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RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800

MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS IN OPPOSITION TO PETITION SEEKING INJUNCTION AGAINST THE CONSTRUCTION OF UNIVERSITY CITY HIGH SCHOOL AND OTHER RELIEF

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INTRODUCTION

On April 13, 1979 plaintiffs filed an Application for Temporary Restraining Order and Injunctions with supporting documents, seeking to prevent: (1) the construction of University City High School; (2) the construction of any new school; (3) the construction of any addition to an existing school; or (4) the movement of any portable classrooms.

The Court declined to issue a Temporary Restraining Order and has set a hearing on May 7, 1979 on the question of whether an injunction should be issued.

Since no Order to Show Cause was issued, the School District has treated the Petition as a motion for an injunction and no answer has been filed. Should for any reason an answer be deemed necessary, the School District denies all of the plaintiffs' substantive allegations.

In responding to plaintiffs' Petition the School District has confined its response to the question of whether or not the construction of University City High School will contribute to the racial isolation of minority students. The School District respectfully submits that such questions as the need for the school, operating costs, and its proximity to Miramar Naval Air Station are not proper considerations for this Court. Under our system of government these questions are uniquely reserved for resolution by the elected representatives of the people; namely, the five members of the Board of Education.

The School District has also not responded to the other relief sought by the plaintiffs since the plaintiffs have not provided the Court with facts supporting or justifying such

relief.

STATEMENT OF FACTS

Since the School District does not agree with the plaintiffs' Statement of Facts, the following information is provided so that the record may be complete.

1. University City High School Has Been Planned for Many Years.

A site for University City High School was first identified by the School District's staff and the Planning Department of the City of San Diego in March, 1960. The informational literature in support of a bond issue designated as Proposition S approved by the voters on June 7, 1966 recognized that the growth in the University City area would require the construction of additional school facilities. In 1969 the City of San Diego purchased property in University City which included the site for University City High School. On November 5, 1974 the voters approved, by a 55.8 percent majority, Proposition XX which authorized the lease-purchase of 22 school facilities including University City High School.[1]

As is evident from the Declarations of John Witt, President of the Board of Education; George W. Smith, Member, Board of Education; Astrid Jeannine Lacy; Roberta L. Wells; and Anna J. Armstrong, there is widespread recognition of the

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1. Unless otherwise indicated the factual statements relied on in this portion of this memorandum are based on the Declaration of Charles T. Glenn or public records, actions of which the Court may take judicial notice.

long-standing commitment of the Board of Education to the construction of University City High School.

The commitment to the construction of a school is fortified by the fact that the Board of Education does not have the discretion to build the school at another location. Once approved by the voters, a school cannot be built at a location other than that listed on the ballot (See Declaration of Thomas R. Shearer, Jr.).

2. Were It Not for Intervening Events, University City High School Would Today Be Serving the Educational Needs of Students.

Subsequent to the passage of Proposition XX in 1974 the San Diego Unified School District Public School Building Corporation was formed for the purpose of constructing the 22 authorized school construction projects and leasing them to the School District. Proposition XX also authorized the School District to levy a tax rate not to exceed 38.3 cents per $100 of assessed valuation for making lease payments, purchasing sites for the schools, and preparing plans and specifications.

University City High School is the last of the Proposition XX projects to be constructed. None of the other projects was seriously objected to by the plaintiffs or any other members of the community. Were it not for an odd combination of circumstances, University City High School would have already been built and completed.

At its public meeting held on April 6, 1976 the Board of Education engaged Richard George Wheeler and Associates, Architects, to design University City High School and prepare

construction documents. Pursuant to authorization granted by the Board of Education at a public meeting the School District purchased the University City High School site from the City of San Diego for $1,492,000. The project plans and preliminary construction documents were approved by the Board at its public meeting held on December 14, 1976. At the same time the Board authorized public advertising for construction bids.

The Edmonton Homeowners Association (hereinafter referred to as "Edmonton") on April 29, 1977 filed a petition for a writ of mandate challenging the sufficiency of the environmental impact report covering the construction of University City High School. On June 10, 1977 the Superior Court found the School District's environmental impact report to be sufficient. Costs were awarded to the School District. On July 8, 1977 Edmonton filed a notice of appeal and on July 20, 1977 sought a stay order from the Court of Appeal which was denied by the Presiding Justice on August 1, 1977. A stay order was then sought from the California Supreme Court which was denied on August 31, 1977. Subsequently, the appeal was dismissed in December, 1977.

Meanwhile, at its public meeting held on October 11, 1977 the Board of Education had awarded a $1,385,000 contract for grading the University City High School site. This contract has been completed. Following the dismissal of the appeal by Edmonton, the School District revised its construction schedule and scheduled receipt of construction bids for April 21, 1978. However, the events surrounding the passage of Proposition 13 on June 6, 1978 lead to a decision by the Board of Education to defer construction of University City High School. Among

other things, both Moody's Investors Service and Standard and Poors rescinded their ratings of all California bond issues making it impossible for the San Diego Unified School District Public School Building Corporation to market bonds for the construction of University City High School.

