

STRADLING YOCCA CARLSON & RAUTH

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

44 MONTGOMERY STREET, SUITE 4200

SAN FRANCISCO, CA 94104

TELEPHONE 415.283.2240

FACSIMILE 415.283.2255

CALIFORNIA
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DAVID G. CASNOCHA
DIRECT DIAL: 415.283.2241
DCASNOCHA@SYCR.COM

May 3, 2019

Mays Kakish, Chief Business Officer
Riverside Unified School District
3380 14th Street
Riverside, CA 92501

Re: Measure O Riverside Unified School District

Dear Mays:

I have been asked by the staff of Riverside Unified School District (the "District") to respond to a letter from Mr. Jason Hunter dated February 25, 2019 (the "Letter"). In the Letter Mr. Hunter raised a concern regarding the legal authority to use Measure O bond proceeds to purchase property located at 7351 Lincoln Avenue for the expected use as a school site for the Casa Blanca neighborhood school.

Recall that I had the pleasure of speaking with Mr. Hunter and several other members of the Measure O Independent Citizen's Bond Oversight Committee (the "Committee") on March 11, 2019 during which hour-long conversation I outlined the legal authority to spend bond proceeds and as well as answered a number of members questions regarding the Committee Bylaws and the scope of the Committee's responsibilities.

To confirm the advice I provided during that call, the scope of legal authority to spend Measure O monies is the sum of the projects authorized by the 75-word ballot question for Measure O, plus the types of projects described in the Full Ballot Text of Measure O, plus all of the projects identified in the District's Facilities Master Plan, as it has been approved by the Board of Education on February 1, 2016. These references are additive, meaning that a project needs to be authorized by any one of the three project sources.

In reviewing Measure O, ample legal authority exists for the Board of Education to determine to acquire land with Measure O bond funds. The 75 word ballot statement authorizes the District to "construct, acquire, and repair classrooms, sites, facilities and equipment..." (Emphasis added) Further, the Bond Project List included in the voter pamphlet authorizes the District to "acquire land" and "construct new schools". Based on these provisions, there is no doubt as to the legal authority to acquire a school site for a Casa Blanca neighborhood school. The decision by the Board to exercise their powers in this regard is beyond the purview of the Committee.

Because of the clarity of Measure O on the topic of acquiring property from bond proceeds, the Letter's summary of remedies relating to alleged misuse of bond proceeds is not relevant to the legal analysis.

The Letter also refers to the Foothill-De Anza Community College District case. I happen to have been the bond lawyer handling that case for Foothill-De Anza. The Foothill case stands for the proposition that districts are granted great flexibility in spending their bond funds. The case held that bond funds can be used for any project that is of "type of project" approved by the voters. The case is not relevant to Riverside because Measure O specifically authorized money to use to buy land and construct schools.

In summary, (i) Mr. Hunter has quoted from various provisions of the Education Code and the State Constitution mistakenly, (ii) Measure O specifically approves land acquisition as a bond project, and (iii) there is no case to make against the District for waste or improper expenditure of bond proceeds.

If you or Mr. Hunter has any follow-up questions, please contact me.

Very Truly Yours,

A handwritten signature in cursive script that reads "David G. Casnocha". The signature is written in dark ink and is centered on the page.

David G. Casnocha



TAO | ROSSINI
APC

921 N. Harbor Blvd, Suite 408
La Habra, CA 90631
(714) 761-3007
ttr@taorossini.com
August 6, 2019

VIA E-MAIL TO MKAKISH@RUSD.K12.CA.US AND US MAIL

Mays Kakish, Chief Business Officer
Riverside Unified School District
3380 14th Street
Riverside, CA 92501

Re: Opinion on Use of Bond Funds

Dear Mays:

Recently, the District has been criticized for use of Measure O for the development of the UCR STEM campus and for acquisition of property in the Casa Blanca neighborhood. This letter is written to address the scope and use of Measure O funds.

