

Settlement Proposal by CEPC, Harbison and Lugliani

(rev 1) April 10, 2018

John Harbison and Citizens for Enforcement of Parkland Covenants have been asked by the City of Palos Verdes Estates (“City”), Palos Verdes Homes Association (“Homes Association”) and the Luglianis to consider settlement of the parkland litigation. John and Renata Harbison reached out to Robert and David Lugliani to arrange a meeting, and this proposal is the result of several meetings and phone conversations. Both the Harbisons and the Luglianis are supportive of this proposal.

Below is a summary of terms that have been agreed to by CEPC, John Harbison and the Luglianis and that, if approved by all stakeholders – including affected neighbors and other residents in our City through a transparent process that follows the “Protective Covenants” — could conclude the Panorama Parkland litigation. While the below terms should be shared with all stakeholders and made public, the terms themselves and any ensuing communications are subject to Evidence Code section 1152 should this matter proceed to litigation. These terms are for resolution of the Panorama Parkland litigation only.

1. **Return of Panorama Parkland to City.** Of the 1.7 acres of parkland on Via Panorama acquired by the Luglianis in 2012, they shall retain 1.0 acre (including the sports field and 22-foot retaining wall) and return 0.7 acres to the City (after voiding both the PVHA sale to the Luglianis and the City’s transfer to the PVHA). The specific 1.0 acre to be retained must be mutually agreeable to the Luglianis and John Harbison and CEPC; once an agreement is reached, the property is to be surveyed and staked. The City agrees to accept 0.7 acre and treat it as Parkland protected by the same Deed restrictions that encumbered it before the transfer by the City to the Homes Association immediately before the sale by the Homes Association to the Luglianis. All parties agree that the 0.7 acre returned shall be parkland forever, as was explicitly written in the deeds. The other 1.0 acre shall be converted to R1 for private exclusive use by the Luglianis under certain agreed upon restrictions to restore and then preserve views and be consistent with any easements required by the City, Utilities and Fire Department.
2. **Refund of \$500,000 from MOU.** The City and Homes Association shall return to the Luglianis the \$100,000 and \$400,000 respectively obtained from the Luglianis via the MOU.
3. **Purchase of 1.0 Acre of Bluff Top property.** The Luglianis would use the refunded \$500,000 to purchase from the City comparable acreage of bluff top property (at Bluff Cove Park). The City would retain \$100,000 and the balance of \$400,000 would go to the Homes Association. The Luglianis would immediately swap that 1.0 acre of bluff top property for 1.0 acre of Panorama Parkland. This new “park” at Bluff Cove is currently owned by the City and was recently scraped of structures and converted into a park. However, this area is not deed restricted (since it was previously several R-1 lots with homes); protecting Bluff Cove Park from future development or sale has value to the public, which can be achieved by attaching to all of that area (not just the 1.0 acre identified above) deed restrictions that are identical to that of the other 600 acres of Parkland in PVE.
4. **Zoning of Bluff Cove Park.** The City is to rezone the area recently turned into a park along the bluffs after removing homes (called here “Bluff Cove Park”) as OS Open Space from R-1 Residential (if this has not been done already). Homes Association to impose use restrictions on that property to be used for parks forever using similar language as 1940’s deeds. The deed conveying the 1.0 acre at Bluff Cove Park from City to Luglianis and back again shall also have the same “forever parks” language appearing in the 1940’s deeds.
5. **Zoning of Retained 1.0 acre of Panorama Parkland.** City to rezone – and Harbison and CEPC to support – 1.0 acre of Panorama Parkland conveyed to Lugliani as R-1 with an easement for fire

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access, no habitable structures and a view easement. A modest fence no more than 4 feet high would be allowed on the border of the Luglianis' newly-acquired property. This would need to be approved by Planning Commission and City Council through the normal process for re-zoning including notification by mail to all owners within 300 feet and appropriately placed sign.