On June 24, 1978 the California legislature passed the Proposition 13 "bail-out legislation" (Chapter 292, Statutes 1978) which clarified the authority of the School District to continue to levy the tax to make lease payments authorized by Proposition XX. Early in 1979, both Moody's and Standard and Poors again rated California bonds making it possible to proceed with the construction of University City High School. Thereupon, the Board of Education at its regular public meeting held on March 6, 1979 reaffirmed its original commitment to the construction of University City High School and authorized the implementation of a new schedule for the construction of University City High School which is attached to the Declaration of Charles T. Glenn as Exhibit A.

Maintaining this schedule is critical for two reasons. The first is that Education Code Section 39313 establishes a deadline by which the project must be underway. The second is that each month of delay increases the cost of the construction of the high school by approximately 8/10 of 1 percent. Assuming a construction cost of approximately $14 million, this means that each month's delay increases the cost of the school by $112,000.

Including the acquisition of the site, grading, architectural fees, erosion control and miscellaneous expenses, the

School District has expended approximately $3,919,500 to date in connection with the construction of University City High School.

3. University City High School Will Open as an Integrated School.

University City High School will open in the fall of 1981 with an enrollment of 950, not less than 25 percent of which will be minority. Approximately half of these students will be residents of the University City area. The balance of the minority students will be participants in the Voluntary Ethnic Enrollment Program (VEEP). Since the attendance area for University City High School will be coterminous with that of Standley Junior High School, many of these VEEP students will follow the feeder pattern from Standley to University City. Others will be VEEP students who under present feeder patterns would attend Kearny High School.

One of the benefits resulting from the opening of University City High School is that it will serve to facilitate closing Kearny to VEEP students. Those students will be assigned to University City High School as well as other schools. The effect of this action will be to stabilize the majority/minority ratio of students at Kearny High School at almost exactly the present School District average. With these actions, it is estimated that Kearny will have an enrollment of 1,775 in the fall of 1981 and that 35 percent of these students will be minority (See Declarations of Ralph V. Patrick, Edward S. Fletcher and Robert G. Furry.)

In addition to the assurance that University City High

School will open with an enrollment that is not less than 25 percent minority, consideration will be given in future years to the establishment of other integration programs in that school as part of the School District's voluntary integration plan. Among the various programs to be considered is a math/science mirror magnet which would capitalize on University City High School's proximity to the University of California, San Diego; Scripps Institute of Oceanography; and other world renowned institutes. (See Declaration of Ralph V. Patrick)

4. Construction of University City High School Will Have No Impact on the Court-Identified Minority Racially Isolated Schools.

Presently almost all of the high school students who currently reside in the University City High School attendance area attend Clairemont High School. Less than 20 attend La Jolla High School and approximately 50 students attend Mission Bay High School. (See Declaration of Robert G. Furry.)

The transfer of these students from Clairemont, Mission Bay and La Jolla High Schools will not adversely affect minority racial isolation. Neither Lincoln High School nor Morse High School, the two Court-identified minority racially isolated high schools, will in any way be affected. (See Declarations of George W. Smith, Edward S. Fletcher and Anna J. Armstrong.) As previously indicated, Kearny High School will be benefited. It is only the plaintiffs' tortured reasoning that suggests an adverse impact on Lincoln and Morse. What plaintiffs urge is that students residing in the University City area be mandatorily bussed to Lincoln and Morse High Schools. The School

District categorically rejects such mandatory assignment of students as not being a reasonably feasible approach to the alleviation of minority racial isolation.

5. The Construction of University City High School Will Not Place an Undue Burden on Minority Students.

Plaintiffs argue that the construction of University City High School will place an undue burden on minority students. It is said that if the school is to be integrated it will only be through "one-way bussing" of minority students from Southeast San Diego. It is the School District's contention that the plaintiffs improperly categorize the Voluntary Ethnic Enrollment Program (VEEP) as "one-way bussing." Voluntary participation in an integration program such as VEEP is not "one-way bussing" and does not place an undue burden on minority youngsters. Not one family who does not wish to do so participates in VEEP.

Plaintiffs once again are suggesting that a mandatory bussing program which lacks the support both of minority and white parents would be more desirable than a voluntary program which enjoys substantial community support.

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ARGUMENT

I

SINCE THE CONSTRUCTION OF UNIVERSITY CITY HIGH SCHOOL WILL NOT INCREASE SEGREGATION, THE GRANTING OF AN INJUNCTION WOULD CONSTITUTE AN UNNECESSARY INTERFERENCE WITH LOCAL AUTONOMY AND CONTROL

A. Nothing in Crawford Supports the Granting of an Injunction in this Case.

The principle guidelines for the Court's action in this case are to be found in Crawford v. Board of Education of the City of Los Angeles, 17 Cal.3d 280 (1976) and its companion case, NAACP v. San Bernardino Unified School District, 17 Cal.3d 311 (1976). Both cases established that a school district had the obligation to alleviate *minority* racial isolation. University City High School will not be a minority racially isolated school. Although the language of Crawford indicates that even an all white school might pass constitutional muster,[2] University City High School will open as an integrated school and thus aid, not detract from, the School District's integration program.

