



February 5, 2024

VIA EMAIL ONLY

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RE: *Residents for Open Board Elections, et al. v. Palos Verdes Homes Association*
LASC Case No. BS169638

Dear Ms. Nourman and Mr. Deverin,

I am litigation and land use counsel for John Harbison, L. Ried Schott and Residents for Open Board Elections (“ROBE.”) I am writing to follow up on my clients’ December 19, 2023 notice of breach of the January 10, 2019 settlement agreement that resolved the Palos Verdes Homes Association’s (“PVHA’s”) complicity in the illegal sale of parkland in the City of Palos Verdes Estates (“City”), and the dispute over Election Reforms to a democratic selection of Board of Directors members. That settlement agreement contained a number of provisions to reform the governance of the PVHA and its election. Some of those provisions were intended to be one-time measures and some were intended to be in place in perpetuity, much like the deed restrictions that protect the parkland. The 2023 Notice of Breach letter is attached for reference, as well as the signed Settlement Agreement from 2019.

As a material inducement for my clients to enter into the settlement agreement, the PVHA agreed to the following reforms in the manner in which elections were to be conducted in perpetuity:

- The PVHA promised to locate a lockbox at City Hall to collect votes from the time the first ballot is sent to the deadline of the Wednesday before the annual election. The PVHA failed to do so for the most recent election in January 2024 and at its Annual Meeting on January 9, 2024 repudiated any obligation to do so beyond the 2020 election.
- The PVHA promised to use at least three mailings of full ballots and return envelopes to its members. The PVHA only performed one mailing for the most recent election in January 2024 and at its Annual Meeting on January 9, 2024 repudiated any obligation to use three mailings beyond the 2020 election.
- The PVHA promised that if any members appeared at the annual meeting to personally present a ballot, the PVHA would accept the ballot. This was the practice for much of the century the PVHA was in existence, and as noted in the Board minutes, in some years the quorum was only met after counting the votes submitted at the Annual Meeting. The PVHA

did not allow this in the most recent annual meeting on January 9, 2024 and repudiated any obligation to do so beyond the 2020 election.

In addition to violating the letter of the Settlement Agreement, the PVHA has violated the spirit of the agreement which was to increase member participation in governance and avoid board members from simply re-appointing themselves to the board year after year. In the most recent election, the ballot mailing was not received by residents until December 11th of 2023 with a required deadline of returning the ballots by January 3rd of this year. This timeframe was the latest members have ever received a ballot and the shortest period ever for members to vote in a board election. It is also during a holiday period when many members are traveling and are not able to collect their mail, do not have time to vote in such a short time frame, or are having difficulty finding the ballots in their mail and often accidentally dispensing the ballot envelope along with numerous catalogs and advertisements. It is especially problematic because the PVHA offices were closed at noon on December 22, just two weeks or less after ballots were received by residents, and that the offices didn't open until more than two weeks later, on January 8, 2024, just a day before the election.

At the January 9, 2024 Annual Meeting, PVHA Board Chair Christine McNamara stated that the breach letter had no merit since the four requirements in sections 13.1.1 – 13.3.4 were all meant to be only for the 2020 election since Section 13.3 made reference to a special ballot measure asking for a referendum to allow members to express their desires pertaining to lowering the quorum. That ballot measure passed by over 69% voting in favor of lowering the quorum. The reference to that year in 13.1 was because the referendum was intended to be a one-time action. The other reforms were intended to be ongoing for all future elections as clearly indicated in the specific language used in each of those sub-sections. For instance, words like “shall **continue to use** at least three mailings” and “shall **continue its recent practice** of locating a lockbox” make it **extremely clear** that these reforms were not intended to be one-time reforms. The last subsection on personally presenting ballots at the Annual Meeting merely reaffirmed the practice that the PVHA had followed for almost a century, and true for almost every entity that holds annual meetings, and thus was also not a one-time reform.

Frankly, the **intent** of the original ROBE litigation was to establish **permanent** election reform, and my clients would have **never participated** in the Settlement Agreement had those reforms been **limited to a single election**, as the PVHA is now asserting. If litigation ensues, the intent of the parties can be demonstrated to the Court through testimony of the signatories (which do not include any of the current Board Members) as well as that of the PVHA office manager in 2019 when the Settlement Agreement was signed and implemented.

The purpose of this letter is two-fold: First, as to the most recent election, the PVHA could cure the breach of the Settlement by holding the vote open and continue to hold the election open until a quorum is obtained. This practice has been followed in the past by the PVHA and is specifically allowed by its bylaws (“If, however, for want of a quorum or other cause, a member’s meeting shall not be held on the day above named, or should the members fail to complete their elections, or such other business as may be presented for their consideration, those present **may adjourn from day to day until the same shall be accomplished.**”)

Second, the PVHA could send two additional ballot mailings with notice given that the election has been extended, thus bringing the total ballots mailed up to the minimum of 3 required in the

Settlement. Also, my clients request that the PVHA reaffirm in writing that the three provisions cited above as to a lock box, three mailings and personal presentation of ballots, will be implemented in all future elections indicating that is no longer disputed.

In the event that the PVHA does not cure the breach and provide sufficient assurances that the settlement agreement will be followed in future elections, they have authorized me to file an action to enforce the Settlement Agreement. That is not their preference.

Please respond in writing by no later than February 9, 2024.

All of my clients' rights are reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey Lewis", with a stylized flourish at the end.

