

## MEMORANDUM

**To: Norman Kulla**

**From: Huntington Palisades Property Owners Corporation**

**Date: March 24, 2014**

**Re: HPPOC Park on Corona Del Mar Zoning Issue**

### **BACKGROUND**

When the Huntington Palisades was established by its developer, the Santa Monica Land and Water Company, in 1926, a parcel of property was excluded from sale to potential lot buyers and its use was restricted to a “park and playground” for purchasers of lots in the Huntington Palisades. The property was recorded as Lot Eight (8), Block (1), Tract 9377. Lot 8 consists of the two original parcels that make up the Corona Del Mar Park. It is owned by the Huntington Palisades lot owners through the HPPOC and it is private property.

For the past 84 years this property has been used as a Park and Playground by families who purchased homes in the Huntington Palisades. The property is owned by the Huntington Palisades Property Owners Corporation (“HPPOC”). The HPPOC, in turn, is owned by the Huntington Palisades homeowners who are required to become members of the HPPOC when they purchase property in the Huntington Palisades. Each lot owner is required to pay annual dues and each lot owner has an ownership interest in the Corona Del Mar property based upon the ratio of his lot or lots to the total lots in the Huntington Palisades.

Notwithstanding this long history, on January 23, 2014, the Department of Building and Safety of the City of Los Angeles issued a violation for the **“unapproved use of the vacant lot as a dog park in the RE 20 zone without a conditional use permit.”** The citation was issued in response to a complaint from a neighbor across the street from the Park about the excessive use of the Park by non resident dog owners.

The Planning Department of the City of Los Angeles now takes the position that the HPPOC must file for a Conditional Use Permit and pay a processing fee of more than \$16,000 to continue to use the property as a “park and playground.”

The violation and the Planning Department’s position ignores the almost 85 year use history of the Park, its originating documents, its restrictive use as a “park and playground,” the finding of the Office of the County Assessor to that same effect, and

the fact that it is privately owned by the HPPOC and its members and has been an integral part of the Huntington Palisades community for almost 85 years.

The use of the property as a “park and playground” was lawful when it was established and not in violation of any existing zoning laws. Its use as a “park and playground” should be permitted to continue as either (i)a legal non- conforming use or (ii) a deemed-to be approved Conditional Use without the the need for the HPPOC to go through the expensive and complex process of seeking a Conditional Use Permit.

## **HISTORY OF THE HUNTINGTON PALISADES AND ITS “PARK AND PLAYGROUND”**

An understanding of the background and the facts surrounding the establishment of the property as a “park and playground” requires a review of the history of the development of the Huntington Palisades.

In 1926 Robert C. Gillis purchased the 226 acre property that comprises the present day neighborhood known as the “Huntington Palisades” from Collis Huntington, the uncle of Henry Huntington. Gillis was President of the Santa Monica Land and Water Company whose large scale land purchases set the pattern for sub-divisions from Westwood to Pacific Palisades.

Honoring the legacy of the Huntington family, Gillis named the new suburb “Huntington Palisades” with plans to transform it into a fashionable upper middle-class community. The curved streets and landscaped boulevards reflected the high standards set by Gillis and Reverend Robert Scott, the founder of Pacific Palisades. The design included elements characteristic of the Olmstead brothers, who had also laid out New York’s Central Park. The elder Olmstead brother, Frederick, had come to Los Angeles to help in planning Palos Verdes and he was hired to help in designing the Huntington Palisades.

Gillis divided the Huntington into various lot sizes and set minimum construction costs. He established strict rules and restrictions (CC&R’S) that prohibited property owners from using lots other than for residential purposes, erecting dwellings of more than two stories, growing hedges to more than five feet, and placing houses without regard to setback lines. Gillis extended these restrictions into perpetuity and established a property owners’ association to enforce them. This property owners association is the Huntington Palisades Property Owners Association (“HPPOC”).

Buyers of the lots were required to join the HPPOC and were given access to a private Park and Playground which covered two large lots on Corona Del Mar overlooking the ocean (Identified in Deeds and the original HPPOC Articles of

Incorporation as "Lot Eight (8) in Block One (1) in Tract No. 9377 in a tract map recorded in the Office of the County Recorder of Los Angeles County, California, in Map Book 129, pages 3 to 7, inclusive.") as well as a three hundred foot stretch of beach directly below the Park which ran from the old Coast Highway to the mean high tide line. The beach property was acquired by the State of California in 1947 for the sum of \$82,500.

## **RELEVANT DOCUMENTS**

### **HPPOC Articles of Incorporation**

Articles of Incorporation filed with the California Secretary of State by the HUNTINGTON PALISADES PROPERTY OWNERS CORPORATION, LTD. on February 26, 1930 provide, in pertinent part, that one of the purposes for which the corporation was formed was:

"(5) To lease for a term of ninety-nine (99) years, for park and playground purposes exclusively, from California Trust Company or from its successors in title, the following described real property, ( Lot Eight (8), Block One (1)) at an annual rental of Ten Dollars (\$10.00) per year and "

The Board of Directors was directed by these Articles of Incorporation:

"To maintain, preserve, improve, and care for said park and playground property for the members of this corporation as property owners in said Huntington Palisades, is and shall be one of the purposes and duties of this corporation throughout the life thereof."