Under the circumstances it is submitted that the Court

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2. In Crawford the Court stated:

> "In sum, from a constitutional standpoint, we see nothing inherently invalid in the fact that percentages of various racial or ethnic groups may vary, even significantly, in different schools throughout a school districts or even that *a particular minority group may be completely unrepresented in a particular school.*" [Emphasis added.] (17 Cal.3d at 304)

should heed the words of the Crawford Court which admonished courts as follows:

> ". . .[O]nce a court finds that a school board has implemented a program which promises to achieve meaningful progress toward eliminating the segregation in the district, the court should defer to the school board's program and should decline to intervene in the school desegregation process so long as such meaningful progress does in fact follow. A court should thus stay its hand even if it believes that alternative techniques might lead to more rapid desegregation of the schools. We have learned that the fastest path to desegregation does not always achieve the consummation of the constitutional objective; it may instead result in resegregation. In the absence of an easy, uniform solution to the desegregation problem, plans developed and implemented by local school boards, working with community leaders and affected citizens, hold the most promising hope for the attainment of integrated public schools in our state." (17 Cal.3d at 286)

B. Responsibility for the Operation of the Public Schools Rests With the Board of Education.

In Santa Barbara School District v. Superior Court,

13 Cal.3d 315 (1975), the California Supreme Court reaffirmed the fact that a school district in implementing a court-ordered desegregation plan does not deprive the elected governing board of the authority and responsibility for operating the school system. In upholding the power of the school district to close two elementary schools the Court stated:

> "'[A] court may not substitute its judgment for that of the administrative board [citation] and if reasonable minds may disagree as to the wisdom of the board's action, its determination must be upheld.' (Manjares v. Newton (1966) 64 Cal.2d 365, 371 [49 Cal.Rptr. 805, 411 P.2d 901]). We have not found, nor have we been referred to, any authority supportive of the proposition that once a school board undertakes a desegregation/integration plan, its otherwise independent power to close schools becomes limited to closing only those schools which must reasonably be closed in order to accomplish desegregation." (13 Cal.3d at 337)

In Stanton v. Sequoia Union High School District, 408 F.Supp. 502 (N.D. Cal., 1976) the Court agreed stating:

> "The mechanics of running a school system are solely within the power, authority, and prerogative of the duly elected school board, so long as the board performs its duty

without running afoul of the constraints imposed by the Constitution. This court should not and will not inject its own opinion or ideas as to which is the best system or plan or what it thinks is a better plan. We judge only whether the board's plan as adopted operates constitutionally. In the context of this case, we decide only whether the Board's plan to close Ravenswood is within constitutional restraints."

(408 F.Supp. at 504)

In Deal v. Cincinnati Board of Education, 419 F.2d 1387 (6th Cir., 1969); cert. denied 402 U.S. 962 (1971); the Court, after ruling that the school board's site selection policy was nondiscriminatory, emphasized:

"Federal Courts are ill-fitted to instruct Boards of Education where to select school sites, draw zone lines, or how to operate the public schools. We should intervene only where there has been a clear invasion of constitutional rights' and in our judgment that has not occurred here." (419 F.2d at 1393)

The concept of the involvement of the people in the operation of their local public school system through their elected representatives is deeply ingrained in the American public school system. Chief Justice Burger recognized this fact in Milliken v. Bradley, 418 U.S. 717 (1974) when he said: . . .

"No single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process." (418 U.S. 741-742)

In Dayton Bd. of Education v. Brinkman, 433 U.S. 406 (1977) the Court, in reversing a lower court systemwide mandatory bussing order, reemphasized this point:

"There is no doubt that federal courts have authority to grant appropriate relief of this sort when constitutional violations on the part of school officials are proved. [citations] But our cases have just as firmly recognized that local autonomy of school districts is a vital national tradition. [citations] It is for this reason that the case for displacement of the local authorities by a federal court in a school desegregation case must be satisfactorily established by factual proof and justified by a reasoned statement of legal principles." [citations] (433 U.S. at 410)

More recently in Columbus Board of Education v. Penick, ___ U.S. ___, 58 L.3d.2d 55 (1978); cert. granted ___ U.S. ___, 59 L.Ed.2d 31 (1979), Mr. Justice Rehnquist, during the course of

granting a stay order to prevent the imposition of another systemwide mandatory bussing plan, stated:

> "As this Court noted in Dayton, 'local autonomy of school districts is a vital national tradition.' (433 U.S. at 410, 53 L.Ed.2d 851, 97 S.Ct. 2766). School desegregation orders are among the most sensitive encroachments on that tradition, not only because they affect the assignment of pupils and teachers, but also because they often restructure the system of education. In this case the desegregation order requires alteration of the grade organization of virtually every elementary school in Columbus. As the Court emphasized in Dayton, judicial imposition on this established province of the community is only proper in the face of factual proof of constitutional violations and then only to the extent necessary to remedy the effect of those violations." (58 L.Ed.2d at 59)

Perhaps this point was best made by Chief Justice Burger in Swann v. Charlotte-Mecklenburg Bd. of Ed., 402 U.S. 1 (1971), when he wrote:

> "[I]t is important to remember that judicial powers may be exercised only on the basis of a constitutional violation. Remedial judicial authority does not put judges

automatically in the shoes of school authorities whose powers are plenary. Judicial authority enters only when local authority defaults." (402 U.S. at 16)

Here there has been no constitutional violation and thus the Court has no reason or basis to intervene.

