

Government and Administration Committee

Acquisition and Use of The Logan Building and Related Property

Reason for the Report

The 1999/2000 Grand Jury suggested that the 2000/2001 Grand Jury should undertake a more complete review of matters relating to the County's acquisition of the Logan Building, formally known as the Grand Victory Mine Center. That suggestion was based upon a complaint that had been submitted to the 1999/2000 Grand Jury indicating that conspiratorial conduct might have occurred in connection with that acquisition.

Scope of Investigation

The Committee's investigation included testimony from:

- The former El Dorado County ("County") Chief Administrative Officer ("CAO");
- The County Counsel, and examination and review of records produced by him;
- The County Auditor, and examination and review of records produced by him;
- The County Sheriff;
- The former Interim Director of the Department of General Services ("DGS");
- The Director of DGS who succeeded that Interim Director;
- The DGS employee having responsibility for Real Property Purchases and Acquisitions, and examination and review of DGS records produced by her;
- The trustee of Logan Family Enterprises, L.P. ("LFE"), the former owner of the Logan Building and related parcels (formally known as the "Grand Victory Mine Center");
- The real estate broker for the owner of the Logan Building and related parcels and option;
- The purchaser of a promissory note secured by a trust deed on Parcel C of the Logan Building property, and examination and review of records produced by him;
- A representative of a local taxpayers' association;
- Three (3) members of the 1999/2000 Board of Supervisors ("BOS");
- A real estate licensee not involved in the County's acquisition of the Logan Building property; and
- A member of the media.

The Committee's investigation also included review of:

- A videotape recording of a presentation to the BOS by the then owner of, and grantor to the Logans of, an Option to purchase Parcel A immediately adjacent to the Logan Building;
- Various newspaper articles pertaining to the acquisition, and subsequent use, of the Logan Building, and to the related development and occupancy by the Sheriff's Office of a proposed Justice Center;
- Four separate Escrow Files of Inter-County Title Company pertaining to the three separate parcels of real property and the Option relating to the Logan Building;
- Records of the United States Bankruptcy Court, Eastern District of California, pertaining to the Chapter 11 Petition filed by LFE;
- An independent appraisal of the Logan Building property, performed pursuant to contract with the County;
- An appraisal of the Logan Building property by the County Assessor;
- The minutes (Conformed Agenda) of the Planning Commission pertaining to a hearing on April 27, 2000, on the subject of the acquisition of the Logan Building;
- Numerous sets of Agendas, Agenda Packets, and Conformed Agendas (Minutes) of both the 1999/2000 and 2001/2002 BOS meetings pertaining to the acquisition, subsequent use, and possible disposition of the Logan Building; and
- Various videotape recordings of BOS meetings pertaining to the acquisition and subsequent use of the Logan Building.

The Committee's investigation also included an inspection of the physical facilities of the Logan Building and related parcels.

Findings

F1. The Logan Building and related parcels comprise the following three separate parcels of real property:

- Assessor's Parcel No. 097-020-46, also known as Parcel A, consisting of approximately 3.9 acres, of which only 1.5 to 2 acres is usable for construction purposes because of a very substantial slope at the southerly end of the parcel;
- Assessor's Parcel No. 097-020-47, also known as Parcel B, consisting of approximately .7 acres; and
- Assessor's Parcel No. 097-020-48, also known as Parcel C, consisting of approximately 1 acre, with a gradual slope from east to west. The Logan Building itself is situated on Parcel C.

These three parcels are located on the south side of Pleasant Valley Road in Diamond Springs, easterly of its intersection with Highway 49 from Placerville. A diagram showing the location of the three parcels is attached to this report as Exhibit 1, and a diagram showing the siting of the Logan Building on Parcels B and C is attached to this report as Exhibit 2.

- F2. In January 1996, Parcels A, B and C, all of which at that time consisted of bare land with only nominal construction on Parcel A, were owned by a group headed by Gerald L. Bordges ("Bordges"), a licensee of the California Department of Real Estate. In that month, the Bordges group granted to Timothy J. ("Tim") Logan and Joanne Logan (collectively, "the Logans") five-year Options to Purchase Parcel A (for \$230,000) and Parcel B (for \$120,000). In December 1996, the Bordges group sold Parcel C to the Logans for approximately \$125,000. Shortly thereafter, the Tim Logan Construction Company commenced construction of the Logan Building on Parcel C.
- F3. By May 1997, title to Parcel C had passed from the Logans, individually, into the name of LFE, a family limited partnership. At that time the Bordges group executed and granted to LFE an easement over Parcel B, for the benefit of Parcel C, for access and parking purposes ("Parking Easement"). Concurrently therewith, the Logans and LFE entered into Business Loan and Commercial Security Agreements with United States National Bank of Oregon ("US Bank"), whereby the Logans borrowed \$1.5 million on a ten-year loan. That loan was secured by a trust deed from LFE covering Parcel C. The trust deed did not cover either Parcel A or Parcel B, neither of which was then owned by either the Logans or LFE. The trust deed was recorded in the Official Records of El Dorado County on June 10, 1997.
- F4. Tim Logan died in an airplane crash shortly thereafter.
- F5. Construction of the exterior, and of portions of the interior, of the Logan Building was substantially completed in 1997. The Building consists of approximately 18,000 square feet.
- The middle floor of the Building, which extends for its full length, occupies approximately 10,860 square feet.
 - A lower floor, located at the west end of the building, occupies approximately 3,755 square feet. It is accessible only from the parking lot and from an exterior stairway from the middle floor, and has no interior access connecting it with the rest of the Building.
 - An upper floor, located at the east end of the Building, occupies approximately 3,635 square feet. That floor is accessible only by two stairways, one interior and one exterior.
- F6. The Logan Building had been intended to serve as a single-purpose facility, as the headquarters for the Tim Logan Construction Company, and to be occupied by that company for Tim Logan's personal and company purposes. It was constructed as a special-use building, and not for the purpose of being sold, leased or otherwise marketed to others. Consequently, the type of construction was of higher quality than construction of commercial buildings in the Diamond Springs / Placerville area generally. The Logan Building was "overbuilt" for the Diamond Springs / Placerville area, and, accordingly, the cost of construction exceeded the market value of the improvement.

- F7. The County's Building Department issued a Certificate of Occupancy for the Building because, as occupied solely by the Tim Logan Construction Company, stairways as the only access to the upper floor would not have been in violation of the access requirements of the Americans With Disabilities Act ("ADA"). If and when the upper floor becomes occupied by County offices, however, ADA considerations will come into effect, and elevator access to that floor may be required.
- F8. In approximately August 1997, LFE, as successor in interest to the Logans, exercised the Purchase Option on Parcel B, and purchased Parcel B from the Bordges group for approximately \$120,000. The Purchase Option on Parcel A remained in effect.
- F9. Some parking spaces for the Building were designed and located on Parcel C. The number of those parking spaces, however, was inadequate for the size of the Building and did not comply with the requirements of El Dorado County's building and zoning laws. In order to comply with those requirements, significant additional parking spaces were designed for and are located on Parcel B.
- F10. In August 1997, shortly after Tim Logan's death, the El Dorado County Superior Court inquired into the possibility of purchasing the Logan Building for court-related activities. Michael B. Hanford ("Hanford"), the County's CAO at that time, accompanied court officers in inspecting the Building. Representatives of LFE offered to sell the Building to the Court for \$2,500,000. The Court ultimately decided not to acquire the Building. The Building remained unsold for approximately 2-1/2 years thereafter.
- F11. A dispute arose between the Bordges group and LFE concerning the correct interpretation of the Purchase Option on Parcel A. Litigation was initiated in 1998, which resulted in a settlement agreement. That settlement agreement provided that the Purchase Option would remain in existence, but that if the Bordges group received an independent offer to purchase Parcel A, the Bordges group could give written notice of that offer to LFE, and LFE would have fifteen (15) days within which to exercise its Option. If the Option were not exercised by LFE within that period, the Bordges group could proceed to sell Parcel A to the other proposed purchaser. If that third-party sale were not consummated within ninety (90) days, however, the LFE Option would then be restored to effect for the remainder of its five-year life.
- F12. LFE listed the Logan Building for sale with Coldwell-Banker Real Estate for a substantial period of time, approximately two years, in 1998 and 1999. No purchase offers were obtained by Coldwell-Banker for LFE as a result of that listing.
- F13. On October 14, 1999, Chicago Title Company, as successor trustee on behalf of US Bank, caused a Notice of Default and Election to Sell to be recorded in connection with the US Bank loan. The recording of that Notice constituted the initiation of foreclosure proceedings as to Parcel C only.

