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FILED
Clerk of the Superior Court

NOV 18 2019

By: N. McKinley, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, NORTH COUNTY BRANCH**

SAVE THE PARK AND BUILD THE SCHOOL, a California unincorporated nonprofit association,

Petitioner and Plaintiff,

v.

CARDIFF SCHOOL DISTRICT, a California public school district; ALL PERSONS INTERESTED IN THE VALIDITY OF THE AUTHORIZATION, ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS ELECTION OF 2016 FOR THE CARDIFF SCHOOL MODERNIZATION AND RECONSTRUCTION PROJECT ALSO KNOWN AS CARDIFF SCHOOL GENERAL OBLIGATION BOND OF 2016; and ROES 1 through 10, inclusive,

Respondent and Defendant.

Case No. 37-2019-00012880-CU-WM-NC

COURT'S RULING

Petitioner's Motion for Preliminary Injunction is Granted.

Petitioner has established a reasonable likelihood of success on the merits of its claim that Respondent has breached the accountability requirements set forth in Measure GG by constructing improvements not authorized by Measure GG. Respondent has not made a sufficient showing that the improvements at issue are within the types of projects listed in Measure GG.

Petitioner also argues that Respondent is precluded from using taxpayer funds in violation of state or federal law and the encroachment into the park violates section 6(f)(3) of the federal

1 Land and Water Conservation Fund ("LWCF") Act. The Court is not persuaded by Respondent's
2 argument that is compliance with the LWCF Agreement is immaterial to Petitioner's taxpayer waste
3 claims. The petition alleges that the fact that there is encroachment into the park means that the
4 District will be required to adjust the boundary line and thus, the District cannot rely on a Class 14
5 exemption - minor addition to existing school. See ¶ 47. See also ¶ 72: "Because the EIR shows
6 that the requirements of the L&WCF Act for conversions have not been met, which are required to
7 be met before CEQA analysis, the EIR violates CEQA". See also ¶ 74: Stated project objection of
8 maintaining compliance with LWCF is not met.

9 Petitioner has also established that it will suffer irreparable harm if the preliminary
10 injunction is not issued. In balancing the relative hardships, Petitioner will suffer greater harm if
11 the injunction is denied.

12 The Petition for Writ of Mandate is Granted.

13 Petitioner has not failed to exhaust its administrative remedies as to the categorical
14 exemptions. "[T]he exhaustion-of-administrative-remedies requirement set forth in [Public
15 Resources Code § 21177(a)] applies to a public agency's decision that a proposed project is
16 categorically exempt from CEQA compliance as long as the public agency gives notice of the
17 ground for its exemption determination, and that determination is preceded by public hearings at
18 which members of the public had the opportunity to raise any concerns or objections to the
19 proposed project." *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 291. Petitioner
20 received an email which was unclear regarding the District's exemption determination before the
21 2/7/19 special meeting. The District's Notice of Special Meeting, Board Staff Report and Final EIR
22 posted on its website via hard copy at its office, were not sufficient in this unique circumstance.

23 Substantial evidence does not support the District's finding that one or more categorical
24 exemptions apply to the project. *North Coast Rivers Alliance v. Westlands Water District* (2014)
25 227 Cal.App.4th 832, 852. Several exemptions may be combined to find an entire project exempt.
26 *Surfrider Foundation v. Ca. Coastal Commission* (1994) 26 Cal.App.4th 151, 156. Respondent
27 relies on six categorical exemptions, which do not completely cover the entire project.

28 ///

1 Substantial evidence supports the finding that the Class 1 exemption (Existing Facilities)
2 applies to at least a portion of the project consisting of minor alterations to existing structures, to
3 wit, Library/Media Center, (2) Science/Art Lab and (3) Administrative and Specialty Classroom.
4 AR 193.

5 Substantial evidence supports the finding that the Class 2 exemption (Replacement or
6 Reconstruction) applies to a portion of the project in that the replacement of existing structures will
7 be located on the same overall project site as the structure replaced to provide a safe environment.
8 For purposes of this exemption, the new buildings need not be in precisely the same physical
9 location as the old one. *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 837. The
10 Resolution states that the modernization and reconstruction is in part to provide earthquake resistant
11 structures. AR 23. The multipurpose building was constructed in 1961. The permanent classroom
12 buildings were built between 1950 and 1960. AR 163.

13 Substantial evidence supports the finding that the Class 3 exemption (New Construction or
14 Conversion of Small Structures) applies to a portion of the project in that the project involves the
15 construction of new, small structures.

16 Substantial evidence does not support the finding that the Class 4 exemption (Minor
17 Alterations to Land applies to a portion of the project. The project involves substantial alterations
18 in the condition of land and vegetation and new landscaping. Forty-seven trees are being removed
19 to make way for the project. The EIR states:

20 "Site clearance for the proposed project would require removal of 37 trees from the
21 campus, due to the trees' poor condition and/or because the trees are on the sites of
22 proposed improvements and installation of a new landscape planting plan that
23 includes 44 trees, shrubs, and a variety of other plants such as sod. The landscape
24 plan includes about 3.1 acres of landscaping, that is approximately 43 percent of the
25 project site." AR 194

26 This land is in close proximity to the coast and is not a "minor alteration."

27 Substantial evidence does not support the finding that the Class 14 exemption (Minor
28 Additions to School) applies to a portion of the project. The project overall would not appear to be
a "minor addition" under any analysis.

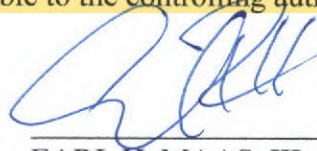
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1 Substantial evidence supports the finding that the Class 31 exemption (Historical Resource
2 Restoration/Rehabilitation) applies to the rehabilitation of the Little Brick Building. See
3 Resolution, AR 64-65.

4 Further, Petitioner has met its burden of establishing that an exception applied and that there
5 is a reasonable possibility of a significant effect on the environment due to unusual circumstances.
6 14 CCR § 15300.2(c); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086,
7 1116. Petitioner has produced substantial evidence that the project "will" have a significant effect
8 on the environment. Respondent's admission that the project will have significant effect on the
9 environment is sufficient. Respondent's claim of "mistake" is not persuasive.

10 Finally, Respondent, as of this ruling, has not resolved the issues over the federal Land and
11 Water Conservation Fund Act issues. It has now been over one year and Respondent's inability to
12 establish acceptable replacement property acceptable to the controlling authorities.

13
14 Dated: 11/18/19



15 EARL H. MAAS, III
16 Judge of the Superior Court
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO


North County
325 S. Melrose
Vista, CA 92081

SHORT TITLE: SAVE THE PARK AND BUILD THE SCHOOL vs CARDIFF SCHOOL DISTRIC [IMAGED]

CLERK'S CERTIFICATE OF SERVICE BY MAIL

**CASE NUMBER:
37-2019-00012880-CU-WM-NC**

I certify that I am not a party to this cause. I certify that a true copy of the attached minute order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Vista, California, on 11/18/2019.

Clerk of the Court, by: , Deputy

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