Jeffrey Lewis

cc: Trevor Rusin, City Attorney (trevor.rusin@bbklaw.com)
Current PVHA Board of Directors

Encls. (2) For Reference

Enclosure 1

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“**Agreement**”), is entered into by and among John Harbison and Citizens for Enforcement of Parkland Covenants (collectively “**CEPC**”), Palos Verdes Homes Association (“**Homes Association**”), the City of Palos Verdes Estates (the “**City**”), Robert Lugliani and Dolores A. Lugliani, as co-trustees of The Lugliani Trust, Thomas J. Lieb, Trustee, The Via Panorama Trust (collectively, “**Lugliani**”), Residents for Open Board Elections (“**ROBE**”) and L. Ried Schott (“**Schott**”), all of which are collectively referred to as “**Parties**” or individually as “**Party**”, but for Schott (who is only referred to as Schott), with reference to the following facts:

A. 2012 Memorandum Of Understanding (“**2012 MOU**”). In 2012, the Homes Association, Lugliani, the Palos Verdes Peninsula Unified School District, and the City entered into the 2012 MOU, which among several other things, provided that the City return to the Homes Association 1.7 acres of land located at the end of Via Panorama, which property is referred to in the 2012 MOU as “Area A.” The 2012 MOU further provided that the Homes Association sell Area A to Lugliani (Area A is also known as “**Via Panorama Parkland**”).

B. The Via Panorama Parkland is located north and north-west of 900 Via Panorama, in Palos Verdes Estates. It currently contains some encroachments installed by the current and prior owner of 900 Via Panorama including a driveway, extensive landscaping, other structures and retaining walls installed by the current and prior owner of 900 Via Panorama for hillside stabilization. None of the encroachments were installed pursuant to a required permit.

C. Parkland Restrictions. On June 14, 1940, the Homes Association conveyed a number of parks to the City in multiple grant deeds, including the Via Panorama Parkland (“**1940s Deeds**”). The 1940 Deeds include the 1920s Protective Covenants (the 1940 Deeds and the 1920s Protective Covenants are collectively referred to as the “**Parkland Restrictions**”) and further provide in part as follows:

- That the transferred property “is to be used and administered forever for park and/or recreation purposes . . .”
- That “no buildings, structures or concessions shall be erected, maintained or permitted” on the parkland “except such as are properly incidental to the convenient and/or proper use of said realty for park and/ or recreation purposes.”
- That the transferred property “shall not be sold or conveyed, in whole or in part ...except to a body suitably constituted by law to take, hold, maintain and regulate public parks ...”
- That, with written permission, a property owner abutting the park may construct paths or landscaping on the conveyed property as a means of improving access to or views from such property. Such improvements must not impair or interfere with the use and maintenance of said realty for park and/or recreation purposes.

D. *Citizens For Enforcement Of Parkland Covenants et al. v. City of Palos Verdes Estates et al.*, Appellate Case No. B267816, Los Angeles Superior Court Case No. BS142768 (“*CEPC vs. Palos Verdes Homes Association et al. Litigation*”). This Agreement is a settlement of the *CEPC v. Palos Verdes Homes Association et al. Litigation* which includes the **2015 Superior Court Ruling** and the **2018 Appellate Court Decision**.

E. *L. Ried Schott, on behalf of the Palos Verdes Homes Association v. Palos Verdes Homes Association*, Los Angeles Superior Court Case No. BS169638 (“*ROBE Litigation*”). This Agreement is a settlement of the *ROBE Litigation*.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the Parties herein contained, the Parties agree as follows:

1. **City’s Obligations.** In exchange for the mutual releases, the City agrees to the following and specifically notes that it has no involvement in the terms the other Parties have agreed to herein in order to reach settlement of the disputes between them:

1.1. The City will accept donation of any amount of parkland located in the City that is free of encroachments and otherwise complies with the applicable deed restrictions.

1.2. The City owns several parcels which together consist of approximately four noncontiguous acres known as Bluff Cove, APN Nos. 1009 PVDW – 7541-001-902; 1015 PVDW – 7541-001-904; 1017 PVDW – 7541-001-908; 1101 PVDW – 7541-001-909; 1105 PVDW – 7541-001-906; 1117 PVDW – 7541-001-901; 1121 PVDW – 7541-001-907 (“Bluff Cove Property”). The City will cause deed restrictions commensurate with the Palos Verdes Estates 1940 Deed Restrictions to be imposed on the Bluff Cove Property so that it is subject to the same restrictions as other parkland held by the City, including, but not limited to, the following excerpts:

- That the property “is to be used and administered forever for park and/or recreation purposes . . .”
- That “no buildings, structures or concessions shall be erected, maintained or permitted” on the parkland “except such as are properly incidental to the convenient and/or proper use of said realty for park and/ or recreation purposes.”
- That the property “shall not be sold or conveyed, in whole or in part...except to a body suitably constituted by law to take, hold, maintain and regulate public parks ...”

1.3 The City will record a notice of vacation of duplicative open space easement imposed by Section 1 of Quitclaim Deed #20121327414 (City quitclaim to Homes Association), Section 5 (encroachments) of Quitclaim Deed #20121327414, Section 6 (the use restriction) of Quitclaim Deed #20121327414 and Section 7 (landscaping) of Quitclaim Deed #20121327414 within 15 days of the execution of this Agreement.

2. **Via Panorama Parkland** (Lugliani, CEPC & Homes Association obligations).

2.1. Of the 1.7-acre Via Panorama Parkland acquired by Lugliani in 2012, Lugliani shall retain approximately 1.4 acres (“**Lugliani Parcel**”) and shall convey to the City approximately 0.3 acres (“**City Parcel**”), subject to the transfer provision of Paragraph 2.2, below. The following terms and conditions apply:

2.1.1. **Lugliani Parcel.**

2.1.1.1. The specific 1.4 acre parcel must be mutually agreeable to Lugliani and CEPC. The new property lines drawn to include: 1) for the City Parcel, the entire portion of Area A along Via Panorama up to the original property line of 900 Via Panorama, and 2) for the Lugliani Parcel, the new property line set back from Via Panorama which begins at the corner of the sports field and then runs directly across towards the house.

2.1.1.2. A legal description complying with Paragraph 2.1.1.1 and in conformance with Area A survey (attached hereto as **Exhibit 1**) shall be prepared.