- F14. In November 1999, Panfila Lyon, who resided with her husband Gary in Auburn, California, and who was employed by a real estate brokerage firm in Placer County, became aware of the Default Notice. Gary Lyon ("Lyon") thereupon inquired into the financial status of the Logan Building and traveled to Diamond Springs to inspect it. In the course of exercising his due diligence in connection with a potential property acquisition, Lyon then made contact with personnel from US Bank in Portland, Oregon.
- F15. As part of his due diligence, Lyon became aware of the facts that US Bank's trust deed pertained only to Parcel C, and that the value of Parcel C was in question because of the inadequate number of parking spaces on Parcel C. Lyon also became aware of the Parking Easement granted to LFE by the Bordges group, and came to believe that if he acquired Parcel C, he would also become the beneficiary of the Parking Easement. A serious legal question exists, however, as to whether the Parking Easement survived the acquisition of title to Parcel B by LFE, or whether the Parking Easement was extinguished because of the two parcels having come into a single ownership. The Grand Jury makes no finding as to the correctness or incorrectness of Lyon's beliefs, or as to the existence or non-existence of a legal merger of the Parking Easement into title to Parcel B.
- F16. Based on his inquiries and beliefs, on December 27, 1999, Gary and Panfila Lyon (collectively, "the Lyons") made an offer to US Bank to purchase the \$1,500,000 Promissory Note and its Trust Deed security ("Loan Documents") on Parcel C for \$1,000,000. On January 5, 2000, US Bank made a counteroffer to sell the Loan Documents to the Lyons for \$1,200,000, with close of escrow to be on or prior to March 15, 2000, and the Lyons to pay all fees and commissions related to the sale. Ultimately, the Lyons and US Bank agreed upon a purchase price of \$1,100,000.
- F17. By January 2000, the Coldwell-Banker listing of the Logan Building had expired. On January 13, 2000, LFE entered into a new listing agreement with a commercial real estate broker, William H. Frank ("Frank"), listing Parcels B and C for an asking price of \$1,700,000. Frank's office was located in El Sobrante, California, in the Bay Area, and Frank had no local El Dorado County office.
- F18. On January 21, 2000, Chicago Title Company caused a Notice of Trustee's Sale, as to Parcel C, to be issued. That Notice recited that the amount due and owing on the Promissory Note would be \$1,581,157.81 as of February 22, 2000, the proposed date of sale. On January 27, 2000, and twice thereafter at weekly intervals, the Notice of Trustee's Sale, as to Parcel C, was published as required by law. The sale date was subsequently continued from February 22 to February 25, 2000.
- F19. On February 3, 2000, Frank entered into a Marketing Agreement with ERA Realty Center in Cameron Park, for the purpose of marketing Parcels B and C at the previously authorized asking price, \$1,700,000.
- F20. On or about February 7, 2000, Pat Booth ("Booth"), the Real Property Purchases and Acquisitions Officer of the County's DGS, learned that the Logan Building was on the

market, and advised Gene Albaugh ("Albaugh"), the then Interim Director of DGS, of that fact and of the further fact that the Court had inquired into purchasing the Building in 1997. Albaugh, a resident of Auburn, California, was serving as Interim Director of DGS at that time on a contract basis. The following day, Frank had a communication with Hanford pertaining to the Building.

F21. On or about February 10, 2000, based on information obtained from Frank, a "Fact Sheet" was prepared for the County which included the following information:

- Parcels B and C were being offered for a combined price of \$1,700,000;
- The amount due on the property (not distinguishing between Parcel B and Parcel C) was \$1,500,000 at 9.260% variable, due in full on May 15, 2007; and
- The outstanding \$230,000 Option on Parcel A would expire on January 18, 2001.

F22. On February 15, 2000, Frank faxed a letter to Hanford, in which he represented that the County would benefit by purchasing the Logan Building "based on replacement value and purchase price." Frank proposed a purchase structure of three separate contracts, one each for Parcels B and C and a third for the Option on Parcel A.

F23. Also on February 15, 2000, Frank transmitted to Albaugh

- A copy of Frank's letter to Hanford,;
- Three (3) six-page proposed contracts (Deposit Receipts), one as to each parcel; and
- A standard Buyer's Advisory.

The transmittal recited, among other matters,

- that time was of the essence in order to stop the pending foreclosure sale;
- that "[n]ot having this property owned by US Bank will make it easier for the County to acquired [sic] these properties;" and
- that no price had yet been established for the Option and that such a price would be based on a market study to follow.

F24. No evidence has been disclosed to the Grand Jury indicating that any "market study" was ever made with regard to the Option or to Parcel A.

F25. Also on February 15, 2000, the BOS held a Closed Session pertaining to the possible purchase of the Logan Building and related property. The BOS's Agenda for that Closed Session states that its purpose was to give direction to the County's negotiator in connection with that possible purchase. The BOS's public "Report Out" from that Closed Session states "No Action Reported." In fact, the BOS authorized the Interim Director of DGS, and the CAO, to continue to look further into the matter.

F26. In accordance with customary practice of the BOS, no minutes were kept, or tape recording made, of that February 15 Closed Session. No witness was able to recall with specificity the particulars of the discussions which occurred at that Closed Session, and

the recollections that the witnesses did have were conflicting. It was the recollection of several of the participants in that Closed Session, however, that the BOS did not authorize either Albaugh, the Interim Director of DGS, or Hanford, the CAO, at that February 15 Closed Session, to open any escrows or to execute any documents in aid of any proposed purchase.

