
LAW OFFICES OF E. PATRICK MORRIS

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

03/10/2014

Das Williams, Assemblymember
California State Assembly
37th District

VIA HAND DELIVERY

101 W. Anapamu Street Suite A
Santa Barbara, CA 93101

Via Mail, email, and Telefax

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Sara.Arce@asm.ca.gov

Re: Assembly Bill 2455; Santa Rita Hills Community Services District

Dear Assemblymember Williams:

By way of introduction, this office is retained to protect and advance the interests of Giovanni and Clementina Cargasacchi, individually and as Trustees of the Cargasacchi Family Trust, and John, Laura, Peter and Mark Cargasacchi. Collectively, these persons are the owners of record of the land referred to as Cargasacchi Ranch, immediately adjacent to the Santa Rita Hill Community Services District ("SRHCSD".)

This office also is retained to protect and advance the interests of John, Laura, Peter and Mark Cargasacchi as owners of lots 2 and 10 of the "Lakeview Estates" subdivision created by recordation of the Record of Survey prepared by a Mr. Simpson in 1968; John and Paula Cargasacchi, owners collectively and individually of lots 25, 26 and 27 of Lakeview Estates; and Peter Cargasacchi, owner of lots 30, 31 and 36 of Lakeview Estates. All of the "Lakeview Estates" properties are now within the boundaries of the SRHCSD and are affected by that governmental entity's fiscal and other policies.

Your assistant Sara Arce responded to my inquiry of February 14, 2014 on February 19, 2014 about the legislation you might propose for SRHCSD. I made that inquiry to your

office on February 14, 2014 based upon information first disclosed at a meeting of the "board" of SRHCSD held at 7:00 PM on February 13, 2014.

Unfortunately, for whatever reason, her response to me on February 19, 2014, a mere two days before any legislation for that organization needed to be submitted by you, was inaccurate at best, and misleading at worst.

Ms. Arce advised me on February 19 that you would not be sponsoring legislation for this organization because the proposed legislation (it was unclear if that was the original text of AB2455 or the "amended" version) had no support from the Santa Barbara County Board of Supervisors, SBLAFCO, or CALAFCO. To our knowledge, at this time the legislation you propose for this organization still lacks the support of these important organizations.

In our extended conversation (which she terminated because she was "busy"), Ms. Arce did not in any way inform me that there was an initial AB2455 drafted, much less some "amendment" thereto. She told me, as your office told others who inquired, that you would not be introducing any legislation for SRHCSD.

To my knowledge, that circumstance never changed between when she advised me you would not introduce the legislation, and when you did (a period of less than 48 hours according to our information.)

I advised Ms. Arce on February 19 that I represented 20% of the tax paying constituents of the District, and that they opposed any legislation altering the conditions of approval imposed on this CSD by SBLAFCO, if only because my clients, your constituents, had not properly nor legally been informed that the governmental agency allegedly proposing the legislation had presented it to you, but also because the conduct of public business by SRHCSD is fraught with violations of Elections laws, Voter registration laws, and Brown Act violations, as well as misuse of public funds.

Curiously, a mere two days later, you apparently sponsored AB2455, which, according to information provided to me by others, you then amended.

Not surprisingly, and in light of what I told Ms. Arce about the myriad problems associated with this CSD and any proposed legislation on its behalf, my clients are extremely concerned about this legislation; and your involvement in knowingly sponsoring this bill despite having been informed of the facts and law, and your doing so in apparent disregard of the outright illegality that surrounds this legislation having been proposed.

For the reasons set forth in this communication, and more, my clients, and others, oppose you introducing legislation that is promoted by those who claim to represent the constituents of SRHCSD, but who do not represent those interests, as a matter of fact and law.

By this communication, we advise you that the legislation you introduced is proposed for the personal benefit of but a few affected constituents, and by a group of people who have disregarded and ignored nearly every law applicable to their conduct, allegedly with the approval of the owners of the 39 parcels that fall within the boundaries of SRHCSD, none of whom have gone on record as supporting such legislation.

Any proposal to you allegedly on behalf of the SRHCSD results from illegal conduct in violation of the conditions imposed on this CSD, and the Brown Act.

