

<h1 style="margin: 0;">County Of Sonoma</h1> <h2 style="margin: 0;">Agenda Item</h2> <h3 style="margin: 0;">Summary Report</h3>			Clerk of the Board Use Only	
			Meeting Date / /	Held Until / /
			Agenda Item No: _____	Agenda Item No: _____
Department: Agricultural Preservation & Open Space District			<input type="checkbox"/> 4/5 Vote Not Required	
Contact: Kathleen Marsh	Phone: (707) 565-7360	Board Date: 10/6/2009	Deadline for Board Action:	
<p>AGENDA SHORT TITLE: Camp Gualala Conservation Easement: Estoppel Certificate.</p> <p>REQUESTED BOARD ACTION: Approve a resolution delegating to the Interim General Manager the authority to execute an Estoppel Certificate for the Camp Gualala Conservation Easement.</p>				
<p>CURRENT FISCAL YEAR FINANCIAL IMPACT - None.</p>				
<p>Explanation (if required): None.</p>				
<p>Prior Board Action: The Sonoma County Agricultural Preservation & Open Space District purchased a Conservation Easement from the Berkeley Young Men's Christian Association on December 5, 2005 (Document #2005-178813).</p>				
<p>Alternatives – Results of Non-Approval: Do not approve a resolution delegating to the Interim General Manager the authority to execute an Estoppel Certificate for the Camp Gualala Conservation Easement. The prospective buyer of the property has indicated that failure to obtain the Estoppel Certificate may prevent its purchase of the property.</p>				

Background:

The Sonoma County Agricultural Preservation & Open Space District purchased a Conservation Easement from the Berkeley Young Men’s Christian Association (YMCA) on December 5, 2005 (Document #2005-178813). The property is currently in escrow to be purchased by The Church of Jesus Christ of Latter-Day Saints (“the Buyer”), and the Buyer has requested that the District provide an Estoppel Certificate as provided in Paragraph 20 of the Conservation Easement, which states:

“DISTRICT shall, at any time during the existence of the Agreement...execute and deliver to GRANTOR a statement in writing certifying that the Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification) and acknowledging that there is not, to DISTRICT’s knowledge, any default by GRANTOR hereunder, or, if DISTRICT alleges a default by GRANTOR, specifying such default.”

On August 27, 2009, the District provided an Estoppel Certificate specifying an alleged default of Paragraph 8 of the Conservation Easement, which requires the property owner to provide to the public a minimum of twelve guided nature walks or hikes. In the Estoppel Certificate, the District informed the Buyer that the District was not satisfied that the YMCA had provided the public with the minimum number of hikes required by the Conservation Easement during the years 2006-2009.

The buyers have requested that the District add to the Estoppel Certificate a waiver of any claim against the Buyer for the seller's past violation of Paragraph 8 of the Conservation Easement. District staff, in consultation with County Counsel, believes that this request is reasonable. While important, the alleged default does not in any way negatively impact the conserved values of the property. Furthermore, the waiver does not limit the District’s ability to enforce Paragraph 8 prospectively against the Buyer, and the Estoppel Certificate clearly sets forth the District’s expectations with respect to the guided nature hikes. Therefore, staff recommends that the Board authorize the Interim General Manager to execute a revised Estoppel Certificate as requested by the Buyer that includes a waiver of claim.

Attachments:

1. Original Camp Gualala Estoppel Certificate, dated August 27, 2009.
2. Requested Estoppel Certificate, including waiver of claim.
3. Resolution delegating to the Interim General Manager the authority to execute an Estoppel Certificate for the Camp Gualala Conservation Easement.

On File With Clerk:

1. Camp Gualala Conservation Easement.

CLERK OF THE BOARD USE ONLY

Board Action (If other than “Requested”)

Vote: