



THE CITY OF SAN DIEGO

submitted  
during  
Don Steele's  
public comments

April 23, 2010

Anna M. Espinosa  
4058 Mt. Terminus Drive  
San Diego, CA 92111

Dear Homeowner:

Subject: March 25, 2010 Mt. Terminus Homeowners Meeting

This letter is a follow up to our March 25, 2010 meeting held at 4058 Mt. Terminus on the subject of the private encroachments onto public park land.

First, I would like to sincerely thank each of you for your hospitality in hosting the meeting, as well as allowing us to visit some of the properties in question in order to personally view the encroachments. I can only speak for myself, but the visit was extremely helpful in understanding the issues facing each property owner.

In the meeting there were several points of the discussion that staff conveyed and I would like to highlight these points.

- The specific encroachments are taking place on "dedicated" park land, as outlined in City Charter 55. As such, City staff has no administrative option available to negotiate a "revocable license" or the sale of the public property to a private entity. The only recourse for the private use of "dedicated" public park property is for the land in question to be sold at market value, which must be approved by a citywide ballot measure with 2/3 of the City of San Diego voters approving such sale.
- If the homeowners were to pursue a ballot measure, the City staff would have to evaluate the sale of the property and provide a recommendation to the City Council. The City staff commits to no recommendation at this time.
- Some of the park land in which the property owners are encroaching is in the Multi-Habitat Planning Area (MHPA) within the City's Multiple Species Conservation Program (MSCP). The MSCP is governed by an Implementing Agreement with the United States Fish and Wildlife Service and California Department of Fish and Game (Wildlife Agencies). Removal of the MHPA designation would require replacement of the land and approval by the Wildlife Agencies.

**Office of the Park and Recreation Director**

202 C Street, MS 37C • San Diego, CA 92101  
Tel (619) 236-6643 Fax (619) 525-8220



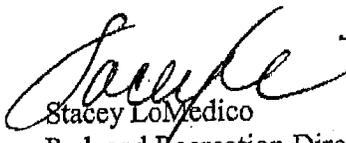
Page 2  
Anna M. Espinosa  
April 23, 2010

- The property owners attest to an "easement" provided to them via the developer. It was mentioned in the meeting that during the mid-1970 the property was acquired for the Open Space Park District which was completed and dedicated in the late 1970s. City staff agreed to research any documentation as to the sale or value of the sale to the property owner at the time and provide such documentation to the owners. In reviewing documents, the attached June 14, 1974 judgment was found indicating the City had legally secured such property from Pacific View Construction for public park purposes.
- A question was asked as how the encroachments were brought to the attention of City staff? Staff confirmed they were following up with a potential encroachment at 4002 Mt. Terminus in 2008 and during that time observed what could be encroachments on the properties identified.

As staff stated in the meeting, City staff can't advise the property owners as to what steps should be taken, but from the City's perspective the previous encroachment removal letter sent to each property owner still applies.

Within the next 30 days a letter be sent to each property owner on a time line for removal of the encroachments.

Sincerely,

  
Stacey LoMedico  
Park and Recreation Director

Attachment

cc: Jay M. Goldstone, Chief Operating Officer  
Donna Frye, Honorable Council Member, District 6  
Kelly Broughton, Director, Development Services Department  
Robert Vacchi, Deputy Director, Neighborhood Code Compliance  
Chris Zirkle, Deputy Director, Park and Recreation Department  
Michael Neumeyer, Deputy City Attorney for Neighborhood Code Compliance Department  
Jeanne Krosch, Senior Planner, City Planning and Community Investment  
Mary Ann Kempczenski, Council Committee Consultant, Council Administration

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JESSE OSUNA, CLERK D

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JOHN W. WITT, City Attorney  
RONALD L. JOHNSON, Chief Deputy

City Administration Building  
202 C Street  
San Diego, CA 92101

Telephone: 236-6220

Attorneys for Plaintiff

Judgment Entered Jun 14, 1974  
Book 954 Page 438

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

THE CITY OF SAN DIEGO, a )  
municipal corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PACIFIC VIEW CONSTRUCTION CO., )  
a California corporation, et )  
al., )  
 )  
Defendants. )

NO. 343782

FINAL ORDER OF CONDEMNATION

Judgment of condemnation having been heretofore entered in  
the above entitled action on June 7, 1974, in  
Book 953, at Page 489, of Judgments, in the office of the  
County Clerk of the County of San Diego, State of California.