C. The Cases Relied Upon by Plaintiffs All Involve Situations Where There Were Findings of De Jure Segregation and Thus Are Not Applicable Here.

The plaintiffs cite numerous federal cases involving school districts which have been found guilty of de jure segregation. The School District believes that these cases, in the present context of the Carlin case, add nothing to a resolution of the matter before the Court. For that reason, they will not be individually discussed in this memorandum. The School District will, however, be prepared to respond to plaintiffs or answer any questions the Court may have at oral argument concerning these cases.

It should, however, be noted that there have been several de facto cases in which the courts have refused to enjoin the construction of a new school located in a predominantly white area. See, for example, Sealy v. Dept. of Pub. Inst. of Penn., 252 F.2d 898 (3rd Cir., 1958); cert. denied 356 U.S. 975 (Court refused to enjoin the construction of a junior high school even though its location would require additional transportation for black pupils); Banks v. Muncie Community Schools, 433 F.2d 292 (7th Cir., 1970) (Court refused to enjoin

construction of high school in all white area where district indicated it would take steps to ensure racial balance); Diaz v. San Jose Unified School District, 412 F.Supp. 310 (N.D. Cal., 1976) (Court refused to restrain district from constructing schools in predominantly white area where there was no showing of intentional discrimination). See also, Higgins v. Board of Education, Grand Rapids, Michigan, 508 F.2d 779 (6th Cir., 1974) (Court ruled that construction of schools which had opened predominantly white or minority did not establish that the district had acted with discriminatory intent).

II

THE PLAINTIFF WHO HAS DELAYED BRINGING A SUIT WHEN THE DEFENDANT HAS EXPENDED EFFORT, MONEY AND OTHERWISE CHANGED ITS POSITION IS NOT ENTITLED TO INJUNCTIVE RELIEF

California courts have consistently refused to grant injunctive relief where the application for such relief is delayed until large expenditures have been made by defendants. See generally, Witkin, Cal. Procedure (2d ed.) "Provisionsl Remedies," §70; see, e.g., Schwartz v. Arata, 45 Cal.App. 596, 602 (1920) (several months' delay plus expenditures); Los Angeles Athletic Club v. City of Long Beach, 128 Cal.App. 427, 433 (1932) (six months' delay plus expenditures of money for public improvement); Vesper v. Forest Lawn Cemetery Association 20 Cal.App.2d 157, 165 (1937) (two-year delay plus expenditures); see also, Holmes v. Snow Mountain Water and Power Co., 36 Cal. App. 394 (1918) (4-year delay plus expenditures for improvement upon which thousands of people had become dependent).

Although the Carlin case was filed in December, 1967, it was not until April, 1979, almost 11 1/2 years later, that plaintiffs first sought to enjoin the construction of University City High School. In the meantime the construction of University City High School has been planned for more than 10 years. Moreover, this planning has taken place in the public arena. Not only has the issue been on the ballot, but the Board of Education has taken numerous public actions in connection with the school. There has been previous litigation concerning this school which received considerable publicity. Additionally, the School District moved over one million cubic yards of earth opposite University Towne Center in preparation for the construction of this school. Finally, approximately $3,919,500 in public funds has been expended on this project by defendants.

Under the circumstances it is submitted that the plaintiffs are estopped and barred by laches from now obtaining the injunction they seek.

III

PLAINTIFFS ARE NOT
ENTITLED TO AN INJUNCTION

A. Plaintiffs Have Failed to Show That They Will Suffer Irreparable Injury.

In the absence of a showing of irreparable injury, a court must deny a request for an injunction. See generally, Witkin, Cal. Procedure (2d ed.) "Provisional Remedies" §51. Here plaintiffs' allegations of irreparable injury (Petition, page 2, line 16) are unsupported by any relevant facts and are based on inadmissible speculation, hearsay and unsupported

opinion. Under the circumstances there is no basis for granting an injunction. E. H. Renzel v. Warehousemen's Union, 16 Cal.2d 369, 373 (1940); Willis v. Laundson, 161 Cal. 106, 108 (1911)

B. Consideration of the Relative Hardship of the Parties and the Public Interest Require the Denial of Plaintiffs' Request.

In passing upon a request for injunctive relief, the Court should consider both the relative hardship to the parties and the public interest. Witkin, Cal. Procedure (2d ed.) "Provisional Remedies" §§72, 73; Loma Portal Civic Club v. American Airlines, 61 Cal.2d 582, 588 (1964); Santa Cruz Fair Bldg. v. Grant, 104 Cal. 306, 308 (1894). In this case both factors are reasons for denying plaintiffs' request. If the high school is not constructed the residents of University City will be denied a public high school in their community, an investment of almost $4,000,000 will be put in jeopardy, and the will of the people frustrated. Furthermore, the construction of the high school may well assist integration; in no event will it impede the School District's voluntary integration plan.

All the factors which a court should consider point the same way -- the request for the injunction should be denied.