2.1.1.3. Lugliani has one year from the date of the transfer by the Homes Association of the Lugliani Parcel pursuant to Paragraph 2.2.3 to either obtain rezoning or permits to bring encroachments into compliance with deed restrictions and requirements of Palos Verdes Estates Municipal Code or remove them. The one-year period may be extended by a compliance plan agreed to by the City and Lugliani.

2.1.1.4. If Lugliani pursues rezoning of the Lugliani Parcel to residential (R-1 Residential), CEPC and the Homes Association will publicly support rezoning application.

2.1.2. **Deed Restrictions.** The Lugliani Parcel and the City Parcel shall be subject to the following Deed Restrictions:

2.1.2.1. A view easement shall be recorded, the terms of which shall be agreed to as between CEPC and Lugliani; such View Easement will cover all 1.7 acres of the Via Panorama Parkland.

2.1.2.2. A prohibition on the erection of habitable structures shall be imposed. This restriction supersedes Section 6 of the Quitclaim Deed #20121327414 (City quitclaim to Homes Association). Further, the 1.4 acres retained by Lugliani is not to be combined into a single lot for purposes of increasing the size of allowable house at 900 Via Panorama as per Section 8 of the Quitclaim Deed #20121327414 (City quitclaim to Homes Association).

2.1.2.3. Lugliani agrees to obtain property owner approval as per Declaration No.1 of the Palos Verdes Estates, Article VI, Section 3 for “other” modification of 1940s Deed Restrictions to exclude the Lugliani Parcel. Property owner approval is to take place before a rezoning application is filed pursuant to Paragraph 2.1.1.4. Homes Association agrees

to approve the modification following a public hearing as required by Declaration No. 1 of the Palos Verdes Estates, Article VI, Section 3.

2.1.2.3.1. Harbison is one of the property owners whose signature is required as per Paragraph 2.1.2.3, above. Harbison agrees to provide his approval signature for the modification of the 1940s Deed Restrictions to exclude the Lugliani Parcel on the required form, a draft of which is set forth in **Exhibit 2**.

2.1.3 City Parcel.

2.1.3.1 **Restoration of City Parcel.** Prior to the conveyance of the City Parcel to the City, Lugliani shall restore the City Parcel as follows:

2.1.3.1.1 Restoration includes the removal of the lions, road, pillars, gates, wrought-iron fence, BBQ foundation, trees and vegetation and the following:

2.1.3.1.1.1 A landscape plan will be presented to Parklands Committee for vegetation that blends with the existing parkland along Via Panorama so it appears as one integrated and larger parkland area with unobstructed views. The objective of initial landscaping is to prevent soil erosion until native vegetation takes hold. Any irrigation controls for the island located in the Right of Way (ROW) would be moved from Area A to the ROW in front of the Lugliani 900 Via Panorama property, unless otherwise permitted.

2.1.3.1.1.2 Stone curb and all structures (including the stone bench) around the existing storm drain along Via Panorama to be replaced by a standard curb and standard storm drain that fully complies with Palos Verdes Municipal Code. This curb would run from the corner of the Lugliani 900 Via Panorama property along the entire Parkland frontage on Panorama up to the driveway of 915 Via Panorama. This must be surveyed and marked so as to place the curb in the appropriate location between the street and right-of-way/parkland, thereby creating a unified look for the entire parkland (including the City Parcel) from the street. The curb is not part of the City Parcel, but rather in the right-of-way and therefore the pouring of the curb is not part of the restoration work that needs to occur prior to the transfer of the City Parcel to the City.

2.1.3.1.2 Lugliani to select the contractor(s) and pay for this restoration work directly. Homes Association to provide needed approvals for such restoration work upon appropriate and necessary applications.

2.1.3.1.3 Should Lugliani fail to perform the restoration within 60 days of the execution of this Agreement, the 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 or exercise their rights to specific performance under this Agreement.

2.1.3.1.4 Homes Association agrees to reimburse Lugliani for restoration work in the amount of \$225,000, to be paid to Lugliani within 10 days of the execution of this Agreement.

2.1.3.2 All Parties expressly acknowledge and agree that the City Parcel shall be parkland forever, as was explicitly written in the 1940s Deed Restrictions, Section 3 as set forth in Paragraph 1.2 above.

2.2 Transfers of Via Panorama Parkland.

2.2.1 Lugliani shall transfer, via appropriate deed, all of Via Panorama Parkland it acquired in 2012 to the Homes Association (Grant Deed No. 20121327415).

2.2.1.1 This transfer has the force and effect of voiding the Homes Association's 2012 sale of Via Panorama Parkland to Lugliani as set forth in the 2012 MOU.

2.2.2 Homes Association shall transfer, via appropriate deed, the City Parcel to the City (with encroachments removed and encumbered by the View Easement as per Paragraphs 2.1.3.1 and 2.1.2.1, above).

2.2.3 Homes Association shall transfer, via grant deed, the Lugliani Parcel to Lugliani, subject to the conditions set forth in Paragraph 1.1.2, above. Lugliani may arrange, at its expense, for this transfer to be handled through a title insurance company.

3. Timing and Sequencing of Transfers. The Parties acknowledge that the various transfers and actions to be taken associated with the Lugliani Parcel and the City Parcel contemplate specific timing and sequencing. **Exhibit 3** sets forth the agreed upon timing and sequencing and the Parties commit to using their best efforts to achieve the timing and sequencings set forth thereunder. The Parties reserve the right to modify the timing of the transfers and actions to be taken associated with the Lugliani Parcel and City Parcel, but not the sequencing.

4. Reaffirmation of Deed Restrictions. All Parties reaffirm the continuing legal validity of 1940s Deed Restrictions, including as set forth in Recital C, that property subject to these Deed Restrictions "is to be used and administered forever for park and/or recreation purposes . . ." and "shall not be sold or conveyed, in whole or in part ...except to a body suitably constituted by law to take, hold, maintain and regulate public parks ...".

5. 2012 MOU. All provisions of the 2012 MOU remain valid and enforceable except those in direct conflict with this Agreement.

