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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

JEFFREY POWERS, et al.,) Case No. LA CV 22-08357-DOC
) (JEMx)
Plaintiffs,)
) Los Angeles, California
vs.)
) Wednesday, October 2, 2024
DENIS RICHARD MCDONOUGH,)
et al.,) (1:36 p.m. to 2:54 p.m.)
)
Defendants.)
_____)

TRANSCRIPT OF HEARING ON INJUNCTIVE RELIEF
BEFORE THE HONORABLE DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

Appearances: See next page.
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1 Los Angeles, California; Wednesday, October 2, 2024 1:36 pm

2 --o0o--

3 (Call to Order)

4 THE COURT: All right. We're on the record in the
5 matter of Jeffrey Powers, et al., versus Denis Richard
6 McDonough, and, Counsel, just remain seated. Since we're on
7 CourtSmart, we just need your name when you speak. So,
8 please.

9 MR. SILBERFELD: Roman Silberfeld for the
10 Plaintiffs, your Honor.

11 THE COURT: Okay.

12 MR. ROSENBAUM: Good afternoon. Mark Rosenbaum
13 for Plaintiffs.

14 THE COURT: Thank you.

15 MS. PIAZZA: Amelia Piazza for Plaintiffs.

16 THE COURT: Thank you.

17 MR. ROSENBERG: Good afternoon, your Honor. Brad
18 Rosenberg from the Department of Justice for the federal
19 Defendants.

20 THE COURT: Thank you.

21 MR. KNAPP: Cody Knapp, also for the federal
22 Defendants.

23 MR. GUADIANA: Good afternoon, your Honor. Ernest
24 Guadiana on behalf of intervenor Bridgeland Resources.

25 MR. MCCORMICK: Good afternoon, your Honor. Sean

1 McCormick, also for intervenor Bridgeland Resources.

2 THE COURT: All right. Thank you. And --

3 MR. MCCORMICK: And we also have, your Honor, some
4 representatives from the --

5 THE COURT: Why don't you name them. They were
6 here before, but, out of courtesy.

7 Dr. Harris.

8 MR. HARRIS: Sorry. It's always on.

9 THE COURT: Okay.

10 MR. HARRIS: Good afternoon, your Honor. Keith
11 Harris with the VA.

12 THE COURT: Good afternoon.

13 Ms. Black.

14 MS. BLACK: Chelsea Black with VA.

15 THE COURT: Thank you.

16 MR. HARLTON: Reese Harlton (phonetic) with the
17 VA.

18 THE COURT: Thank you.

19 MR. MERCHANT: Bob Merchant (phonetic), VA.

20 THE COURT: Thank you for being here.

21 And Mr. Miller.

22 MR. MILLER: Yes, your Honor. Skip Miller
23 appearing specially for Brentwood School. My client, Adam
24 Cohn, is here, too.

25 THE COURT: Okay. Thank you very much. Why don't

1 you have a seat.

2 MR. MCCORMICK: And one other note, your Honor.
3 John Kuhn and Andrew Strain (phonetic) are also here today.

4 THE COURT: Where is he located?

5 MR. MCCORMICK: Mr. Kuhn is in the back, and Mr.
6 Strain is --

7 THE COURT: Okay. More than welcome to be
8 present.

9 Counsel?

10 MR. SANDLER: Jonathan Sandler, also for
11 Brentwood.

12 THE COURT: Brentwood. Okay.

13 On the last occasion, the Court had expected the
14 parties to have had discussions. Those discussions had not
15 taken place, so we went through a dialogue where the Court
16 was really asking a lot of questions. I'm going to turn
17 this over to the parties today. So where do you want to
18 start? And I know you've been discussing, because the
19 special master has told me that you were in some discussion,
20 and I had that conversation just yesterday.

