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DEL MAR HEIGHTS
LAS VEGAS
PHOENIX
SAN DIEGO
SILICON VALLEY

November 22, 2019

DEMAND TO CEASE AND DESIST

VIA US MAIL & E-MAIL (JOSHUA.HEINLEIN@SDCOUNTY.CA.GOV)

Joshua M. Heinlein
Senior Deputy
County of San Diego
Office of County Counsel
1600 Pacific Highway, Room 355
San Diego, CA 92101

VIA US MAIL & E-MAIL (HERMAN&REDDICK@SDCOUNTY.CA.GOV)

Herman Reddick
San Diego County Fire Authority
5510 Overland Avenue, Suite 250
San Diego, CA 92123

Re: Demand to Cease and Desist Activities at Julian Fire Station 56; APN: 292-011-45-00
("Property")

Dear Mr. Heinlein and Mr. Reddick:

It has come to our attention that the San Diego County Fire Authority ("Fire Authority") has begun performing unauthorized alterations to the Property, including removing landscaping and performing renovations to the Fire Station. The Fire Authority and the County have no authority to take these actions.

The NALC has repeatedly notified the County and the Fire Authority that the Property is subject to a power of termination in favor of NALC, pursuant to the deed conveying the Property by the Frances H. Mosler Trust. As noted in our previous letter to the County, a Notice of Intent to Preserve Interest referencing this right was recorded on September 7, 2018 on the Property and provided to your office. Our office has previously instructed the County and the Fire Authority to vacate the Property (see attached letter dated July 10, 2019). The NALC has invoked its power of termination and the Fire Authority is unlawfully in possession of the Property.

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The NALC has not authorized any occupation or alterations to the Property or the use and occupation by the San Diego County Fire Authority. On behalf of the Native American Land Conservancy ("NALC"), we demand that the County cease and desist all activities at the Property and vacate the Property immediately. The NALC will hold the Fire Authority and the County financially and legally responsible for all violations of NALC's property rights and damages to the Property and all costs incurred in protecting the NALC's property rights, including, but not limited to, attorneys' fees and costs.

We appreciate your good faith in trying to resolve this matter. Should you have any questions regarding this matter, please do not hesitate to call the undersigned.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Theodore J. Griswold", written over a horizontal line.

Theodore J. Griswold

TJG:rsb

cc: Via email
Suedy Alfaro, Senior Deputy County Counsel
Native American Land Conservancy
Kumeyaay Diegueno Land Conservancy

ATTACHMENT: Notice to Vacate Premises Due to Estate Termination, dated July 10, 2019



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San Diego County Fire Authority
5510 Overland Avenue, Suite 250
San Diego, CA 92123

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("Property")

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The NALC has repeatedly notified the County and the Fire Authority that the Property is subject to a power of termination in favor of NALC, pursuant to the deed conveying the Property by the Frances H. Mosler Trust. As noted in our previous letter to the County, a Notice of Intent to Preserve Interest referencing this right was recorded On September 7, 2018 on the Property and provided to your office. Our office has previously requested the County and the Fire Authority to vacate the Property (see attached letter dated July 10, 2019). The NALC has invoked its power of termination and the Fire Authority is unlawfully in possession of the Property.

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The NALC has not authorized any occupation or alterations to the Property or the use and occupation by the San Diego County Fire Authority. On behalf of the Native American Land Conservancy ("NALC"), we demand that the County cease and desist all activities at the Property and vacate the Property immediately. The NALC will hold the Fire Authority and the County financially and legally responsible for all violations of NALC's property rights and damages to the Property.

We appreciate your good faith in trying to resolve this matter. Should you have any questions regarding this matter, please do not hesitate to call the undersigned.

Very truly yours,

Theodore J. Griswold

TJG:rsb

cc: Via email
Suedy Alfaro, Senior Deputy County Counsel
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July 10, 2019

VIA EMAIL & OVERNIGHT MAIL

San Diego County Fire Authority
5510 Overland Avenue, Suite 250
San Diego, CA 92123

Re: Notice to Vacate Premises Due to Estate Termination

Dear San Diego County Fire Authority:

As you are aware, the Property deeded to the Julian-Cuyamaca Fire Protection District ("JCFPD") in 2009 from the Frances H. Mosler Trust, APN 292-011-45-00, conveyed via Fiduciary's Deed to Real Property recorded on June 11, 2009 at the San Diego County Recorder's Office, as Document No. 2009-0316332 (the "Property"), is subject to a power of termination in favor of our client, the Native American Land Conservancy ("NALC"), if JCFPD ever abandons the fire station. A Notice of Intent to Preserve Interest referencing this right was previously recorded on the Property and provided to your office. (See Doc#2018-0370957 recorded September 7, 2018).

It is our understanding that on May 31, 2019, the San Diego County Fire Authority ("SDCFA") sought and obtained a court order to remove JCFPD personnel and presence from the Property in the midst of the legal issues regarding JCFPD's dissolution. On June 1, 2019, SDCFA implemented this order to evict JCFPD from the Property, and SDCFA has denied JCFPD any possessory interest in the Property since that time. As a result, it is our understanding that on June 1, 2019, JCFPD effectively and permanently abandoned the Property and NALC's power of termination was triggered.