6. PVHA Board Appointment. By no later than January 31, 2019, Homes Association to appoint two new board members to fill the two vacancies from among recent ROBE candidates (over the last three elections) that are willing to serve on the Board. CEPC to supply the list of eligible ROBE candidates to the Board. The Board shall interview the eligible ROBE candidates

and in their sole discretion make the appointment. The Homes Association represents that this can be implemented without violating PVHA By-Laws.

7. **Attorneys' Fees.** The Homes Association shall pay CEPC its legal fees and costs totaling \$396,000.00. The Parties, Schott, and their attorneys, waive any further claim to fees or costs in connection with *CEPC v. Palos Verdes Homes Association et al. Litigation*, the *ROBE Litigation* or this Agreement. No party shall seek recovery of any fees or costs from any other Party except as provided in this paragraph. Payment of fees shall be made in accordance with the dates and amounts in the letter agreement between Jeffrey Lewis and the PVHA dated December 21, 2018.

7.1 The Homes Association shall provide payment to be provided to Jeff Lewis within five (5) days following confirmation of dismissal with prejudice of the *CEPC v. Palos Verdes Homes Association et al. Litigation* as per Paragraph 11, below.

7.2 The Homes Association, the City and Lugliani agree to pay their own legal costs incurred. Except as provided in Paragraph 7, CEPC shall pay its own costs and fees.

7.3 The Homes Association waives any right or claim to recover any portion of the attorneys' fees provided for in Paragraph 7 from Lugliani or the City.

8. **No Admissions.** Nothing contained herein shall be construed as an admission by any party hereto or Schott of any liability of any kind to any other Party or Schott. Each of the Parties and Schott denies any liability in connection with the matters set forth herein and intends merely to resolve any outstanding disagreements or disputes.

9. **Release of Claims.** All Parties to release all claims against any other Party in this matter including Lugliani, the Homes Association, the City and CEPC as set forth below.

9.1 **Mutual Release of Claims.** In consideration of the promises and covenants contained in this Agreement and after consultation with counsel and without in any way affecting the executory obligations required under this Agreement, the Parties irrevocably and unconditionally release and forever discharge each other, as well as their respective past and present related or affiliated entities and past and present officers, employees, attorneys, partners, members, investors, trustees, insurers, joint venturers, and agents and each of them, from any and all causes of action, claims, actions, rights, judgments, obligations, damages, demands, accountings, or liabilities of whatever kind or character, known or unknown, which the Parties have or may have against the other related to the Via Panorama Parkland and the *CEPC v. City of Palos Verdes Estates et al. Litigation*. Nothing contained herein shall release, waive, or in any way compromise a Party's right to enforce this Agreement. The Parties hereby expressly waive and relinquish all rights and benefits afforded by California Civil Code Section 1542 and do so understanding and acknowledging the significance and consequences of such waiver. The Parties acknowledge and understand that they are being represented in this matter by counsel, and acknowledge that they are familiar with the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

10. Notice. Any notices, demands or other communications given hereunder shall be in writing and shall be deemed delivered or received upon personal delivery or one (1) business day after deposit with overnight courier, or after they are mailed with postage prepaid with a copy by email to the party receiving such notice as follows, unless a Party notifies the other Parties of a different address:

If to Harbison & CEPC	John Harbison 916 Via Panorama Palos Verdes Estates, CA 90274
With a copy to:	Jeffrey Lewis, Esq. Jeff Lewis Law 609 Deep Valley Drive Rolling Hills Estates, CA 90274
If to Schott & ROBE:	Ried Schott C/O Jeffrey Lewis, Esq. Jeff Lewis Law 609 Deep Valley Drive Rolling Hills Estates, CA 90274
With a copy to:	Jeffrey Lewis, Esq. Jeff Lewis Law 609 Deep Valley Drive Rolling Hills Estates, CA 90274
If to the Homes Association:	Palos Verdes Homes Association 320 Palos Verdes Drive West Palos Verdes Estates, CA 90274
With a copy to:	Sidney F. Croft 314 Tejon Place Palos Verdes Estates, CA 90274
With a copy to:	Brant Dveirin, Esq. Lewis Brisbois Bisgaard & Smith LLP 633 West 5 th Street, Suite 4000 Los Angeles, CA 90071

If to Lugliani:	Michael C. Cody, CPA, MBT Lieb, Cody and Co., CPA's, Inc. 25550 Hawthorne Blvd., Suite 100 Torrance, CA 90505
With a copy to:	Damon Mamalakis, Esq. Armbruster Goldsmith & Delvac LLP 12100 Wilshire Blvd, Suite 1600 Los Angeles, CA 90025
If to the City:	City Manager City of Palos Verdes Estates 340 Palos Verdes Drive West Palos Verdes Estates, CA 90274
With a copy to:	Christi Hogin, Esq. Best, Best & Krieger, LLP 1230 Rosecrans Avenue, Suite 110 Manhattan Beach, CA 90266

11. Dismissal of the CEPC v. Palos Verdes Homes Association et al. Litigation.

11.1 CEPC shall file a dismissal with prejudice of the *CEPC v. Palos Verdes Homes Association et al. Litigation* within five (5) days of the execution of this Agreement.

12. **Enforcement and Remedies.** The Parties shall have the right, in addition to all other remedies available to each Party at law or in equity, to enforce their respective rights under this Agreement by filing an action in Los Angeles Superior Court for declaratory relief, specific performance, or injunctive relief. The Parties acknowledge and agree that monetary damages would not be an adequate remedy in the event of a breach of this Agreement and that, therefore, the equitable remedies of specific performance and/or injunctive relief are appropriate under this Agreement. In any action to enforce this Agreement, the prevailing Party is entitled to reasonable attorneys' fees and costs.

13. **ROBE Litigation.** The Homes Association and Schott hereby agree to settle the *ROBE Litigation* as part of this Agreement subject to the following terms.

13.1 The Homes Association shall seek an order from the Court for only the 2020 Directors election a temporary quorum change to 35 percent, telling the Court that this is the position of the current Board.