21 MR. SILBERFELD: Well, a lot has happened even
22 since yesterday. So, since last week, representatives of
23 the Plaintiffs and representatives of Brentwood have met, I
24 think, every day, sometimes in person, sometimes multiple
25 times during the day, and we have reached a term sheet for

1 the continued presence of Brentwood School on terms we can
2 describe on the property.

3 As yet, since that term sheet was finalized last
4 night, although it's been sent to VA, VA has not had a
5 chance to fully review it and sign off on it. There are
6 several lawyers of sign-off that have to occur, but that is
7 in the works. It is a proposal that the Plaintiffs' lawyers
8 recommend to the class.

9 The class representatives have not yet had a full
10 opportunity to see and digest the entirety of the term
11 sheet, and the full long-form settlement agreement has not
12 yet been created, and, obviously, that needs to happen as
13 well before we make any motions to the Court for approval of
14 a settlement, but that's where we are. I'll let Mr. Miller
15 address --

16 THE COURT: Okay. Thank you.

17 MR. MILLER: Thank you. I agree with all that.
18 That's all accurate and true. I just would add that the
19 term sheet is quite detailed, quite specific. It addresses
20 the issues that we discussed with the Court and discussed
21 extensively with the Plaintiff.

22 We're actually very -- Brentwood School is very
23 pleased to do this. We care a lot about the veterans. We
24 want to continue to interact with the veterans, and we want
25 to march forward without litigation, in a cohesive, friendly

1 way, the way we have in the past, and expand that going
2 forward into the future.

3 That's basically it. We worked really hard over
4 the weekend. My office, you know, my colleague here really
5 carried the ball with the drafting and the writing of it.
6 It's about a four-page detailed term sheet, which we now
7 have to get approval from the VA. VA is obviously integral
8 to it. We had a discussion with them this morning to start
9 that process. I'll let them speak for themselves. And I
10 expect to go forward, and I expect it to be a win-win for
11 everybody, your Honor.

12 THE COURT: Okay.

13 MR. ROSENBERG: Good afternoon, your Honor. Brad
14 Rosenberg from the Department of Justice. As counsel have
15 indicated, we received the term sheet last night, and have
16 started the process of reviewing it this morning.

17 THE COURT: All right.

18 MR. ROSENBERG: VA will need to have some input on
19 the terms of the agreement, with the anticipation that VA or
20 the United States would ultimately be a signatory to any
21 agreement.

22 You know, we commend Plaintiffs' counsel and
23 counsel for Brentwood for the efforts that they've made over
24 the last few days. I have had the opportunity to
25 participate in at least a couple of their calls, although I

1 know they've had many, many calls, and so I know that they
2 have been working really hard on this.

3 I will note that we do anticipate that VA will
4 have some substantive comments that will need to be
5 incorporated, so there are some issue that will be need to
6 be worked through, although, based on what I know now, I
7 don't foresee any of them being insurmountable at this time,
8 but we need VA to have the opportunity to be able to provide
9 that input.

10 And then, as a flag, last time, of course, once an
11 agreement is reduced to writing -- and sometimes the devil
12 is in the details -- any approval of that agreement has to
13 come from an approving official within the Department of
14 Justice. So that process will take a little bit of time as
15 well, but we're prepared to engage with Plaintiffs and with
16 Brentwood now to try to move that process along as
17 expeditiously as possible.

18 THE COURT: So this term sheet, for want of a
19 better word, would have to go to a long-form agreement?

20 UNIDENTIFIED SPEAKER: Yes.

21 THE COURT: And, as counsel said, the devil can be
22 in the details on occasion. What would you have the Court
23 do at this point? In other words, am I to be familiar with
24 this term sheet? Am I -- is -- I know the VA certainly
25 needs time.

1 In other words, tell me now what you folks did,
2 instead of me being so directive as I was on the last
3 occasion, because I got forced into that directive
4 discussion because nobody had met and conferred. Here, much
5 different. You've met and conferred. In fact, we were on a
6 Zoom call, I think, on Friday, and that was my last
7 involvement.

8 MR. ROSENBERG: If I can suggest -- because I
9 think, at this point, VA really needs an opportunity to
10 engage on the term sheet -- I think what we need is a little
11 bit of space and a little bit of time to be able to work
12 that process and substantively engage. I know that, from
13 the Court's perspective, time is of the essence, and I think
14 VA also is --

15 THE COURT: Well, just a moment. It may not be,
16 and here's why. If we started, literally, with this land,
17 it would take a period of time, whatever land we have on the
18 Brentwood premises, to either have temporary or long-term
19 supportive housing. If this land is lying in non-use, that
20 doesn't make sense right now.

21 But I did have some questions based -- some
22 fundamental questions about what the parameters are of this,
23 because last time it was represented that Parcel 9 --
24 according to the records, our transcript, Parcel 9 was not
25 going to be in contention, that the softball field was not

1 going to be in contention, but there's two softball fields.

2 There's one on the outer portion of the gated
3 area, and there's one on the inner portion, but the
4 representation by Mr. Miller was -- or by counsel -- was
5 that "Judge, we're prepared to go all the way up through a
6 portion of the tennis courts, and half those tennis courts
7 we would not be in contention."

8 In a sense, there's no reason to destroy any of
9 these facilities if we don't have to. Over the weekend,
10 I've had some thoughts whether that might be converted to
11 one pickleball court. It's a minor issue, but maybe the
12 veterans are a lot older and they can't play tennis, as well
13 as the younger people, and maybe, instead of taking six, you
14 know, or half these tennis courts, we convert one, and
15 there's the veterans' build in terms of, you know, velocity.
16 Maybe, in a year or whatever, we can take a look at that and
17 convert a couple more, depending upon use.

18 But I'm more than curious about changing the
19 vernacular, also. We have to start thinking, including
20 naming rights. Remember, we got into that discussion about
21 naming rights. It sounds silly, but this, pursuant to my
22 order, is now void. Unless reversed by the Ninth Circuit,
23 this is veterans' property. So, just to begin with, when do
24 you start thinking about who owns it? And the veterans own
25 it, unless I'm reversed by the Ninth Circuit. It's as

1 simple as that.

2 So I don't want to get into the minutiae of naming
3 rights, but naming rights now belong to the veterans. In
4 other words, if you're going to retain this pool, and a
5 joint usage of some kind, a joint-use agreement, then this
6 whole conversation changes. This is your land, and you are
7 consenting to use, you know, reasonableness hopefully on
8 your part, but this isn't the Brentwood School now giving
9 you back something. This is because you, as veterans, are
10 consenting to their using this land for whatever period of
11 time.

12 And, also, I'd ask you to look at whether there
13 should be a joint-use agreement, or a lease agreement.
14 We've used the word "lease" loosely, but right now I'm not
15 sure where you're at with that kind of verbiage, and I don't
16 want to get far down the line with a long-use agreement, and
17 then have all of you folks come back with that necessary
18 work and have the Court find a flaw, and I would somewhat
19 appreciate if we might want to go over the term sheet for a
20 moment, just transparently, and see if there's a concern.

21 Now, you're going to have time, trust me. You can
22 sit quietly, but you don't have to say a word. I'm not
23 going to put you in a box. You can disagree. But unless we
24 start sorting this out, you don't want the Court to come
25 back after all this work and say, "Well, what about?"

1 That's not fair to either one of you.

2 So I'm here today. I'm here tomorrow. I'm here
3 the next day. But I'd like to get this sorted out while
4 we're here, because it doesn't do any good for you flying
5 back to D.C. and coming back out. We ought to be far enough
6 along that you're comfortable enough to go to whomever and
7 say, you know, "Basically, we agree, with some exceptions.
8 We'll get back to the Court." But I'd like those exceptions
9 to be, you know, fleshed out.

10 Skip, I'm at your disposal today. I wouldn't mind
11 going over this transparently, on the term sheet.

12 MR. MILLER: No, of course. I do want to say,
13 because I misspoke at the prior hearing, it's definitely the
14 veterans' land.

15 THE COURT: I know that, but I want to be certain
16 whatever you're writing --

17 MR. MILLER: No question.

18 THE COURT: -- because I need to change my
19 terminology here, too, Skip.

20 MR. MILLER: Yes.

21 THE COURT: Okay. I need to come back, because
22 I've been using words like "taking," et cetera. It's not
23 yours anymore.

24 MR. MILLER: No, no.

25 THE COURT: Okay.

1 MR. MILLER: The structure --

2 THE COURT: And the second thing I want to say to
3 the veterans is, I'm not sure, in sorting through, who
4 represents the veterans. So here is my initial tentative
5 thought. You represent the veterans, because you filed this
6 lawsuit in 2011, and the predominant group of veterans,
7 because there will always be a split, are you veterans who
8 brought this lawsuit, and, quite frankly, went through
9 longevity, from 2011 to today's date.

10 So I'm primarily looking at you, but there could
11 be the DAV, American Legion, you know, all these different
12 groups out there that have different input, and what I want
13 to make sure is you have time to call around, but I'm not
14 sure you need their consent.

15 So I'm saying to Public Counsel and the VA, if I'm
16 looking to anybody, I'm looking to you, because you brought
17 this lawsuit as a class, and, therefore, when I'm talking to
18 the veterans here, I particularly rely upon, you know, their
19 representations of whether this is something that they want,
20 and subject to them calling around, of course, if that's
21 going to take some time, and I can work with Brad when he's
22 back in D.C., seeing if he gets permission, also.

23 So you can leave me in the dark right now, but
24 then, if you do, if I have a surprise for you, you're back
25 in the plane again. Seems to me we ought to just go through

1 it, but I'm at your disposal. So why don't you two decide
2 what you want to do.

3 MR. MILLER: Okay. We'll talk. I don't think
4 there's any surprises. We addressed the softball field, and
5 we addressed Lot 9.

6 THE COURT: Okay.

7 MR. MILLER: So --

8 THE COURT: Let's put up the chart for a moment,
9 and I'll show you the first concern I have.

10 MR. MILLER: It's covered.

11 THE COURT: Yes. Make sure I don't zap you. No,
12 just put it up. Yes. Thanks.

13 MR. MILLER: Your Honor, maybe --

14 THE COURT: Okay. And go down a ways. Could you
15 tilt it -- there we go. Now, kind of back out of the way,
16 and make sure there's nobody behind you. Just back up.
17 Michelle (phonetic), don't look behind -- don't look out
18 from the chart. Okay? All right. I can't see that far.
19 I've got to come down there. I apologize.

20 MR. MILLER: Can we come over with your Honor?

21 THE COURT: No.

22 MR. SANDLER: I think he said no. He said no.

23 THE COURT: Where is the blue outline? Yes. I
24 apologize. Can all of you see this blue outline area?

25 UNIDENTIFIED SPEAKER: Yes.

1 UNIDENTIFIED SPEAKER: Yes, your Honor.

2 THE COURT: (Indiscernible.)

3 UNIDENTIFIED SPEAKER: Barely.

4 THE COURT: Let's bring it down (indiscernible).

5 I apologize for this (indiscernible).

6 UNIDENTIFIED SPEAKER: Okay.

7 THE COURT: Thanks. (Indiscernible.) Watch.

8 THE CLERK: Judge. Sorry. The Court

9 is (indiscernible).

10 THE COURT: Thank you.

11 This map is not accurate. You can correct me if

12 I'm wrong, but this is the gate (indicating). Is that

13 correct?

14 UNIDENTIFIED SPEAKER: Yes.

15 UNIDENTIFIED SPEAKER: Yes.

16 THE COURT: There's another partial right here
17 (indicating) that also -- that was formerly occupied. It's
18 outside the gate. So, when you talk to me about a softball
19 field -- yes. So let's just draw this.