The undisputed history of SRHCSD and its conduct in obtaining your complicity in this legislation is as follows:

By Resolution of the Santa Barbara County Board of Supervisors in 1986, the entire area encompassed by the SRHCSD is designated a "special problems area." Under that designation, since 1986 no new residences or increased permanent habitation has been allowed within what is now the SRHCSD.

At the time of the special problems designation, there were three existing legal single family residences. None of these residences properly has a street name or number, as there is no designated street within the SRHCSD. The nearest named street is Sweeney Road, a county road that terminates almost a mile from the SRHCSD at the edge of a property which is owned by some of my clients, but which is outside the SRHCSD boundaries.

Of these three legal and permitted residences, one is occupied by one of my clients, Peter Cargasacchi. The other is (at least occasionally) occupied by the Klehn family. The third used to be occupied by one or more members of the Marks family. However, since at least 2011 all members of the Marks family (including alleged current SRHCSD "board" member Casey Marks) maintain other residences outside SRHCSD where they live on a permanent basis.

The history of the SRHCSD is long and convoluted. However, there is substantial documentary evidence that the purpose in creating this CSD in 2008 - 2009 was to create a governmental agency that would utilize powers of eminent domain to condemn a road from Sweeney Road, across my clients' land, to the border of what is now the SRHCSD.

The express reason for the creation of the CSD was to circumvent a private, written contract between the 39 parcels now within that District and two of my clients, then owners of the adjacent ranch, wherein the pre-CSD property owners agreed to settle an access lawsuit they had initiated against the adjacent ranch owners by agreeing to build an agriculturally sensitive private access road to the parcels now within SRHCSD, and limit their development activities on the affected parcels to the agricultural uses then in existence. That documents is called "Memorandum of Agreement and Easement Location Document" and is usually referred to as the "MOA."

Almost from the time the ink dried on the MOA, which was the product of a settlement brokered by the County of Santa Barbara in an effort to solve some of the issues that plagued the area and caused it to be designated a special problems area, numerous landowners in what is now designated SRHCSD took a variety of steps to avoid their obligations under that agreement. In fact, since that document was recorded in 1990, no landowner within what is now the District have ever made any effort to build the MOA road.

The CSD was formed on a petition that was signed only by members of the Marks family, who all claimed to reside (as they do today in the voter registration affidavits) on one, 3/4 acre parcel, located next to 38 other parcels of 40+/- acres each, in a "district" totaling approximately 1,500 acres of agricultural land.

The formation was objected to by my clients, and without re-hashing all of the details which you can obtain from SBLAFCO, the Santa Barbara County Board of Supervisors was called upon to become involved in the formation such that at least two significant conditions of formation were imposed on the SRHCSD.

These two conditions were that all persons acting as Directors of the SRHCSD not only be registered to vote there, but also reside there. (See LAFCO 03-13 amended November 6, 2008, confirmed by the election of May 5, 2009, as recorded by Certificate of Completion recorded as instrument number 2009-0032628 "LAFCO 03-13.")

The other, significant condition imposed on SRHCSD in LAFCO 03-13 is found at paragraph 5D: "The District shall not have the authority to provide services outside of its boundaries, including the construction of an access road, either with or without the use of eminent domain."

After the formation documents were "completed," an election was held to select a Board of Directors of the District. The persons who had registered as eligible to vote within the district consisted of Peter Cargasacchi and his then wife; the entire 8 person Marks family all claiming to live on the 3/4 acre parcel; Thomas Freeman (but, curiously, not his spouse); Dale Petersen (but, curiously, not his spouse); and Mario Moreno.

Election records reflect that each of these persons listed a "residence" address within the District boundaries, although no such addresses exist with respect to anyone who now claims to be on the "board" of the SRHCSD.

With respect to Freeman, Petersen and Moreno, no permitted structures exist on their lots, and even if they did, as a matter of law they could not be legal residences.

Public records reflect the falsity of the voter registrations, and declarations of candidacy that were filed for this "board."

According to public records, including those of the Federal Aviation Administration, Mario Moreno resides and has resided either on Cherry Avenue in Lompoc or on Del Norte Drive in Goleta since the 1980's. He has maintained a Post Office Box in Goleta, over forty miles from the SRHCSD as well for many years. Public records, other than his voter registration, show no residence address for him within SRHCSD boundaries. This is not surprising, given that there is no permanent structure on the agricultural land he owns, nor could there be given its designation as a special problems area.

