

April 27, 2018

Ms. Christi Hogan  
 Best Best & Krieger, Attorneys at Law  
 1230 Rosecrans Avenue, Suite 110  
 Manhattan Beach, CA 90266

Dear Ms. Hogin:

Thank you for your April 24, 2018 letter outlining the City’s reaction to the Comprehensive Settlement Proposal for the CEPC/Panorama Parkland Litigation.

You misunderstood several points I intended by the Comprehensive Settlement Proposal. In the spirit of full transparency, I’ve excerpted and highlighted certain statements from your letter (**in bold**) and then provided an explanation for each (*in italics*).

**“The City cannot do what you have proposed, which is to transfer parkland to the Luglianis.” (page 3)**

*We are pleased that the City is taking this view of what is allowable under the deed restrictions, since the City argued (CEPC/Harbison vs. PVE City et al) that it did have “municipal police power” which included the option of whether or not to be bound by deed restrictions. However, the Comprehensive Settlement Proposal does not contemplate this. The intermediate steps include a transfer between the PVHA and the Luglianis, not directly by the City, of a 1-acre portion of the Bluff Cove property which is zoned R1 Residential and is not zoned OS Open Space nor does it have any deed restrictions that prevent the sale to private parties. In the end, The City ends up owning all of the Bluff Cove property zoned as OS and under deed restrictions identical to that of the other 650 acres of parkland in PVE, as well as owning 0.7 acres on Via Panorama that were conveyed to the Luglianis as part of the MOU.*

Ownership sequence									
	Lots C&D	Bluff Cove A	Bluff Cove B	Via Panorama A	Via Panorama B	Cash flow Lugliani	Cash flow PVHA	Cash flow City	
<b>Acreage</b>	0.9	2.0	1.0	0.7	1.0				
<b>2012 pre-MOU</b>	PVPUSD zoned OS Deed Restricted	PVE zoned R1	PVE zoned R1	PVE zoned OS Deed Restricted	PVE zoned OS Deed Restricted				
<b>2012 post-MOU</b>	PVE zoned OS Deed Restricted	PVE zoned R1	PVE zoned R1	Lugliani zoned OS Deed Restricted	Lugliani zoned OS Deed Restricted				
<b>CSP-reversal of sale of parkland</b>	PVE zoned OS Deed Restricted	PVE zoned R1	PVE zoned R1	PVHA zoned OS Deed Restricted	PVHA zoned OS Deed Restricted	\$500,000	-\$400,000	-\$100,000	
<b>CSP-After Swap</b>	PVE zoned OS Deed Restricted	PVE zoned OS Deed restricted	PVE zoned OS Deed restricted	PVHA zoned OS	Lugliani zoned OS	-\$500,000	\$400,000	\$100,000	
<b>Net cash</b>						\$0	\$0	\$0	

*Note that the Protective Restrictions from the 1920s allow modifications of the restrictions if the residents within 300 feet agree; my understanding is that at some point in the past there was a swap of a property owned for public use on Via Castillo for a commercial property in Lunada Bay. I have been told that the property on Via Castillo was changed to R1 (a house was built on the lot) along with a path or trail for public use along one side and the commercial property in Lunada Bay was turned into a park and zoned OS. This may not have been the only instance of a land swap for no decrease in parkland, but it indicates there is a process that has been used before. In the Comprehensive Settlement Proposal there was language requiring all processes to be followed and the public notified and involved as those processes dictate, and this could be an example of how such a swap might be implemented today.*

**“The City counts the [Bluff Cove] property among its inventory of open space/park property.” (page 3)**

*We are pleased that the City has concluded the Bluff Cove property has no use as a residential parcel due to the geological instability of the area, but the land is still zoned R1 and lacks the deed restrictions that require it to remain “parkland forever for public recreational use” and prohibit the sale to private parties. The conclusion of the Comprehensive Settlement Proposal is to correct this defect and impose those restrictions on the entire Bluff Cove Park property.*

**“The Homes Association has no legal authority to impose restrictions on property it does not own.” (page 3)**

*We agree, but that is not relevant to what is contemplated in the Comprehensive Settlement Proposal. The City has authority to impose additional deed restrictions on property it owns, and that is what we propose by the Comprehensive Settlement Proposal.*

**“The City cannot sell a property for less than fair market value. An appraisal would be required...”(page 3)**

*That did not stop the City and PVHA from agreeing to the sale of 1.7 acres to Lugliani in 2012 one month prior to obtaining an appraisal for \$500,000 in that amount. But the net of the series of transactions contemplated in the Comprehensive Settlement Proposal is that Lugliani will have paid \$500,000 for 1.0 acres of parkland on Via Panorama instead of 1.7 acres that were appraised at \$500,000 shortly after the MOU was approved. Further, the retained 1.0 acres is the least saleable since it excludes the relatively flat area along Via Panorama and instead includes the steep inaccessible area behind Dr. Lugliani’s house as well as the sports field with the 22-foot retaining wall.*

**“The City has no liability for attorney’s fees. The City understands that a portion of the case has been remanded, creating a potential for attorney fees liability, but**

the City does not agree with your characterization of the issues left to be litigated or likely outcome on remand.” (page 4)

*Two Presidents of the PVHA have said publicly in PVHA Annual Meetings that its insurance (whether general liability insurance, D&O or title insurance is unknown) cover its litigation costs, and so it is presumed (if the relevant insurance contract were title insurance) this includes reimbursement for the financial implications of defective title - at the core of the land sale part of the MOU transaction. If that is true, PVHA should confirm that what they’ve been telling the public is indeed true, in which case the award of attorney fees will be paid by insurance.*

*As for the issues left to be litigated by remanding to trial, the Appellate ruling makes it clear that its conclusion over the MSJ that the City was not complicit in the sale:*

*“But we cannot agree with the City that it was entitled to summary judgment. The circumstances surrounding the complicated transfer of property, specifically Parcel A, and money are curious. 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. And it is disputed whether the City used and/or will continue to use public monies to fund alleged illegal efforts, namely those that violate the deed restrictions. Because it is disputed whether the City had the right to transfer Parcel A under the circumstances presented here, we conclude that neither plaintiffs nor the City was entitled to summary judgment.”*

*As we have said, proving that the City had knowledge that the property it was conveying to the PVHA would immediately be transferred to a private party is indisputable, since the connection of those two transactions is at the core of the MOU that both the City and PVHA signed, and which was unanimously approved by City Council and the PVHA Board. Further, at the May 8, 2012 City Council meeting, Mayor George Bird acknowledged the central role of the City and the City’s Attorney in the transaction by saying:*

*“As it’s been said eloquently by my colleagues to my left and right, this was a Win-Win-Win. The Homes Association, the School District has asked us to sign off on this, and credit goes to one person, and that’s our City Attorney, who the public must know that she really spearheaded and brought together the parties after having talked to each of them and worked together to come up with a Win-Win-Win-Win situation.”*

*Thus, we are confident that a trial would easily prove the City had knowledge of the planned subsequent transfer and hence is complicit in the illegal transaction.*

**“...the judgment was filed in an attempt to show an aggressive posture toward moving the litigation along. It was filed inappropriately because the remittitur has**

not yet been received by the trial court and the matter not yet assigned to a courtroom.”

*The Remittitur Notice was entered on April 12, 2018 ([click here](#)), received by the Superior Court on April 13, 2018 ([click here](#)) and the revised judgement was filed on April 16, 2018. Therefore, your statement is untrue.*

Sincerely yours,



John Harbison

cc: Palos Verdes Estates (Betty Lin Peterson, Kenny Kao, Jennifer King, Jim Vandever, Sandy Davidson)  
Palos Verdes Homes Association (Carolbeth Cozen, Carol Swets, Dale Hoffman, Ed Fountain, Phil Frengs, Sid Croft)  
Robert Lugliani, David Lugliani, Damon Mamalakis  
Jeff Lewis, Renata Harbison