

MINUTE ITEM

This Calendar Item No. C17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 3
1 to 0 at its 1/8/92
meeting.

CALENDAR ITEM

A 20
S 8

C 17

01/08/92
W 24622 AD 171
Plummer
Stevenson

APPROVE A TITLE SETTLEMENT AGREEMENT AFFECTING
A 2.53-ACRE PARCEL OF LAND, CITY OF BRISBANE,
COUNTY OF SAN MATEO;
\$22,500 CONTRIBUTION TO THE KAPILOFF LAND BANK
(P.R.C. SECTION 8600, ET SEQ.)

PARTY:

Society of Jesus
c/o Edgar B. Washburn
55 Francisco Street, Suite 600
San Francisco, California 94133

A title dispute exists between the State of California acting in its sovereign capacity and the Society of Jesus (Society). The dispute regards sovereign title interests which exist in a 2.53 acre parcel of land in the City of Brisbane, San Mateo County. The parcel, which will be referred to throughout this item as the TRUST TERMINATION PARCEL, is in the record ownership of the Society and is covered with a commercial structure and parking. The parcel is shown in Exhibits A and B to this item, which are attached and incorporated by this reference.

The staff of the State Lands Commission has conducted a study of the evidence which bears on title to the TRUST TERMINATION PARCEL, including information relating to its historical condition. The evidence indicates that:

1. The TRUST TERMINATION PARCEL lies waterward of the meander of Rancho Buri Buri. This meander was of the shore of San Francisco Bay.
2. The TRUST TERMINATION PARCEL was included within the perimeter description of Swamp and Overflowed Survey No. 12 for San Mateo County. The land within this survey was never formally conveyed by the United States to California.

3. As it existed before large scale human activities, the TRUST TERMINATION PARCEL lay, at least in part, below the line of ordinary high tides, the precise extent of coverage by the tides being subject to dispute. The TRUST TERMINATION PARCEL is now filled above the tides and is removed from San Francisco Bay. The parcel has a structure on it and is landward of Highway 101.

The staff is of the opinion that the title evidence and applicable legal principles lead to the conclusion that some or all of the TRUST TERMINATION PARCEL was not capable of being sold as swamp and overflowed land and remains subject to a sovereign fee and/or public trust easement. The exact extent of those interests, however, is subject to uncertainty and dispute.

The Society argues that no State sovereign interests ever existed or remain in the TRUST TERMINATION PARCEL. The Society argues that the parcel was never subject to the ordinary tides; that historical maps are difficult to place with accuracy; and that the long continued private use of the parcel raises equitable issues in favor of the Society.

The State and the Society have successfully negotiated a settlement of the title dispute regarding the TRUST TERMINATION PARCEL. This settlement has been formalized in a settlement agreement which is now on file in the Commission's offices. The staff of the State Lands Commission recommends approval of the settlement in substantially the form on file. In summary, the Agreement would have the State terminate any possible sovereign interests in the TRUST TERMINATION PARCEL in exchange for a \$22,500 contribution to the Kapiloff Land Bank Fund for the purchase of other lands suited to public trust needs.

Staff has appraised the TRUST TERMINATION PARCEL and has evaluated the land and the evidence bearing on the title dispute and is of the opinion that the sum of \$22,500 is equal to or greater than the value of the State's interests in the TRUST TERMINATION PARCEL. Staff recommends the Agreement given that the property is well removed from any waterway and lies in an existing commercial zone. It offers no opportunity for access to San Francisco Bay.

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STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is statutorily exempt, pursuant to P.R.C. 21080.11, because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. TRUST TERMINATION PARCEL PLAT.
- B. TRUST TERMINATION PARCEL PLAT (with Assessor's record).

IT IS RECOMMENDED THAT THE COMMISSION:

