

RESOLUTION NO. 2002-52

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
CONSENTING TO ONGOING REPRESENTATION OF THE CITY BY
KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD AND
DIRECTING THE MAYOR TO SIGN A WAIVER AND CONSENT LETTER**

BE IT RESOLVED, that the City of Elk Grove does hereby consent to the ongoing representation by Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation ("KMTG") of the City of Elk Grove on the conditions which are described in that letter dated March 13, 2002, and as described in the materials presented and described at the March 20, 2002 City Council meeting;

BE IT RESOLVED AND ORDERED, that the Mayor of the City Council of the City of Elk Grove be and is hereby authorized and directed to execute and return to KMTG the letter dated March 13, 2002, providing consent on behalf of the City to the ongoing representation of the City by KMTG on the conditions described therein.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on the 20th day of March 2002.



MICHAEL LEARY, MAYOR
CITY OF ELK GROVE

ATTEST:



PEGGY JACKSON, CITY CLERK
CITY OF ELK GROVE

APPROVED AS TO FORM:



ANTHONY MANZANETTI,
CITY ATTORNEY

AYES: Leary, Scherman, Cooper,
Briggs, Soares
NOES: None
ABSTAIN: None
ABSENT: None

March 13, 2002

MAYOR LEARY
MAYOR PRO TEM SCHERMAN AND
COUNCIL MEMBERS BRIGGS, COOPER AND SOARES
CITY OF ELK GROVE
8400 Laguna Palms Way
Elk Grove, CA 95758

Re: *City of Elk Grove / Elk Grove Unified School District
Land Use Matters - Consent*

Dear Mr. Mayor and Council Members:

When Kronick, Moskovitz, Tiedemann & Girard ("KMTG") was appointed as the City Attorney we disclosed that we have relationships with many local businesses and agencies. One in particular that we identified was the Elk Grove Unified School District ("District"). Our firm represents the District as its general counsel.

This letter is to further discuss the City Attorney's ongoing service to the City of Elk Grove ("City") concerning matters in which the interests of the City and the District are potentially or actually adverse. Those matters include the location, acquisition and development of school sites by the District, the District's efforts to obtain adequate mitigation from new development approved, and the District's policy of opposing the City's approval of new development, within the boundaries of the City and other land use matters, including planning, zoning, code enforcement, public works, building and safety, transportation, drainage, housing and environmental matters and issues (which we will refer to in this letter as "Land Use Matters"). Based on our discussion of these Land Use Matters the ethical rules which apply to our ongoing representation of the City under these circumstances, and the ethical screen we have established to protect client confidences, we request the City's consent to such ongoing representation.

Robert Rundstrom and P. Addison Covert, both partners of the firm, work with the District on various matters. Occasionally they are called upon by the District to provide legal services to the District on Land Use Matters. Messrs. Rundstrom and Covert have been advised by personnel at the District that it is the District's desire that they continue to provide legal services to the District on Land Use Matters.

Under the Rules of Professional Conduct, an attorney may, with the informed written consent of both clients, represent a client in a matter and at the same time represent a different client in the matter whose interest in the matter is adverse to the first client. In other words, KMTG may represent both the City and the District regarding Land Use Matters, if both the City and the District consent. With this letter, KMTG is asking for the City's consent to KMTG's representation of the City and the District in the above referenced "Land Use Matters."

The rules requiring written consent are meant to ensure that the City is informed and comfortable that our representation of the City and the District will not affect KMTG's willingness to zealously pursue the City's interests and to ensure that the City's interests would not be adversely affected. We are confident that this is the case, but the decision is yours to make.

Also, should circumstances arise in the representation of the City and the District, which involve a potential or actual conflict of interest regarding matters not addressed in this letter, it will be necessary for KMTG to obtain the informed written consent of each client, before we proceed with joint representation as to those new matters.

AN ETHICAL "SCREEN" HAS BEEN ESTABLISHED

To comply with the ethical standards applicable to this situation, our firm has implemented and has been operating under what is known as an ethical "screen." Such an ethical "screen" is approved by the applicable rules to ensure that any confidential information concerning the rights, liabilities, or interests of the City or the District regarding Land Use Matters is not exchanged within the firm or discussed without our clients' consent.

The elements of the "screen" that have been established include the assignment of matters to specified professionals, physical separation of professionals, physical and electronic protections against inadvertent disclosure or use of confidential information, and procedures preventing access to confidential information and files.

