

MINUTE ITEM
This Calendar Item No. 38
was approved as Minute Item
No. 38 by the State Lands
Commission by a vote of 3
to 0 at its 10-21-87
meeting.

CALENDAR ITEM

A 9
S 3

38

10/21/87
W 23880 AD 68
R. Okikawa

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CONCERNING LANDS WITHIN THE CITY OF NOVATO,
COUNTY OF MARIN, PURSUANT TO THE KAPILOFF
LAND BANK ACT, P.R.C. SECTION 8600, ET SEQ.

APPLICANT: Mr. Mohammad Afrand
c/o Sandi Nichols, Esq.
Washburn & Kemp
P. O. Box 880130
San Francisco, California 94188

A title dispute exists between the State, in its sovereign capacity and Mr. Mohammad Afrand concerning approximately 1.84 acres of real property located at 1420 South Novato Boulevard in the city of Novato, County of Marin, California, shown on Exhibit "A" and hereafter referred to as the Settlement Parcel.

Mr. Afrand claims to be the current owner of the Settlement Parcel, as successor-in-interest to parties who received a State patent characterizing the lands as salt marsh and tidelands, and to patentees of Rancho San Jose. Mr. Afrand contends that he owns the parcel free and clear of any State interest.

Commission staff has conducted a study of the evidence of title to the Settlement Parcel and has concluded that, in its last natural condition, at least in part, it was subject to the tides of San Pablo Bay. Based upon this conclusion and applicable legal principles, staff has concluded that the State, in its sovereign capacity, has some public trust interest in the Settlement Parcel, the existence, extent and location of which are disputed by Mr. Afrand.

The Settlement Parcel consists of two subparcels as depicted in Exhibit B, attached hereto and by this reference made a part hereof. First there is the 1.06 acre "front parcel" which is adjacent to and extends perpendicular from South Novato Boulevard. Next is the .78-acre "rear parcel" which is

(ADDED 10/20/87)

-1-

CALENDAR PAGE	328
MINUTE PAGE	3798

CALENDAR ITEM NO. 38 (CONT'D)

adjacent to the front parcel and also extends perpendicular from South Novato Boulevard.

The front parcel is presently zoned AP (Administrative-Professional) with maximum lot size of 10,000 square feet. Land uses allowed under this classification include the construction of basic commercial office buildings.

The rear parcel is zoned AP-F3 (Administrative-Professional, in a minor flood zone). Most of the same zoning restrictions under the A.P. classification apply to this parcel, with the exception of possible mitigation measures for the potential loss of wetland areas.

The Settlement Parcel is traversed in part by Lynwood Creek, a small drainage channel that transports fresh water run-off from South Novato and the adjacent foothills through two 48-inch concrete culverts under South Novato Boulevard to the Novato Creek drainage basin.

The Department of Fish and Game staff has represented that they have no objections to this title settlement.

The Settlement Parcel is located landward of State Highway 101 in a commercially developed area, and is separated from San Pablo Bay by substantial filled and improved lands.

In order to resolve title issues between the State and Mr. Afrand, Mr. Afrand has offered to enter into a Compromise Title Settlement Agreement substantially in the form on file with the Commission, which provides generally as follows:

1. The State will quitclaim all its right, title and interest in the Settlement Parcel to Mr. Afrand in order to facilitate the settlement of the subject title dispute.
2. In exchange for the above quitclaim deed, Mr. Afrand will deposit \$21,500 into the Kapiloff Land Bank Fund which is administered by the State Lands Commission as trustee pursuant to Public Resources Code, Section 8600 et seq.

Staff has appraised the Settlement Parcel and has evaluated the law and evidence bearing on the title dispute, and is of the opinion that the money to be received by the State is greater than or equal to the value of the interest being released by the State.

CALENDAR ITEM NO. 38 (CONT'D)

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Settlement Parcel Plat.
- B. Settlement Parcel Plat (Subparcel classification).