Public records, including his application to be licensed by the Medical Board of the State of California, reflect that for the last ten years Thomas Freeman and his spouse, Mary Freeman, have maintained their principal residence in San Luis Obispo County. There is no public record of Mr. Freeman living within SRHCSD other than his perjured voter registration and false declaration of candidacy to serve on the SRHCSD board.

Public Records also reflect that for at least 20 years, Dale Petersen and his spouse Deborah have maintained their principal place of residence on South C Street in Lompoc. Again, there are no public records of Dale Petersen living within the SRHCSD boundaries other than the perjured voter registration he filed and his false declaration of candidacy.

Public records reflect that the very "board" who approached you to introduce his legislation is the product of perjured voter registrations, and materially false declarations of candidacy.

If you do some minimal research, you will learn that in nearly five years it was supposed to build, maintain and improve roads within its boundaries, SRHCSD has spent over one half million taxpayer dollars and they have not built, nor maintained, nor improved a single road in SRHCSD. Yet they have spent at least \$100,000 trying to condemn the very road access road outside their boundaries that SBLAFCO told them they not only could not condemn, but could not spend any taxpayer money trying to build.

With regard to you promoting legislation to materially change the conditions of formation of the SRHCSD, either by allowing non-residents to be members of the governing board, or by reducing the number of board members from 5 to three (remember, this is a 39 parcel Special District), my clients, again owners of 8 of the 39 parcels affected by your proposed legislation, reiterate what I told Ms. Arce: the SRHCSD, even if properly formed, did not present this proposal in a transparent manner, much less in any compliance with the Brown Act.

While the agenda for past SRHCSD meetings have vaguely mentioned an effort by those who claim to represent that organization to seek special legislation allowing them to evade the conditions of formation imposed on the SRHCSD by SBLAFCO (both residency AND voter registration), all references were to very specific legislation that was presented at the open meetings, commented on by the public, and voted on by those who claim to be the "Board of Directors" of SRHCSD. That legislation was the original content of AB2455.

Only late on Thursday, February 13 did we become aware of negotiations between your office and those who call themselves "staff" of SRHCSD about other legislative language, and alternatives to change control of this special district from the requirements imposed by SBLAFCO, alternatives which John Wallace claiming to represent SRHCSD says were proposed by your office.

My clients have long asked to be provided with all information presented to the SRHCSD "Directors" for their consideration, to be received prior to the public meetings. Unfortunately, at such times as are convenient to the small group who operate this CSD at will, they have chosen not to do so, in violation of the Brown Act.

At no time prior to 7:00 PM (or, actually, later) at the meeting on February 13, 2014 was there any public indication that the proposed legislation might involve anything other than in what we now know was your original draft of AB2455.

At no time prior to the 7:00 PM "meeting" of SRHCSD on February 13 did anyone indicate in any public way that SRHCSD was pursuing any legislation other than the proposal that the "Board" had previously voted on, which was to allow all landowners to be "Board" members. Certainly, there was no vote on any different legislative proposal, as you can confirm by checking the SRHCSD web site which has all of its meeting agenda and approved minutes.

We were particularly surprised to learn on February 13, 2014 that at least three days prior to the public meeting required by law, SRHCSD's "Board" had apparently already made a decision on alternate legislative proposals your office made, and forwarded their decision to you on February 10, 2014.

That document was never provided in advance of any open meeting, only during the meeting, while the matter was already before the "Board." According to Mr. Wallace, who claimed at the time to be the SRHCSD "General Manager" (SRHCSD minutes being to the contrary), what you were provided was a response, proposed language for different legislation than what had been publicly approved, and a (false) list of voters allegedly registered in the SRHCSD.

We want to be clear: At no time prior to Thursday, February 13, 2014 was there any public disclosure, discussion, nor vote on of any "alternatives" for the legislation initially approved by SRHCSD, which was the initial version of AB2455. Thus, the legislation you currently propose, to alter the conditions of formation imposed on SRHCSD by SBLAFCO, never was properly brought before any public board, nor properly approved.

As I am sure you are aware, Government Code §61045(b) mandates that in a Special District "The board of directors shall act only by ordinance, resolution, or motion."