- F27. At some time between February 15 and February 18, 2000, Frank contacted personnel of US Bank to propose an offer to purchase the LFE Promissory Note and Trust Deed on Parcel C from the Bank, at a discount, and was told that the Note and Trust Deed had already been sold to someone else.
- F28. Nevertheless, on February 18, 2000, Escrow File No. PV-206564, relating to Parcel A, was opened at Inter-County Title Company. Included therein was a Deposit Receipt dated February 15, 2000, showing a price of \$70,000 for purchase of the \$230,000 Purchase Option on Parcel A which was owned by LFE. \$200 was to be deposited into escrow by the County. This Deposit Receipt was signed by Albaugh, but not by Hanford. Albaugh was not authorized either by the BOS or by the CAO to sign this Deposit Receipt.
- F29. Also on February 18, 2000, Escrow File No. PV-206563, relating to Parcel B, was opened at Inter-County Title Company. Included therein was a Deposit Receipt dated February 15, 2000, showing a price of \$250,000 for purchase of Parcel B from LFE. \$400 was to be deposited into escrow by the County. The Deposit Receipt recited that Frank was acting as agent for both the seller and the buyer. There is no evidence, however, that Frank was ever authorized by the BOS to act as agent for the County. This Deposit Receipt was signed by Albaugh, but not by Hanford. Albaugh was not authorized either by the BOS or by the CAO to sign this Deposit Receipt.
- F30. Also on February 18, 2000, Escrow File No. PV-206562, relating to Parcel C, was opened at Inter-County Title Company. Included therein was a Deposit Receipt dated February 16, 2000, showing a price of \$1,450,000 for purchase of Parcel C from LFE. \$400 was to be deposited into escrow by the County. The Deposit Receipt recited that Frank was acting as agent for both the seller and the buyer. There is no evidence, however, that Frank was ever authorized by the BOS to act as agent for the County. This Deposit Receipt was signed by Albaugh, but not by Hanford. Albaugh was not authorized either by the BOS or by the CAO to sign this Deposit Receipt. The purchase price for Parcel C, shown in this Deposit Receipt, was less than the amount due and owing to US Bank on the Promissory Note and Trust Deed on Parcel C.
- F31. Also on February 18, 2000, an Addendum to Commercial Property Purchase Agreement was prepared for the signature of Albaugh. That Addendum contained the following provisions:
- Purchase price for the Option on Parcel A was to be \$70,000, with a deposit of \$200;
 - Purchase price for Parcel B was to be \$250,000, with a deposit of \$400;
 - Purchase price for Parcel C was to be \$1,450,000, with a deposit of \$400;

- There was to be an "appraisal contingency" showing "property values to be at least equal to purchase prices";
 - The appraisal of Parcel A must show a value of at least \$300,000, i.e., \$70,000 plus \$230,000; and
 - Approval by the BOS was to be obtained within 45 days.
- F32. On or about February 18, 2000, US Bank prepared, and on February 18 executed and transmitted to the Lyons, a document entitled "Purchase and Sale Agreement," whereby US Bank agreed to sell the Loan Documents to the Lyons for \$1,100,000, on or before February 23, 2000. US Bank represented in that document that the balance due and owing to it, as of February 17, 2000, was \$1,450,553.60 principal plus \$126,493.74 unpaid interest, or a total of \$1,577,047.34. It was on the basis of this agreement that the Parcel C foreclosure sale date was continued from February 22 to February 25, 2000.
- F33. Paragraph 9.1 of the Purchase and Sale Agreement contained language wherein the Lyons acknowledged
- having received, reviewed and examined the Loan Documents,
 - familiarity with the property;
 - that the foreclosure proceedings related to realty only and did not include personal property; and
 - approval of "compliance of the Property and its use with applicable Laws (including ... zoning Laws)," suitability for intended use, feasibility of use, etc.
- F34. Also on or about February 18, 2000, US Bank prepared, and on February 18 executed and transmitted to the Lyons, an Assignment of Beneficiary Interest Under Trust Deed, in favor of the Lyons, assigning to them the beneficial interests in the Promissory Note and Trust Deed on Parcel C. That Assignment was not recorded in the Official Records of El Dorado County, however, until February 29, 2000, after a bankruptcy filing by LFE had occurred.
- F35. On February 24, 2000, Frank advised Hanford by telephone that US Bank had sold the Promissory Note and Trust Deed on Parcel C to the Lyons, and that Lyon's attorney was one Robert Sinclair ("Sinclair"). At that time Hanford stated to Frank that it was not likely that the County would complete the transaction.
- F36. In a subsequent communication on that same date, Frank told Hanford that Sinclair had stated that Lyon intended to occupy and use the Logan Building himself, and that Lyon would not discount the amount due and owing on the Promissory Note in any amount. Frank estimated that it would cost approximately \$2,160,000 to acquire Parcels A, B and C. At that time, Hanford told Frank to consider the matter further. Frank suggested to Hanford a structure of \$1,650,000 for Parcel C, \$200,000 for Parcel B, and \$70,000 for the Option on Parcel A (plus \$230,000 to exercise the Option), with \$43,500 in back taxes to be "forgiven." There does not appear to have been any negotiation by the County with regard to the \$70,000 Option price.

- F37. On February 24, 2000, Albaugh transmitted a letter to Sinclair stating that the County intended to proceed with the acquisition of Parcel C.
- F38. On February 25, 2000, LFE filed a petition in the United States Bankruptcy Court, Eastern District of California, seeking relief under Chapter 11 of the Bankruptcy Code. The filing of that petition automatically halted any action on the foreclosure sale of Parcel C which had been scheduled for that day ("automatic stay"), and the foreclosure sale did not take place.
- F39. February 22, 2000, was "Presidents Day," a public holiday. No meeting of the BOS occurred between February 15 and February 29, 2000.
- F40. Nevertheless, on February 25, 2000, an Amended Deposit Receipt, signed by Hanford and by Joanne Logan, was submitted to escrow File No. PV-206564. This Amended Deposit Receipt provided for the purchase of the Option on Parcel A for the sum of \$70,000, with a \$200 deposit. The purchase was to be:
- Subject to BOS approval within 45 days;
 - Contingent upon completion of the sales of Parcels B and C to the County, and
 - Contingent upon the value of Parcel A appraising at an amount of at least \$300,000.

The County was given 45 days to conduct its due diligence;

Because no meeting of the BOS, in either closed or open session, occurred between February 15 and February 25, 2000, and because no tape recording or other record of the February 15 and February 25, 2000, and because no tape recording or other record of the February 15 Closed Session was made, the Grand Jury was unable to develop any direct and specific evidence as to whether the execution and submission of this Amendment Deposit Receipt and its submission into escrow:

- Was known to and authorized by the full BOS itself, acting during the course of formal BOS meeting procedures;
 - Was authorized or directed by one or more individual members of the BOS acting outside of formal BOS meeting procedures; or
 - Was undertaken by Hanford on his own and without any knowledge or authorization of or by any member of the BOS.
- F41. Also on February 25, 2000, an Amended Deposit Receipt, signed by Hanford and by Joanne Logan, was submitted to Escrow File No. PV-206563. This Amended Deposit Receipt provided for the purchase of Parcel B for the sum of \$200,000, with a \$400 deposit. The purchase was to be:
- Subject to BOS approval within 45 days, and
 - Contingent upon completion of the sale of Parcel C to the County.

The County was given 45 days to conduct its due diligence. Frank was shown on this Deposit Receipt to be agent for both the buyer and the seller.

Because no meeting of the BOS, in either closed or open session, occurred between February 15 and February 25, 2000, and because no tape recording or other record of the February 15 Closed Session was made, the Grand Jury was unable to develop any direct and specific evidence as to whether the change in the proposed purchase price for Parcel B reflected in the Amended Deposit Receipt, or even the execution of an Amended Deposit Receipt containing any specific terms, and its subsequent submission into escrow:

- Was known to and authorized by the full BOS itself, acting during the course of formal BOS meeting procedures;
- Was authorized or directed by one or more individual members of the BOS acting outside of formal BOS meeting procedures; or
- Was undertaken by Hanford on his own and without any knowledge or authorization of or by any member of the BOS.

F42. Also on February 25, 2000, an Amended Deposit Receipt, signed by Hanford and by Joanne Logan, was submitted to Escrow File No. PV-206562. This Amended Deposit Receipt provided for the purchase of Parcel C for the sum of \$1,650,000, with a \$400 deposit. The purchase was to be:

- Subject to BOS approval within 45 days;
- Contingent upon completion of the sales of Parcels A and B to the County; and
- Subject to Lyon agreeing to the sale and ending the pending foreclosure proceeding.

The County was given 45 days to conduct its due diligence. Frank was shown on this Deposit Receipt to be agent for both the buyer and the seller.

