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OFFICE OF THE SUPERINTENDENT
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August 6, 2019

Presiding Judge Ginger Garrett
Superior Court of California
1035 Palm Street Room 355
San Luis Obispo, CA 93408

*RE: SLO COUNTY GRAND JURY REPORT - SCHOOL DEVELOPER FEES REVISITED:
DIFFERING INTERPRETATIONS?*

Dear Judge Garrett:

The Lucia Mar Unified School District (LMUSD) is in receipt of the above-entitled Grand Jury report dated June 4, 2019. LMUSD has reviewed the report and provides the following responses to Findings 1, 7, 8, 9 and Recommendation 4, as requested by the San Luis Obispo County Grand Jury.

Finding 1: The failure of school districts to provide the required written notice to developers of their right to protest may extend the period in which a developer is allowed to file a suit challenging a fee and may expose the districts to potential future liability.

Response: LMUSD agrees with this finding and the general suggestion to the extent that, in some cases, when school districts may find fees challenged, failure to give timely notice may be alleged to excuse an otherwise untimely challenge resulting in exposure to potential liability. However, to date, the failure to give the required notice has not been ruled an effective excuse from the separate and distinct limitations on the time for a legal challenge to developer fees.

Finding 7: All of the sampled districts take a permissive view of the restrictions on the sort of expenditures which are allowed for developer fees.

Response: LMUSD disagrees with this finding due to the use of the term “permissive” and its unclear, possible misleading description. LMUSD reviews its expenditures of developer fees carefully, in accordance with statute, for allowable uses and exercises due diligence to determine the lawfulness of each expenditure of developer fees.

Finding 8: It is difficult to determine whether developer fees are being maintained in a separate fund as required by law.

Response: LMUSD disagrees with this finding as a general statement. LMUSD does provide for clearly separate funds, not comingled with other funds, and regularly reports same, in accordance with statute. These separate funds are maintained and reported on a regular basis through public notice advertisements and publicly held meetings.

Finding 9: Most of the districts in the County either do not publish the required annual and 5-year reports on their use of developer fees, or provide such information in a difficult to access and understand format on their websites.

Response: LMUSD disagrees with this finding to the extent that it relates to Lucia Mar USD practice regarding public reporting. LMUSD provides an annual notice, generally published in the San Luis Obispo Tribune, giving the public advance notification of the annual Public Hearing for the Annual Developer Fee Report prepared in accordance with Government Codes. This information is also shared in a narrative report, with clearly indicated expenditures, uses and amounts. In addition to the report, a recommendation for approval and resolution is also provided in the published board packet. This material is accessible online through the district's web site. In addition to yearly notifications, the district also prepares 5-year reports on use of developer fees, also publicly noticed and reported. LMUSD has not reviewed, and does not offer a response, regarding practice of other districts in the County.

Recommendation 4: Each school district must maintain its developer fees in a separate account as required by law, and not comingle these with other funds.

Response: LMUSD agrees with this finding and confirms it maintains its developer fees in a separate account as required by law, and does not comingle these with other funds.

Lucia Mar USD appreciates the Grand Jury's time and review of this subject and the opportunity to respond to this report.

Sincerely,

A handwritten signature in blue ink, appearing to read 'A. Stenson', is written above the printed name.

Andy Stenson
Superintendent