20 MR. SANDLER: Your Honor, for purposes -- this

21 is --

22 THE COURT: (Indiscernible.)

23 UNIDENTIFIED SPEAKER: I'm kind of like you, your
24 Honor. I need to get a little closer.

25 THE COURT: Yes. Come on. Sure. If I walk this

1 with you, here is your fence (indicating). This parcel
2 right here is also used by Brentwood. It's actually outside
3 the fence. There's another softball field right here
4 (indicating).

5 MR. SANDLER: Your Honor, this is Jonathan Sandler
6 for Brentwood. I'm not sure that that's accurate.

7 THE COURT: That's not?

8 MR. SANDLER: I don't think so, your Honor.

9 THE COURT: There we go. Thank you so much. This
10 is the -- so the fence is here (indicating), and this is the
11 outside field (indicating).

12 MR. SANDLER: Yes.

13 UNIDENTIFIED SPEAKER: Right up here, right here
14 (indicating), and then the tennis courts are above.

15 THE COURT: All right. But this is our softball
16 field?

17 MR. SANDLER: Yes, your Honor.

18 THE COURT: Excellent.

19 MR. SANDLER: For our purposes and the term sheet,
20 we call that "MacArthur Field.

21 THE COURT: Thank you. MacArthur Field. Okay.

22 Well, it's up to you. You two can meet privately.
23 I'll give you time now, just to give me the direction that
24 you want from the Court. Okay?

25 Thank you so much. That's really nice of you.

1 MR. SANDLER: Your Honor, I think we won't go word
2 for word, but we'll give you the broad strokes and we'll see
3 how it lands, of the term sheet.

4 MR. MILLER: Let me start, if I can, your Honor,
5 on the softball field that we just identified on the board.
6 It goes back immediately, and when I say "goes back" --

7 THE COURT: I know.

8 MR. MILLER: -- we stop using it immediately. As
9 soon as the veterans want to use it, it's theirs. Same with
10 Lot 9.

11 THE COURT: Okay.

12 MR. MILLER: Pardon me. I'm corrected. We have a
13 baseball season. So, when the season is over at the end of
14 the year, I think the end of June next year, immediately --
15 okay. We just want to finish up the season.

16 THE COURT: Okay.

17 MR. MILLER: The other --

18 MR. SANDLER: Let me do it.

19 MR. MILLER: You want to do it?

20 MR. SANDLER: Yes.

21 MR. MILLER: Okay.

22 MR. SANDLER: Your Honor, since I've taken the
23 pen, this is Jonathan Sandler for Brentwood.

24 THE COURT: I see, yes.

25 MR. SANDLER: Let me try to give it to you the way

1 we've done it. I know there were some typos that were being
2 changed about two and a half hours before today's hearing,
3 so I may not have the most up to date, but we'll be close.

4 MR. MILLER: Now you do.

5 MR. SANDLER: Thank you. Now I do.

6 THE COURT: Okay.

7 MR. SANDLER: Your Honor, all subject to a
8 long-form agreement --

9 THE COURT: Actually, just put it up on the Elmo.
10 That way, we can see it.

11 MR. MILLER: Yes. Why don't you hang on to yours,
12 and I'll put it up.

13 MR. SANDLER: Thanks.

14 THE COURT: Okay. Thank you. That way, everybody
15 can see it.

16 MR. SANDLER: Your Honor, to the point that the
17 Court made earlier, and the VA has also made, we want to get
18 a form of agreement that will comply with the law and this
19 Court's interpretation. So whatever that form is, your
20 Honor, that's what we want to go with.

21 THE COURT: Okay.

22 MR. SANDLER: If that ends up being a lease,
23 because it's under the West L.A. Leasing Act, so be it. If
24 it is a restrictive use agreement, so be it.