Because no meeting of the BOS, in either closed or open session, occurred between February 15 and February 25, 2000, and because no tape recording or other record of the February 15th Closed Session was made, the Grand Jury was unable to develop any direct and specific evidence as to whether the change in the proposed purchase price for Parcel C reflected in the Amended Deposit Receipt, or even the execution of an Amended Deposit Receipt containing any specific terms, and its subsequent submission into escrow:

- Was known to and authorized by the full BOS itself, acting during the course of formal BOS meeting procedures;
- Was authorized or directed by one or more individual members of the BOS acting outside of formal BOS meeting procedures; or
- Was undertaken by Hanford on his own and without any knowledge or authorization of or by any member of the BOS.

F43. The effect of these Amended Deposit Receipts was, among other things:

- To increase the price to be paid for Parcel C by \$200,000, to an amount which was believed to be sufficient to pay the full balance due on the Promissory Note and Trust Deed;
- To decrease the price to be paid for Parcel B by \$50,000;
- To increase the total price to be paid for Parcels B and C from \$1,700,000 to \$1,850,000;
- To abandon any leverage which the County might have had to attempt to obtain Parcel C at a discounted price from the Lyons, more nearly commensurate with the price paid by the Lyons to US Bank for the Promissory note and Trust Deed on Parcel C, based on the legally questionable status of parking with regard to Parcel C; and
- To pay \$70,000 for the Purchase Option on Parcel A, unnecessarily. If the County had negotiated and made an offer to the Bordges group to purchase Parcel A itself directly from that group, and if LFE had not exercised the Purchase Option within fifteen (15) days thereafter, the County would not have had to purchase that Option.

F44. On several occasions between mid-February and early May, 2000, Bordges publicly stated that he and his group would be willing to convey Parcel A to the County at the Option Price, or just slightly above that price, without the County having to pay \$70,000 to LFE to purchase the Option. Had the County proceeded to attempt to enter into an agreement with the Bordges group to that effect, the only apparent impediment to such an agreement would have been LFE's potential exercise of its 15-day right of first refusal by paying \$230,000 to the Bordges group. It is unlikely, given the fact that LFE had recently filed a Chapter 11 bankruptcy petition, that LFE could or would have exercised that right of first refusal. Even if LFE had done so and purchased Parcel A, however, the County could still have continued to negotiate with LFE for the purchase of Parcel A. For reasons that are unclear to the Grand Jury, however, no such attempt was either considered or pursued by the County.

F45. No consideration was given by the County to the possibility of purchasing Parcel B from LFE, of allowing the Logan Building and Parcel C either to go into foreclosure or otherwise to be acquired by the Lyons, and then of exercising negotiating business leverage to acquire the Logan Building and Parcel C from the Lyons at a price reasonably commensurate with, or slightly above, the price for which the Lyons had contracted with US Bank to acquire it, i.e., \$1,100,000. Such negotiating leverage would have existed because prospective use of the entire building on Parcel C could not occur, under the County's Building Code requirements, because of the inadequacy of parking on Parcel C for the entire building. Only the use of Parcel B would have permitted complete use of the Building for commercial business purposes, and the County would have been in control of Parcel B. It is the view of at least one member of the 1999/2000 BOS, however, that any such use of negotiating business leverage by the County would have been inappropriate and unseemly.

F46. On March 2, 2000, Frank faxed a memo to Booth, stating:

- That he had not reached agreement yet with the Lyons;
- That Lyon was "not cooperating;"
- That a new foreclosure sale was scheduled for March 24th; and
- That problems with appraisals might result if the appraisers valued the Logan Building on an income basis rather than on the basis of replacement value and comparable sales.

F47. On March 3, 2000, employees on the staff of John Winner ("Winner"), the County Assessor, submitted a memorandum to Winner which contained the following information:

- That using a "replacement value" approach, involving costs of \$47.90 per square foot for the lower floor and \$91.16 per square foot for the main and upper floors, the value of the Logan Building and land (Parcels B and C) was \$1,841,000;
- That using a "comparable sale" approach, land value for all parcels was \$3.50 per square foot, resulting in a total value of Parcel A of \$457,000; and
- That using an "income" approach, at a value of \$1.10 per leased square foot, the value of the Logan Building was \$1,325,000.

The Grand Jury has found no evidence that any of this information was communicated to the BOS in a timely manner.

F48. The County contractually hired one David L. Spencer ("Spencer"), an independent real estate appraiser, to perform an appraisal of the LFE properties. Pursuant to that contract, Spencer was requested to appraise the values of Parcel A separately, and of Parcels B and C as a combined unit, but was not requested to appraise the values of Parcels B and C separately. Spencer did appraise the LFE properties with valuation dates of March 9, 2000. The County expended \$6,900 for this appraisal.

F49. On March 15, 2000, the Lyons filed a motion in the Bankruptcy Court seeking relief from the automatic stay in the LFE Chapter 11 proceeding, requesting authorization to proceed with foreclosure on Parcel C. Hearing on that motion was scheduled for April 10, 2000. By reason of the automatic stay, no foreclosure sale could have been held prior to relief having been granted from that automatic stay, i.e. prior to April 10, 2000, unless the entire Chapter 11 proceeding was first dismissed.

F50. On March 17, 2000, LFE and the Lyons entered into a Foreclosure Extension Agreement, whereby LFE agreed to pay a total of \$15,000 to the Lyons for foreclosure sale extensions, first to March 24th, then to April 15th, and then a final extension to May 15, 2000. That \$15,000 ultimately became a charge passed through to the County in the Parcel C escrow.

F51. On March 21, 2000, LFE moved to dismiss its Chapter 11 proceeding. That motion was scheduled for hearing on April 5, 2000. LFE represented to the Bankruptcy Court, in support of that motion, that it had entered into a settlement with the Lyons to permit a sale of the LFE property to the County, and that that agreement involved payment of an

additional \$10,000 to the Lyons above the amounts due on the Promissory Note, with an additional foreclosure extension to May 15, 2000, for an additional \$5,000.

- F52. On March 22, 2000, Spencer transmitted a letter to the DGS, summarizing his conclusions, which were to be set forth in detail in a written report to follow on March 31, 2000. The letter included the following summary information:
- Parcel A, consisting of 3.96 acres, containing an old residence and two outbuildings to be demolished, had a value of \$235,000 as vacant, and \$256,000 with the outbuildings in an "as is" condition;
 - Parcels B and C, collectively, totaling 1.7 acres, had a "stabilized value" of \$1,675,000, but costs to complete interior improvements to the Building for leasing purposes reduced its "as is" value to \$1,530,000. The reduction was based in part on the Building's lack of current occupancy, which the County desired; and
 - The letter made specific reference to the "intermingled parking problem."
- F53. On that same date, in a telephone conversation with Booth, Spencer stated that, on a "replacement cost" basis, Parcels B and C, collectively, would have a value of approximately \$2,400,000.
- F54. On March 23, 2000, the County Auditor, Joe Harn ("Harn"), authored a memorandum stating that the total sum to be paid to Inter-County Title Company, for the three escrows, was \$1,972,912.
- F55. On March 28, 2000, Hanford signed Supplemental Escrow Instructions which included the following provisions:
- The County's due diligence contingency period was extended to May 2, 2000; and
 - The County obligated itself to deposit an additional \$5,000 for the costs of extending the Parcel C foreclosure sale date to May 15, 2000, plus an additional \$7,700 as interest accrued during the extended period, or a total additional deposit of \$12,700.
- F56. On March 31, 2000, Spencer's completed Appraisal Report was transmitted to the County. That Report made reference to various "assumptions and limiting conditions," including specific reference to the fact that the appraisal had been conducted without any determination of conformity to the ADA. Spencer expressly noted that any structural barriers restricting access by disabled individuals might adversely affect the property's value, marketability or utility. He then set forth the following information in the Appraisal Report:
- Parcel A, in "as is" condition, had a value of \$255,000;
 - Parcel A had an assessed value of \$157,782;
 - Parcels B and C, together, had a "stabilized" value of \$1,675,000;
 - Parcels B and C, together, had an "as is" value of \$1,530,000;
 - Replacement cost for Parcels B and C, together, would be \$2,460,000;
 - Parcel B had an assessed value of \$122,223;

