

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

(619) 533-5800

**DATE:** September 8, 2014

**TO:** Kristin Geitz, Interim Director, Real Estate Assets Department

**FROM:** City Attorney

**SUBJECT:** Linda Vista Boys & Girls Club Lease Issues

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As you are aware, the Linda Vista Boys & Girls Club, located at 2230 East Jewett Street (Club) is leased by the City to the Boys' and Girls' Clubs of Inland North County, pursuant to a Non-Profit Lease Agreement executed in 2002 (Lease). Recently, you asked this Office for assistance regarding several issues resulting from a proposed charter school at the Club. These issues include authorization for tenant improvements at the Club, and whether a charter school is a permissible use under the Lease.

Whether a charter school is a permissible use involves interpretation of the Lease. Leases are contracts, subject to the general rules governing interpretation of contracts. *ASP Properties Group v. Fard, Inc.*, 133 Cal. App. 4th 1257, 1268 (2005). The language of a contract, if it is clear and explicit, governs interpretation. Cal. Civ. Code § 1638; *ASP Properties*, 133 Cal. App. 4th at 1269. Lease Section 1.2 expressly and unambiguously allows "educational" uses by Club members and the general public, including a Head Start program (among other things). "Educational" entails instructing, learning, and imparting knowledge and skill. Webster's II New College Dictionary 366 (3d ed. 2005). Based on the ordinary and plain meaning of "educational," a public charter school teaching youth is an "educational use" by the "general public." Furthermore, there is no express prohibition of a charter school in the Lease. While a formal, full-time school operated by a third party may not be a traditional activity at all Boys' and Girls' Clubs, our Office does not interpret Lease Section 1.2 to bar use as a charter school.

Regarding authorization of tenant improvements, Lease Section 6.4 requires prior written City approval for all improvements, structures, and installations at the Club. Additionally, pursuant to Lease Section 4.2, any use of the Club constituting a sublease also requires City approval. Finally, pursuant to Lease Section 7.2, the Club and its operators must at all times comply with all applicable laws.

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To clarify the present situation and eliminate any future conflicts, the Lease could be amended to address a charter school or any other City-approved uses and activities at the Club. For example, Lease Section 1.11 requires that the general public not be excluded from any portion of the leased premises. To the extent that a school would require exclusive use of office or other space, an apparent conflict could arise. Several other Lease provisions also speak to perhaps different expectations for Club uses and activities, and similar conflicts could arise in the event a charter school, or another type operation, is established at the Club.

Our Office is available to promptly assist with any amendment, or any other legal issues involving the Lease, upon request.

JAN I. GOLDSMITH, CITY ATTORNEY

By /s/ Jeremy M. Fonseca  
Jeremy M. Fonseca  
Deputy City Attorney

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