25 THE COURT: Okay.

1 MR. SANDLER: From our perspective, that's not the
2 issue. The concept would be that this is a renewable
3 agreement. Now, your Honor has heard many times about
4 different terms. To be clear, this is a one-year-term --

5 THE COURT: Okay. Fair enough.

6 MR. SANDLER: -- renewable agreement.

7 THE COURT: Okay.

8 MR. SANDLER: It would be subject, your Honor --
9 you can see that it's subject to a specific finding and
10 declaration by you that this is compliant. We don't want to
11 be in these circumstances again. We want to get it right,
12 now. We do acknowledge -- and, to be clear, we are not
13 trying to challenge at this time that the current lessor's
14 options are the options of extensions. We acknowledge that
15 those are canceled, pursuant to this Court's order.

16 Your Honor, because this is a class action case,
17 we assume that you're going to go through the process of
18 preliminary notice to the class, formal notice, and a
19 fairness hearing. That's going to be the trigger for when
20 everything gets started, your Honor.

21 So, with respect to payments -- and your Honor may
22 recall, on Wednesday last week, there was a lengthy
23 discussion about the Wadsworth Chapel, and the fact that it
24 is \$2,000,000 short, and it's going to have a fundraiser.
25 Your Honor, as part of the settlement agreement, Brentwood

1 is prepared to fund the \$2,000,000 shortfall immediately.

2 We'll enter into a recurring renewable agreement
3 for Brentwood to have use of the veterans' 22.06 acres. The
4 veterans will have the exclusive use of the sports facility
5 portions, your Honor.

6 THE COURT: Okay. So there we're starting to
7 change the terminology and all of our thought. In other
8 words, "veterans land," that "Brentwood has use"?

9 MR. SANDLER: Yes, your Honor.

10 THE COURT: Okay.

11 MR. SANDLER: The concept will be that this is
12 open to the veterans, your Honor. What we've had in the
13 past is that it has been Brentwood as the tenant, and that
14 the veterans were able to come on during certain hours.
15 Your Honor, we're following the Court's language. We are
16 reversing that.

17 THE COURT: Okay.

18 MR. SANDLER: The concept is that Brentwood will
19 be able to come onto the veterans' land during certain
20 hours. Otherwise, it's open. What those open hours are,
21 your Honor, I have it in quotes for the record. I don't
22 know --

23 THE COURT: Now, let's stop there for a moment. I
24 don't think it's the Court's intent, nor any of our intent,
25 that we would necessarily have veterans and schoolchildren

1 mixing, so somehow there has to be an agreement about what
2 would be reasonable for both parties. Once again, the
3 veterans -- and I say this to you as much -- put away the
4 wounds for a moment.

5 I think you'll be fair eventually, but, whatever
6 that is, it can't be 5:30 to 7:30, and whether it's at 12:00
7 o'clock or 1:30 or whatever, there ought to be a clear block
8 of time, so that there's no confusion between veterans using
9 these premises and the children using these premises, and
10 you've got all ages out there at Brentwood. Have you worked
11 out those hours yet?

12 MR. SANDLER: Tentatively, your Honor.

13 THE COURT: Okay. Tell me what they tentatively
14 are, not subject to any agreement, but tentatively what are
15 they?

16 MR. SANDLER: Yes. They're going to show up on
17 the second page, your Honor. Do you want me to jump to it?

18 THE COURT: No, just tell me.

19 MR. SANDLER: It's going to be -- let me jump to
20 it on my own paper, your Honor. It's going to be Monday
21 through Friday. Approximately 2:30 to 8:00 would be
22 Brentwood access to the facility.

23 THE COURT: 2:30 in the afternoon to 8:00 o'clock
24 at night?

25 MR. SANDLER: Yes, your Honor.

1 THE COURT: And the veterans would be using this
2 land, then, from 5:30 or 6:00 or whatever to 2:30?

3 MR. SANDLER: Yes, your Honor.

4 THE COURT: And that would accommodate the
5 after-school activities for the children, where we wouldn't
6 have a mix-and-match, where we're trying to figure out a
7 half-hour here or a half-hour there. Does that apply to
8 both the swimming pool and the track area?

