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NEWS RELEASE

FOR IMMEDIATE RELEASE: September 19, 2014

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City of San Diego Offers To Settle Decade-Long De Anza Case

Would end 35 year dispute and return land to people of San Diego

San Diego, CA: After nearly 11 years of litigation involving a legal dispute that has lasted over 35 years, two giant steps have been taken toward resolving the long-standing De Anza Cove case. First, on August 20, 2014, a San Diego Superior Court judge issued a Judgment in the lawsuit, *De Anza Cove Homeowners Association et al. v. City of San Diego*. A copy of the Judgment is attached.

Second, the City of San Diego has offered to finally settle the matter on the terms of the Judgment. The settlement offer was approved unanimously by the City Council in closed session. If Plaintiff appeals the offer, however, it will be withdrawn, the City can cross-appeal and the litigation will continue for years to come.

Under the terms of the offer, the City would pay the full amount of the Judgment (approximately \$22 million) plus, as required by the Judgment, plaintiff's attorney fees. The parties would set those fees at 33 1/3% of the Judgment amount. In return, neither party would appeal and the residents would be required to leave, returning De Anza Cove to the City of San Diego.

“The ground lease for this park expired in 2003,” said City Attorney Jan Goldsmith. **“The City Council believes it is time to end the lawsuit, provide residents with reasonable compensation and reimbursement of attorney fees as determined by the judge and return this park to the people of San Diego. After 11 years of litigation, there are certainly legal issues that can be appealed on both sides. But, there are times when the lawyers should get out of the way and allow a problem to be solved without more litigation. We think this is one of those times.”**

Background: The City of San Diego was granted title by the State of California in 1945 as a tidelines trust to be used solely for “maintenance of parks, playgrounds, bathhouses, recreation piers and facilities...for educational, commercial and recreational purposes....” The uses did not include residential.

In 1953, the City granted a 50 year ground lease (to expire in 2003) to a master tenant who agreed that the property would “be used only and exclusively for the development and operation of a tourist and trailer park....” A camper trailer park was envisioned, but De Anza Park eventually evolved into a mobile home park.

In 1978, the City Attorney's office issued a legal opinion stating that De Anza Park “may be in violation of the tidelines trust [of 1945]” due to placement of mobile homes on the property that were residential uses conflicting with the provisions of the trust.

1980, the State Lands Commission, which oversees the use of trust and tidelands, agreed with the City Attorney’s opinion “that residential use of these lands is not a public use and is in conflict with the trusteeship provisions under which these lands are held.”

Tenants were given a 20 year reprieve. In 1981, the state legislature changed the tidelands trust requirements “to permit existing use of [De Anza Park] until November 23, 2003.” This was the date upon which the 50 year ground lease granted in 1953 would expire. The legislature explained that, in balancing the hardships, “tenants should not be forced, by reason of their residential use of [De Anza Park], to relocate outside those lands before November 23, 2003.” After November 23, 2003, however, the residential use should end.

This legislation would only take effect if the City agreed, which it did on January 15, 1982. On August 17, 1982, residents were notified of the 20 year reprieve and the November 23, 2003 eviction date. The City also relied on the fact that, beginning in 1988, all tenants in De Anza Cove signed long term rental agreements, wherein they agreed to leave in 2003 without any compensation.

The residents did not leave on November 23, 2003. Instead, they filed the current lawsuit in November, 2003. On November 20, 2003, Superior Court Judge Charles Hayes granted an injunction preventing the City from evicting the residents. The injunction remains in effect.

Judge Hayes—in the 2003 decision and subsequent decisions in 2005 and 2007— held that the City must pay residents for relocation of their homes from De Anza. The City's legal argument in 2003, 2005 and 2007 was that no relocation payments are required because the 50 year ground lease expired in 2003, the 1981 legislation required eviction and no property rights were being affected.

The attached Judgment was signed on August 20, 2014 by Superior Court Judge Joel Pressman.

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