- Parcel C had an assessed value of \$1,395,435;
 - Parcels B and C, together, had assessed values totaling \$1,517,658;
 - Parcels B and C, together, had a value, based on an "income approach," of \$1,635,000, and Spencer favored the income approach in his final estimate of value "since it is the most probable valuation technique relied upon by typical market participants;"
 - Parcels B and C, together, had a value, based on a "comparable sales" approach, of \$1,620,000;
 - Spencer did not believe that "replacement cost," which he calculated at \$2,460,000 for Parcels B and C, would constitute an appropriate method of valuation, because, in his opinion, no-one would replace the Building as built in that location;
 - Parcel B, alone, had a land value of \$110,000; and
 - Parcels B and C, taken together, had a land value of \$205,000.
- F57. Section 65402(a) of the California Government Code requires that, if a general plan or part thereof has been adopted, no real property may be acquired by dedication or otherwise for public purposes until the location, purpose and extent of such acquisition has been submitted to and reported upon by the appropriate planning agency as to conformity with the adopted general plan or part thereof.
- F58. On April 27, 2000, a special meeting of the El Dorado County Planning Commission was held for the purpose of making a report finding the existence of consistency or conformity with the General Plan in connection with the County's proposed acquisition of Parcels B and C. There is some question, which the Grand Jury does not resolve, as to whether legally adequate notice of that special meeting was given. In any event, however, the Commission voted unanimously to find that, given the status and nature of the acquisition, it was not possible to make a conformity report at that time. The Commission directed that that "finding" be transmitted to the BOS.
- F59. As of May 2, 2000, the County had made no formal or final determination as to what uses would be made of the Logan Building and adjacent parcels. The Sheriff had expressed some tentative interest in the Logan Building, but only if a structure enclosing a minimum of an additional 27,000 square feet were to be constructed on Parcel A, creating a total Sheriff's Facility of approximately 43,000 square feet. As of September 2000, when the BOS authorized the acquisition of Parcel A, no formal or final determination had been made by the County as to the specific uses for which the Logan Building and related parcels would be made. As of March 1, 2001, only the lower floor of the Logan Building, comprising approximately 3,755 square feet, had been reserved for occupancy, by the Sheriff's Department, and no formal or final determination had been made by the County as to the specific uses for which any other portion of the Logan Building and related parcels would be made.
- F60. As of May 2, 2000, neither the BOS nor any other County agency or employee had made any determination as to what completion and/or remodeling costs would be required in order to render the Logan Building suitable for occupancy by whatever County agency or agencies were ultimately to occupy it. The subject had not been

discussed by the BOS. In the context of its preparation of documentation for proposed facilities for the Sheriff's Department at the proposed Justice Center development, however, All Star Investments estimated that it would cost approximately \$750,000 to retrofit the Logan Building for the Sheriff's Department.

- F61. On May 2, 2000, the County Counsel represented to the BOS that the Planning Commission's finding of inability to make a conformity report, made on April 27, 2000, constituted a "report" sufficient to constitute compliance with the requirements of Section 65402(a) of the Government Code. The County Counsel also represented to the BOS that no environmental impact study was required for the purchase of Parcels B and C, or for the purchase of the Purchase Option on Parcel A, or for the exercise of that Purchase Option, but that an environmental impact study would be required at such time as the BOS decided to authorize construction on Parcel A. No such report has, as yet, been made. The BOS then approved the purchase of Parcels B and C, and of the Purchase Option on Parcel A, on a 4-1 vote, Supervisor Nutting dissenting.
- F62. Total expenditures by the County, for the purchase of Parcels B and C and the Option on Parcel A, amounted to approximately \$1,920,000 for both purchase prices and costs of sale. That sum did not include the expenditure of in excess of \$235,000 for ultimate exercise of the Option on Parcel A. Frank agreed to a reduction in his real estate commission, so that the purchase price for Parcel B was ultimately recorded as \$141,500 rather than the \$200,000 set forth in the Amended Deposit Receipt.
- F63. A portion of the 1999/2000 property taxes, and outstanding defaulted taxes, due and owing on Parcels B and C were paid out of the escrows, from funds deposited into escrow by the County as part of the purchase prices, in the following amounts:
- 1999/2000 property taxes on Parcel C: \$12,542.50
 - 1999/2000 property taxes on Parcel B: 1,421.66
 - Prior defaulted property taxes on Parcel C: 25,057.00
 - Prior defaulted property taxes on Parcel B: 2,160.67

This did not constitute a mere transfer of funds within the County. To the contrary, approximately 75% of those funds were paid to the State of California.

- F64. The County did not obtain any of the benefit of the approximately \$500,000 discount on the Parcel C loan documents that the Lyons had negotiated with US Bank. The Lyons retained the entire benefit of that discount. The price paid by the County to LFE for Parcel C was in an amount adequate to pay off the loan on Parcel C, including interest and penalties, from escrow, at 100-cents on the dollar.
- F65. On September 13, 2000, Hanford recommended to the BOS that the Purchase Option on Parcel A be exercised, with a finding that the County's future use and development of that site be expressly conditioned upon California Environmental Quality Act ("CEQA") review. No proceedings were conducted before the Planning Commission in connection with this recommendation. On September 26, 2000, however, on its Consent Calendar,

the BOS approved Hanford's recommendation and authorized the purchase of Parcel A, on a 4-1 vote, Supervisor Nutting dissenting.

- F66. An escrow, No. PV-207337, was opened at Inter-County Title Company in connection with the purchase of Parcel A by exercising the Purchase Option which had been acquired through escrow No. PV-206564. As of February 15, 2001, when escrow No. PV-207337 closed, the County had expended a sum in excess of \$235,000 to purchase Parcel A, not counting the \$70,000-plus which the County had paid for the Option to purchase that parcel.
- F67. As of February 15, 2001, the County had expended solely for the acquisition of the Logan Building and related parcels, out-of-pocket, approximately \$2,155,000. That sum is essentially identical to the sum which Frank, on February 24, 2000, had told Hanford would be required to acquire those parcels. That sum does not include the approximately \$130,000 which the County has expended, out-of-pocket, on non-county-employee labor and materials for changes to the lower floor of the Building for occupancy by the Sheriff's Office, nor does it include the amount, unquantified as of the date of this report, of non-out-of-pocket costs of county employee time incurred in the making of those changes.
- F68. The 1999/2000 Grand Jury found that, "[a]s of June 1, 2000, the [BOS] has failed to inform the public of its specific intended use of the Logan property." The BOS agreed with that finding, but stated that "[o]nce this decision [regarding which County departments would ultimately occupy the Logan facility] is reached, it will be announced publicly by the Board." As of March 1, 2001, however, ten months later, and with the exception of the Sheriff's Department's occupancy of the lower floor, no such announcement had been made.
- F69. As of March 1, 2001, George Martin ("Martin"), the Director of DGS, was, for the first time, in the process of seeking bids for an independent study to be conducted by a consultant in order to determine occupancy feasibility and what those costs were likely to be. As of that date, out-of-pocket costs approximating \$130,000 had already been expended in connection with the occupancy by the Sheriff's Department of the lower floor of the Building. That expenditure, however, is approximately \$100,000 less than what would have been expended had the Sheriff's request for purchase of two modular facilities to be located in the parking area of the existing Sheriff's facility, and related remodeling of that existing facility, been approved and implemented.
- F70. As of March 9, 2001, the County had expended, in both acquisition costs and remodeling costs for the lower floor of the Logan Building, approximately \$2,300,000, not counting the time costs of County employees involved in that remodeling. Moreover, no remodeling or retrofitting costs or expenditures had yet been incurred in connection with the middle and upper floors of the Logan Building, and no costs or expenditures had been incurred in connection with the design and construction of any proposed facility to be located on Parcel A.