I. Resolution

The Ballot Language under Resolution 2015.16-56 entitled "RESOLUTION OF THE BOARD OF EDUCATION OF RIVERSIDE UNIFIED SCHOOL DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER" simply provides:

EXHIBIT A

"To repair and upgrade Riverside schools, including deteriorating roofs, plumbing and electrical systems, improve student safety, security, and seismic safety, upgrade classrooms, science labs, career- training facilities, computer systems and instructional technology to support student achievement in math, science, engineering and skilled trades, and construct, acquire, repair classrooms, sites, facilities and equipment, shall Riverside Unified School District issue \$392 million in bonds at legal rates, with citizen oversight, no money for administrator salaries, all money staying local?" (emphasis added)

The Project List at Exhibit "B" includes:

Partner with U.C. Riverside and Riverside City College to build a Center for the Study of Advanced Science, Technology, Engineering and Math, that will give local high school students access to college-level instruction....

Build new classrooms and facilities to relieve overcrowding...

...In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following:

...acquire land; construct new schools...

II. Legal Analysis

There are several cases that address application of General Obligation Bond (“GO Bond”) ballot language to projects. Generally, the cases hold all expenditures from a GO Bond must be expended within the restrictions of the ballot language that was put before the voters. The specific ballot language is authorized through a Board Resolution which is utilized to prepare the ballot. See Education Code Section 15122. The primary case on the subject of restrictive language is Taxpayers for Accountable School Bond Spending v. San Diego Unified School District (2013) 215 Cal.App.4th 1013 (a depublished opinion). This case is now depublished, so is no longer citable for court purposes, but is useful to review since the court prohibited the use of funds in the San Diego Unified School District bond finding that the project list was comprehensive and the planned athletic stadium and field lights project was not specifically listed. The Taxpayers for Accountable School Spending challenge was based on a very detailed and comprehensive list of projects and thus the court looked to whether the specific stadium project was listed.

It should be noted that the practice of listing all projects in detail is not a common practice when preparing ballot language. The more commonly utilized practice is preparing a general list of facilities projects. A case addressing the commonly prepared bond language – similar to most bond language and the bond language in Measure O -- is Committee for Responsible School Expansion v. Hermosa Beach City School District(2006) 142 Cal.App.4th 1178. This case reviews Article XIII A (1)(b)(3) of the State Constitution and concludes that the accountability language of the Constitution does not require a specific list of projects be made part of the ballot and that general language in the ballot referring to a project list meets the constitutional requirements and cites to Education code 15272. In the Hermosa case, the court found that even though the subject of the challenge, a gymnasium, was not specifically listed in the ballot, the general description included the intent to build a gymnasium and a specific listing was not required.

In the present case, Exhibit A provides language to construct and acquire sites. Which encompasses the UCR STEM project and the Casa Blanca project. However, the intent is even more specifically addressed with the Project list at Exhibit “B” which includes:

Partner with U.C. Riverside and Riverside City College to build a Center for the Study of Advanced Science, Technology, Engineering and Math, that will give local high school students access to college-level instruction....

Build new classrooms and facilities to relieve overcrowding...

...In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following:

...acquire land; construct new schools... (emphasis added)

Thus, the ballot language not only specifically lists the UCR STEM Project but also anticipates acquiring property to construction new schools which is meant to address projects like the acquisition and future

Mays Kakish, Chief Business Officer

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development of schools. The specific location of a future school is both impractical and a poor practice to specify ahead of time, so listing new schools is consistent with past practice of school districts.¹

III. Conclusion

The language of the ballot includes both the UCR STEM Project and acquiring property for future schools. Please let me know if you have any questions or wish to discuss.

Sincerely



Terry Tao, AIA, Esq.

Tao Rossini, a Professional Corporation

Cc: David Casnocha
Sergio San Martin
Ana Gonzalez

¹ Specifying a site or location would be tantamount to inverse condemnation of property and would open the District to liability. Additionally, if the location was specified, speculators could manipulate property prices or implement subdivision applications to enhance the property value prior to acquisition. Thus, ballot language does not specify specific locations or parcels of land that are the subject of a future school.