



DANNIS WOLIVER KELLEY

Attorneys at Law

Q & A

7-11 Committee

Cupertino Union School District

Meeting: April 5, 2022

Clarissa Canady and Rachel Brilliant



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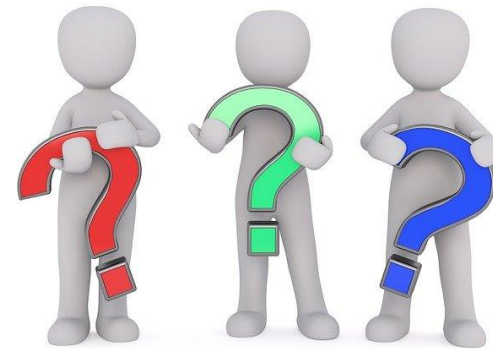
Committee Mission

- Establish a priority list of possible uses of the Meyerholtz, Regnart, and Montebello properties to generate the property's highest and best use value and with the stipulation that the Meyerholtz and Regnart properties be leased and the Montebello property be sold or used in an exchange.



Requests for Additional Information

1. Restraints imposed by the Montebello grant deed restriction limiting uses to school site.
2. Steps required to declare properties as surplus.
3. Requirements for offering properties to other public entities.
4. Unused site penalties.



Montebello Grant Deed

1. What legal restraints, if any, are imposed by the Montebello deed restriction limiting uses to “school site”?

This land is transferred and donated upon the express condition and stipulation that it be used for a school site only and when it ceases to be used for or school site or is used for any other purpose or purposes the land immediately reverts to the original owner.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the said parties of the second part, and to their heirs and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand the day and year first above written.

James W. Corless



Montebello Grant Deed

What legal restraints, if any, are imposed by the Montebello deed restriction limiting uses to “school site”?

Short Answer: **None.** The deed restriction is not enforceable due to the passage of time and the adoption of the Marketable Record Title Act.

Marketable Record Title Act

- **In 1982 California legislature passed the Marketable Record Title Act (“Act”) with the stated purpose to facilitate real property transactions and encourage full use and development of real property.**
 - **Possibility of reverter is abolished; possibility of reverter is enforceable as a power of termination.**
 - **A power of termination of record expires at the later of the following items:**
 - **Thirty years after the date the instrument reserving, transferring, or otherwise evidencing the power of termination is recorded.**
 - **Thirty years after the date a notice of intent to preserve the power of termination is recorded, if the notice is recorded within the time prescribed in paragraph(1).**
 - **Thirty years after the date an instrument reserving, transferring, or otherwise evidencing the power of termination or a notice of intent to preserve the power of termination is recorded, if the instrument or notice is recorded within 30 years after the date such an instrument or notice was last recorded.**
- **Grant deed with right of reversion recorded on September 6, 1892.**
- **Five-year grace period from enactment of the Act expired in 1987.**

Surplus Property Disposition Process

- **Step 1: Surplus Property Determination**
 - Formation of the 7-11 Committee
 - Evaluation of facilities by the 7-11 Committee
- **Step 2: Board Consideration of Committee Recommendations**
- **Step 3: Public Offerings**
- **Step 4: Public Bidding**



Surplus Property Disposition Process

- **Step 3: Public Offerings**

Public Offerings

- **Public Offerings before Leasing Property**
 - Establish price or lease rate
 - Obtain Appraisal—formal v. informal
 - Board Action
 - Resolution of Intent to Lease or Sell
 - Prior to Lease
 - Childcare Use – Optional
 - Special Education Offers to County Office and Districts in SELPA (Ed. Code, §17465)
 - Naylor Act if applicable

Public Offerings (Cont.)

- **Public Offerings Prior to Sale or Lease with Option to Purchase**
 - Notice to Planning Commission
 - Naylor Act
 - Other public offerings

Public Offerings (Cont.)

Naylor Act:

- Requires that land be offered to the city, any park or recreation district, any regional park authority, or the county
- Severely limits the amount for which land may be sold or leased

Public Offerings (Cont.)

- **Naylor Act** is applicable if property:
 - Consists of land that has been used for at least eight (8) years for playground, playing fields, or other outdoor recreational purposes;
 - Open space land particularly suited for recreational purposes; and
 - No other available publicly owned land in the vicinity is adequate to meet the needs of the community for outdoor recreational purposes (as determined by acquiring agency) (Ed. Code, § 17485 et seq.)

Public Offerings (Cont.)

■ Make Other Below Market and Market Rate Offerings

- **First**: Parks and Recreation (city, county, regional park authority, State Resources Agency)
- **Second**: In writing -- to DGS, UC, CSU, City, County, public housing authority
- **Third**: By notice -- to any public authority, federal government, nonprofit charitable institutions

■ What if Accepted?

- Must Negotiate for 60 Days (from date of last publication)
- District may withdraw from negotiations and retain property

Surplus Property Disposition Process

- **Step 4: Public Bidding**

Public Bidding

- **Public Bidding**

- Bidding Required if Property is Still Available (i.e., no one accepted offer)
- Board Determines Criteria
 - Type of Contract (lease, sale, lease with option)
 - Minimum Price/Bidder Qualifications
 - Use of Property
- Bidding Process
 - Resolution of Intent
 - Advertise/Distribute Bid Package
 - Written Offers
 - Verbal Offers

Public Bidding (Cont.)

- **Public Bidding**
 - Due Diligence Period
 - Is CEQA Required?
 - Evaluation of Bidder
 - Acceptance of Bid by Board
 - Negotiate/Enter Lease or Purchase Agreement
 - Terms not established during bid process are subject to negotiation

Unused Site Penalties

- District may be subject to nonuse payments if the District has a site at any grade level that has previously been used but has not been used for school purposes within the preceding five years. (Ed. Code, §§ 17219 – 17224.)

- Payments not required for specified uses.





DANNIS WOLIVER KELLEY

Attorneys at Law



SAN FRANCISCO

LONG BEACH

SAN DIEGO

CHICO

SACRAMENTO

BERKELEY

FRESNO

www.DWKesq.com



Clarissa R. Canady
Attorney
San Francisco
415.543.4111
ccanady@DWKesq.com



Rachel K. Brilliant
Attorney
San Francisco
415.543.4111
rbrilliant@DWKesq.com