- F71. On March 13, 2001, on request of newly elected Supervisors Baumann and Borelli, the BOS undertook discussion of the subject of whether the County should continue to expend funds in connection with the Logan Building, or whether the County should sell it and cease further expenditure of funds thereon. The BOS directed Martin, the Director of DGS, to investigate:
- The space needs of the County generally;
 - The most likely appropriate potential departments or agencies to be assigned to use the Logan Building; and
 - The probable costs of retrofitting the Logan Building to make it usable for those departments or agencies; and
 - To report the results of that investigation back to the BOS on April 24, 2001.

That direction effectively obligated DGS, which had no specific expertise in the subject, to perform the same functions for which it had previously solicited bids from consultants, in a highly compacted time frame.

- F72. On April 24, 2001, the Director of DGS presented a report to the BOS in response to the BOS's direction of March 13, 2001. In that report, the DGS Director made the following representations to the BOS:

- Minimum retrofit costs would total \$349,000;
- Complete retrofit costs would total (depending upon whether the existing tile on the middle floor was or was not removed prior to the installation of carpeting) \$389,000 to \$397,000;
- Purchase of furniture, not including desk top office supplies, for approximately forty-five (45) employees occupying the Building would cost an additional \$157,500;
- Actual cost of the Logan Building and related parcels was \$2,157,637;
- The Building and related parcels had appraised values of \$1,565,000 for the Building (Parcel C), \$110,000 for the parking area (Parcel B) and \$255,000 for the "lot" (Parcel A), or a total of \$1,930,000.
- The County's acquisition cost was \$227,637 over that total appraised value of \$1,930,000;
- Fair market value of the Logan Building and related parcels, for resale purposes, is between \$1,000,000 and \$1,450,000;
- Continued occupancy of the lower floor of the Building by the Sheriff's Department, avoiding the purchase of two modular units for that purpose, would effect an annual savings of \$30,000;
- Potential rental to private businesses of the five suites on the upper floor of the Building would generate annual rental income of \$53,742; and
- The ability to rent out the middle floor of the Building is marginal at best.

- F73. In his report the DGS Director then identified various County departments which, in his view, might be the most likely candidates to occupy the middle floor of the Building, and recommended

- That the Building not be sold at this time;
- That the Sheriff's Department continue to occupy the lower floor;
- That the upper floor be rented out to private businesses;
- That there be a "thorough analysis" of the appropriateness of occupancy of the Building by the departments which he had identified; and
- That rental demand for the middle floor of the Building be "probe[d]."

F74. Inherent in the report of the DGS Director is the proposition that, if the Logan Building were to be sold, the County would probably sustain a loss of approximately \$750,000 to \$1,000,000. Whether that amount would or would not exceed the amount of additional funds necessary to retrofit the Building for purposes of efficient use by the County is, in the view of the Grand Jury as of the time of rendering this Report, a question requiring further study and investigation by qualified design and engineering professionals. Absent such study and investigation, however, it is the tentative view of the Grand Jury that the amount of those retrofitting costs would exceed the amount of the loss that the County would sustain upon a sale of the Logan Building and related parcels.

F75. The BOS, as a group, did not tour or otherwise view the Logan Building prior to authorizing its purchase. Some, but not all, of the members of the BOS did view it on an individual basis. At least one of the members of the BOS, however, never saw the Logan Building before voting to authorize its purchase.

F76. The 1999/2000 Grand Jury found that "the County appear[ed] to have paid significantly more than either the property's appraised value or the price noted in the real estate marketing documents." In its response thereto, the 1999/2000 BOS stated that that appraisal was "predicated upon the facility being utilized as an income generating property," and that "changing the use from income producing to non-commercial government use no longer justify[d] this significant discount." That response ignored the fact that the only "discount" discussed in the Spencer Appraisal Report was a discount from \$1,675,000 "stabilized" value, based on the income method of valuation, to \$1,530,000 "as is" value. That response also ignored the fact that the "comparable sales" valuation of the Logan Building, as discussed in the Spencer Appraisal Report, was \$1,620,000. For these reasons, this Grand Jury concludes that the 1999/2000 BOS was less than candid and forthright in its response to the 1999/2000 Grand Jury Report on the Logan Building.

F77. The 1999/2000 Grand Jury found that "[a]ny required internal modifications [of the Building] will require expenditure of additional funds." In response thereto, the BOS stated that "[m]odifications and renovations of this complex will be required to meet the specific functional requirements of its, yet to be determined, new tenant. However, the current total cost remains \$600,000 less than the estimated cost to have built a new comparable facility (1.7 acres with the same square footage); and that assumes a suitable site would be available and that no major environmental impacts were identified or would require mitigation." That response evaded the following issues:

- That the "replacement cost" figure did not appropriately value the Logan Building,

because the building was overbuilt for the area and no other purchaser would have paid replacement-cost for the Building;

- That the County had no legitimate need to acquire an "overbuilt" building;
- That the interior of the Building was not configured in a manner which would reasonably accommodate the County's needs, without the existence of substantial wasted space;
- That because the County did not then know (and, with the exception of the lower floor of the Building, as of June 20, 2001 still does not know) the identity of the "yet to be determined new tenant," it therefore had no legitimate basis for speculating that the costs of modifications and renovations required to meet the specific functional requirements of that tenant would be less than \$600,000; and
- That, by referring only to "major environmental impacts [which] would require mitigation," the County ignored the potential ADA impacts arising from the issue of access to the upper floor.

For these reasons, this Grand Jury concludes that the 1999/2000 BOS was less than candid and forthright in its response to the 1999/2000 Grand Jury Report on the Logan Building.

F78. The 1999/2000 Grand Jury recommended that the BOS "be more forthcoming with the citizen taxpayers regarding all aspects of its acquisition of the Logan property." In response thereto, the 1999/2000 BOS stated that "[t]he recommendation has not yet been implemented, but will be implemented in the future." That commitment by the 1999/2000 BOS was subsequently ignored by it, in the following respects:

- By its action in exercising the Purchase Option on Parcel A in accordance with approval by the Planning Commission, which that Commission had approved as a Consent Calendar agenda item without the type of hearing and discussion which the public had been told would occur;
- By its action in authorizing that acquisition based on the agendaing of the proposal to exercise the Purchase Option as a Consent Item on its own calendar rather than as an item agendaed for discussion; and
- By its action in authorizing suit to be brought against the Grand Jury to prevent the Grand Jury from inquiring into Closed Session matters, into communications between BOS members with County Counsel, and into communications between county employees and County Counsel, pertaining to matters involved in the acquisition and development of the Logan Building and related parcels.

In this regard, this Grand Jury concludes that the 1999/2000 BOS was less than candid and forthright in its response to the 1999/2000 Grand Jury Report on the Logan Building, and/or in its implementation of that response.