CONCLUSION

The plaintiffs have failed to establish that the construction of University City High School will contribute to minority racial isolation in San Diego or will impede in any way the School District's integration plan. In fact,

University City High School will open as an integrated school. As a result of the transfer of VEEP students from Kearny High School to University City High School and other schools, the racial/ethnic balance in that school will be stabilized if not improved.

The people have elected the members of the Board of Education as their representatives with respect to the operation of the public school system. In the absence of a clear showing of constitutional violation, it is these elected representatives who must have the authority to make policy decisions with respect to the operation of the public schools.

The people, speaking through the Board of Education, have decided that a high school should be built in University City. There being no constitutional violation, the Court should deny plaintiffs' request for injunction and let the project proceed.

Dated: May 3, 1979.

Respectfully submitted,

RALPH D. STERN
Schools Attorney

DONALD R. LINCOLN
Jennings, Engstrand & Henrikson
A Professional Law Corpoation

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF JOHN WITT

I, JOHN WITT, declare as follows:

1. I reside at 5011 Dubois Drive, San Diego, California 92117.

2. I was elected to the Board of Education in November, 1975. I am currently the President of the Board.

3. Although elected districtwide, I am nominated from electoral district A of the San Diego Unified School District. This electoral district includes the University City area among others.

4. A commitment to build a high school in University City has existed for more than ten years. I believe that

University City both needs and deserves a high school and that there exists between the University City community and the School District a longstanding commitment to proceed with construction of the school.

5. During the Board's deliberations concerning the construction of University City High School, I received communications from a great many citizens. The overwhelming majority of those who communicated with me supported construction of the school. Only a small number of people who are opposed to the school, however, communicated with me, and each of them appears to have a self-serving reason for their opposition.

6. I am in full support of the District's voluntary integration plan. I do not believe that the construction of University City High School would in any way impede the alleviation and/or elimination of minority racial isolation in the 23 court-identified minority racially isolated schools.

I declare under penalty of perjury that the foregoing is true and correct.

Dated April 26, 1979, at San Diego, California.

John Witt

John Witt

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
Telephone (714) 293 8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
Telephone (714) 291 0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al.,	No. 303800
Plaintiffs,	
v.	DECLARATION OF GEORGE W. SMITH
BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT,	
Defendant.	

I, GEORGE W. SMITH, declare as follows:

1. I reside at 5514 Mira Flores Drive, San Diego, California 92114, and have my office at the Golden Hills Presbyterian Church, 2130 Market Street, San Diego, California 92102. Both of these locations are in Southeast San Diego.

2. I was first elected to the Board of Education of the San Diego Unified School District in November, 1963 and have served in that capacity continuously since that date. I am the senior member of the Board and have served four terms as President.

3. In 1976 I served as President of the National

School Boards Association, the national organization representing approximately 16,000 individual school districts and 80,000 school board members. I was the first black elected to this position.

4. In 1972 I served as President of The Council of the Great City Schools which has its headquarters in Washington, D.C. and to which most of the major urban school districts in the country belong.

5. Although elected districtwide, I am nominated from electoral district E of the San Diego Unified School District. Included within this electoral district are all of the schools identified by the Court as minority racially isolated.

6. I have supported the construction of a high school in University City since the mid-1960's. I have always believed that the construction of University City High School is of vital importance to this School District. Nothing has occurred which has altered this belief. In my opinion the residents of University City, who have with their tax dollars paid for the other schools of the District, deserve a high school in their community.

7. I have examined the materials submitted to the Court by the plaintiffs in which they contend that the construction of University City High School would contribute to segregation in San Diego and would place an undue burden upon minority youngsters. I believe that the contentions of the plaintiffs are totally incorrect and that the construction of University City High School will not contribute to segregation and will not place an additional burden upon minority youngsters.

I declare under penalty of perjury that the foregoing is true and correct.

Dated April 27, 1979 at San Diego, California.

George W. Smith

George W. Smith

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF CHARLES T. GLENN

I, CHARLES T. GLENN, declare as follows:

1. I am employed by the San Diego Unified School District as Deputy Superintendent, Administration. I have served in that capacity since July 1, 1972. Prior to that time I served as Assistant Superintendent, Business Services Division. I have had more than 29 years' experience as a school business official. In both my present position and my previous position I have been directly involved with the planning for the construction of University City High School.

2. I have a Bachelor of Arts degree from Humboldt State University. I also hold a Masters degree in Business Administration

from Stanford University Graduate School of Business.

3. The need for a high school to serve University City was first recognized prior to 1960. In March, 1960 the School District staff and the Planning Department of the City of San Diego first identified a site. The literature explaining Proposition S which was presented to the voters on June 7, 1966 also recognized that growth in University City would require the construction of new school facilities. In 1969 the City of San Diego purchased the property which ultimately became the proposed site for University City High School.

4. Proposition XX, which was approved by the voters on November 5, 1974, passed by a 55.8 percent majority.

5. Construction costs in San Diego are rising at approximately 8/10 of 1 percent per month. The total estimated cost of construction for University City High School, excluding funds already expended, is approximately $14,000,000. To date, $3,919,523.91 has been expended for the construction of University City High School.

6. The original construction schedule, adopted following the passage of Proposition XX, called for the completion of University City High School by March 14, 1979. The present construction schedule is attached as Exhibit A.

7. Following the passage of Proposition 13, Moody's Investors Service and Standard & Poors rescinded their ratings of all California bond issues. Early in 1979 both of these agencies again rated California bonds including those of the San Diego Unified School District Public School Building Corporation.

8. Over one million cubic yards of earth were moved in the grading of the University City High School site.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 2, 1979, at San Diego, California.

CHARLES T. GLENN

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UNIVERSITY CITY HIGH SCHOOL PROJECT SCHEDULE

Revised Bid Documents to O.S.A. & H.C.D.		May 2, 1979	(Wed.)
Assume Revised O.S.A. Approval		Jun 20, 1979	(Wed.)
Advertise for Construction Bids		Jul 11, 1979	(Wed.)
Pre-bid Conference		Aug 8, 1979	(Wed.)
Open Construction Bids		Aug 23, 1979	(Thu.)
Bid Report-Board of Education/Corporation		Aug 28, 1979	(Tue.)
Authorize Bond Sale-Board of Education/Corporation		Aug 28, 1979	(Tue.)
Open Bond Bids	(5 Weeks)	Oct 4, 1979	(Thu.)
Prep. and Deliver Bonds	(3 Weeks)	Oct 25, 1979	(Thu.)
Award Contract/Authorize Start Construction		Oct 25, 1979	(Thu.)
Start Construction		Oct 30, 1979	(Tue.)
Complete Construction (19 Months)		May 29, 1981	(Fri.)
Occupy School for Classes		Sept. 1981	

EXHIBIT A

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF RALPH V. PATRICK

I, RALPH V. PATRICK, declare as follows:

1. I am employed by the San Diego Unified School District as Deputy Superintendent, Operations. In my capacity as Deputy Superintendent, Operations, I have responsibility for the operation of all of the District's schools.

2. According to the School District's 1978-79 Pupil Ethnic Census, Kearny High School has a student enrollment which is 63.2 percent majority and 36.8 percent minority. This closely approximates the District's student enrollment of 61.8 percent majority and 38.2 percent minority.

3. In order to stabilize the majority/minority enrollments

at Kearny High School, Kearny will be closed to the Voluntary Ethnic Enrollment Program (VEEP) by the time University City High School opens. VEEP allied school patterns will be adjusted from Kearny to University City High School and other high schools in such a manner that University City High School will open with a minority enrollment of not less than 25 percent including resident minority students and VEEP students.

4. In future years consideration will be given to the establishment of integration programs at University City High School as may be necessary to successfully augment and implement the District's voluntary integration plan. Among the various programs to be considered is a math/science mirror magnet which would capitalize on University City High School's proximity to the University of California, San Diego; Scripps Institute of Oceanography; and other world renowned institutions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 1979 at San Diego, California.

Ralph Patrick

RALPH V. PATRICK

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF EDWARD S. FLETCHER

I, EDWARD S. FLETCHER, declare as follows:

1. I am employed by the San Diego Unified School District as Assistant Superintendent, Community Relations. I have served in that capacity since April 1, 1977.

2. In my capacity as Assistant Superintendent, Community Relations, I have responsibility for the coordination of the San Diego Plan for Racial Integration. I report to the Superintendent of Schools and work closely with Dr. Ralph V. Patrick, Deputy Superintendent for Operations, and with the elementary and secondary schools divisions.

3. I meet regularly with the Superintendent, the

Deputy Superintendents and other members of the school district's administrative staff both formally and informally. I am a member of the District's Executive Council which meets weekly and consists of the Superintendent, the Deputy Superintendents, the Assistant Superintendents, the Controller and the Schools Attorney. I am also a member of the Integration Planning and Coordinating Committee which consists of the Superintendent, the Deputy Superintendents, the Assistant Superintendent, Community Relations, the Public Information Director and the Schools Attorney. The committee meets at least weekly and more often if necessary.

4. I have been involved in the administrative planning decisions affecting University City High School and have personally long supported the construction of the school. I believe that the school district has a longstanding commitment to the residents of University City, and it is regretable that it has not been possible to honor this commitment until now.

5. I believe that the construction of University City High School will have a positive effect on integration in San Diego since it will open as an integrated school with an enrollment that is at least 25 percent minority. Kearny High School will be closed to Voluntary Ethnic Enrollment Program (VEEP) students by the time University City High School opens. The effect of this action will be to stablize, or perhaps reduce, minority enrollment at Kearny High School.

6. I do not believe that the differential in travel time between Kearny High School and University City High School will have a significant effect on VEEP students. The slight additional travel time will be more than offset by the opportunity to attend

a new school.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 30, 1979, at San Diego, California.

Edward S. Fletcher

Edward S. Fletcher

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF ROBERT G. FURRY

I, ROBERT G. FURRY, declare as follows:

1. I am employed by the San Diego Unified School District as Planning and Research Assistant Director. I have served in that capacity since January, 1977. Prior to that time I served as a civil engineer with the San Diego City Planning Department.