6. **Restoration of Returned Panorama Parkland.** The portion of Panorama Parkland not retained by the Luglianis and conveyed to the City shall be restored — all trees and structures removed, soils replaced, etc. The Luglianis to select the contractor and pay for this restoration directly. Should the Luglianis fail to perform the restoration, all parties agree to follow the procedures in the 1920s "Protective Covenants" and the City's Municipal code for enforcing the removal of encroachments and encumbering the property with a lien.
7. **Release of Claims.** All Parties to release all claims against any other party in this matter including the Luglianis, PVPUSD ("School District"), the City, the Homes Association, CEPC and Harbison.
8. **Reaffirmation of Deed Restrictions.** Similar to the MOU, all parties to reaffirm the continuing validity of deed restrictions. The School District shall be a signatory to this agreement.
9. **Agreement Never to Sell Parkland.** All parties to agree that neither the City nor Homes Association may in the future sell parkland or School properties other than to eligible buyers as specified in the deed restrictions; all parties must comply with the voting requirements of the By-Laws and CC&R's; the PVHA and the City acknowledge that they have no discretion in this matter, and are bound fully by the deed restrictions. This statement to be included in PVHA Board minutes of the meeting in which PVHA approves this settlement proposal
10. **Supreme Court Review.** If at the time of settlement, the Supreme Court is still considering the matters presented in the Homes Association's petition for review, the Homes Association shall file a request for dismissal or abandonment of that petition. The Supreme Court's dismissal of the petition is a material term of this proposal.
11. **2012 MOU Validated:** The other aspects of the 2012 Memorandum of Understanding beyond this sale of parkland by the City through the PVHA to the Luglianis would remain intact. All of the parties of the 2012 MOU agree to accept all other aspects of that MOU, and not take any legal action for any remedies against other parties to the MOU.
12. **Legal Fees.** The City and the Homes Association agree to pay CEPC and Harbison's legal fees and costs, \$406,000. Presumably, the Homes Association's Title Insurance should cover this; if not covered by insurance, the City and the Homes Association would be responsible for payment. The City, the Homes Association and the Luglianis agree to pay their own legal costs incurred.
13. **Allocation of Fees / Funds.** To the extent the Luglianis, the Homes Association or the City wish to reallocate financial responsibility for removal of encroachments, restoration of parkland, payment of legal fees or other payments made or received under this agreement, CEPC and Harbison have no objection to such re-allocation so long as it is disclosed to the public.
14. **PVHA Board to Appoint Top 5 Candidates to New Board.** Board to implement the will of its members and install concurrent with the signing of the Settlement agreement the top five candidates as the PVHA Board moving forward. This can be implemented without violating PVHA By-Laws by the bottom four PVHA directors resigning and the remaining director then appointing the four ROBE petition candidates until the next election, at which time all five would be up for election.

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The net of this proposal is:

- Everything gets settled
- Other outcomes of the 2012 MOU are preserved (gift to PVPUSD of \$1.5 Million, resolution of the 2010 Case, agreement by PVPUSD to respect the deed restrictions, prohibition of lights over the PV High football field, etc.)
- No decrease in net deed-restricted Parkland in PVE and Miraleste compared to pre-2012 MOU. May actually be a net increase since Bluff Cove Park is bigger
- Bluff Cove Park gets permanent protection the same as other Parkland in PVE
- Views for public restored in Panorama Parkland
- PVPUSD keeps its \$1.5 Million gift from Mr. Lugliani
- PVHA and PVE City pay no more than the \$500K they received from Mr. Lugliani in the sale that is now reversed. However, they get reimbursed from the sale of 1.0 acre of Bluff Cove so net they do not pay anything other than CEPC and Harbison's legal fees as already ordered by the Superior Court. Removes the threat of a much greater liability from violating their representation that they had the power to sell parkland, legal fees of others, etc.
- No one spends additional cash other than Mr. Lugliani paying for encroachment removal (which he appears willing to do since he acknowledges he was wrong) and the PVHA and the City paying the Plaintiff's legal costs, as already ordered by the Superior Court