RESTRICTED ASSIGNMENTS TO SPECIFIC PROFESSIONALS

The legal professionals at our firm impacted by this "screen" are *Tony Manzanetti, Ann Siprelle, Mike Dean, Jeff Mitchell, Bob Murphy, Marilyn Jacobs, Constantine C. Baranoff, Cindy Knighton, , Jon Cristy, Jim Boyd, Dan O'Hanlan, Eric Robinson, Dorothy Landsberg, Anthony Cresap, Andy Pugno, Mark Wasser, Trudy Lim, Leigh Ann Weiss, Cynthia Park, Lacion Henderson and Jennifer Galenti* (hereinafter "City-Assigned Professionals"). City-Assigned Professionals will work exclusively on behalf of the City on Land Use Matters. One or more of these professionals may be called upon to work on other matters for the District, which are unrelated to the Land Use Matters addressed by this letter. The City-Assigned Professionals would not be allowed to work on

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other, unrelated matters for the District, without the prior written consent of the City, if KMTG possesses confidential City information on Land Use Matters material to such work.

Also impacted by these procedures are *Bob Rundstrom, Bob Shelburne, Addison Covert, Ann Murray, Jan Damesyn, Shelly Renner, Donna Matties, Jonathan Hobbs, Bill Chisum, Irene Nubla, Scott Morris, Tom Barth, Kevin Dollison, Roman Munoz, Karen Natal, BarBara Sybert and Justin Fredrickson* (hereinafter “District-Assigned Professionals”). Likewise, District-Assigned Professionals will work exclusively on behalf of the District on Land Use Matters. One or more of these professionals may be called upon to work on other matters for the City, which are unrelated to the Land Use Matters addressed by this letter. The District-Assigned Professionals would not be allowed to work on other, unrelated matters for the City, without the prior written consent of the District, if KMTG possesses confidential District information on Land Use Matters material to such work.

Please note that Marilyn Jacobs has been added to the City side of the ethical screen and Irene Nublia has been moved to the District side of the etheical screen. This change insures that both the City and the District have tax attorneys assigned to one side of the ethical screen. Ms. Jacobs also comes with significant business law experience.

OTHER ELEMENTS OF THE “SCREEN” – SUMMARY

1. None of the attorneys and other professionals involved share an office. All have single occupancy, private offices with interior space that can be secured.
2. The City-Assigned Professionals have agreed to scrupulously refrain from any and all discussions about the City’s confidential information concerning Land Use Matters with the District-Assigned Professionals.
3. Likewise, the District-Assigned Professionals have agreed to scrupulously refrain from any and all discussions about the District’s confidential information concerning Land Use Matters with the City-Assigned Professionals.
4. Confidential Land Use Matters are not and will not be discussed at any firm meetings or gatherings at which any of these professionals are present.
5. All attorneys, paralegals, secretaries and other staff have been informed of their obligation not to share confidential information with respect to Land Use Matters.
6. Confidential City or District related papers, information and files pertaining to the Land Use Matters are not and will not be circulated within the firm or be

accessible generally to any KMTG personnel, except the respective professionals involved in the Land Use Matters.

7. Confidential papers, information and files regarding Land Use Matters will be kept in confidential files in a restricted area of the firm, with access to those files allowed only to authorized KMTG personnel through only Mr. Manzanetti (for the City) and Mr. Rundstrom (for the District).

8. Access to relevant confidential computer files has been restricted so that they cannot be retrieved by any inappropriate attorney or staff member.

9. Appropriate warning memoranda have been, and periodically will be again, circulated among KMTG personnel.

10. Visible, obvious labels (a sample label is shown below) have been affixed to all confidential City and District file folders pertaining to Land Use Matters so that all KMTG personnel are aware of the “screen,” the need for confidentiality and the obligation to honor the “screen.”

Ethical Wall Enforcement

This folder is subject to an ethical wall.
Professionals working on behalf of EGUSD are NOT allowed access. Access is restricted to professionals specifically assigned to work on City of Elk Grove matters.

LITIGATION EXCEPTION

In the unlikely event of litigation between the City and the District arising from Land Use Matters, it would be necessary for the City, the District and KMTG to reassess the status of this representation.

CONSENT

We advise that you consult with independent counsel of your choice, if you desire, regarding the contents of this letter and our joint representation of the City and the District. If, after consideration of the contents of this letter, the City consents to the

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City Council – City of Elk Grove
Re: *Land Use Matters – Waiver / Consent*
March 13, 2002

representation by KMTG on Land Use Matters under the circumstances outlined above, the City should adopt a resolution to that effect. The City's resolution should provide consent on behalf of the City by authorizing and directing the Mayor to sign at the bottom of this letter and return it to KMTG. Representation will also require the corresponding consent of the authorized individual at the District. We have sent a similar letter to the District. An extra original of this letter is enclosed for the City's files.

We have asked the City Clerk to agendaize this item for the City Council's consideration at the January 9, 2002 City Council meeting.

