



**DRAFT Responses to Findings and Recommendations
2021-22 Grand Jury Report:**

“County Land Transactions: Will the Public Notice?”

SUMMARY RESPONSE STATEMENT:

On June 9, 2022, the Grand Jury released a report entitled “County Land Transactions: Will the Public Notice?”. This report directed responses to findings and recommendations to the Orange County Board of Supervisors. The responses are below:

FINDINGS AND RESPONSES:

- F1. Public land trust dedications and other conservation easements affecting County land are not always properly recorded in County or State records, which impacts later County land sales decisions and notice requirements.**

Response:

Disagrees partially with finding. Prior to completing any sale of County land, the County fully reviews all applicable internal and external records related to the property, including reviewing title reports. The County is unaware of any deficiencies in its processes related to such review. The County cannot speak to the completeness or proper recordation of the State’s records.

- F2. Owing to the influence of the office of the District 2 Supervisor at the time, the Board of Supervisors Staff Report and the OC Parks Commission Staff Report prepared for the 2021 potential sale of Newport Beach Back Bay parcel APN 439-051-14 were conclusory, incomplete, and contained inaccurate statements.**

Response:

Disagrees wholly with finding. Staff reports for the Board of Supervisors (“Board”) and the OC Parks Commission (“Commission”) are prepared by County staff based on staff’s own research and analysis to ensure that the facts contained therein are accurate. As a matter of procedure, County staff conduct real estate investigations, including research and review of appraisals, real estate instruments, title reports, etc. when producing reports that are presented to the Board and the Commission on real property transactions. The staff reports submitted to the Commission and the Board regarding this potential sale are not conclusionary, incomplete or contain inaccurate

statements. Neither the Second District Supervisor nor their office exercised any improper influence.

- F3. Posting and notice requirements by the State and County fail to provide adequate information to interested citizens of the proposed sale of public land designated for park or open space use.**

Response:

Disagrees wholly with finding. The County complied with all legal requirements for posting and noticing. The fact that the public was aware and submitted a petition in response to the Park Abandonment Act issue shows that the posting and noticing achieved its ends of facilitating public involvement in the process.

- F4. There is no public record of the State Coastal Commission being notified of the potential sale of a parcel of the Newport Beach Back Bay which was in the Commission's jurisdiction.**

Response:

Disagrees partially with finding. While the County is not aware of any specific notice being provided to the California Coastal Commission, the County is also not aware of a requirement that the California Coastal Commission be provided notice of the transaction.

- F5. By allowing the owner-installed fence surrounding APN 439-051-14 to remain in place, the County has permitted the homeowner to inappropriately privatize this parcel at no cost to the homeowner and in a manner inconsistent with the well-established public trust designation.**

Response:

Disagrees partially with finding. The County agrees that the owner-installed fence that has enclosed parcel APN 4359-051-14 for many decades has not been removed. The focus of the Board item on this issue was primarily focused on the matter of property conveyance rather than the chain link fence. County staff have indicated that there are no public recreational amenities located on the fenced-in real property.

RECOMMENDATIONS AND RESPONSES:

- R1. CEO Real Estate should ensure that conservation easements, designations of public trust land, and similar restrictions are properly researched and recorded with the County Recorder prior to any sale. F1 Timeline: Immediate and ongoing.**

Response:

The recommendation has been implemented. County staff conduct real estate investigations, including research and review of appraisals, real estate instruments, title reports, etc. when producing reports that are presented to the Board and the Commission on real property transactions. Any conservation easements or designations of public trust that are required to be recorded on County real property will continue to be so recorded.

R2. The Orange County Board of Supervisors, CEO Real Estate, and OC Parks Commission should establish and follow procedures to ensure that staff reports are factually accurate, complete, and include any conservation easements or public trust designations. F2 Timeline: Immediate and ongoing.

