

Alexander, Jacquelyne

From: Dillon, William
Sent: Wednesday, February 04, 2015 2:53 PM
To: Alexander, Jacquelyne
Subject: FW: Santa Rita Hills Community Services District
Attachments: Bill Dillon ltr 1-7-15.pdf

From: Vicki Ledford [<mailto:Vicki@shipseyandseitz.com>]
Sent: Thursday, January 08, 2015 10:13 AM
To: Dillon, William
Cc: Michael W Seitz
Subject: Santa Rita Hills Community Services District

Mr. Dillon,

Attached please find correspondence from Mr. Seitz on behalf of the Santa Rita Hills Community Services District.

Regards,

Vicki

*Vicki A. Ledford, Assistant to
Michael W. Seitz, Esq.
SHIPSEY & SEITZ, INC.
1066 Palm Street
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MICHAEL W SEITZ

JON S SEITZ
(1947-2013)

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JOHN L SEITZ
(1924-1986)

GERALD W SHIPSEY
(1924-2013)

January 7, 2015

Via E-Mail: wdillon@co.santa-barbara.ca.us

William M. Dillon, Deputy County Counsel
COUNTY OF SANTA BARBARA
105 E. Anapamu St., #201
Santa Barbara, CA 93101

RE: Correspondence Directed to Messrs. Hagen and Geis on June 5, 2013
(sic) (actual date December 11, 2014) by E. Patrick Morris

Dear Mr. Dillon:

Per our e-mail exchange on December 15, 2014, you have asked me to provide a response on behalf of my client, the Santa Rita Hills Community Services District, in regards to the contentions made by E. Patrick Morris in his correspondence to Messrs. Hagen and Geis.

The second paragraph of the letter contains the statement that they are not making any legal admission as to the Board of Directors of the Santa Rita Hills Community Services District having legal authority or being a legally constituted Board.

District responds as follows:

Second Paragraph. The Santa Rita Hills Community Services District was created by an act by LAFCO adopted by the County Board of Supervisors. The Board of Directors all were registered voters within the District boundaries during their terms. Mr. Morris has consistently made the claim that they were not legally registered to vote. However, Mr. Morris has never taken any action on behalf of the Cargassachi's, or anyone else, to challenge the legitimacy of the Board. Had they done so, it is the District's position that the Board members eligibility for office would have been upheld.

Third Paragraph. The District acknowledges that there are Cargassachi's lots within the District that are subject to the special tax that is a part of the documents creating the District. The District is allowed to charge up to three million dollars (\$3,000,000) per year from property owners to pay for planning and other activities, but not for capital projects.

The District acknowledges as of December 5, 2014 that the District can no longer obtain a quorum of Directors for this District. There is one remaining member of the Board, that being Dale Peterson. The District has a contract General Manager, Gary Keefe. At the present time, the Board has one Director with four open seats. Again, as to the allegation that Mr. Peterson "falsely claimed to be domiciled within the Santa Rita Hills Community Services District," that is not an issue before either you or your Board nor does your Board have jurisdiction over this issue. Dale Peterson is registered to vote within the District and his registration has not been legally challenged.

At the last meeting of the Board of Directors of the Santa Rita Hills Community Services District, the Board approved modifications to the approved budget for the 2014/2015 fiscal year. The Board's action also authorized the General Manager to consult with Dale Peterson on an ad hoc basis in regards to making all payments compliant with the amended budget and authorized the General Manager to make payments that are consistent with the amended budget. Full funding of the amended budget relies upon the collection of the special tax in the amount of five thousand dollars (\$5,000) per lot.

I have reviewed each of the Govt. Code sections cited in Mr. Morris' letter. The Board of Directors of the Santa Rita Hills Community Services District adopted a budget. Mr. Morris' primary contention appears to be that the District Board could not legally assign bill paying responsibility to the General Manager. This contention, in my opinion, is without any merit.

Mr. Morris relies on Govt. Code § 61052. That code section is in Chapter 4 of the Community Services District Law which describes various District Officers under the general section of description of District Officers. There are multiple other sections specifically related the "Powers" of the Board of Directors [see *paragraph below*]. Government Code § 61052 states that when the County Treasurer is authorized by the SRHCSD Board of Directors to act as treasurer of the Board that the treasurer would pay warrants audited, allowed, and paid by the Board of Directors. This code section relates to the physical duties related to the payment of warrants. It does not, and makes no attempt to preclude a CSD Board from authorizing the General Manager to approve payments that are consistent with a Board approved budget. In fact, the statutory duties defined for the General Manager as defined in Government Code § 61051 and include:

- (a) The implementation of the policies established by the board of directors for the operation of the district; and

(d) The supervision of the district's finances.

The Board's action to assign the responsibility to the General Manager to approve payment of bills and demands consistent with the amended budget constitutes Board approval of cost items that are specified in the amended 14/15 budget. Consequently, even if Govt. Code Section 60152 is relevant to this issue, the board actions are consistent with the requirements of this section.

A review of the General Powers of the Board of Directors in Chapter 5 of the Community Services District law section reveals no prohibition against authorization of the General Manager to approve District bills and demands. To the contrary, section § 61060 regarding assignments to employees of the District provides additional authority to the Board. Specifically, § 61060(f) gives the Board of Directors the power *"to appoint employees, to define their qualifications and duties and to provide a schedule of compensation for performance of their duties."* There is no limitation on the Board of Directors' ability to define the qualifications of the General Manager to include payment of District bills that are within the District's budget. Govt. Code § 61060(n) allows the Board of Directors to *"take any and all actions necessary for or incidental to, the powers expressed or implied by this division"*.

These sections support the Board of Directors' ability to assign to the General Manager the ability to pay District bills within the budget approved by the Board of Directors.

In conclusion, it is my opinion that the Board's approval of the amended budget that its authorization to the General Manger to pay bills and demands consistent with that budget is legal and within the scope of the Board's authority. Conversely, any expenditure for services or other matters that were not contemplated within the amended budget could not now be paid as there is no Board that would allow for the change in the budget.

It is also understood by the District that once the 2014/2015 fiscal year is concluded, and with no Board being appointed to be the Board of the Community Services District, no financial expenditures could be made on behalf of the District after the point in which no budget exists.

William M. Dillon, Deputy County Counsel
COUNTY OF SANTA BARBARA
January 7, 2015
Page 4 of 4

I hope this answers your questions regarding Mr. Morris' letter dated June 5, 2013 (sic).

Regards,

SHIPSEY & SEITZ, INC.

A handwritten signature in black ink, appearing to read "Michael W. Seitz", with a large, sweeping flourish extending to the right.

MICHAEL W. SEITZ
Santa Rita Hills Community Services
District Legal Counsel

MWS/val

Paul Hood

From: Geis, Bob (Auditor-Controller) <Geis@co.santa-barbara.ca.us>
Sent: Friday, January 23, 2015 4:50 PM
To: Michael W Seitz
Cc: Dillon, William; Paul Hood; Gary Keefe (g.keefe4@verizon.net)
Subject: Re: Santa Rita Hills Community Services District

Mike,

The district needs to have a Board and the District Board would need to approve the payments,

Bob

Sent from my iPhone

On Jan 23, 2015, at 3:17 PM, "Michael W Seitz" <Mike@shipseyandseitz.com<mailto:Mike@shipseyandseitz.com>> wrote:

Bob:

Obviously, we disagree with your position for the reasons set forth in my letter. That said and since there is no real ability to appeal, my client would appreciate knowing what process is necessary to get the District's bills paid. If you could provide this information to Gary he will follow through.

In addition in the near future there will be the need to discuss how the County and LAFCO wants the District to dissolve. Let's get the bills paid first.

Regards,

Michael W. Seitz

SRHCSD Legal Counsel

From: Geis, Bob (Auditor-Controller) [mailto:Geis@co.santa-barbara.ca.us]
Sent: Thursday, January 22, 2015 11:40 AM
To: Michael W Seitz
Subject: RE: Santa Rita Hills Community Services District

Mike,

I did receive a copy of your letter. In my experience with the various agencies within the County and the actual operations of the government code, I think the District would have to comply with GC 61052 (b). In a review of the agendas and minutes of the SRHCSD, warrant registers were approved prior to payments.

Bob

From: Michael W Seitz [mailto:Mike@shipseyandseitz.com]
Sent: Thursday, January 22, 2015 10:45 AM
To: Geis, Bob (Auditor-Controller)
Cc: Gary Keefe (g.keefe4@verizon.net<mailto:g.keefe4@verizon.net>); Dillon, William
Subject: RE: Santa Rita Hills Community Services District

Bob:

Were you provided with my letter to Bill Dillon that discussed this issue?

Mike

From: Geis, Bob (Auditor-Controller) [mailto:Geis@co.santa-barbara.ca.us]
Sent: Thursday, January 22, 2015 10:40 AM
To: Gary Keefe <g.keefe4@verizon.net<mailto:g.keefe4@verizon.net>>
(g.keefe4@verizon.net<mailto:g.keefe4@verizon.net>); E. Patrick Morris
<epmlaw@yahoo.com<mailto:epmlaw@yahoo.com>> (epmlaw@yahoo.com<mailto:epmlaw@yahoo.com>); Rierson,
Anne; Dillon, William; Michael W Seitz
Cc: Hagen, Julie; Renzi, Holly; Ghizzoni, Michael
Subject: Santa Rita Hills Community Services District

Please see attached letter.