2. I hold a Bachelor of Science degree from San Francisco State University and a Master of Science degree from the University of California, Los Angeles.

3. I have estimated that when University City High School opens in the fall of 1981 it will have an enrollment of

approximately 950 students. This is based on University City High School having an attendance area coterminous with Standley Junior High School and the transfer of a sufficient number of Voluntary Ethnic Enrollment Program students from the Kearny High School attendance area to University City High School to ensure a minority enrollment of 25 percent. Approximately 12 percent of the students will be minority students who reside in the University City area.

4. With the closure of the Voluntary Ethnic Enrollment Program at Kearny High School I have estimated that in the fall of 1981 Kearny will have an enrollment of 1,775 students of whom approximately 35 percent will be minority. The present minority enrollment at Kearny is approximately 36.8 percent.

5. At the present time almost all of the students who reside in the proposed University City High School attendance area attend Clairemont High School. Approximately 17 students in the proposed University City attendance area attend La Jolla High School and 54 of these students attend Mission Bay High School.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 2, 1979, at San Diego, California.

Robert G. Furry

ROBERT G. FURRY

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF THOMAS R. SHEARER, JR.

I, THOMAS R. SHEARER, JR., declare as follows:

1. I am an attorney at law and licensed to practice before all of the courts of the State of California.

2. I am a partner in the law firm of Orrick, Herrington, Rowley & Sutcliffe, whose principal place of business is 600 Montgomery Street, San Francisco, California 94111.

3. My firm of Orrick, Herrington, Rowley & Sutcliffe has specialized in rendering legal services as bond

counsel in connection with the sale of tax exempt securities by public bodies and by non-profit corporations acting on behalf of public bodies for more than 65 years.

4. I have practiced law in this area of public finance with Orrick, Herrington, Rowley & Sutcliffe since 1962, and I have had primary responsibility as bond counsel for no less than 40 non-profit corporation financings in California.

5. The San Diego Unified School District (herein called the "District") and San Diego Unified School District Public School Building Corporation (herein called the "Corporation") have retained the firm of Orrick, Herrington, Rowley & Sutcliffe to provide certain legal services required by the Corporation and the District in connection with the financing of public school buildings and facilities for the use of the District, and I have had the primary responsibility for performing these legal services.

6. I participated in the drafting of 1974 California Assembly Bill No. 3638 (1974 California Statutes Chapter 547), which, among other things, added certain provisions to, and amended various provisions of, California Education Code Sections 15701 to 15717.2, and which made it legal for the District to combine in one ballot proposition more than one public school facility.

7. I initially drafted, and participated in a review of and the revision of, the ballot proposition identified

as Proposition XX which appeared on the November 5, 1974 election ballot in the District and which was approved by the electors of the District at that election.

8. One of the public school facilities specified in Proposition XX and approved by the electors of the District on November 5, 1974 is a new senior high school identified as University City High School. The site for the new University City High School was specified in the ballot proposition as being on Genesee Avenue at the A.T. & S.F. Railroad (University City area).

9. It is my opinion as bond counsel that the California Education Code requires that the public school facilities specified in Proposition XX be constructed upon the sites described in the ballot proposition.

I declare under penalty of perjury that the foregoing is true and correct.

Dated April 27, 1979 at San Francisco, California.

Thomas R. Shearer, Jr.

Thomas R. Shearer, Jr.

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF ANNA J. ARMSTRONG

I, ANNA J. ARMSTRONG, declare as follows:

1. I reside at 6162 Arnoldson Place, San Diego, California 92122 and have lived in University City for 7 years.

2. I am the mother of a daughter who attends Standley Junior High School and a son who attends Clairemont High School.

3. I was a member of the Citizens Advisory Commission on Racial Integration (CACRI). I am the President-Elect of the Standley Junior High School PTA. I have served as PTA President at Marcy Elementary School and on the PTA Board of Clairemont High School. I have also served on the School Facilities Utilization Study Committee for the Kearny, Clairemont

Madison and University City attendance complex.

4. One of the reasons that my husband and I decided to move to University City is that we were aware of the fact that plans existed for the construction of a senior high school.

5. In 1974 I walked precincts in support of Proposition XX which was to lead to the construction of University City High School .

6. People in University City have more than waited their turn for a high school. If the school is not constructed, University City residents will be penalized for not insisting that after the long wait for a high school it be among the first schools built after the passage of Proposition XX.

7. Presently most high school students from University City attend Clairemont High School. The families of these students pay $12 per month for each student, over and above their taxes, for transportation from University City to Clairemont.

8. I believe that integrated schools provide the best educational environment for children. In my opinion University City High School would be ideally suited for various integration programs because of its ready access from all points in the school district and because of its proximity to the University of California, San Diego; Scripps Institute; the Veterans Hospital; and University Towne Center.

9. I believe that University City High School would be well suited for a two-way voluntary exchange program with a minority isolated high school.

10. I understand that each of the elementary schools in

University City has actively participated in the elementary integration program. There is every reason to believe that there would be similar support for integration programs at University City High School.