By the attached letter, NALC invoked its power of termination to terminate JCFPD's estate with respect to the Property due to JCFPD's abandonment of the Property. JCFPD no longer has any legal claim, right, or interest in the Property.

By this letter, NALC hereby notifies SDCFA of its unlawful possession of the Property, which is lawfully owned by NALC. SDCFA must vacate the premises within two weeks or face legal action from NALC to enforce its rights to evict SDCFA as the owner of the Property in fee simple, including all costs associated with enforcing these rights.

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Please do not hesitate to contact the undersigned at 619.151.3277 or ted.griswold@procopio.com if you wish to discuss this matter further.

Very truly yours,

A handwritten signature in black ink, appearing to read "Theodore J. Griswold".

Theodore J. Griswold

TJG

Enclosure - Notice of Termination Letter

cc: Joshua Heinlein, County Counsel
Native American Land Conservancy
Cory Briggs, Counsel for JCFPD



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July 10, 2019

VIA EMAIL & OVERNIGHT MAIL

Julian-Cuyamaca Fire Protection District
P.O. Box 33
Julian, CA 92036-1623

**Re: Notice of Native American Land Conservancy Exercising Power of Termination for Property
Conveyed Via Deed Recorded on June 11, 2009 as Document No. 2009-0316332
Terminating Any Right Title or Interest of Julian-Cuyamaca Fire Protection District in APN
292-011-45-00 (the "Property")**

Dear Julian-Cuyamaca Fire Protection District:

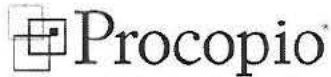
As you are aware, the Property deeded to the Julian-Cuyamaca Fire Protection District ("JCFPD") in 2009 from the Frances H. Mosler Trust is subject to a power of termination in favor of our client, the Native American Land Conservancy ("NALC"), if JCFPD ever abandons the fire station. See language below:

PROVIDED; HOWEVER...[I]f [Julian-Cuyamaca Fire Protection] District permanently abandons the fire station, title to the subject property shall automatically vest in the [Native American Land] Conservancy or the Conservancy's assignee of this right of reverter. (Fiduciary's Deed to Real Property recorded on June 11, 2009 at the San Diego County Recorder's Office, as Document No. 2009-0316332, "Fiduciary's Deed")

In the deed, the power of termination is called a "right of reverter." Automatic rights of reverter have been abolished in California since 1963, when the California legislature replaced them with powers of termination via the Marketable Record Title Act ("MRTA"), Cal. Civ. Code §§ 880.020-887.090. Pursuant to the MRTA, a deed conveying a fee simple determinable with the possibility of reverter estate, such as the Fiduciary's Deed, would be considered a fee simple subject to condition subsequent. A fee simple subject to condition subsequent allows a grantor to "re-enter" if he/she chooses to upon the failing or happening of some condition. This is the "power of termination." Cal. Civ. Code § 885.020.

When the power of termination is vested in a party other than the grantor, such as in the present case, the estate is considered a fee simple subject to an executory interest, which also

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carries a power of termination. Since the power of termination is vested in NALC in the deed,¹ as soon as the condition is triggered by JCFPD, NALC may invoke its right to terminate JCFPD's estate. A Notice of Intent to Preserve Interest referencing this right was previously recorded on the Property and provided to your office. (See Doc#2018-0370957 recorded September 7, 2018).

We understand that on May 31, 2019, the San Diego County Fire Authority ("SDCFA") obtained a court order to remove JCFPD personnel and interests from the Property in the midst of the legal issues regarding JCFPD's dissolution. On June 1, 2019, SDCFA utilized this order to evict JCFPD from the Property and prevent, deny and preclude JCFPD from holding any possessory interest, right, or title to the Property. As a result, it is our understanding that on June 1, 2019, whether voluntarily or not, JCFPD effectively and permanently abandoned the Property and NALC's power of termination was triggered.

This is to inform you that on or after July 16, 2019, our client NALC intends to enter the Property you were previously occupying prior to abandonment, and more particularly described in the Fiduciary's Deed attached hereto. NALC's right to the Property accrued under the Fiduciary's Deed, and NALC invokes its power of termination to terminate JCFPD's estate with respect to the Property due to JCFPD's permanent abandonment of the Property. JCFPD no longer has any legal claim, right, or interest in the Property. Our client will forthwith be filing and/or recording all necessary documents on the Property to vest the appropriate title in our client and to provide appropriate notice of the transfer of ownership. If JCFPD does not vacate ownership of the Property, we will take the appropriate action including but not limited to, a quiet title action.

Please do not hesitate to contact the undersigned at 619.151.3277 or ted.griswold@procopio.com if you wish to discuss this matter further.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ted Griswold", written over a horizontal line.

Theodore J. Griswold

TJG

Enclosure – Fiduciary Deed

cc: Cory Briggs, Counsel for JCFPD
Native American Land Conservancy

¹ Notwithstanding the deed providing the power of termination to NALC, to avoid any confusion in the exercise of the power of termination, the Grantor of the property, the Trustee of the Frances H. Mosler Trust, conveyed any residual interest in the Property held by the Trust to NALC by quitclaim on April 24, 2019, recorded in the San Diego County Recorder's Office as Document No. 2019-0150713. As a result, NALC has the ability to exercise the power of termination as both the grantor and the transferee.