

# MOSMA AND MCA COMPLETE CASTLE AND COOKE NEGOTIATIONS WITH MEMO OF UNDERSTANDING

Thumbnail Background Summary:

November 1999

Ignoring the Brentwood-Pacific Palisades Plan Update, which places limits on development in precipitous mountain areas, Castle and Cooke announced plans to build 117 homes, cut down two ridge lines, fill Bundy Canyon with one hundred and fifty million cubic yards of earth, and put a road across the Canyon.

The Mountaingate Community Association called a meeting with three hundred and fifty Mountaingate residents, Councilperson Cindy Miscikowski, and the developer's representatives present. After that meeting, the decision was made to oppose the development as presented. In a series of hearings at the Planning Commission, the City Council's Planning and Land Use Committee, and finally, the City Council, MCA organized and provided buses so residents could be present. A letter-writing campaign was also conducted. Supported by Ms. Miscikowski and City Attorney Jim Hahn, MCA won three consecutive unanimous decisions to deny the developer the right to develop the property unless he adhered to the Brentwood-Pacific Palisades Plan. Castle and Cooke responded by filing suit against the City of Los Angeles.

The Mountaingate Open Space Maintenance Association (MOSMA), using its assessment power, and with the approval of the membership, joined the battle. Top legal representation (Arnold and Porter) was hired. Supporting the City's position, we petitioned the court, and won the right to act as intervenors in the case.

Before the case was tried, Castle and Cooke, through Councilperson Cindy Miscikowski's office, asked MOSMA and MCA to negotiate. MOSMA and MCA accepted. The negotiation lasted over five months before an agreement was reached.

The Mountaingate Open Space Maintenance Association, charged with protecting the safety, environment and well-being of residents, and the Mountaingate Community Association, Mountaingate's activist political organization, have now signed a Memorandum of Understanding with Castle and Cooke. That agreement recognizes the rights and obligations of both sides in the dispute.

Your organization president has the full text of the Memorandum of Understanding. Here are the highlights:

- Castle and Cooke will withdraw its suit against the City of Los Angeles.
- Castle and Cooke will agree to the Brentwood-Pacific Palisades Plan Update, drop its intention of building 117 homes, and agree to "up to 29 homes," with five on the "Canyonback" side of Bundy Canyon, and "up to 24" on the Stoney Hill side.
- Castle and Cooke will not fill Bundy Canyon, will lower the cubic yards of earth to be moved by approximately half, and will not "bridge" the canyon.
- Castle and Cooke and MOSMA-MCA agree to accept the decisions of the City of Los Angeles as they apply to three elements: (1) The proximity of homes in the development to the existing landfill and methane. (2) The determination of whether or not the developer has previously received "open space credit" for this site. (3) A ruling on the applicability of conditional uses as they apply to building on the western side of the ridge where the landfill is located.

- Castle and Cooke agrees that they will improve a two-lane, paved access road to provide emergency egress.
- Castle and Cooke agrees to allow a MOSMA geologist and/or engineer to be present on site to examine ongoing work at certain milestones during construction of the development.
- Castle and Cooke agrees that, beyond those elements, MOSMA-MCA may protest or make objections before any and all city regulatory agencies, as well as the City Council, to any other items in the focused E.I.R., including, but not limited to, those pertaining to grading, geology, drainage, methane, and general safety and traffic.
- Castle and Cooke and MOSMA-MCA agree that either side may litigate issues which are not resolved to their satisfaction.
- MOSMA agrees that they will accept for annexation, and provide the customary services to the contemplated Castle and Cooke development, subject to the usual terms and conditions.
- MOSMA-MCA agree to assist Castle and Cooke in transferring to the Santa Monica Mountains Conservancy all remaining open space owned by Castle and Cooke, and to provide assistance in seeking a tax benefit for that gift.
- Castle and Cooke agrees that there will be no further development of the Mountaingate property.

Those items, in essence, are part of the Memorandum of Understanding. MOSMA and MCA believe that the agreement is fair to both sides, and that Castle and Cooke took part in the negotiations in good faith.

Castle and Cooke estimates that it will be at least two years before they can begin construction on the site. Ahead of us is the entire E.I.R. process. Our Engineer, Jim Mitchell, and our geologist, Jim Slosson, both at the top of their professions, will monitor activity in their areas of expertise. Brian Condon of Arnold and Porter will continue as our counsel.

All residents, of course, will be kept informed. The membership-approved, and currently scheduled additional assessment by MOSMA will be postponed until all funds on hand have been expended. When our efforts in connection with this project are completed, any unexpended funds will be returned to the membership.

Bob Rieth, President of MOSMA, Louise Frankel, President of MCA, and Ernie Frankel, Past President of MOSMA, negotiated the agreement.