The Articles of Incorporation also provide that:

"Each member of this corporation shall have such an interest in all the property owned by this corporation as is represented by the ratio of the number of votes to which said member is entitled to the total number of votes to which all members of this corporation are entitled."

### **The Original 99 Year Lease**

In 1932 a 99 year Lease was entered into between the California Trust Company and the Huntington Palisades Property Owners Corporation, LTD. This Lease provided, in pertinent part:

“Whereas, California Trust Company has heretofore sold and conveyed by deed recorded in Book 4553. Page 290, of Official Records in the office of the County recorder of Los Angeles, California, particularly including Tracts 9377 and 6753 and a portion of Tract 9473, as per the respective maps of said Tracts recorded in the office of said Los Angeles County Recorder; and

Whereas such sales and conveyances have been made under contracts and by deeds uniformly containing certain provisions (as therein set forth with particularity) for the organization of a corporation to enforce building restrictions and other covenants and conditions for the general benefit of all the owners or purchasers of such lots; and also containing the following further provisions, wherein California Trust Company is designated as Seller, in such contracts or deeds for lots in said Tract 9377 (and similar provisions in various contracts and deeds for lots in said other tracts), to wit: *“Said Seller also agrees that upon the organization of said corporation it will lease to said corporation for park and playground purposes exclusively the following described property: Lot Eight (8), Block One (1) in Tract 9377 aforesaid.....”*

“Said Lease shall run for a term of ninety-nine (99) years and shall contain proper provisions for termination thereof for violation of any of its terms...and

Whereas, said corporation has been fully created and is now organized and existing under the laws of California, and the name of the said corporation is ‘HUNTINGTON PALISADES PROPEERTY OWNERS CORPORATION, LTD and...

The Lessee further covenants and agrees not to use the property hereby leased for any purposes other than park and playground purposes exclusively. Subject only to the foregoing covenants, the Lessee at all times during the life of this Lease may use and improve, and alter and change, and build upon and remove structures from, said hereby leased premises, or any part thereof, in any manner and by any means (whether now known or unknown) which in the judgement of said Lessee shall be appropriate, convenient, or proper, for park and playground purposes but not for any other purposes.

This Lease is given by California Trust Company to fulfill and discharge all its obligations in respect to the leasing of land in said Huntington Palisades for park and playground purposes as required by the aforescribed contracts for the sale and conveyance of lots or other parcels of land in said Huntington Palisades, including both the contracts and deeds heretofore executed and those which are hereafter executed with the same or substantially similar provisions therein relating to said land hereby leased for park and playground purposes. “

#### **Quitclaim Deed to HPPOC.**

In April 1936, the property was quitclaimed to the HPPOC.

## **Grant Deeds to Property Owners Referencing Park and Playground**

The grant deeds to purchasers of lots in the Huntington Palisades from the outset of sales in 1926 contained language describing the Park and Playground and the requirement that the HPPOC be formed with one of its principal purposes being the maintaining of the property as a park and playground of the HPPOC. Illustrative is the following language contained in the August 1926 Grant Deed to Percy Rairden:

“IT IS FURTHER COVENANTED that the Grantor, as soon as one-half of the lots in Tract No. 9377, as per map of said trust recorded in Map Book No. 129, pages 3 to 7, inclusive, Records of said County of Los Angeles, shall have been sold, shall cause to be formed a mutual non-profit corporation under the laws of the State of California, in which the Grantee by the acceptance hereof agrees to become, and shall be, a member, and membership in which shall be limited to the purchasers or owners of lots in said Tracts Nos. 9377 and 6765, and in Blocks 7, 8 and 9 and of Lots 5 and 7 in Block 6 of Tract 9473, as per map of said Tract recorded...

“Said Grantor also agrees that upon the organization of said corporation (“HPPOC”) it shall lease to said corporation, for park and playground purposes exclusively, the following described property: Lot Eight (8), Block One (1) ....”

## **Finding of Los Angeles County Assessor that Property Can Only Be Used as a Park and Playground**

In 1969, the Office of Assessor of the County of Los Angeles concluded that the property could only be used for park purposes. In its March 27, 1969 Letter to the HPPOC the Assessor’s Office stated:

“Re: Tract 9377, Lot 8, Block 1

After restudying the tract restrictions and particularly the deed restrictions which encumbers this parcel we have concluded that this parcel can only be used for park purposes.

To reflect consideration of its limited use we have reappraised the property for 1969. Its assessed value is \$25. Its market value is \$100.”

## **CURRENT LEGAL STATUS OF THE PARK AND PLAYGROUND**

The “park and playground” was an established park use BEFORE any zoning code was adopted for the City of Los Angeles (1946). As such, the “park and playground” has at least a legal, non-conforming use status as a “park and playground” in the RE 20 Zone. To the extent that users of the “park and playground” have used it as a “dog park” (in the sense that they let their dogs roam the “park and playground” off leash while they are there), and assuming that at some point the LA Municipal Code was amended to

require a Conditional Use Permit (“CUP”) for a “dog park”, the “park and playground” clearly has a deemed-to-be-approved Conditional Use status as a “dog park” since it was legally used for that purpose prior to the time when the Municipal Code was amended to require a CUP for a “dog park” in the RE-20 Zone.