

LAW OFFICE

**G. A. LASTER**

TELEPHONE: (650) 342-3523

P.O. Box 152  
630 North San Mateo Drive  
San Mateo, California 94401-2328

FAX: (650) 342-6392  
e-mail: galaster@AOL.com

October 30, 2002

Jonathan Lundell  
501 Lucy Lane  
Half Moon Bay, Ca 94019

Re: Cabrillo Unified School District - School District Bond Election  
of June 4, 1996 - Financing Authorization

Dear Mr. Lundell:

Thanks for asking me to review the proposed financing by the bonds approved at the June 4, 1996 election of the new middle school referred to in Measure K submitted to the voters at that election. I am a nationally recognized bond lawyer, and have been for over 35 years. As a bond lawyer I have served as chairman and as secretary of national committees and have authored national and state legislation. I have also been a resident of the coastside communities for almost 30 of those years.

Over the last several months I have followed the arguments back and forth regarding the meaning of Measure K, particularly those relating to where "a new middle school", as stated in the bond measure, can be located. Most of the arguments have been direct at whether it can be located on property (the "Cunha site") a portion of which is used for the present middle school.

The ballot measure expressly provides that a purpose is "To . . . construct a new middle school to relieve existing overcrowded conditions and provide adequate classrooms for students already enrolled in district elementary schools . . ." In other words the new middle school should be located and designed in such a manner as will accommodate present and expected future enrollments without overcrowding.

The phrase "new middle school" could also have been followed by the phrase "located elsewhere than on the present site." It was not. No such language appears anywhere in the ballot measure. Therefore, the site is unspecified, left for other determination.

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The "Argument In Favor of Measure K" (the "Argument") explains this omission by referring to "recommendations" of a committee, among which, in the language of the Argument, are "building a new intermediate school and freeing up Cunha to be an additional elementary school." The recommendations are included in a facilities master plan of the District with adoption date of February, 1996. Under the facilities master plan, after the election a site selection committee was formed that ultimately selected a site other than the Cunha site for the new middle school.

The facilities master plan by its terms is "a dynamic and flexible strategy and guide that is intended to be responsive to changes in the conditions of the District and the community, whether these changes are demographic, physical, economic, financial, and/or political." Consequently, the recommendation that the new middle school be located elsewhere than the Cunha site can be changed. Indeed, the facilities master plan purports to look ahead for 25 years, to 2020, and expressly provides that it "should be evaluated regularly and modified accordingly." The plan contemplates, at a minimum, annual public hearings and review, and encompasses facilities, site selection and other committees in connection with such proceedings.

The Argument does not purport to change the ballot measure, or even interpret its terms. Rather, it summarizes facts relating to the facilities master plan and its recommendations in stating reasons for voter approval. Had any particular detail, such as the recommendation to relocate the middle school, been considered so important that it should be preserved from future change, it should have been included in the ballot measure. Otherwise, it is subject to change just as other facilities master plan recommendations, based on plan modification.

In arriving at these conclusions I have examined applicable law and reviewed certain proceedings relating to the facilities master plan and relating to the bond election. Based on the foregoing, it is my opinion that, under existing law, the bond authorization includes the financing of a middle school that is located as provided by the facilities master plan, as such may be modified, applicable at the time of implementation, including, if the facilities master plan and site selection thereunder so provides, at the Cunha site.

Very truly yours,

  
G. A. Laster

GAL/djg  
LCP(1)JLElec.Ltr