F79. Although the 1999/2000 Grand Jury investigation of the Logan Building acquisition was initiated on the basis of a complaint alleging the existence of conspiratorial conduct, the 2000/2001 Grand Jury was unable to develop any direct evidence of a specific conspiracy. Although Albaugh and the Lyons both lived in Auburn, the Grand Jury was

unable to develop any direct or specific evidence that they had any contact or communications with, or even knew, each other. The Grand Jury was also unable to develop any direct evidence of other conspiratorial conduct on the part of any other persons involved in the acquisition of the Logan Building and related parcels.

F80. The existing interior of the middle floor of the Logan Building is configured (and partially constructed) in such a way that, if and when it is assigned for use by county agencies, the following situations will result and potential impacts, by way of example only, will occur:

- The nature and quantity of restroom facilities within the Building, while appropriate for a single-owner business, are inadequate for a County building serving public needs, and substantial additional plumbing improvements and expansion will be required;
- The floor-tile covering most of the middle floor of the Building, while obviously luxurious and expensive, is unsuited to traffic by the public. It either will have to be (i) removed and replaced or (ii) covered by some kind of carpeting. If that is not done, it will constitute a potentially dangerous condition as to which the County will be exposed to potential liability for slip-and-fall incidents;
- Either (i) there will be a significant amount of wasted and unusable space on the middle floor, or (ii) a considerable amount of the expensive built-in cabinet and drafting-table fixtures on that floor will have to be removed, reconfigured and replaced.

Significant, but as yet unquantified, remodeling and/or retrofitting costs will be necessary to mitigate these, and other, problems.

F81. The Logan Building is located in an area of Diamond Springs which is already subject to significant traffic congestion, and the adaptation of the Building to County uses will exacerbate that problem. Because the acquisition by the County of the Logan Building and related parcels was "categorically exempt" under CEQA, however, no environmental study of those traffic, or any other, environmental issues was undertaken prior to its acquisition.

F82. There are significantly differing views as to the amount of the total additional costs and expenditures estimated to be required in order to make the Logan Building fit and usable for county purposes. At the low end of the estimates is that of the Director of DGS that those costs involve a minimum of \$349,000, and for a complete retrofit will require \$389,000 to \$397,000, plus an additional \$157,000 for employee furniture. In the middle is an estimate of All Star Investments, made during the course of its work on the Justice Center project, that approximately \$750,000 would be required for use of the Logan Building by the Sheriff's Office. It is the view of the Grand Jury, however, that if a proper and appropriate job of remodeling is done in order to reconfigure the Building for maximum efficiency of use by the County, the costs and expenditures therefor will exceed, and probably will substantially exceed, seven figures, i.e., \$1,000,000 or more.

- F83. The Grand Jury expresses no view, as of the time of the preparation of this report, as to whether the County (i) should incur the costs and expenditures necessary to completely retrofit the Building in light of its previously expended funds, or (ii) should "cut its losses" and attempt to dispose of the Building at the best available price, recognizing that it will not be able to recover the full the amount that it has previously expended. The Grand Jury is of the view, however, that that determination should not be made by the BOS until a study and report from a consultant with expertise in the subject, setting forth specific proposed uses and costs, has been completed and presented to the BOS.
- F84. In November 2000, the County Counsel and the CAO asserted claims of confidentiality and privilege as to some of the Grand Jury's inquiries of them pertaining to this investigation, and they accordingly testified only as to non-confidential matters. The 1999/2000 BOS then authorized the filing of a lawsuit against the Grand Jury to preclude inquiry into such matters. On April 3, 2001, Superior Court Judge Suzanne Kingsbury signed and filed a Judgment which rejected the County's assertions. The 2001/2002 BOS then authorized disclosure of all matters pertaining to this (and one other) investigation, and the Grand Jury obtained further testimony from the CAO concerning matters previously withheld.
- F85. Section 703 of the County Charter provides as follows: "Every county officer and employee shall cooperate in providing the Grand Jury with any requested information or documents, except where disclosure is prohibited by law."
- F86. In the County's lawsuit against the Grand Jury, in arguing that Section 703 of the County Charter did not constitute a waiver of attorney-client privilege or closed session confidentiality, the County Counsel made the following assertions concerning that provision:
- In the ballot arguments made at the time the Charter was adopted by the voters, the "County Counsel's impartial analysis advised, 'The proposed charter makes relatively few substantive changes to provisions already contained in general law,'" and that "[w]aiver of the lawyer-client privilege and closed-session confidentiality as to the Grand Jury were not among them."
 - "[T]here is no reason in law or logic why section 703 should not simply be declarative of existing law."
 - "Section 703 is operative as a policy expression of full support for the Grand Jury's work, without altering existing law."
- F87. Superior Court Judge Kingsbury, in her April 3 Judgment, did not rule on the question of the legal effect of Section 703 of the County Charter. She did not rule that Section 703 constituted a waiver of privilege or confidentiality by the County as to the Grand Jury, but she also did not rule that it did not constitute such a waiver. It is the view of the Grand Jury, contrary to that of the County Counsel that Section 703 was intended to, and does, constitute such a waiver, and that that waiver is additional to and separate from the determinations of state law which Judge Kingsbury made in the Judgment.

Recommendations

- R1. No resolution or other action by the BOS authorizing the acquisition by the County, by either purchase or lease, of the beneficial use of real property, or of any building or other facility, should be adopted or taken unless and until county staff have presented to the BOS a full and complete written report showing all of the following:
- The specific uses, including but not limited to designations of assigned department or agency occupancy, to be made of the property, building or facility;
 - The appraised value of the property, building or facility to be acquired, and the specific manner in which that appraised value has been calculated;
 - The total costs to be incurred in the acquisition of the property, building or facility;
 - The total costs to be incurred in implementing any changes or modifications to the existing configuration or other status of the property, building or facility, necessary and/or appropriate to make it reasonably usable for the purposes for which it is to be acquired; and
 - The relative costs and benefits to the County involved in deciding whether the best interests of the County would be served by acquiring the use of property, building or facility, by purchase or by lease.
- R2. No resolution or other action by the BOS authorizing the purchase by the County of real property, or of any building or other facility involving an expenditure of county funds totaling \$100,000 or more, should be adopted or taken unless and until each member of the BOS, either individually or together with the BOS as a group, has personally viewed the property, building or facility.
- R3. The BOS should refuse to authorize the acquisition of real property, buildings or other facilities unless and until the Planning Commission had made specific findings of consistency and/or conformity of the proposed use of the property, buildings or other facilities with the County's General Plan or applicable part thereof. Whether or not such action is or is not legally permissible, the BOS should not authorize any such acquisition when the Planning Commission had reported to the BOS that it is unable, on the information presented to it, to make any such finding or findings.
- R4. "Replacement cost" should not be used as a basis for an appraisal of the value of any real property, building or facility to be purchased by the County, if that "replacement cost" measures the cost of property, or of a building or facility, which is not fit and suitable for the County's needs in its existing condition.
- R5. Where the County is engaged in complicated real estate negotiations, it should retain independent licensed real estate brokers who have training and experience in the purchase and sale of local commercial real estate to act solely on its behalf. The County should not permit its interest in real estate negotiations to be represented jointly with the interests of any other party to those negotiations.

