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DIXON, COLUMBIA**

July 26, 2016

Michael Standish
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Attorneys at Law
1616 Oak Street
Dixon, Columbia

Re: Intended Conveyance of Wildomar Property

Dear Mr. Standish:

We represent the Riverdale Regional Park District ("the District") in this matter. It is our position that, the District may validly convey the Wildomar Property without satisfying the Act's voter-consent requirement because the District's Board of Directors never adopted a resolution dedicating the Wildomar Property. The Board of Directors is granted broad authority to purchase and convey land necessary to the full exercise of its powers. SECTION 40. The resolution adopting this land did not indicate that the land was to be used for the purpose of creating a park.

The Wildomar property was not dedicated through the common law

A dedication is the "application of private real property to a public use by the acts of its owner and a public entity." *Osuna on Real Property*. There are statutory and common law dedications. The District has not dedicated the property by statute or through the common law. Here, the district obtained the property through an Agreement for Purchase of Real Property with Lucille Potts. The simple acquisition of land through a private individual does not make the land subject to the voter consent requirement of the Act.

In *Baldwin v City of Lake Alston*, the court found that the City did not dedicate a piece of land that was donated to it for recreational purposes through a Resolution adopted by the City Council. In the case, the Resolution adopted by the city counsel concluded that it was adopting the piece of property "for public recreation purposes" and for a set price. The property was gifted to the city, but required a costly clean up which was to be paid for by the seller. The seller never paid the fee, but the city used the land for recreational purposes anyways. The

court found that because the city did not accept the lot under the perpetual restriction, it was not dedicated through the common law.

Likewise, the Resolutions of the district never indicated that there was a perpetual restriction to use the land for recreational purposes. There is no indication that the purchase of this land was for the sole purpose of creating a recreational space. There was no mention in any of the Resolutions and meetings which indicate that the purchase of the Wildomar property was for the sole purpose of turning it into a park. The only mention of this purpose is in the grant deed from Potts.

Furthermore, it is merely aspirational that the property were to be used for public park purposes. There is no express condition that this land must be used for this purpose. It was merely an aspiration of the District. That aspiration could not be met because the District was unable to secure the funds necessary to create a public recreational space. This is further evidenced by the Dixon Daily News Article which explains that the funds needed to turn the piece of property into a park never materialized.

Santa Maria's Argument

We are aware that it is Santa Maria's position that, Under Section 40, the property was "actually dedicated" because of acquisition under the common law. This position is unsound because there is no District resolution adopted which even mentions that the Wildomar land was to be purchased for recreational purposes.

All land owned by the District is not for park purposes

The Act states that the District "may take by grant, appropriation, purchase, gift... of real and personal property of every kind... within or without the district, necessary to the full exercise of its powers." When construing this statute through its plain language, it is clear that the District has broad authority to obtain property and may dispose of that property as it pleases if it is not dedicated.

In *Teller Irrigation District v. Collins*, the court found that a District was not allowed to convey property it acquired for the public trust. However, the situation with the Wildomar Property is different than the Irrigation District. The irrigation district was governed by an act which gave legal title to ALL of the districts property held in trust and "dedicated" for the purpose of irrigation. Here, the Act does not have similar language which dictates that ALL property held by the District is in trust for the sole purpose of recreational parks. Furthermore, the property acquired by the District was not expressly indicated to be for recreational purposes. It was simply acquired with the aspiration for it to become a park. Thus, the situation with the Wildomar Property is not similar to the *Teller Irrig. District v. Collins* case.

The language in section 65 is inherently different than the language of the

Collins case because the property acquired was not done for public park purposes as pursuant to the act. The uses of the Act also indicate that the board has general powers and may do all acts necessary for the full exercise of its powers. This indicates that the District may convey property that is not being used for park purposes. This conveyance will generate revenue needed to maintain and create additional parks which are safe and sanitary.

The District may dispose of real property necessary to the full exercise of its powers

The district may sell property owned by the district if it becomes unnecessary for the purposes of the district. SECTION 63. The purpose of the Act is to foster the creation and preservation of regional parks for the enjoyment of the public. SECTION 1. The Wildomar property is not a piece of property that fits into the purpose of the District. The property is unsanitary and frankly unsafe. The district cannot allow a piece of property they own to be continuously used for a purpose it is unfit for.

The district possesses general powers to do all acts necessary for the full exercise of its powers. SECTION 43. The District is able to sell the land because it is not dedicated through the common law or Act.

Santa Maria contends that this property is actually used for recreational purposes under the Act, but that argument is unsound. This piece of property has given rise to health and safety problems as the public has continued to frequent it without parking and restroom facilities. It is within the full powers of the District to sell the land because it was not dedicated through the common law. The resolution did not indicate that the property was acquired for the purpose of creating a park. Although Santa Maria contends that the actual use of the property was one which coincided with a regional park. This notion may be true, but it does not make the property one that was approved through resolution to be used for park purposes. The District only aspired to use the property as a park on the condition that it located the funds to do so, which it did not do. Thus, the district can sell the property notwithstanding the voter requirement of section 40.

Accordingly, the District it will go forward with the conveyance notwithstanding litigation. We have sound arguments and facts to support that the District will prevail if any litigation is brought against us.

Sincerely,

Charles Drumm