13.2 The Homes Association shall implement for all future Directors elections a requirement that all candidates – incumbents and challengers – obtain 100 certified signatures to be qualified for the ballot. Notwithstanding the foregoing, should there be no challengers to a Directors election, incumbents need not obtain the 100 signatures. Any future requirements set

by the Board in future years for challengers to appear on the ballot shall always apply with equal force to incumbents.

13.3 The Homes Association shall cause to be placed on the 2020 Directors election ballot a ballot measure to lower the quorum permanently to 35 percent. If two-thirds of the members approve of such a measure, then as per the By-Laws, the quorum change to 35 percent automatically goes into effect. If a simple majority is reached (51 percent or greater of those members who vote), the Homes Association shall petition the Court to judicially impose a quorum change to 35 percent in future elections beyond 2020. For purposes of the 2020 ballot measure, the votes shall be opened, counted and announced at the January 2020 annual meeting and this section 13.3 shall be given effect even if the total number of votes is less than 35 percent for that year.

13.3.1 The Board shall publicly advocate for the 35 percent quorum change ballot measure and also approve this motion to the Court to advocate the lower quorum.

13.3.2 The Homes Association shall continue its recent practice of locating a lockbox at City Hall to collect votes from the time the first ballot is sent to the deadline of the Wednesday before the annual election and has obtained the agreement of the City to this arrangement.

13.3.3 As was done in the Winter of 2018 for the January 2019 Board election, the Homes Association shall continue to use at least three mailings of full ballots and return envelopes to Homes Association members until such time as a ballot is received from any member.

13.3.4 If any Homes Association members appears at the annual meeting to personally present a ballot, the Homes Association shall accept that ballot (assuming the ballot is otherwise valid). However, no member will be allowed to appear at the annual meeting to change a previously cast ballot. If more than one ballot is received from any member, the first one will be counted.

13.4 Homes Association and Schott agree to bear their own attorney's fees and costs as a result of the *ROBE Litigation*.

13.5 **Mutual Release of Claims**. In consideration of the promises and covenants contained in this Agreement and after consultation with counsel and without in any way affecting the executory obligations required under this Agreement, the Homes Association and Schott Parties irrevocably and unconditionally release and forever discharge each other, as well as their respective past and present related or affiliated entities and past and present officers, employees, attorneys, partners, members, investors, trustees, insurers, joint venturers, and agents and each of them, from any and all causes of action, claims, actions, rights, judgments, obligations, damages, demands, accountings, or liabilities of whatever kind or character, known or unknown, which the Parties have or may have against the other related to *ROBE Litigation*. Nothing contained herein shall release, waive, or in any way compromise a Party's right to enforce this Agreement. Homes Association and Schott hereby expressly waive and relinquish all rights and benefits afforded by

California Civil Code Section 1542 and do so understanding and acknowledging the significance and consequences of such waiver. Homes Association and Schott acknowledge and understand that they are being represented in this matter by counsel, and acknowledge that they are familiar with the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

13.6 Each of the provisions of Paragraph 15, below, apply to the resolution of the *ROBE Litigation*.

13.7 Schott shall file a dismissal with prejudice of the *ROBE Litigation* within five (5) days of the execution of this Agreement with an express provision that the Court retain jurisdiction to carry out the terms of this Agreement pursuant to Code of Civil Procedure Section 664.6.

14. Joint Statement. The Parties to agree to release a joint statement in the form attached hereto as **Exhibit 4**.

15. General Provisions.

15.1 The Parties shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this Agreement. The Parties shall cooperate fully with one another to attain the purposes of this Agreement.

15.2 Each individual signing this Agreement represents that he or she has the authority to bind the Party on whose behalf he or she is signing. Each party is independent and none is an agent of another. Each Party shall be solely responsible and liable in connection with its actions associated with its responsibilities under this Agreement. Nothing in this Agreement shall be construed to require or authorize action without a required permit or public hearing or to constrain the exercise of discretion except as expressly provided herein.

15.3 The Parties represent that they have been represented by, or had the opportunity of consult with, independent counsel of their own choosing in connection with the execution of this Agreement.

15.4 This Agreement contains the entire agreement and understanding between the Parties, and supersedes all prior and contemporaneous agreements, concerning the subject matter except as specifically noted herein.

15.5 This Agreement shall be binding on the parties and their respective successors and assigns.

15.6 This Agreement may be amended only in a writing signed by the Parties.

15.7 This Agreement shall be governed by California law.

15.8 Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.

15.9 Nothing in this Agreement is intended to create duties or obligations to or rights in third parties to this Agreement.

15.10 In the event that any Party believes that another Party materially breached any obligations under this Agreement, such Party shall notify the breaching Party in writing. The breaching Party shall have thirty (30) days from the receipt of notice to cure the alleged breach and to notify the non-breaching Party in writing that cure has been effected.

15.11 If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

15.12 This Agreement may be executed in multiple counterparts and by facsimile or email.

The Parties to this Agreement have caused this Agreement to be executed on their behalf as of the date specified below, respectively, as follows:


JOHN HARBISON, Individually and on behalf of CEPC

By: 

Name: JOHN HARBISON

Date: JANUARY 10, 2019 Title: CEPC

PALOS VERDES HOMES ASSOCIATION

By: 

Name: ED FOUNTAIN

Date: JANUARY 10, 2019 Title: VICE PRESIDENT

ROBERT LUGLIANI, Individually and on behalf of
ROBERT and DOLORES LUGLIANI, Co-trustees of the
LUGLIANI TRUST

By: Robert Lugliani, Trustee

Name: Robert Lugliani

Date: 1-10-19

Title: TRUSTEE

THOMAS J. LIEB, Trustee, THE VIA PANORAMA
TRUST U/DO May 2, 2012

By: _____

Name: _____

Date: _____

Title: _____

L. RIED SCHOTT, Individually and on behalf of ROBE

By: _____

Name: _____

Date: _____

Title: _____

THE CITY OF PALOS VERDES ESTATES

By: _____

Name: _____

Date: _____

Title: _____

ROBERT LUGLIANI, Individually and on behalf of
ROBERT and DOLORES LUGLIANI, Co-trustees of the
LUGLIANI TRUST