9 MR. SANDLER: The entire sports facility.

10 THE COURT: The entire sports facility. So we
11 don't have to sort out tennis from -- okay.

12 MR. SANDLER: Okay.

13 THE COURT: What about the weekends? What are
14 your initial thoughts, not holding you to --

15 MR. SANDLER: Your Honor, before I fall to the
16 weekends, can I just stick with the week?

17 THE COURT: Absolutely.

18 MR. SANDLER: Because, after 8:00 o'clock or --
19 yes, 8:00 p.m., your Honor -- there would be time for
20 veterans to continue to use the sports facilities. So, if
21 somebody was working, and they come back later at night, or
22 they work out at night, those options would be available as
23 well, until, we believe, 10:00 p.m.

24 THE COURT: Okay.

25 MR. SANDLER: But that's subject to -- that was

1 with our conditional use permit, your Honor. I do not know
2 how this will play out when it is not subject to our
3 conditional --

4 THE COURT: All right. But we're just getting an
5 idea. In other words, from my perspective, we're not having
6 to worry about a half-hour here, or the confusion. Morning,
7 afternoon, about 2:30.

8 MR. SANDLER: Correct, your Honor.

9 THE COURT: Okay.

10 MR. SANDLER: During the weekends, your Honor --

11 UNIDENTIFIED SPEAKER: And the shuttle. We want
12 to have the shuttle during that time.

13 MR. SANDLER: I was definitely not going to skip
14 the shuttle, but, to be clear, the shuttle service will run
15 through the VA property to whatever this is going to be
16 called, your Honor -- right now it's called "VCRE" -- during
17 the hours when the veterans will have access.

18 THE COURT: Well, one of the things that may be
19 happening here, though, is that before it was 5:30 to 7:30.
20 If the veterans have a designated period of time up to 2:30,
21 it may not have to start at 5:30. It could start at 6:00
22 o'clock or 6:30, because now they're not in this narrow
23 window of time.

24 So that's minutiae right now. The point that I
25 was most concerned about is that we had confusion in the

1 future whether the veterans used it X hours, then the
2 children used it. Then there was confusion over half an
3 hour. You two can work that out, but I'm satisfied in terms
4 of that demarcation, so we have -- okay. And whether it's
5 2:00 o'clock, 2:30, that's subject to the veterans, because,
6 remember, you're the one now dictating the terms.

7 MR. ROSENBAUM: There was also confusion that some
8 facilities would have certain hours and other facilities
9 would have other hours. That's all been arranged.

10 MR. SANDLER: That's been solved.

11 THE COURT: Okay.

12 MR. SANDLER: And, your Honor, with respect to the
13 early-morning hours, obviously, Brentwood is open to what
14 the veterans want, but one of the reasons that the
15 early-morning hours was there, so that veterans could work
16 out before their classes, before their treatment.

17 THE COURT: Right. I'll leave that to you.

18 MR. SANDLER: We're not trying to take it away.

19 THE COURT: The only thing I cared about -- the
20 big picture for me is that we have hours that are easily
21 defined, so we don't have a disagreement in the future over
22 some veteran or some child using that, and there's a
23 complaint. You can work that out. It's minutiae to me
24 right now, but you've got the concept. Okay. Put that
25 document back up for a moment.

1 MR. SANDLER: Yes, your Honor. Just for the
2 Court, this bottom bullet (indicating), your Honor, this is
3 where I was referring to the shuttle.

4 THE COURT: Okay.

5 MR. SANDLER: I'm going to turn the page, your
6 Honor.

7 MR. ROSENBAUM: Are you going to talk about the
8 weekend?

9 MR. SANDLER: Yes, I will. When I turn the page,
10 I'm also going to talk about the weekend hours, your Honor.

11 THE COURT: Now we're back to page one. Okay.
12 Can you go back to page one, though? We were still at page
13 one, just about four paragraphs down. All right. And the
14 recurring renewable agreement for Brentwood is this one-year
15 period of time, correct?