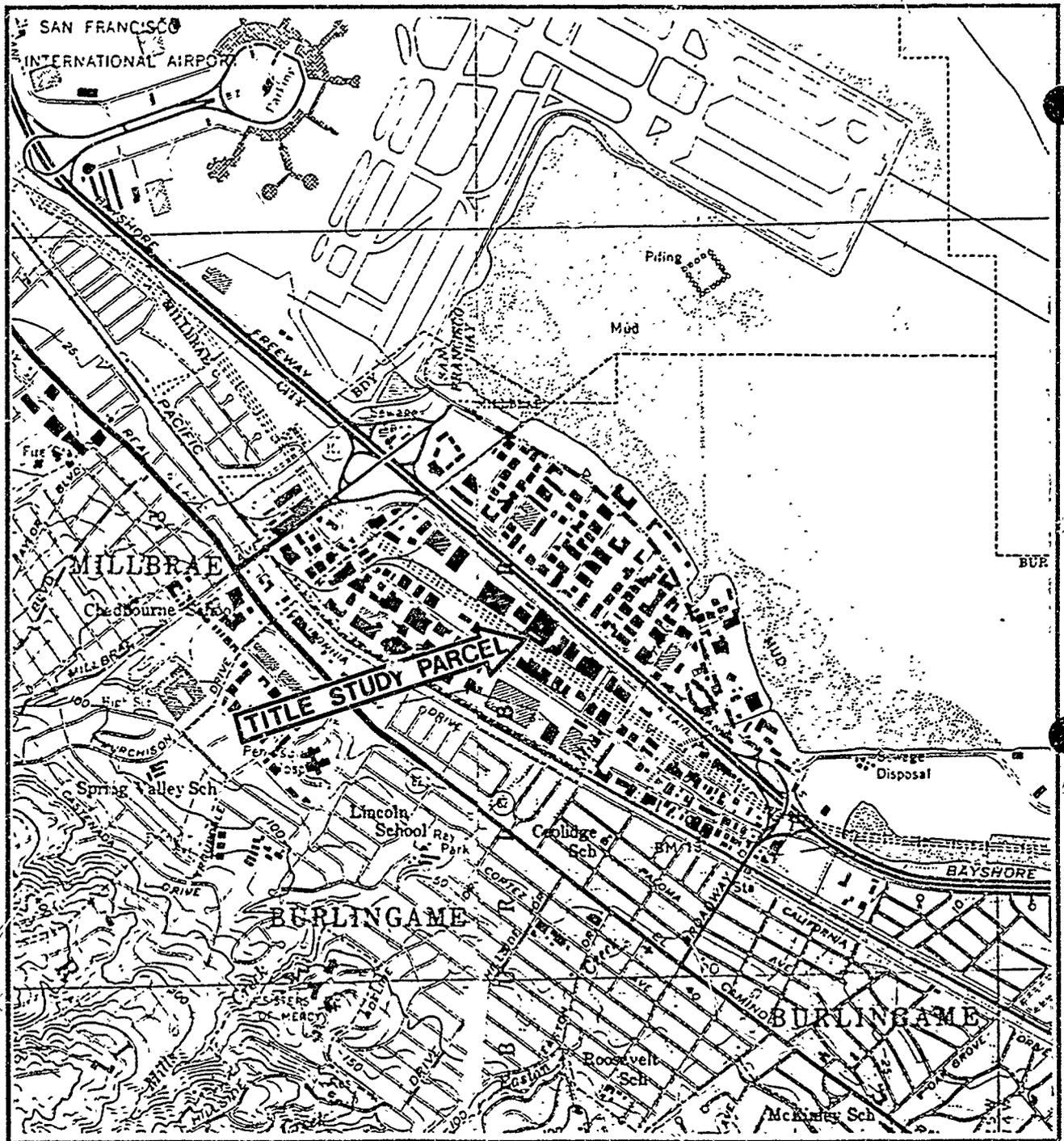
- 1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
- 2. FIND THAT WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE TRUST TERMINATION PARCEL FOR FUNDS WITH WHICH TO BUY AN EXCHANGE PARCEL:
 - A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.

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- B. THAT THE \$22,500 RECEIVED BY THE STATE PURSUANT TO THE AGREEMENT IS EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SETTLEMENT PARCELS BEING RELINQUISHED BY THE STATE.
 - C. THE TRUST TERMINATION PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE TO BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDELAND OR SUBMERGED LAND.
 - D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE PARCEL.
 - E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.
 - F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
 - G. ON RECORDATION OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE TRUST TERMINATION PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST SHALL BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. IF NECESSARY, A PATENT OF THE TRUST TERMINATION PARCEL IN SAN MATEO COUNTY FREE OF THE PUBLIC TRUST.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT,

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ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS
MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE
TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE
COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT
MATTER OF THE AGREEMENT.



STATE LANDS COMMISSION

SETTLEMENT PLAT

A portion of USGS Quad SAN MATEO 1956, PR 80



Prepared by: B. Lea

Date: 12-26-91

A: 20 S: 8

EXHIBIT A

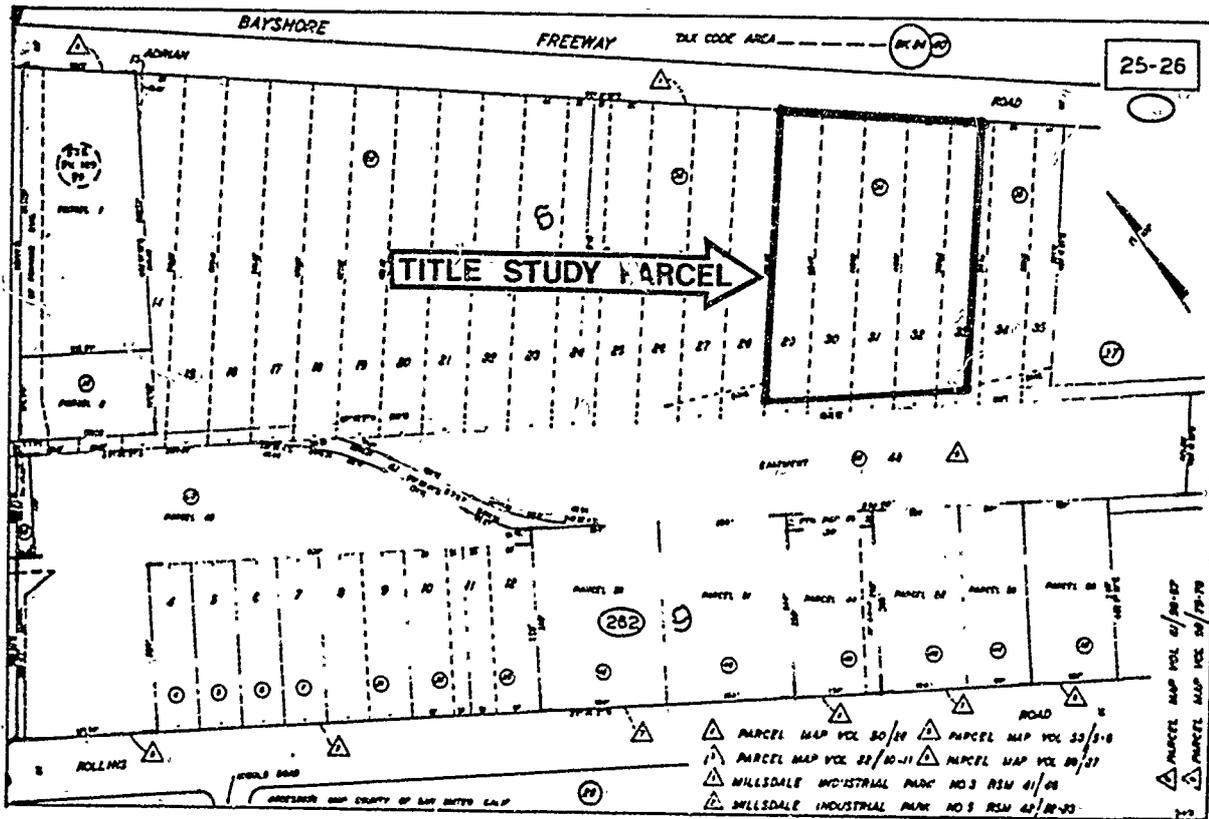
Title Study. SOCIETY of JESUS:

W 24622

73 - N40 - E145

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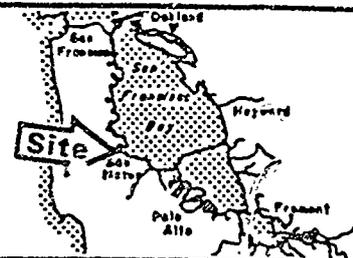
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PARCEL NO.	TRA	OWNER ADDRESS (N-MAIL, P-PROP LOC, S-SAME) PROPERTY DESCRIPTION	ZIP	DOCUMENT DATE / NO. SALE DATE / AMOUNT	ASSESSED VALUES	LOT SIZE APP SIZE
025 262 34	4 002	CA, JT FAVORITE OF SOC OF JESUS ET AL P O BOX 510, LOS GATOS CA R 1611 ADRIAN RD, BURLINGAME 2.58 AC NOW BEING PTN OF LOTS 29 30 31 32 33 MILLSDALE INDUSTRIAL PARK NO 3 RSM 41/45-48 -- LIGHT INDUSTRIAL/MANUFAC --	95031	2/27/97 USE-31 BLK 6 ZONE-ML-M1	873,085 LMO 11M 940,121 NET	2.58

STATE LANDS COMMISSION
SETTLEMENT PLAT

1990-91 San Mateo County Assessor's Map Book 025, page 26,
parcel 262-34.



Prepared by: B. Lee Date: 12-26-91 A: 20 S: 8

EXHIBIT B

Title Study: SOCIETY of JESUS W 24622

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