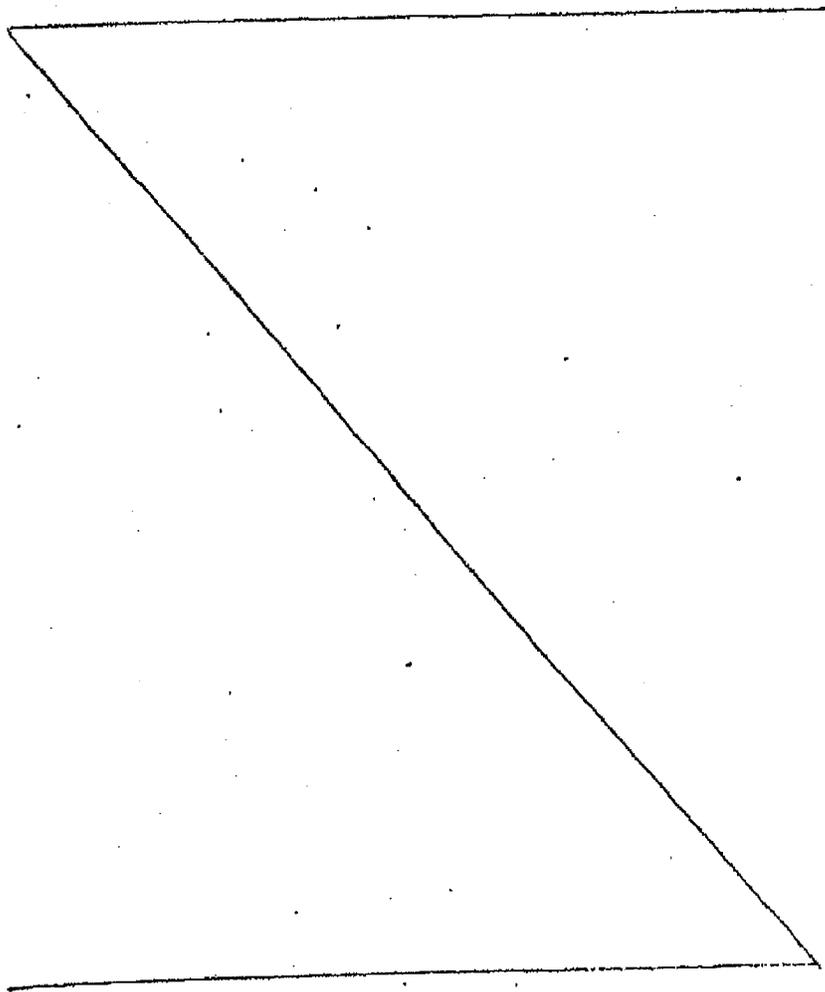
IT FURTHER APPEARING to the satisfaction of the court that  
the above named plaintiff, pursuant to that judgment, has paid  
into court for the benefit of defendants Pacific View  
Construction Co. and Great Western Savings and Loan Association,  
successors in interest to Sentinel Savings and Loan Association,  
a California corporation, the total amount of compensation  
awarded by the court for the interest of said defendants in and  
to the real property described in plaintiff's complaint and

EXHIBIT B

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herein condemned; NOW, THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the followin, real property be and the same is hereby condemned to become the property of plaintiff, for the uses and purposes set forth in said complaint; to wit: for a public park and appurtenances thereto, the said real property being situated in the City of San Diego, County of San Diego, State of California, and more particularly described as follows:



PARCEL 1:

