

**LA PALOMA PROPERTY OWNERS ASSOCIATION**

**APRIL 30, 2008**

Dear La Paloma resident,

The La Paloma Property Owners Association (“LPPOA”) is the Master Association and its volunteer Board conscientiously fulfills its duties. The April 22, 2008, letter from Mary Kamerzell, Superintendent, and Alice Catallini, President, Governing Board, Catalina Foothills Unified School District No. 16 (“CSFD”), is inaccurate and misleading and can only be construed as an effort to undermine our decisions on behalf of LPPOA.

Neither Mary Kamerzell nor Alice Catallini can accurately describe the agreement reached in 1994; Mary Kamerzell was not hired by CFSD until 1996, and Alice Catallini was not elected to the CFSD Governing Board until 2004. Contrawise, actual participants, the attorney representing LPPOA; the attorney representing the seller of Block 24; and, Michael Sarikas, Trustee for the Murphey Investment Trust and Declarant under the CC&Rs, all vividly remember the negotiations culminating in the agreement reached in 1994. CFSD wanted to acquire Block 24; it wanted access to Skyline Drive; it wanted to be freed from control under our CC&Rs; and, it wanted to be exempt from future assessments because it would not be using the common areas which, coincidentally, include Campo Abierto. Since 1994, CFSD has not paid any assessment toward maintenance nor improvements which include, to no small extent, the traffic signalization at Campo Abierto and Sunrise. It is disingenuous, at best, for CFSD to contend it felt it always had the right of access.

The lawsuit filed in January, 2007 by LPPOA, is merely a Declaratory Judgment action, asking the Court to confirm the agreement reached in 1994. Declaratory judgment is the appropriate and civil means to resolve a dispute when two parties disagree over the interpretation of a document, specifically the Judgment entered in 1994. The Judgment affords CFSD the right of pedestrian access to the common areas; specifying pedestrian access which would only be necessary if, indeed, CFSD had agreed to forfeit other rights of access. The Judgment also specifies CFSD had Pima County approval to access Block 24 from Skyline Drive which, along with the fact that CFSD pays no assessments, attests to the position taken by LPPOA.

CFSD now desires to create a four-way intersection south of the guardhouse to align with the private access way that was only intended to proceed east from Campo Abierto to the Corporate Center. Both the limited width of Campo Abierto and the fact there are no left-hand turn lanes for northbound traffic demonstrate an intersection at that point was never intended. Block 24 was designed to have its access way north of the guardhouse, where there is extensive frontage providing safe visibility for ingress/egress, which does not exist south of the guardhouse. CFSD's statement that the Early Learning Center would generate less traffic than the originally planned development of Block 24 is, thus, misleading for two reasons: (1) access to Block 24 was not originally planned south of the guardhouse; and, (2) the traffic count considered by CFSD only contemplates the Early Learning Center traffic, not the traffic that will be generated when the balance of Block 24 ultimately is developed. It is extremely disappointing that CFSD would make such

a misleading statement in the same paragraph they discuss their “moral and legal” obligations.

In the context of its “moral and legal” obligations, CFSD apparently forgot to note that while they initially offered \$46,000 as the total payment of just compensation, the trial court determined probable damages are \$453,320. That amount will, quite probably, be higher because the testimony regarding just compensation came solely from CFSD’s appraiser, who failed to analyze any issue beyond the area being condemned. LPPOA has concerns about the future of the existing landscaping, monumentation, and position of the guardhouse and if they might need to be realigned or removed as the result of creating an intersection south of the guardhouse. These are called severance damages; but, at this stage in the condemnation action, the amounts have not yet been quantified.

The LPPOA Board feels there are a number of legal issues remaining to be addressed both in the Declaration Judgment action and, now, in the Condemnation Action initiated by CFSD. CFSD did not obtain voter approval to condemn land valued in excess of \$250,000; which, by law, it is required to do. There are a number of other issues that need to be addressed by LPPOA’s competent counsel and you are encouraged to observe these legal proceedings as they unfold.

On April 21, 2008, CFSD posted a \$453,320 cash bond with the Clerk of Pima County Superior Court. Thus, it appears they will proceed with their plans to invade Campo Abierto from Block 24.

LPPOA will file an appeal on Judge Millers ruling on or about May 5<sup>th</sup>. In filing this Special Action Review, it should be noted the Court of Appeals has the **option** to decide if they will accept jurisdiction over the case or not. However, if they do accept (and this is generally the case in cases like ours), we believe we have a good shot at a reversal. The process takes about 60 days or so and costs in the \$10,000 range. If we prevail, CFSD get's their \$453,320 back and LPPOA get all of our legal fees and associated expenses reimbursed from them. Assuming CFSD moves forward to change the condition of the property in the mean time, they will be required to put it back to the original condition (yes, we have a video of said property), plus severance damages. If CFSD prevails, we still have the \$453,320 and potentially significant other severance damages. This is the latest information we have to share.

Most importantly, the LPPOA Board believes it is meeting its moral and legal obligations owed to you to insure the integrity of the 1994 agreement is upheld; to ensure the safety of the La Paloma residents while using Campo Abierto; and, to ensure that should CFSD be allowed to proceed fully with the condemnation, all elements comprising just compensation have been addressed. We look forward to any comments you may have.

Sincerely,

Your La Paloma Master Association Board of Directors