By: _____

Name: _____

Date: _____

Title: _____

THOMAS J. LIEB, Trustee, THE VIA PANORAMA
TRUST U/DO May 2, 2012

By:  _____

Name: Thomas J. Lieb

Date: 1-10-19

Title: TRUSTEE

L. RIED SCHOTT, Individually and on behalf of ROBE

By: _____

Name: _____

Date: _____

Title: _____

THE CITY OF PALOS VERDES ESTATES

By: _____

Name: _____

Date: _____

Title: _____

ROBERT LUGLIANI, Individually and on behalf of
ROBERT and DOLORES LUGLIANI, Co-trustees of the
LUGLIANI TRUST

By: _____

Name: _____

Date: _____

Title: _____

THOMAS J. LIEB, Trustee, THE VIA PANORAMA
TRUST U/DO May 2, 2012

By: _____

Name: _____

Date: _____

Title: _____

L. RIED SCHOTT, Individually and on behalf of ROBE

By: L. Ried Schott

Name: L. Ried Schott

Date: 1-10-19

Title: PETITIONER

THE CITY OF PALOS VERDES ESTATES

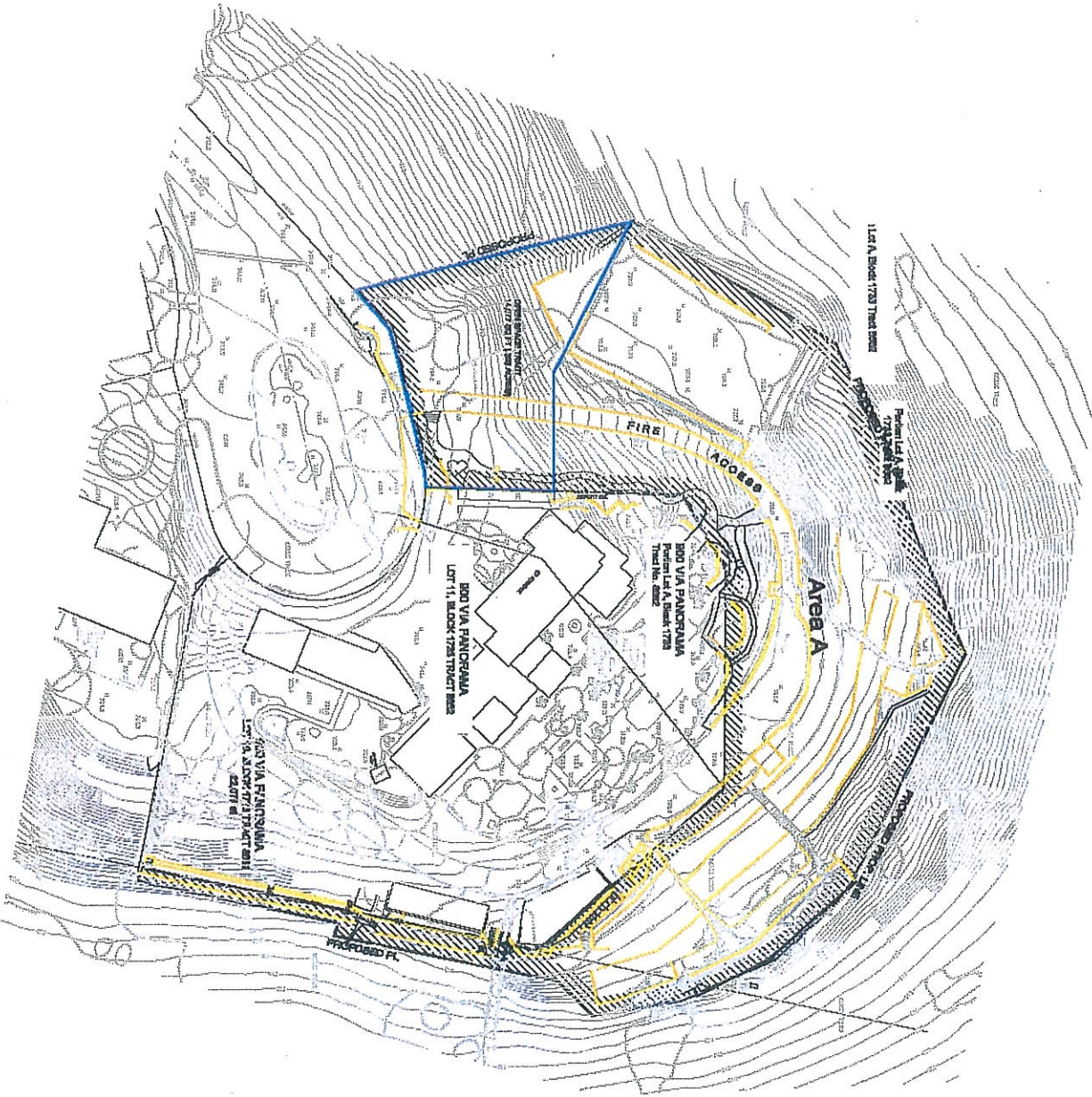
By: Betty Lin Peterson

Name: Betty Lin Peterson

Date: 1-11-2019

Title: Mayor

EXHIBIT 1



DATE	2011 OCT 26 2011
SCALE	1" = 20'
PROJECT	SEE
OWNER	SEE
DESIGNED BY	SEE
CHECKED BY	SEE
DATE	2011 OCT 26 2011

Overall
OVERALL PLAN
 Lot 10, 11, and Por. A, Tract 8652

client:
DAVID LUGLIANI
 900 Via Panorama
 Palos Verdes Estates, CA 90274

ETC **Environ Engineering Corp.**
 2001 Engineering & Surveying
 20044 Hawthorne Avenue Ste. 310
 Lawton, OK 73507
 Phone: (405) 944-4444 Fax: (405) 944-4444

