

(ENDORSED)
FILED
MAY 25 2004

KIRI TORRE
Chief Executive Officer/Clerk
Superior Court of California County of Santa Clara
BY WANG WALDERA DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

BULLIS-PURISSIMA ELEMENTARY
SCHOOL,

Plaintiff,

vs.

LOS ALTOS SCHOOL DISTRICT, et al.,

Defendants.

Case No. 1-04-CV-019781

ORDER RE: PETITION FOR WRIT OF
MANDATE

This application was heard by the Honorable Kevin McKenney on May 19, 2004, in
Department 16. The matter having been submitted, the court finds and orders as follows:

As indicated at the conclusion of the hearing, the application must be DENIED.

Plaintiff seeks a writ/order to prevent destruction of Bullis-Purissima Elementary
School essentially asserting that if the court declines to issue the writ/order that plaintiff will be
subjected to an unnecessary move which is proscribed by Education Code 47614. Plaintiff
claims that defendants' decision will locate plaintiff at the potentially undesirable/unusable
Camp Egan site with the prospect of a CEQA action. Plaintiff claims that the agreed upon site is
subject to the Mitigated Negative Declaration for the EIR under CEQA, which may render the
school unusable for plaintiff's purpose of operating a charter school. Plaintiff presents further

ORDER RE: PETITION FOR WRIT OF MANDATE 1

EXHIBIT

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RA072

1 considerations in seeking the Bullis School, but the concern over an "unnecessary move" per
2 Education Code 47614 is the primary focus of this application.


3 Defendants argue that an injunction cannot issue to compel discretionary acts such
4 as those exercised by the school district and that plaintiff unconditionally accepted the Camp
5 Egan site in a May 3, 2004, letter. (It is acknowledged that plaintiff sent a conditional
6 acceptance on April 30, 2004, but sent the May 3 acceptance in response to defendants' April 30,
7 2004, letter.)

8 The court reviewed the extensive documents and can find no basis for jurisdiction to
9 issue a writ/order. The evidence is that plaintiff is seeking injunctive relief for a discretionary
10 act. Further, the court cannot enjoin what may be speculation about the Mitigated Negative
11 Declaration. Contrary to plaintiff's assertion that it will be homeless, the district has offered
12 plaintiff a site for the charter school.

13 The court's review of the record indicates that defendants complied with the
14 requirements of Education Code 47614(b) by making "available...reasonably equivalent"
15 facilities which "shall be contiguous, furnished, and equipped...." It further appears that
16 defendants made "reasonable efforts to provide [plaintiff] with facilities near to where [they]
17 wishe[d] to locate, and...not move the charter school unnecessarily." It is premature to enjoin
18 any district action based upon speculation that the school may be moved unnecessarily.

19 After evaluating this application for injunctive relief, since defendants appear to be
20 in compliance with the law, there does not appear to be an abuse of discretion in offering the
21 Egan Camp site, and the CEQA concern appears to be speculative, the court must decline to
22 order the relief requested.

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25 Dated: MAY 25 2004

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Kevin E. McKenney
Judge of the Superior Court

ORDER RE: PETITION FOR WRIT OF MANDATE - 2

RA073

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

CASE #: 1-04-CV-019781

PLAINTIFF: BULLIS -PURISSIMA ELEMENTARY SCHOOL

DEFENDANTS: LOS ALTOS SCHOOL DISTRICT, et al.

PROOF OF SERVICE: ORDER RE: PETITION FOR WRIT OF MANDATE

CLERK'S CERTIFICATE OF MAILING

I CERTIFY THAT I AM NOT A PARTY TO THIS CAUSE AND THAT A TRUE COPY OF THIS DOCUMENT WAS MAILED FIRST CLASS POSTAGE PREPAID IN A SEALED ENVELOPE ADDRESSED AS SHOWN BELOW AND THE DOCUMENT WAS MAILED AT SAN JOSE, CALIFORNIA ON MAY 25, 2004.

KIRI TORRE, CHIEF EXECUTIVE OFFICER by WANDA WALDERA
WANDA WALDERA, DEPUTY

Stephen Vernon, Esq.
Vernon Law Office
4151 Middlefield Road, Suite 213
Palo Alto, CA 94303

John R. Yeh, Esq.
Miller, Brown & Dannis
71 Stevenson Street, 19th Floor
San Francisco, CA 94105