Further, as to actions so taken "The minutes of the board of directors shall record the aye and no votes taken by the members of the board of directors for the passage of all ordinances, resolutions, or motions." (Section 61045(d).) Additionally, all Special District meetings are subject to the Brown Act. (Govt. Code §61044.) The current version of that Act requires that the votes after January 1, 2014 be recorded by board member's name.

The failure of this District's alleged representatives to bring these matters (proposed alternatives one of which is now introduced by you for adoption as law) before the public, or to vote on them after public opportunity to be heard, is a violation not only of the Brown Act, but also Government Code §61045(b)(c) and (d).

Further, the document that Mr. Wallace said on February 13, 2014 was already provided to you allegedly listing those registered to vote within the SRHCSD is prima facie evidence of the voter and election fraud that permeates the operations of this "District."

As I am certain your office is aware, the California Elections Code mandates that all voters vote in the precinct in which they "reside." Residence under California Elections Code is effectively defined as "domicile." Domicile requires that the place of residence be that where the voter returns and remains, except for temporary residence elsewhere. (Elections Code §349.) This prohibits, among other things, a voter from registering in two precincts they frequent and being allowed to vote twice, or a voter being allowed to vote somewhere where they do not really live.

As noted above, the SRHCSD "board" has no legal authority to act for 39 parcel owners, as a matter of law, as not one of them meets the minimum requirements imposed by SBLAFCO, namely proper voter registration within the SRHCSD, and residence therein.

Out of all of this, to this point, one thing is clear, and disappointing. Your office cannot be counted on to provide transparent, accurate information about your positions on proposed legislation. That is a pity. It is the essence of an honest legislator to provide exactly that information.

My clients and I, as concerned voters who not only register to vote but who actually vote, hope that those "climbing the ranks" of political office such as yourself, or those who find a niche office where they feel they can serve, act in a transparent and forthright manner with their constituents. This they must do directly or, if they are not available, by having staff fully versed in the elected official's positions, so that when constituents inquire about your positions on matters affecting them, they can rely on the responses received from your office.

In this regard, you and your office have failed, and in so doing, have called into question the efficacy of your conduct.

My clients, many of whom are tax paying constituents of your district, intend to let the public know of the manner in which they have been treated by your office, so that

others can make informed, intelligent decisions about those for whom they are asked to vote.

We are advised that it has been the policy of the County of Santa Barbara to eliminate whenever possible three person Boards of Directors for Special Districts, if only because of the inherent potential for the types of Brown Act violations that have already permeated this Special District (it having acted with three or less board members for well over a year.)

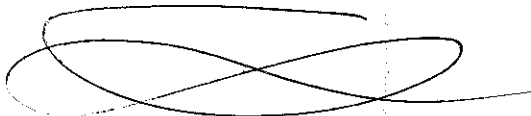
Where, as here, the "board" not only has committed elections fraud; voter fraud, and innumerable Brown Act violations, as well as mis-appropriated public funds my clients, all constituents of the SRHCSD and your District, respectfully request that you immediately withdraw any legislation which would affect in any material way the conditions of approval of SRHCSD, and in particular those which offer my clients, including those who reside out of District and/or precinct, full protection of their rights of due process. This District not only does not deserve to be controlled by a board of three (as it already has been for many, many months), it does not deserve to exist at all due to its repeated violation of its explicit conditions of formation.

Your office needs to get out of the legislative process of providing special, state legislated exemptions for limited private purposes, for limited persons, and let the issues of this Special District's formation and operation be handled at the local level, by SBLAFCO, by whose legal authority the CSD was first formed and who, by law, has control over its existence, operations, and continuity. Having the state assembly cluttering up state statutes with special exemptions such as AB2455, created solely to placate limited, special, private interests, is not what your constituents, or the citizens of this state, want or deserve.

By this communication, no client of this office makes any admission, nor waives any right, remedy, claim and or defense, all of which are expressly reserved hereby. We look forward to your prompt and complete response to the issues raised herein, as well as to you withdrawing AB2455 from consideration by the Assembly. Time being of the essence, we expect your response within five business days.

Very truly yours,

LAW OFFICES OF E. PATRICK MORRIS, PC



E. Patrick Morris, Esq.

Cc: Clients; Doreen Farr; Salud Carbajal; Assemblymember Achadjian; Robert Geiss; Michael Ghizzani; William Dillon; Peter Adam; Santa Rita Hills Community Services District