Revisions	By

EXHIBIT 2

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Palos Verdes Homes Association
320 Palos Verdes Dr. W.
Palos Verdes Estates, CA 90274

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

APN: 7545-002-900

MODIFICATION OF DEED RESTRICTIONS

Grantor: PALOS VERDES HOMES ASSOCIATION, a California nonprofit corporation

Grantee: THOMAS J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST U/DO MAY 2, 2012

THIS MODIFICATION OF DEED RESTRICTIONS (this "Modification") is made and entered into as of _____, 201_, by **PALOS VERDES HOMES ASSOCIATION, a California nonprofit corporation** ("Grantor"), and **THOMAS J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST U/DO MAY 2, 2012** ("Grantee").

Recitals:

A. Grantee is the owner of the real property located in Los Angeles County, California legally described on the attached Exhibit A (the "Grantee Property"). The Grantee Property and other real property located in Palos Verdes Estates are encumbered by restrictions limiting the use and ownership of such real property to parkland as set forth in various deeds, including, without limitation, Paragraph Nos. 3-6, inclusive, of each of the following instruments: [INSERT DEED RECORDING INFORMATION] (the "Parkland Restrictions"). The Parkland Restrictions include restrictions contained in any other deed or instrument purporting to limit the use or ownership of the Grantee Property to parkland. Without limitation of the foregoing, the Parkland Restrictions

include any restriction in substantially the form of any of the following:

- That the subject property “is to be used and administered forever for park and/or recreation purposes . . .”
- That “no buildings, structures or concessions shall be erected, maintained or permitted” on the subject property “except such as are properly incidental to the convenient and/or proper use of said realty for park and/ or recreation purposes.”
- That the subject property “shall not be sold or conveyed, in whole or in part ...except to a body suitably constituted by law to take, hold, maintain and regulate public parks ...”
- That, with written permission, a property owner abutting the subject property may construct paths or landscaping on the subject property as a means of improving access to or views from such property. Such improvements must not impair or interfere with the use and maintenance of such property for park and/or recreation purposes.

B. Article VI, Section 3 of Declaration No. 1, Declaration of Establishment of Basic Protective Restrictions, Conditions, Covenants, Reservations, Liens and Charges Affecting the Real Property to be Known as Palos Verdes Estates – Parcels A and B, recorded July 5, 1923 in Book 2360, Page 231, Official Records of Los Angeles County, as amended (“Declaration No. 1”), permits modification of deed restrictions encumbering real property subject to Declaration No. 1 by Grantor and the owner(s) of such real property, provided the written consent of the owners of not less than two-thirds in area of all lands held in private ownership within three hundred feet in any direction of such real property (collectively, the “Neighboring Owners”) is duly executed and recorded.

C. Grantor and Grantee desire to modify the Parkland Restrictions to provide that such Parkland Restrictions no longer encumber the Grantee Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in consideration of the above recitals, Grantor and Grantee hereby agree as follows:

Agreements:

1. **Modification of Parkland Restrictions.** The Parkland Restrictions are hereby modified to provide that such Parkland Restrictions no longer encumber the Grantee Property. The Grantee Property may hereafter be used, owned, operated, managed, encumbered, and conveyed free of the Parkland Restrictions.

2. **Neighboring Owners.** The written consents of the Neighboring Owners have been obtained and are attached to this Modification and incorporated by reference.

3. **General Provisions.**

a. **Severability.** Invalidation of any provisions of this Modification shall in no way affect any of the other provisions of this Modification.

b. **Benefits and Burdens Run With The Land.** This Modification shall run with the land as to the properties burdened and benefited by the provisions herein and any lawful division thereof. The rights, covenants, and obligations contained in this Modification shall bind, burden, and benefit the parties, their successors, heirs, assigns, tenants, employees, guests, invitees, licensees, contractors, agents, mortgages, and beneficiaries under a deed of trust.

c. **Waiver.** No provision of this Modification shall be deemed to have been waived unless such waiver is in writing signed by the waving party. No failure by any party to insist upon the strict performance of any provision of this Modification, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach, of such provisions, or of any other provision. No waiver of any provision of this Modification shall be deemed a waiver of any other provision of this Modification or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing.

d. **Governing Law.** The parties expressly agree that this Modification will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Modification has been duly executed as of the date first set forth above.

Grantor: PALOS VERDES HOMES ASSOCIATION, a California nonprofit corporation

By: _____
Title: _____

State of California)
County of Los Angeles)

On _____ before me, _____, a Notary Public in and for said State, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(This area for notary stamp)

Grantee:

Thomas J. Lieb, Trustee, The Via Panorama
Trust U/DO May 2, 2012

State of California)
)
County of Los Angeles)

On _____ before me, _____, a Notary Public in and for said State, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(This area for notary stamp)

EXHIBIT A
GRANTEE PROPERTY

EXHIBIT 3

SETTLEMENT TIMELINE EXHIBIT

[Day 1 is execution date of Settlement Agreement]

Day 5: Dismissals of litigation filed [Paras. 11.1 & 13.7]
Parkland Restrictions for Bluff Cove recorded [Para. 1.2]

Day 10: Homes Association makes payment to Lugliani [Para. 2.1.3.1.4]
Homes Association pays CEPC attorneys' fees within 5 days of dismissal
confirmation [Para. 7.1]

Day 15: Notice of vacated easements recorded [Para. 1.3]

Day 60: Lugliani completes restoration of City Parcel to natural state similar to adjacent
land, including removal of vegetation, road, and improvements [Para. 2.1.3.1]

Day 65: Deeds (with Deed Restrictions), modification of Parkland Restrictions for
Lugliani Parcel, and View Easement recorded [Paras. 2.1.2.1-2.1.2.3, 2.2]