Response:

The recommendation has been implemented. County staff reports should be factually accurate, complete, and include any conservation easements or public trust designations, and procedures are already in place to address this need. County staff conduct thorough research in preparing and presenting staff reports for Board and Commission consideration. The process of developing staff reports includes the verification of information by multiple staff members and across various County departments when applicable. Further, County staff conduct real estate investigations, including research and review of appraisals, real estate instruments, title reports, etc. when producing reports that are presented to the Board and the Commission on real property transactions. County staff with expertise in relevant discussion items also attend Board and Commission meetings in order to provide additional information and respond to inquiries. During public meetings, County staff are fully engaged and are available to answer questions. In the event that further research is required, the Board or Commission is able to request that County staff conduct further investigation and return at a future meeting to provide more information when needed.

R3. Private individuals attempting to purchase public park land that will not be put up for public auction should pay for mailings of the relevant Board of Supervisor Resolution (including photographs accurately and clearly depicting the subject property) to all owners of property adjacent to the subject property and all property/homeowners within one-quarter mile radius (1,320 feet) of the subject property. F3 Timeline: Effective date no later than December 31, 2022.

Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. The County Park Abandonment Ordinance contains noticing procedures that are consistent with the law set forth in the State Park Abandonment Act. The County does, and will continue to, comply with applicable law when noticing land transactions. The additional cost to the County and/or a private individual does not appear warranted. In addition, in the present instance the County complied with all legal requirements for posting and noticing. The fact that the public was aware and submitted a petition in response to the Park Abandonment Act issue, shows that the posting and noticing achieved its ends of facilitating public involvement in the process.

- R4. In addition to the posting requirements found in Section 2-5-301 of the County's land abandonment ordinance, during the same proscribed time, CEO Real Estate should post copies of the relevant BOS resolution around the perimeter of the subject property in a conspicuous manner and at reasonable distance intervals as determined by CEO Real Estate. CEO Real Estate should take the following additional measures: check the status of the posting at least once during the posting period and maintain photographs documenting the postings. F2 Timeline: Immediate.**

Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. As stated above in response to Recommendation R3, the County Park Abandonment Ordinance contains noticing procedures that are consistent with the law set forth in the State Park Abandonment Act. The County does, and will continue to, comply with applicable law when noticing land transactions. The additional cost to the County and/or a private individual does not appear warranted. In addition, in the present instance the County complied with all legal requirements for posting and noticing. The fact that the public was aware and submitted a petition in response to the Park Abandonment Act issue, shows that the posting and noticing achieved its ends of facilitating public involvement in the process.

- R5. The CEO Real Estate website should list all proposed land transactions and provide a link to the related Board of Supervisors Resolution and transaction documents, if any. F3 Timeline: Effective Date no later than December 31, 2022.**

Response:

The recommendation has been implemented. CEO Real Estate has an external website on which any available Requests for Proposals or available property is posted. This procedure will be followed when there is an agenda item to be proposed to the Board for approval of the sale of real property to a private party. In such event, a notice will be posted on the CEO Real Estate website at ocreprojects.com.

- R6. CEO Real Estate should establish and follow a procedure to notify the Coastal Commission and any other applicable agency at least 45 days in advance of a Board of Supervisors vote to sell any public land that has been entrusted to that agency. F4 Timeline: Effective Date no later than December 31, 2022.**

Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. The County Park Abandonment Ordinance contains noticing procedures that are consistent with the law set forth in the State Park Abandonment Act. The County does, and will continue to, comply with applicable law when noticing land transactions.

- R7. The Orange County Board of Supervisors should order the removal of the chain link fence surrounding APN 4359-051-14 along with any other encroachments on that parcel to return the land to its natural (original) state. F5 Timeline: Removal to occur on or before December 31, 2022.**

Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. The property at issue is a slope that has no public recreational amenities located on the fenced-in real property, and provides no public park benefit. In addition, the relocation of the fence may result in the loss of a portion of an adjacent equestrian trail that meanders onto private property from County property.