- R6. The County should conduct itself, in connection with all transactions involving the acquisition of real property, buildings or other facilities, in a businesslike and commercially reasonable manner, and for the protection of the taxpayers should take advantage of and avail itself of all legally available and permissible rights, including, where commercially reasonable, the exercise of negotiating leverage.
- R7. In light of the fallibility of human memory and for purposes of memorializing the specific nature and content of its closed session discussions and decisions, and particularly those decisions and directives which are not required by the Brown Act to be publicly "reported out," the BOS should provide for the tape recording of its closed session proceedings, and should maintain those tapes for periods of not less than two years from the dates of those sessions.
- R8. To obtain an accurate exposition of the views of the residents of the County, the BOS should adopt a resolution that a proposed amendment to Section 703 of the County Charter be presented to the voters for their consideration and approval. That proposed amendment should provide that the Charter's requirement of "cooperation" with the Grand Jury by "every county officer and employee" contains no exceptions, that no otherwise available claim of confidentiality or privilege may be raised as a defense against or objection to the issuance and enforcement by the Grand Jury of subpoenas for witnesses and documents in the exercise of the Grand Jury's "watchdog" functions, and that any such claim is specifically waived.

Responses Required for Findings

F1 through F85

El Dorado County Board of Supervisors

Responses Required for Recommendations

R1 through R8

El Dorado County Board of Supervisors

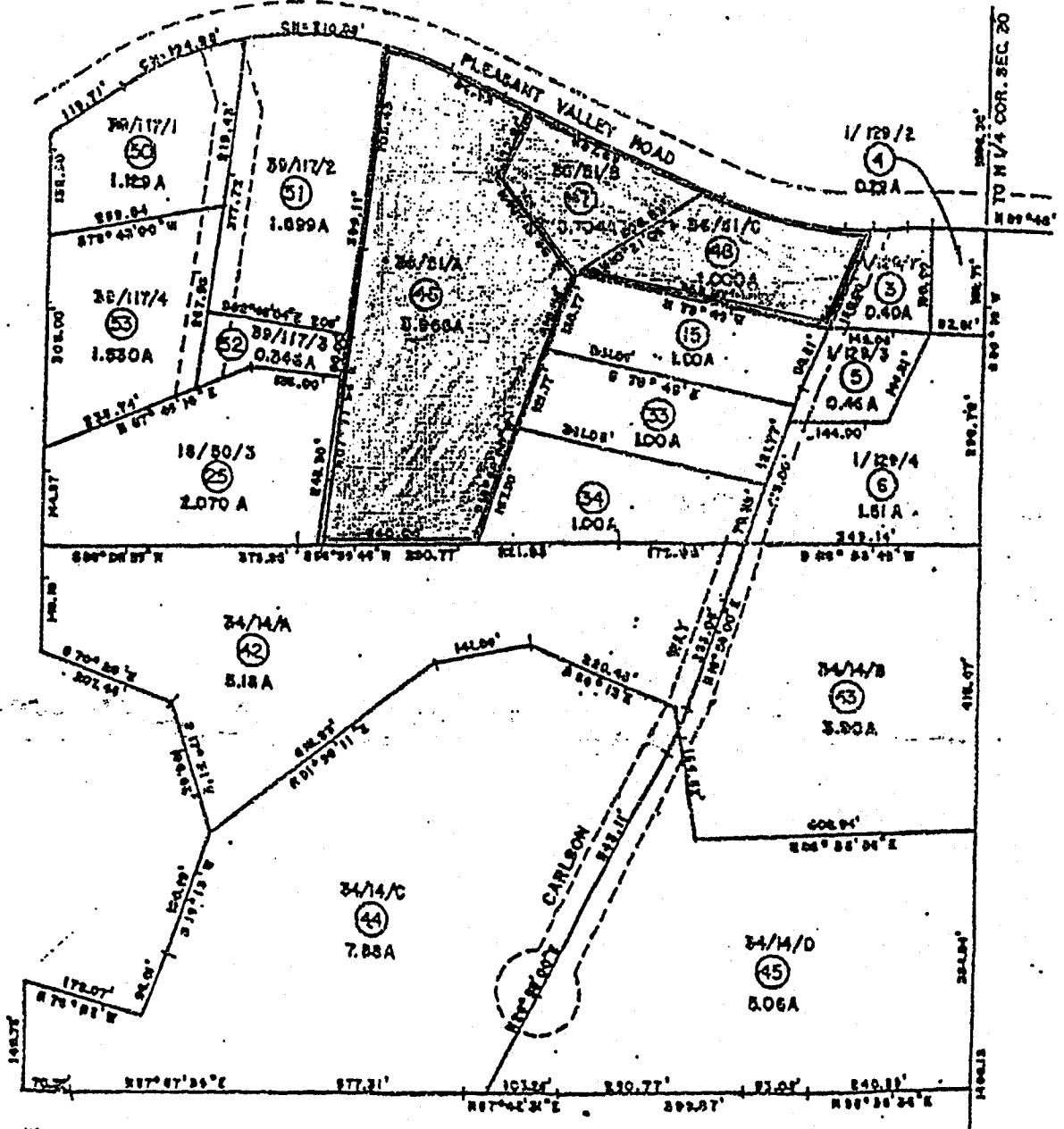
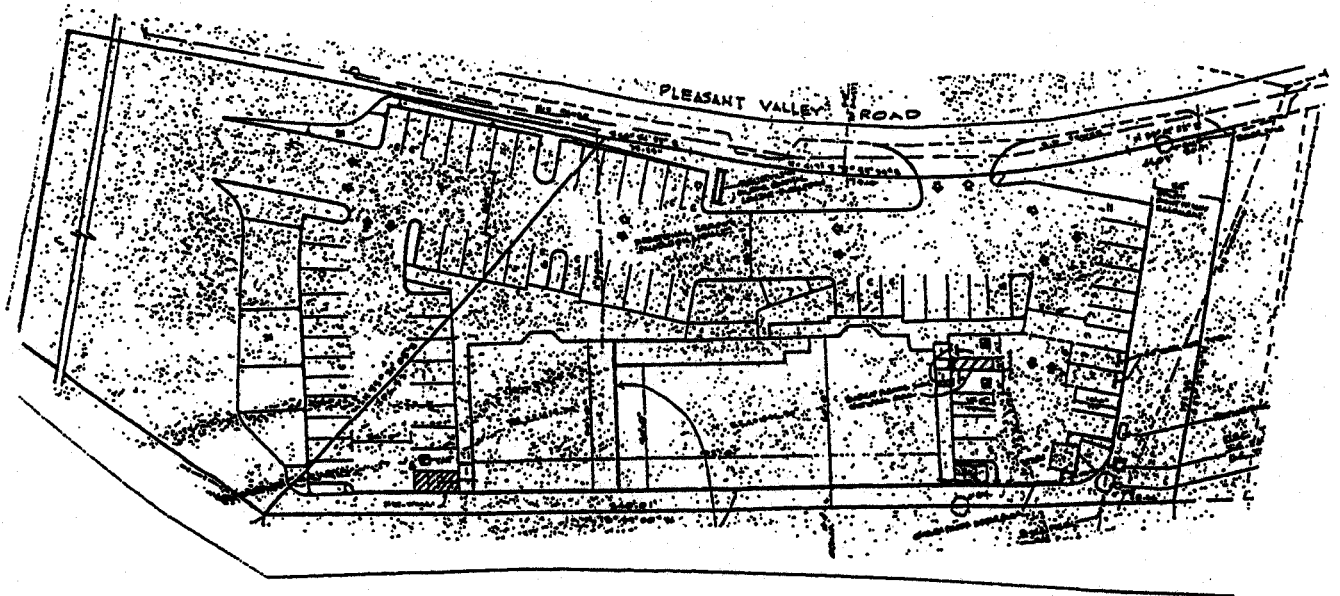


EXHIBIT 1

Site Plan



Note the .70 acre site on the far left. Approximately 21 to 24 additional parking spaces are enabled by inclusion of this portion of the property.

EXHIBIT 2

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