUT ON ALL PARKLAND PROPERTIES covered by the 1923 “Establishment Documents.”

- Criticized the PVHA for advocating the position of its opponents in the earlier court case BC 431020 when the PVHA was defendant and the Palos Verdes Unified School District (PVPUSD) was plaintiff seeking to sell school property to private owners in defiance of the same Protective Restrictions. The Judge called this “judicial estoppel” which prohibits such a reversal and inconsistent positions.
- Called for reimbursing CEPC for all legal costs

“Notwithstanding the narrowing of scope of the ruling, this decision by the Appeals Court is a big win for all Palos Verdes Estates residents who value our open space which is a critical ingredient in what makes PVE a truly special place to live,” said John Harbison as leader of CEPC. “It should also be viewed as a win for the Palos Verdes Homes Association, because this secures the validity of the underlying protective restrictions that the founders of our community put in place in the 1920s, making it clear that only a majority (66%) of the PVHA members can modify those restrictions, and that process of amendment can only occur every 20 years. The PVHA Board’s charter is to defend these restrictions, and the ruling reinforces that they cannot selectively choose to ignore language in a deed that their predecessors wrote. Thus the ruling reverses an illegal act and returns parkland to its original state.

Harbison went on: “While the narrower ruling does not go as far as we’d like in protecting parkland forever, we believe it creates a sufficient legal precedent to discourage the PVHA, the City of PVE, and the Palos Verdes Peninsula Unified School District from trying to sell any of the approximately 800 acres of parkland and school property in PVE and Miralaeeste to private parties. The deeds explicitly use language such as ‘parkland forever’ for the use of the public for recreational purposes, and now that is secure for the future. In their Court arguments, both the City of PVE and the PVHA argued that they had discretion to ignore deeds and restrictions, and this ruling affirms that they do not.”

Harbison added, “The ruling also further solidifies the win by PVHA in the PVUSD case, and the part of the MOU settlement preventing PVPUSD from selling any school property to private parties that it deems no longer necessary. Rather than just relying on the word of the School Board not to sell the land granted to it, this ruling establishes a second Court precedent blocking any future sale of parkland (which was the City and PVHA’s justification of the MOU). Therefore, the stated objective of the City and PVHA is not just met, but exceeded. It’s time that our leaders in local government accept this victory and move on and stop fighting the will of their constituents. Moreover, it’s pointless for the City to continue to fight in court whether it knew the PVHA was going to sell the parkland, since that was a requirement in the MOU that was drafted by the City Attorney (by public admission of then Mayor George Bird in a City Council Meeting on May 9, 2012) and then signed by all the parties.”

Harbison said, “Over 500 people have signed letters in support of our cause, and this is a big win for all of them. We are grateful to them for their support and to our legal counsel, Jeffrey Lewis of Jeffrey Lewis, Attorney at Law, for his diligent support.”

Lewis commented, “I am grateful that the Court of Appeal this week confirmed the essence of what my clients have been saying since 2012: ‘that the deed restrictions mean what they say— Parcel A is intended to be parkland for the community.’ The City should take no solace in the fact that the summary judgment was reversed as to the City. The Court of Appeal observed: “While the City may have had the right to transfer Parcel A to the Association, it may not have

had the right to do so if it knew that the Association was going to transfer Parcel A to the Luglianis.”

Harbison concluded: “Working together, we have achieved an important victory for our community – preserving an essential aspect of what make Palos Verdes Estates so special – our public Open Space.”

All pertinent documents as well as photos of the property are posted to CEPC’s website at www.pveopenspace.com

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