Day 90: Lugliani completes pouring of new curb [Para. 2.1.3.1.1.2]

EXHIBIT 4

JOINT STATEMENT:

Today the lawsuit over the Panorama Parkland was resolved. The Parties* found common ground on their mutual priority for preserving parkland. The lawsuit was originally filed by John Harbison and CEPC to unwind a sale of parkland property from the Homes Association to the Luglianis. The property was conveyed by the City to the Homes Association as part of an agreement between the City, the Palos Verdes Unified School District and the Luglianis. The Court of Appeal held “the public did benefit from this litigation—namely through the protection of a public park.” Under the settlement, the Luglianis and the Homes Association will comply with the provisions of the CC&Rs that allow for re-designation of land use with the consent of the neighboring property owners. Harbison and CEPC support this re-designation in light of two facts: (1) the City is going to deed restrict the Bluff Cove properties (approx. 4 acres) along Palos Verdes Drive West (that are currently R1 Residential zoned) by imposing the same restrictions that are on all other City-owned open space. As a result, the City of Palos Verdes Estates will enjoy a net increase in deed-restricted open space property. (2) Unlike the original sale from the Homes Association to the Luglianis, under the agreement, the Homes Association will employ the proper mechanism under the CC&Rs including the explicit consent of the public within 300 feet of each property. The Agreement will create a view easement and restore natural parkland for the public to enjoy. All Parties affirm the continuing legal validity of the deed restrictions maintaining parkland. In addition, the Parties are resolving the ROBE Quorum litigation creating a more democratic election process for the Homes Association.

All Parties are pleased to have found a solution that increases parkland for the benefit of our residents. The Luglianis agreed to restore the flat portion of the Panorama parkland properties (approx. 0.4 acres) and return that to city ownership for the residents to enjoy. The Homes Association and Harbison were instrumental in identifying the portion of the property of most value to the community. The Homes Association is helping to fund the restoration.

This settlement completely resolves the lawsuit over Panorama Parkland.

*Parties to the Agreement are Citizens for Enforcement Parkland Covenants (CEPC), John Harbison, Palos Verdes Homes Association (Homes Association), City of Palos Verdes Estates, Ried Schott, Residents for Open Board Elections (ROBE) and Robert and Dolores Lugliani (the Luglianis, property owners of 900 Via Panorama).

Enclosure 2

From: John Harbison <harbisonjohn@gmail.com>
Subject: Notice of Breach of 2019 Settlement Agreement
Date: December 19, 2023 at 9:51:00 PM PST
To: pvha@pvha.org
Cc: Ried Schott <rschott@hotmail.com>, Jeff Lewis <jeffreylewis@hey.com>

Please forward this email to each of the Board Members of PVHA, and please acknowledge receipt.

Thank you,
John

John Harbison

harbisonjohn@gmail.com
cell: 310 739-1838

=====

December 19, 2023

To: The Directors of the Palos Verdes Homes Association

We believe the Palos Verdes Homes Association (PVHA / Homes Association) is not acting in accordance with the January 10, 2019 Settlement Agreement that it approved along with City of Palos Verdes Estates and two resident groups - Residents for Open Board Elections (ROBE) and Citizens for Enforcement of Protective Covenants (CEPC). The signed copy of that agreement is attached.

It appears the PVHA has violated the following sections of the noted agreement:

13.3.1. "The Board shall publicly advocate for the 35 percent quorum change ballot measure and also approve this motion to the Court to advocate the lower quorum." *All the current Board members at the December 4, 2023 public Forum that they hosted indicated their strong opposition to lowering the quorum. The Board's position significantly reduces the possibility of a democratic election and is contrary to what the Homes Association previously agreed to abide by.*

13.3.2. "The Homes Association shall continue its recent practice of locating a lockbox at City Hall to collect votes from the time the first ballot is sent to the deadline of the Wednesday before the annual election and has obtained the agreement of the City to this arrangement." *The Homes Association agreed to continue its practice of locating a lockbox at City Hall to collect votes, however, it is not doing so.*

13.3.3 “As was done in the Winter of 2018 for the January 2019 Board election, the Homes Association shall continue to use at least three mailings of full ballots and return envelopes to Homes Association members until such time as a ballot is received from any member.” *The Homes Association agreed to use at least three mailings of full ballots, however, only one ballot was sent out during this election.*

13.3.4 “If any Homes Association members appears at the annual meeting to personally present a ballot, the Homes Association shall accept that ballot (assuming the ballot is otherwise valid). However, no member will be allowed to appear at the annual meeting to change a previously cast ballot. If more than one ballot is received from any member, the first one will be counted.” *The Homes Association agreed to allow members to personally present a ballot at the annual meeting, however, we understand this will not be allowed.*

Further, the one election ballot in this year's PVHA election was not received by residents until December 11th of this year with a required deadline of returning the ballots by January 3rd. This appears to be the latest members ever received a ballot and the shortest period ever for members to vote in a PVHA election. It is also during a Holiday Period when many members are traveling and are not able to collect their mail, do not have time to vote in such a short time frame, or are having difficulty finding the ballots in their mail and often accidentally dispensing the ballot envelope along with numerous catalogs and advertisements. Sending ballots out during this time period and with such a short voting period is not only irresponsible, but it can also be a violation of California laws governing Home Owner Associations, such as 7515, which requires a voting period of at least 30 days.

As a result of the limited time period PVHA members have to vote, and the violation particularly of 13.3.3 noted above, if a quorum is not obtained, we believe the election should continue by at least two months, as allowed by PVHA Bylaws and consistent with practices in some previous years. And that at least two more election ballots need to be forwarded to all members during those two months. Additionally, a lockbox is also needed now at City Hall to collect votes during the extended election, and that members should be allowed to submit votes during the annual meeting, as required under section 13.3.4, respectively.

Since the deadline for voting is only a couple weeks away, a timely response to resolve the noted violations is required.

Respectfully,

L. Ried Schott, representing ROBE

John Harbison, representing CEPC