



CAPISTRANO UNIFIED SCHOOL DISTRICT

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September 24, 2015

Mr. Paul S. Borzcik
Foreman
Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, California 92701

Re: Response to Orange County Grand Jury Report, *Mello-Roos: Perpetual Debt Accumulation And Tax Assessment Obligation*, 2014-2015.

Thank you for your report. We noted the report's findings as follows:

- F.1.** There is a lack of transparency to homeowners relative to how CFD funds are being used.
- F.2.** There does not seem to be appropriate oversight and auditing of CFDs and special tax expenditures within the County of Orange.
- F.3.** While the assumption is that the CFD debt would be repaid in a finite period of time, there is a mechanism available to controlling entities to extend debt obligations and thereby extend the CFD special tax in perpetuity.

We understand we've been given the following directions to guide our responses to these findings:
As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Response to F.1:

- (2) We disagree with the findings – “how CFD funds are being used” are published in multiple reports:
 - 1) CFD expenditures are reported in the District's financial statements in the “Capital Projects Fund for Blended Component Units”. The aggregated financial activity of this fund is published annually in the District's audit reports – including assets, liabilities, revenues, and expenditures. Audit reports are available to the public on both the District's website and it's public disclosure website.
 - 2) Expenditures for each CFD individually are reported in the District's CFD administration reports – including debt payments, facilities projects, and administrative services. The reports are prepared annually and available from the District's business office upon request.
 - 3) More detailed information on specific facilities project expenditures is also reported in public meetings to the Board of Trustees on a monthly basis, and are accessible on the District's website or available from the District's business office upon request.

Response to F.2.

- (2) We disagree with the findings – CFD expenditures are recorded in the District's financial statements in the “Capital Projects Fund for Blended Component Units”. The financial activity of this fund is audited annually and published annually in the District's audit reports. While not having a special oversight or appeals committee unique to the CFDs, additional oversight is provided by, and appeals managed by, the Board of Trustees, which receives detailed reports on the financial activity of the CFDs in public meetings.

Response to F.3.

(2) We disagree partially with the findings. As currently written, California Government Code requires the special tax to have a finite end date, stating the following in regard to the resolution of intention to establish the district:

“the resolution shall specify a tax year after which no further special tax subject to this sentence shall be levied or collected” (California Government Code Section 53321(d)).

That said, while existing law requires the special tax to have an end date, some CFDs may have had a formation date that preceded this statutory requirement.

In Capistrano Unified School District, all CFDs have an end date – either established in the resolution of intention or subsequently established by the Board of Trustees.

We noted the report’s recommendations as follows:

R.1. Each local agency that established the CFD should create an oversight committee and an audit committee to provide for an independent, transparent view of the manner in which CFD funds are being expended.

R.2. Audit report information, as delineated in California Government Code, 1982 § 53343.1, should be made available to the CFD taxpayers on a website after each fiscal year for each CFD number.

We understand we’ve been given the following directions to guide our responses to these recommendations:

As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Response to R.1:

(3) The recommendation requires further analysis – the District is establishing a community committee to review and make recommendations to the Board of Trustees regarding school facilities and facilities funding sources (including CFDs). Oversight and accountability will be a topic of discussion at this committee. The District will include the Grand Jury’s recommendation as a discussion item for the committee. The committee will then prepare a report with recommendations to the Board of Trustees. The timeframe shall not exceed six months from the date of publication of the Grand Jury report. The report itself is not dated, but we believe the report to have been published on June 29, 2015. Therefore, the timeframe shall not exceed December 29, 2015.

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Response to R.2:

(3) The recommendation requires further analysis – although the District publishes CFD expenditure information in multiple reports, the information delineated in California Government Code Section 53343.1 is more detailed than what the District currently provides. The District will research the time and cost of District staff and its Special Tax Consultant to provide the additional detailed information in an annual report. This research will be reviewed by the Deputy Superintendent of Business and Support Services, who will then present this as an information item to the Board of Trustees for consideration. The timeframe shall not exceed six months from the date of publication of the Grand Jury report. The report itself is not dated, but we believe the report to have been published on June 29, 2015. Therefore, the timeframe shall not exceed December 29, 2015.

If you have further questions, please feel free to contact me. Thank you.

Sincerely,



Clark Hampton
Deputy Superintendent, Business and Support Services
Capistrano Unified School District