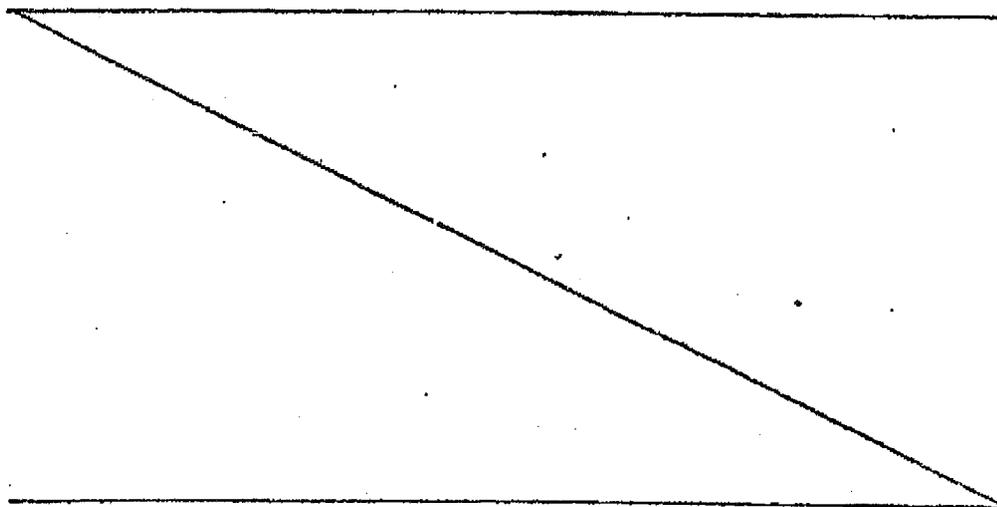
Those portions of Pueblo Lots 1206, 1207, 1210 and 1211, in the City of San Diego, County of San Diego, State of California, according to Map of the Pueblo Lands of San Diego, made by Charles H. Poole in 1856, as described in deed to Conner, recorded in Book 5, page 191 of Deeds, records of San Diego County, as follows:

Beginning at a point 3 chains East of the Southwest corner of Pueblo Lot 1211; thence North 27° West, 40 chains; thence South 67° West, 20 chains; thence South 23° East, 40 chains; thence northeasterly to the Point of Beginning.

EXCEPTING therefrom that portion lying westerly of the most easterly boundary line of the Subdivision of Clairemont Unit No. 7, according to Map thereof No. 2872, filed in the office of the County Recorder of San Diego County, on May 20, 1952.

ALSO EXCEPTING that portion lying within the boundary of East Clairemont Unit No. 7, according to Map thereof No. 4006, filed in the office of the County Recorder of said County, November 7, 1958.

AND ALSO EXCEPTING therefrom that portion lying within Fairway Park Unit No. 2, according to Map thereof No. 5885, filed in the office of the County Recorder of San Diego County, March 25, 1971.



PARCEL 2:

All that real property in the City of San Diego, County of San Diego, State of California, being portions of Pueblo Lots 1191, 1195, 1206 and 1207 of the Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, a certified copy of which was recorded November 14, 1921 in the office of the County Recorder of said San Diego County, as Miscellaneous Map No. 36, and that portion of the unnumbered Pueblo Lot bounded by Pueblo Lots 1194, 1195, 1206 and 1207 of said Pueblo Lands of San Diego (said unnumbered Lot being known as Morrow Tract, or Fos' Addition, according to Map thereof No. 629, filed in said County Recorder's Office April 26, 1890, together with portions of Avenues and Streets as shown on said Map No. 629, bounded and described as follows:

Beginning at a point in the southerly line of said Pueblo Lot 1191, distant thereon South 89° 06' 00" East, 371.18 feet from the southeasterly corner of Clairemont Unit No. 2, according to Map thereof No. 2757, filed in the office of the County Recorder of San Diego County; thence North 26° 25' 30" West, 665.47 feet; thence North 15° 38' 00" West, 695.30 feet; thence North 36° 49' 50" West, 484.65 feet; thence North 08° 44' 30" West, 168.03 feet; thence North 01° 49' 10" West, 332.65 feet; thence North 24° 55' 30" West, 575.06 feet; thence North 09° 24' 00" West, 470.55 feet; thence North 31° 31' 30" West, 452.57 feet to a point in a 530 foot radius curve concave northerly, a radial line to said point bearing South 16° 37' 13" East, said point being an angle point in the boundary line of land described in deed to Clairemont Company, recorded January 22, 1953 as Document No. 9011, in Book 4724, page 548, of Official Records; thence along the boundary line of said Clairemont Company's land as follows:

Leaving said curve North 73° 22' 47" East, 85.23 feet; North 24° 30' 10" East, 675.90 feet and North 16° 57' 20" West, 818.24 feet to an angle point in the easterly line of the land described under Parcel 2 in deed to Air Parks, Inc., recorded December 21, 1951 as Document No. 154406 in Book 4326, Page 101 of Official Records; thence along the easterly line of said Parcel 2, North 16° 57' 20" West to and along the boundary of Clairemont Garden, according to Map thereof No. 2047, filed in the office of the County Recorder of said County on January 14, 1953, a distance of 848.60 feet to an angle point therein; thence continuing along the

PARCEL 2 (Cont'd):

boundary of said Map No. 2047, North 38° 24' 00" West, 631.92 feet; North 18° 47' 00" West, 1,124.87 feet and North 27° 26' 10" West, 393.84 feet to the southeasterly line of land described in deed to Conner, recorded in Book 5, page 191 of Deeds; thence northeasterly along the boundary of said land to the northerly line of said Pueblo Lot 1206; thence easterly along said northerly line to the northeasterly corner of said Pueblo Lot 1206; thence southerly along the easterly line of said Pueblo Lots 1206, 1195 and 1191 to the southerly line of said Pueblo Lot 1190; thence North 89° 06' 00" West along said southerly line of said Pueblo Lot 1191 to the Point of Beginning.

EXCEPTING FROM Parcel 2 above the following described property:

Clairemont Park Unit No. 1, according to Map No. 3535, filed in the office of the County Recorder of San Diego County, October 30, 1956.

Clairemont Park Unit No. 2, according to Map No. 3698, filed in the office of the County Recorder of San Diego County, August 23, 1957.

East Clairemont Unit No. 23, according to Map thereof No. 4644, filed in the office of the County Recorder of San Diego County, September 30, 1960.

Fairway Park Unit No. 1, according to Map thereof No. 6778, filed in the office of the County Recorder of San Diego County, November 6, 1970.

AND ALSO EXCEPTING from said Parcel 2 above that portion thereof lying easterly and southeasterly of the westerly and northwesterly boundary of that portion of Mt. Acadia Boulevard as described in deed to The City of San Diego, recorded August 22, 1957 in Book 6719, Page 380 of Official Records.

PARCEL 3:

Those portions of Pueblo Lots 1210, 1211, 1222 and 1223 in the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of said Map having been filed in the office of the County Recorder, November 14, 1921, as Miscellaneous Map No. 36, described as follows:

Beginning at the Lot corner common to Lot 1266 and Lot 1267 on Clairemont Unit No. 14, according to Map thereof No. 3914, on file in the office of the County Recorder of said County, said point also being on the easterly right of way line of Balboa Avenue; thence from said point along the boundary of East Clairemont Unit No. 14, as follows:

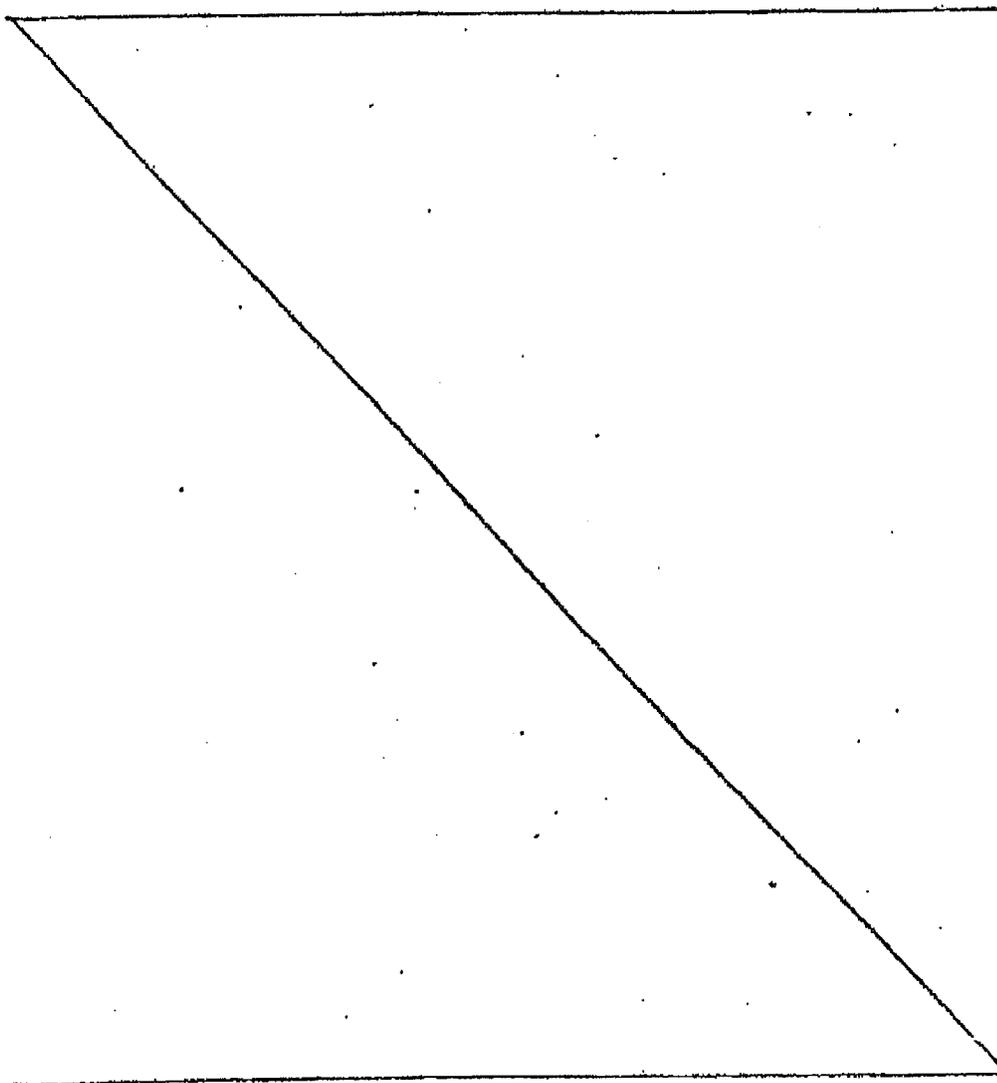
South  $44^{\circ} 57' 30''$  East, 347.39 feet; South  $09^{\circ} 38' 10''$  East, 75.36 feet; South  $69^{\circ} 32' 20''$  West, 117.14 feet; South  $25^{\circ} 00' 00''$  West, 147.00 feet; South  $13^{\circ} 34' 10''$  East, 104.24 feet; to a point on the Subdivision boundary of East Clairemont Unit No. 15, according to Map thereof No. 3970, on file in the office of the County Recorder of said County; thence along the Subdivision boundary of East Clairemont Unit No. 15, as follows:

South  $85^{\circ} 55' 25''$  West, 159.83 feet; South  $73^{\circ} 18' 40''$  West, 348.75 feet; South  $16^{\circ} 41' 20''$  East, 724.00 feet to the most southerly corner of Lot 1298 of said Subdivision; thence southerly in a straight line to the most westerly corner of Lot 947 of East Clairemont Unit No. 7, according to Map thereof No. 4006, on file in the office of the County Recorder of San Diego County; thence along the Subdivision boundary of the East Clairemont Unit No. 7, as follows:

South  $16^{\circ} 45' 50''$  East, 269.27 feet; North  $73^{\circ} 14' 10''$  East, 393.70 feet; South  $24^{\circ} 13' 30''$  East, 161.97 feet; South  $34^{\circ} 19' 00''$  West, 177.26 feet and South  $73^{\circ} 14' 10''$  West, a distance of 256.33 feet to an intersection with the north-easterly line of the Unnumbered Pueblo Lot known as the Conner Tract; thence along said northeasterly line North  $26^{\circ} 59' 32''$  West, a distance of 1,764.85 feet to the most north-easterly corner of said Conner Tract; thence South  $63^{\circ} 00' 32''$  West, a distance of 465.15 feet along the northwesterly line of the Conner Tract to its intersection with the easterly line of the Northwest One-Quarter of Pueblo Lot 1210; thence along said line North  $01^{\circ} 03' 12''$  West, a distance of 71.77 feet to the southeasterly right of way line of Balboa Avenue;

PARCEL 3 (Cont'd):

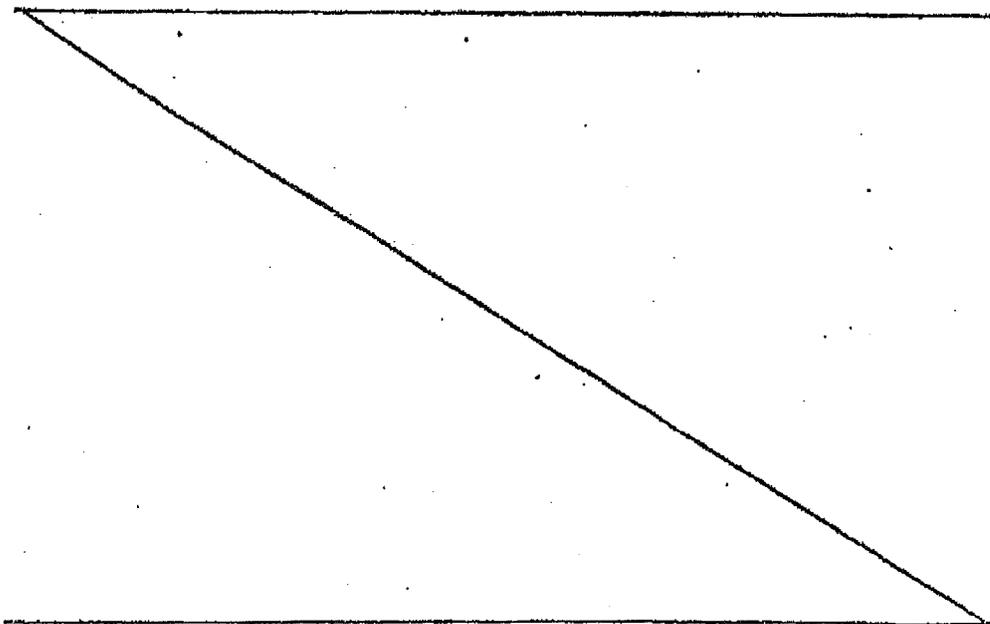
thence along said right of way line in a northeasterly direction along the arc of a curve of radius 2,051 feet, concave northwesterly, a radial line to said point bears South  $22^{\circ} 03' 35''$  East, an arc distance of 906.10 feet through a central angle of  $25^{\circ} 18' 55''$  East, thence continuing along a tangent line North  $42^{\circ} 37' 30''$  East, a distance of 507.09 feet to the Point of Beginning.



PARCEL 4:

All that portion of Pueblo Lot 1210 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of said Map having been filed in the County Recorder's Office, November 14, 1921, as Miscellaneous Map No. 36, described as follows:

Beginning at the Southwest corner of the Northeast Quarter of the Northwest Quarter of said Pueblo Lot 1210, said point being also the Southwest corner of Parcel 2-B of the land conveyed to The City of San Diego by deed recorded April 3, 1958 in Book 7021, Page 10, Official Records; thence South  $89^{\circ} 21' 24''$  East along the South line of said land 371.52 feet to a point in the northwesterly line of the Unnumbered Pueblo Lot known as Conner Tract; thence South  $63^{\circ} 00' 32''$  West along said northwesterly line to an intersection with the northeasterly line of Clairemont Unit No. 7, according to Map thereof No. 2872, filed in the County Recorder's office, May 20, 1952; thence northwesterly along said northeasterly line to an intersection with the West line of the Southeast Quarter of the Northwest Quarter of said Pueblo Lot 1210; thence North along said West line to the Point of Beginning.



1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that a copy of  
2 this final order of condemnation be filed in the office of the  
3 County Recorder of the County of San Diego, State of California,  
4 and upon the filing thereof, title to the above described property  
5 be vested in plaintiff, its successors and assigns.

6 Dated this \_\_\_\_\_ day of JUN 14 1974, 1974.

9 **PAUL EUGENE OVERTON**

10 Judge of the Superior Court

11 The foregoing instrument is a full, true and correct copy of  
12 the original on file in this office.

13 **Jesse Osuna,**

13 Attest DEC 24 1974 to  
14 County Clerk and Clerk of the Superior Court of the State  
15 of California, in and for the County of San Diego.

14 *Betty Wright* Deputy  
15 **BETTY WRIGHT**

16 FILE/PAGE NO. **74-333338**

17 BOOK 187c

18 RECORDED REQUEST OF

19 *City of San Diego*  
20 Dec 24 12 37 PM '74

21 OFFICIAL RECORDS  
22 SAN DIEGO COUNTY, CALIF.  
23 HARLEY F. BLOOM  
24 RECORDER

25 NO FEE  
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