

March 11, 2008

VIA OVERNIGHT MAIL

Stephen Perestam, Chair
Members of the City of Rancho Palos Verdes
Planning Commission
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA 90272

Re: **Notice of Appeal of the Determination of the City Attorney Finding a Violation of Conditional Use Permit No. 9 (Marymount College)**

Dear Chair Perestam and Commissioners:

This letter constitutes Marymount College's notice of appeal under Rancho Palos Verdes Municipal Code sections 17.86.050(C) and 17.80.050 of the determination of a violation of Conditional Use Permit No. 9 ("CUP") made by the City Attorney in her letter dated February 29, 2008 ("Notice of Violation"), and transmitted electronically after the close of business on that date. The Notice of Violation is attached as Exhibit A. This notice of appeal is made within 15 calendar days of the date of the Notice of Violation and is timely under Rancho Palos Verdes Municipal Code section 17.80.050(B). The filing fee of \$1,344.00 for processing the appeal requested by City staff is enclosed.¹

Grounds for Appeal

Although not explicitly stated in the Notice of Violation, the College is informed and believes that the City Attorney's determination of a CUP violation is based upon Condition No. 9 of Revision "C" to the College's CUP, which was issued on April 17, 1990. That condition reads as follows:

"9. Any commercial use of the campus, including subleasing, shall require an amendment to this Conditional Use Permit."

¹ The filing fee is based on the City payment schedule for an "Application Appeal," as directed by Senior Planner Ara Mihranian. By submitting the filing fee, the College does not waive and specifically reserves its right to challenge the filing fee as unreasonable in that it exceeds the reasonable cost of processing the appeal of what amounts to an purported code violation (not a planning application), and is set at a level that discourages a permit holder's exercise of the right to due process.

The College's grounds for appeal include, but are not limited to, the following:

1. Marymount's Summer English as a Second Language (ESL) Study Programs are educational programs permitted under its existing CUP and not a commercial use of the campus.
2. Marymount's Summer ESL Study Programs are consistent with other existing or historic uses permitted at the College.
3. Marymount's Summer ESL Programs are educational programs consistent with the type of uses permitted in the Institutional District.
4. The Notice of Violation is based on an erroneous interpretation of the controlling agreement between Marymount and FLS International, which was provided to the Office of City Attorney for review.
5. The City Attorney's interpretation of Condition No. 9 of Revision "C" of the College's CUP is arbitrary, erroneous and improperly adds language, conditions, and restrictions to the CUP that were not imposed by the City's legislative bodies at the time of issuance of the CUP.
6. The Notice of Violation is based on a misinterpretation of the operation of the Marymount's Summer ESL Study Programs and the relationship between the College and FLS International.
7. The Notice of Violation is not supported by applicable law.
8. Condition No. 9 of Revision "C" of the College's CUP, is vague, ambiguous and unenforceable on its face and as applied.
9. Marymount's Summer ESL Study Programs are an integral part of the College's educational and religious mission and outreach to international students and the interpretation of the CUP rendered by the City Attorney implements the CUP in a manner that substantially burdens the College's religious exercise.

Specific Relief Requested

The College requests that the Planning Commission: (1) reverse the City Attorney's determination that Marymount's Summer ESL Study Programs violate the College's CUP; (2) reimburse the College's filing fee for the appeal; and (3) grant such further relief as may be requested at the time of the hearing.

Marymount's Summer ESL Study programs are scheduled to begin on June 28, 2008.

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The City Attorney's order directing such programs to be discontinued could result in significant financial damages to the College in addition to the impairment of the College's mission if such determination is not promptly overturned. Accordingly, on behalf of Marymount College, I request that the appeal hearing be scheduled at the earliest opportunity.

Respectfully submitted,

BURKE, WILLIAMS & SORENSEN, LLP

DONALD M. DAVIS

DMD:/as
Attachment

cc: Dr. Michael Brophy (via electronic mail, w/o attachments)
Shaida Kafe-ee (via electronic mail, w/o attachments)
Carol W. Lynch, City Attorney (via electronic mail, w/o attachments)
David Snow, Assistant City Attorney (via electronic mail, w/o attachments)
Ara Mihranian, Senior Planner (via electronic mail, w/o attachments)