As always, if you have any questions or comments concerning this, please feel free to contact me directly.

Very truly yours,
KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD



ANTHONY B. MANZANETTI
City Attorney

THE CITY OF ELK GROVE, THROUGH ITS CITY COUNCIL, CONSENTS TO ONGOING REPRESENTATION BY KMTG ON THE CONDITIONS DESCRIBED ABOVE.
CONSENT IS HEREBY GIVEN AND ACKNOWLEDGED.

CITY OF ELK GROVE

By: _____
MICHAEL LEARY, MAYOR

cc: City Manager – John Danielson
City Clerk – Peggy Jackson

ABM/PAC/vm/sp

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Cumulative Listing of Matters Behind Ethical Screen

**CITY OF ELK GROVE
LAND USE MATTERS**

Client/Matter #

Matter Name

10784.012	City-County Transition Issues
10784.014	City Office Space
10784.022	Public Works
10784.034	Eden House Care Home
10784.041	Planning – Project Chargeable

Project Code

Project Name

920005410	East Franklin CFD
EG-00-001	Rock Church
EG-00-004	Bell South
EG-00-007	Dixon Landfill-Recycling
EG-00-00A	West Vineyard Public Financing
EG-00-00B	East Franklin
EG-00-00C	Laguna Creek South
EG-00-00C	Disability Advisory Committee
EG-00-00D	Bikeway Advisory Committee
EG-00-00E	Laguna South Fee Program
EG-00-012	Kapalaua Estates
EG-00-017	Newport Beach
EG-00-025	Van Ruiten Acres
EG-00-029	Silver Creek
EG-00-035	Metsoma Laguna Project
EG-00-037	Elk Grove Auto Mall
EG-00-038	Lent Mall Ranch
EG-00-039	Laguna Gateway
EG-00-042	Newport Ranch
EG-00-042	Sheldon Business Park
EG-00-055	Arcadian Village
EG-00-059	Laguna Creek South
EG-00-062	Laguna Ridge
EG-00-072	Grantline - 99 Interchange
EG-00-078	Country Oaks
EG-00-112	Safeway-Windsor Downs
EG-00-208	Metsoma
EG-01-126	Sleepy Hollow
EG-01-129	Ancillary Residence
EG-01-130	Southpointe

Cumulative Listing of Matters Behind Ethical Screen

EG-01-139	Quail Ridge
EG-01-157	Retreat at Valley Hi CC
EG-01-175	BelAir Project
EG-01-177	Chezimme Estates
EG-01-188	Schuler Ranch
EG-01-191	Sheldon Lakes
EG-01-191	Sheldon Lakes
EG-01-195	Laguna Estates
EG-01-200	Fieldstone Unit 2
EG-01-201	Mikey's Christmas Tree Land
EG-01-201	Krispy Kreme
EG-01-203	Waterman and Elk Grove Blvd
EG-01-204	Elk Grove Landing
EG-01-205	Verizon Bruceville
EG-01-206	Kelly-Moore Paint Store
EG-01-207	Harvest Festival
EG-01-209	Stoecker BLA
EG-01-210	Backer Ranch-Boundary Line Adj
EG-01-211	Backer Ranch-Rezone
EG-01-212	Beverages & More!
EG-01-214	Poppy Ridge Plaza
EG-01-215	Calvine Self Storage
EG-01-217	D.R. Stephens & Co.
EG-01-218	Mundell Land & Livestock, Inc.
EG-01-219	Wilton Station
EG-01-220	Verizon Valley Hi Country Club
EG-01-221	Cingular Wireless Big Horn
EG-01-222	East Franklin Specific Plan
EG-01-228	Elk Grove-Backer Ranch
EG-01-229	McDonald 2nd Family Residence
EG-01-232	Waterman Plaza Subdivision
EG-01-233	Chocker 2nd Family Residence
EG-01-234	Stockman's Office Building
EG-01-236	Peabody Civil Engineering
EG-01-237	Machado Dairy
EG-01-238	McDonald Boundary Line Adj.
EG-01-239	Windsor Glen Subdivision Map
EG-01-248	Brake Masters
EG-01-249	Silver Creek Boundary Line Adj
EG-01-263	Morton and Pitalo, Inc.
EG-02-245	Les Schwab Tire Center
EG-02-251	Elk Grove Meadows 2

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Re: *Land Use Matters – Waiver / Consent*
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Cumulative Listing of Matters Behind Ethical Screen

	EG-02-254	Haley Building Development
	EG-02-261	Kaiser Elk Grove Med. Office
	Planning	Planning - General
10784.048	Planning Commission	
10784.055	Housing – General	
10784.056	Swainson’s Hawk Mitigation Fee	
10784.068	Building Safety and Inspection	