11. I believe that only a small number of people either with their own axes to grind against the School District or with narrow personal interests have opposed the construction of University City High School and that the Edmonton Homeowners Association is inactive and has only a handful of members. Similarly, I understand that the other groups opposing University City High School also lack broad-based support.

12. As a result of my service on CACRI, I am familiar with the development of the School District's voluntary integration program. I have read the plaintiffs' materials filed in opposition to University City High School and do not believe that the construction of University City High School would contribute to segregation. In my opinion many of the individuals who appear to oppose the school in the name of integration really oppose it for other reasons.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26, 1979 at San Diego, California.

Anna J. Armstrong

Anna J. Armstrong

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF ASTRID JEANNINE LACY

I, ASTRID JEANNINE LACY, declare as follows:

1. I reside at 6658 Fisk Avenue, San Diego, California 92122.

2. I have a son who is in the eleventh grade at Clairemont High School and a daughter who is in the eighth grade at Standley Junior High School.

3. I have been active in school district related organizations for several years. I am currently President of the Clairemont High School PTA. I have served as Secretary of the Spreckels Elementary School PTO, as second Vice President of the Marston PTA and as Vice President of the Standley Junior

High School PTA.

4. I serve as Chairperson of the Friends of University City High School, a community organization of approximately 670 members which has worked to support the construction of University City High School.

5. Many University City citizens worked diligently in support of Proposition XX in November, 1974. I believe that the reason they did so is because that proposition contained the authorization for the construction of a high school in University City. Without the efforts of University City residents it is entirely possible that a number of schools already built might not have been approved by the electorate. The casting of my ballot at an election is a right which I value greatly as a citizen. If University City High School is not built, it will mean that my vote will have been ignored and drained of any value.

6. Following the filing of a lawsuit by the Edmonton Homeowners Association challenging the environmental impact report for the University City High School project, the Friends of University City High School easily collected petitions containing approximately 1,000 signatures in support of the school in only a few days.

7. University City residents have paid for schools in every other part of the school district. It is only fair that these taxpayers not be denied a school in their community.

8. Presently most residents of University City now attend Clairemont High School. At this time it costs parents $108 per year per student for transportation from University City to Clairemont.

9. I believe that since Proposition 13, it will be almost impossible to obtain authorization to build schools in the future. In my opinion San Diego and University City are bound to grow and a high school should be built at a time when it is possible to do so.

10. In my estimation failure to build University City High School will have a very unsettling effect on the Unviversity City community and some people will leave the area and others will leave the public school system.

11. I believe that the University City community has actively supported voluntary integration and that construction of University City High School will in no way adversely affect integration in San Diego.

12. In my opinion the opponents of University City High School have personal reasons for opposing the school. For example, I am aware, upon information and belief, that the Edmonton Homeowners Association is a small group, most of the members of which own property adjacent to the high school site and who for years have had use of the undeveloped high school site as a scenic extension of their backyards.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26, 1979 at San Diego, California.

Astrid Jeannine Lacy

Astrid Jeannine Lacy

RALPH D. STERN
Schools Attorney
SAN DIEGO UNIFIED SCHOOL DISTRICT
4100 Normal Street
San Diego, California 92103
(714) 293-8450

DONALD R. LINCOLN
JENNINGS, ENGSTRAND & HENRIKSON
A Professional Law Corporation
2255 Camino del Rio South
San Diego, California 92108
(714) 291-0840

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	No. 303800 DECLARATION OF ROBERTA L. WELLS

I, ROBERTA L. WELLS, declare as follows:

1. I reside at 3333 Mercer Lane, San Diego, California 92122 which is in the area known as University City. I have resided in University City for 11 years.

2. I have three daughters who attend the San Diego City Schools. One is an eighth grader at Standley Junior High School. The other two attend Spreckels Elementary School.

3. I have been active in school district affairs for a number of years. I serve on the Race/Human Relations Committee at Spreckels Elementary School and am the President-Elect of the Spreckels PTA. I also serve on the School Site Council at

Spreckels.

4. I am the Secretary of the Standley Junior High School PTA. I also am a member of the District Advisory Council for the Gifted.

5. Among the community organizations to which I belong are the Friends of University City High School and the University City Community Council.

6. When we moved to University City 11 years ago we were assured that there were plans for the construction of a high school. This assurance was a factor in our decision to move to University City. In November, 1974 the voters approved the construction of University City High School. While those of us who live in University City have not objected to paying for schools in other parts of the District, we have always understood that our turn for a high school was coming. I personally believe, as do many residents in University City, that the Board of Education has a strong obligation to live up to its longstanding commitment to build University City High School.

7. I have concluded from conversations with a number of people that if University City High School is not built, many University City parents will place their children in private schools or move.

8. The University City community has been very supportive of voluntary integration. Parents at Spreckels Elementary School were eager to have their school become a magnet school and have worked hard to make it a success. A number of students at Standley Junior High School are now participating in the Math/Science Magnet during the fourth quarter of this school year.

In my opinion similar support would be shown for any integration programs located at University City High School.

9. I believe only a small number of people in University City oppose the construction of University City High School and that their concern is primarily for the value of their property and not for integration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26, 1979 at San Diego, California.

Roberta L. Wells

Roberta L. Wells