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY 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:
 - A. THE SETTLEMENT PARCEL HAS BEEN RECLAIMED, FILLED, AND IN THE CENTER OF A COMMERCIAL USE AREA, AND HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED, FOR NAVIGATION AND FISHING, AND IS NO LONGER, IN FACT, TIDE OR SUBMERGED LAND.
 - B. THE PAYMENT OF \$21,500 TO BE RECEIVED BY THE STATE FROM MR. AFRAND, PURSUANT TO THIS AGREEMENT, IS EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST IN THE SETTLEMENT PARCEL BEING RELINQUISHED BY THE STATE.
 - C. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE PARCEL.
 - D. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.

(ADDED 10/20/87)

-3-

CALENDAR PAGE	328.2
MINUTE PAGE	3906

CALENDAR ITEM No. 38 (CONT'D)

- E. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF THE TITLE LITIGATION, IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
- F. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SETTLEMENT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OF APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, 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.

(ADDED 10/10/87)

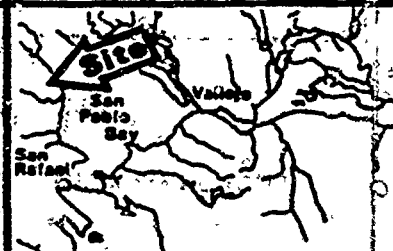
-4-

CALENDAR PAGE	328.3
DATE PAGE	3801



STATE LANDS COMMISSION
SETTLEMENT PARCEL PLAT

A portion of USGS Quad Novato, P.R. 1980



