
LAW OFFICES OF E. PATRICK MORRIS

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

8/22/2013

VIA FACSIMILE & email
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Michael W. Seitz, Esq.
Shipsey & Seitz
P.O. Box 953
San Luis Obispo, CA 93406

Re: Santa Rita Hills Community Service District

Dear Mr. Seitz:

In response to your most recent two emails, and your earlier email whereby you sent what you describe as a "term sheets [*sic*]", my clients respond as follows:

1.) It has been and remains my clients' position that SRHCSD presently has no legal right to negotiate with anyone anything related to an access road, and will not have that right until such time as the condition imposed by SBLAFCO in 2009 prohibiting it from doing same is removed and/or modified: **"The District shall not have the authority to provide services outside its boundaries, including the construction of an access road, either with or without the use of eminent domain."** (See LAFCO Resolution 03-13 Section 5D.)

There is but one pending application in that regard (removing the restriction/condition), which application to our knowledge has not been modified by the SRHCSD Board to un-couple it from the right to condemn my clients' land and build a road to which my clients do not agree. Certainly SRHCSD has not done so after the public meeting and vote which such a modification necessarily would require.

The joint applications (SOI modification and removal of condition) as they are presently pending, continue to seek the right for SRHCSD to condemn up to 33 acres of my clients' prime agricultural land to build an access road to public road standards instead of those negotiated standards explicitly prescribed in the MOA that binds all the parcels

within the SRHCSD boundaries and existing Sphere of Influence.

2.) We have seen no Board resolution, or public vote, authorizing you as legal counsel to negotiate anything on the Board's behalf. None is on any agenda noticed for the only meeting before the SBLAFCO hearing scheduled for September 5.

Thus, your communications recently sent, and that of late July, either are not authorized by the Board, or if they are, it was by a decision making process that clearly did not comply with the Brown Act (even in the multiple, mysterious "closed sessions" that have taken place resulted in "no reportable action," according to you.)

Either way, your efforts to negotiate issues the SRHCSD is legally not allowed to deal with, without proper legal authority to do so, leave my clients not willing to negotiate with someone whose power to negotiate, if any you have, was obtained through what we understand is a violation of law. We certainly would not want to have anyone claim that in negotiating with you or the SRHCSD about matters it is illegal for SRHCSD to engage in we have ratified the wrongful conduct.

3.) Our position vis-à-vis the SRHCSD's desire to build an access road, or anyone else's desire to do so over our clients' land is simple, and constant: We support the building of the MOA road, under the terms of the MOA, as already agreed. At this time, nothing else is acceptable to my clients.

4.) To the degree the SRHCSD can follow the law, and at the same time formulate a plan to build the MOA road under the terms of the MOA, my clients would welcome the opportunity to review such a plan, and likely will not oppose such a plan. We have invited SRHCSD to do so, first by obtaining the legal right to do so, then by actually doing so. Such a plan is almost certain to be the "agreeable arrangement" you seek in your most recent communication.

However, to our knowledge that is not presently the SRHCSD plan, nor do your recent (or any past) communications present such a plan on behalf of SRHCSD. Certainly, as you admit, this is not the "plan" being promoted in the pending applications.

5.) What is clear is that for more than a year, the "Board" of SRHCSD has, without legal right to do so, secretly spent public funds on the endeavor of building an access road that it is expressly prohibited from being involved in building, on behalf of the private financial interests of private landowners (including all but one of the Board of Directors,) for the express purpose of these landowners avoiding their own, private, written, contractual obligations under the MOA, as well as to advance the private financial interests of other private persons who comprise less than a unanimous group and who likewise seek to breach their existing, private contract obligations owed to my clients.

6.) Thus, even if the SRHCSD was legally authorized to engage in discussions about building an access road (which presently it is not), and even if you were properly authorized to negotiate such a plan on its behalf (which, to our knowledge, you are not), any plan by the SRHCSD other than to build the road pursuant to the MOA and under its terms and conditions likely would not be acceptable to my clients, although we reserve the right to agree to modify our position regarding the MOA upon being presented with a suitable alternate plan that contains the same level of protection for the rights of Cargasacchi Ranch found in the long ago negotiated and agreed to MOA.

If the Board, once authorized to do so, can formulate such a plan, it should do so pursuant to the Brown Act and then present it to us. Please be aware that no matter what SRHCSD might decide to do in building the MOA road, any modification of the MOA will require the unanimous, written consent of all the affected landowners; your unsubstantiated claim to represent the interests of an un-named "vast majority" of those landowners will not be enough.

Finally, your August 15 letter recited that the Agricultural Advisory Commission has made a "recommendation" that the SRHCSD applications to expand its Sphere of Influence and to grant it permission to build an access road "be granted." I have reviewed the letter, and it says nothing of the sort.

The Agricultural Advisory Committee recommends limiting the SOI expansion "exclusively" to the "Access roadway per the Memorandum of Agreement."

As to the other pending application, to build the road pursuant to eminent domain rights, the Committee did not recommend granting SRHCSD the right to build the road as you state, but to authorize SRHCSD to provide services outside its boundaries exclusively to construct and maintain an Access road between Sweeney road and the District Boundaries via the MOA alignment," but on the approval of the Cargasacchi Ranch owners "Unless objections are raised by the [Cargasacchi Ranch] owners."

As you well know, the Cargasacchi Ranch owners care much less about the "alignment," and much more about the conditions of construction, operation, and maintenance. Unless and until SRHCSD can and agrees to build, operate, and maintain a road according to the MOA, the Cargasacchi Ranch owners object.

Finally, that letter recommends "Do not authorize the District to exercise the power of eminent domain" which, of course, your letter seeks to keep as part of the pending applications. Thus, on nearly all points, your letter of last week mis-represents the Agricultural Advisory Committee recommendations.

This erroneous claim by you about what the advisory Committee recommended is another in the long list of reasons why we cannot effectively deal with you. You simply read plain English differently than do we, from SBLAFCO 03-13 5D; to the Brown Act

requirements, especially for closed sessions; to the Agricultural Advisory Committee letter, among other instances.

I hope this clarifies our clients' position(s), although frankly I think we have been abundantly clear on these points for years now.

My clients, as constituents of SRHCSD who object to its misappropriation of tax money taken from them in this ill advised endeavor, remain ready, willing, and able to build the MOA road under the terms of the MOA, and invite all other SRHCSD constituents to join them in that effort.

By this communication, no client of this office waives any right, claim, remedy and/or defense, all of which are expressly reserved hereby.

Very truly yours,

LAW OFFICES OF E. PATRICK MORRIS, PC



E. Patrick Morris, Esq.

Cc: Clients; SRHCSD; SBLAFCO; W. Dillon, County Counsel; Damien Meiter, PhD