

Lots C&D

Frequently Asked Questions

April 23, 2010



How did the District acquire Lots C & D in the first place?

- ✚ The Homes Association deeded Lots C & D to the District's predecessor in 1938 with a restriction that the land be used only for "public schools, parks, playgrounds, and/or recreation areas." The 1938 deed contains a provision purporting to require that the land revert to the Association should the use restriction be violated. However, because a notice of extension was never filed, the right of reverter or termination expired 30 years ago in accordance with Civil Code Section 885.030.

What are the current restrictions on Lots C & D?

- ✚ As noted above, the deed restrictions (until removed) restrict use of the land to public school purposes. Lots C and D are also subject to the Association's CC&Rs and the City's zoning and subdivision laws. The CC&Rs applicable to C & D expressly allow for construction of single family residences (also expressly allowed are airplane landing fields and repair shops, museums, libraries, firehouses, and other public buildings). Lots C & D are (as is all other publicly owned land located in the City) part of an "Open Space" zone which allows public school uses, among other things.

Why are they no longer enforceable?

- ✚ The Deed restrictions are no longer enforceable because a specific State law (Civil Code §885.060) declares them to be unenforceable unless they qualify as enforceable "equitable servitudes." The District does not believe the deed restrictions constitute

enforceable equitable servitudes under the law because they are contrary to established public policy (the right of school districts to raise money by disposing of surplus property) and circumstances relating to the restrictions have changed substantially since 1938. For one thing, the entire area surrounding Lots C and D has been developed as single family residences. For another, the City now prohibits crossing Palos Verdes Drive between Lots C & D and the Little League Field, precluding Lots C & D as a means of connecting the high school with the Little League Field.

Is this property “Open Space”?

- ✚ It is important to note the difference between the general, “dictionary” use of the term “open space” and the technical use of that term in the City’s zoning laws. Lots C and D, as well as all other District property located in the City, is zoned “Open Space” (“OS”). Indeed the OS zone includes all publicly-held land located in the City. Obviously, most of the property zoned OS is not “open space” in the dictionary sense of that term at all. Instead, the OS zone permits school buildings and libraries, recreational, educational and other uses. For example, the PV High School campus is zoned OS. Thus, it is not accurate to infer from the OS zoning of Lots C and D that this property must remain as undeveloped natural open space. Lots C and D belong to the District, and until they are sold, the District is free to use them for any District purpose.

Is this property part of a “safe route to school”?

- ✚ No! This proposal has been explored with city leaders in the past. The City’s position is that a mid-block crossing walk is too dangerous. In fact, the City has posted signs prohibiting crossing Palos Verdes Drive West at Lots C & D.

What can the District currently use the property for?

- ✚ Any District purpose.
- ✚ The Association’s CC&Rs classify Lots C&D as “Class F Properties” and permit within such classification not only use for schools, playgrounds or parks, but also such things as public art galleries, museums, libraries, firehouses, airplane landing fields, other public buildings, or single family dwellings. Thus, if the deed restrictions are removed and the property re-zoned by the City, the District will be able to realize the full value of the lots.

What does the District want to do with the property?

- ✚ Sell it to a developer to build single family homes consistent with the neighborhood. The preference is to build four homes so that we can maximize our profit. The width of Lots C & D is double that of the adjacent residential lots such that Lots C & D would subdivide into four residential lots the same size as the other lots in the neighborhood.

What efforts did the District make to resolve these issues prior to filing a lawsuit?

- ✚ For many years the District’s right to sell Lots C & D has been an ongoing subject of discussion between the District, Homes Association, and City, with no real progress towards reaching a mutually acceptable resolution.
- ✚ In 2005, the Board of Education voted to “authorize staff to pursue the sale of Lots C & D in the City of PVE and determine the steps necessary to complete the transaction.”
- ✚ In 2008, the Board agreed to participate in a mediation process on this matter with the Homes Association. No agreement was reached when the Homes Association insisted that the City join the mediation process and the City refused.

Why did the District ultimately file a lawsuit?

- ✚ The District needs to determine its legal rights regarding its own property. Board of Education decided to seek legal recourse on this matter because after years of trying to resolve it amicably the District has hit nothing but roadblocks.

What type of lawsuit did the District file?

- ✚ The District filed suit for quiet title against the Association to resolve the deed restriction dispute and for declaratory relief against the Association and the City to resolve the rezoning and subdivision dispute.

Why is the District expending funds to file this lawsuit?

- ✚ The District believes its legal position is strong and that the lots can ultimately be sold for between \$2-4 million. The school board believes that investing in a legal determination once and for all in order to generate maximum revenue for the benefit of its students is fiscally prudent and the responsible thing to do.

If the property is not sold, what will the District use the property for?

- ✚ Equipment storage and repair, parking, or other District purposes.

If the property is sold, what will the proceeds of a sale be used for?

- ✚ The proceeds from selling property are restricted in their use. The funds can only be used for facility related purposes. The funds will be used to complete more projects on the Facilities Master Plan, including projects in PVE.

When was the vote to sell Lots C & D first taken?

- ✚ The discussion about whether or not the District should sell Lots C & D, or use them for other purposes, has been going on for many years. In fact, in 2005, a prior school board had the foresight to direct staff to sell the lots. That school board was comprised of Gabriella Holt, Ellen Perkins, Dave Tomblin, Barbara Lucky, and Dora de la Rosa. As a result of that action, another school board in 2008 tried to resolve these issues through mediation with the Homes Association, in order to avoid litigation. Again, no agreement could be reached between the parties.
- ✚ The current Board of Education voted at its January 28, 2010 meeting to file a lawsuit to determine the District's right to sell the property.

Was the most recent vote to sell the lots taken in closed session?

- ✚ Yes. Conferencing with legal counsel regarding anticipated or existing litigation are legal subjects for closed session under the Brown Act. The board decision and vote was reported in the public portion of the meeting.

Why should this action be taken now?

- ✚ As we develop plans to complete as many projects as possible on the Facilities Master Plan, we need to know our income sources in addition to Measures R & S funds.