Prepared by: JK:ering

Date: 10-16-87 A: 9 S: 3

EXHIBIT A

Title Study AFRAND / NOVATO

W 23880

73 -N-58E 140

SHEET 1 OF 2

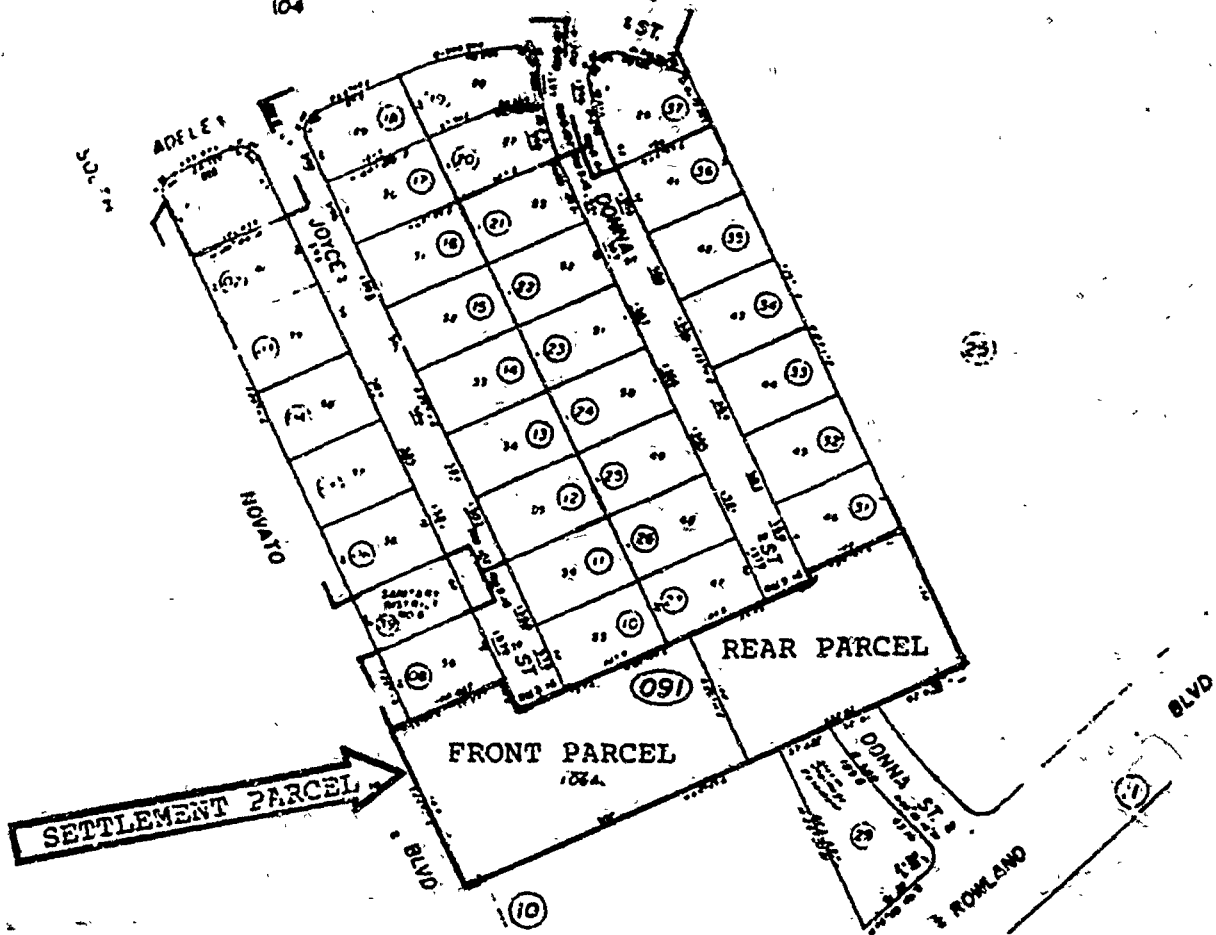
LENDAR PAGE

328.4

MINUTE PAGE

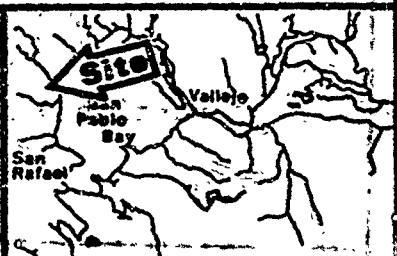
3802

PTN RANCHO SAN JOSE



ASSESSOR'S PARCEL NUMBER	TAX AREA	OWNER'S NAME	LAND USE / PROPERTY CLASS	VERIFIED SALES	SALE AMOUNT	TOTAL VALUE - TV
CURRENT HOME		PHONE #	LOT SIZE / ACRES / SQFT	AMOUNT	DATE	LAND VALUE - TV
MAILING ADDRESS		YEARS WITH	STATISTICAL INFORMATION	DATE	TYPE	STREET VALUE - TV
PROPERTY LOCATION		PHONE #	IMPROVEMENT INFORMATION	DATE	TYPE	TOTAL VALUE - TV
112-081-09	10-017		10 - 1 FAMILY RESID		01-87	6177-0774
AS BOND REDEVELOPER FARMER			3.840-ACRES		01-87	6177-0774
1 PACIFIC EQUITIES GROUP					01-87	6177-0774
240 TARGE VISTA BLVD #110					01-87	61,547,827/85
CORTE RANCHO CA 94925					01-87	
112-081-28	10-017		10 - 1 FAMILY RESID		01-87	6187-16176
AS BOND REDEVELOPER FARMER					01-87	6187-16176
1 PACIFIC EQUITIES GROUP					01-87	61,176,747/85
240 TARGE VISTA BLVD #110					01-87	
CORTE RANCHO CA 94925					01-87	

STATE LANDS COMMISSION
 SETTLEMENT PARCEL PLAT
 PARCEL CLASSIFICATION
 PORTION OF MARIN COUNTY ASSESSOR MAP BOOK 152, PAGE 09
 (PARCELS 09 & 28)



Prepared by: JK Rering Date: 10-16-87 A: 9 S: 3

EXHIBIT B

Title Study AFRAND / NOVATO W 29880

Z3 - N58 - E140