16 MR. SANDLER: Yes, your Honor.

17 THE COURT: Okay:

18 "The veterans are to have exclusive use
19 of the sports facility portions, 22.06
20 acres, during the open hours, with the
21 exception of those hours to be permitted
22 for Brentwood's use. Veteran access
23 will be granted through the West L.A. VA
24 campus. All veterans will have to
25 register and clear background checks in

1 order to access the 22.06 acres in the
2 same way that they presently do. All
3 veterans will be required to comply with
4 the same code of conduct that they are
5 presently required to comply with."

6 Roman, any issues?

7 MR. SILBERFELD: No, your Honor.

8 THE COURT: Mark?

9 MR. ROSENBAUM: No.

10 THE COURT: I won't ask the VA. Okay:
11 "Brentwood shall expand the shuttle
12 service hours and routes only in the VA
13 property at approximately the same
14 frequency, to provide transportation for
15 veterans to use the athletic facilities
16 during the open non-Brentwood-exclusive
17 hours."

18 Simplify that for me. What does that mean?

19 MR. SANDLER: The shuttle is going to run for
20 veterans to come to the property during the time the
21 veterans are there, when Brentwood students -- said
22 differently, when Brentwood students won't be there.

23 THE COURT: So it starts at 5:30, or 6:00, or
24 7:00, whatever you eventually decide between the parties?

25 MR. SANDLER: Yes, your Honor.

1 THE COURT: Okay. Fair enough. Turn the page,
2 then, for a moment.

3 MR. SANDLER: Your Honor, we've covered most of
4 the first bullet --

5 THE COURT: That's okay.

6 MR. SANDLER: -- with those hours. The only part
7 I didn't get --

8 THE COURT: Remember, I had one conversation with
9 my special master, John Hueston, on Monday, saying they're
10 talking. I now have a term sheet in front of me, but I
11 haven't seen or absorbed much of this. You have, but I
12 haven't, and I don't want to surprise you. I'm not
13 consenting to it. I'm just saying, if there's a problem,
14 let's hear what that is today.

15 "With respect to access to the
16 sports-related facilities other than for
17 performing maintenance, it is
18 anticipated that Brentwood have
19 exclusive use of the sports facilities
20 during certain hours to be determined,
21 but estimated to be 2:30 p.m. to 8:00
22 p.m., Monday through Friday, without
23 penalty or breach if a game reasonably
24 unexpectedly requires additional time.
25 At 8:00 through 2:00 p.m. Saturday and

1 Sunday, without penalty or breach if a
2 game reasonably unexpectedly requires
3 additional time. Brentwood shall have
4 full-time access for ingress and egress
5 using the gate, driveway off of
6 Barrington, and is permitted to use
7 parking lots as currently configured and
8 used."

9 So, first, I can't imagine you having overflow,
10 but you've got one parking lot on the north side of the
11 postal office. On Saturday and Sunday, are you trying to
12 accommodate for, like, maybe a Saturday water polo game or
13 what?

14 MR. SANDLER: Your Honor, I'll look behind me to
15 see if I get this right after I say it, but I think, when
16 you're talking about the --

17 THE COURT: The 8:00 a.m. through 2:00 p.m.,
18 Saturday and Sunday.

19 MR. SANDLER: I'm less worried about the --

20 THE COURT: Now, what does that look like? Is
21 that a joint usage? Is that exclusive usage?

22 MR. SANDLER: That's exclusive usage for
23 Brentwood.

24 THE COURT: Okay. And so the rest of the day,
25 from 2:00 onward on Saturday or Sunday -- now, remember,

1 this is the Brentwood requesting of the veterans, and I keep
2 having to remind all of us that this is the veterans who are
3 going to be requesting this. So listen closely, and see if
4 this is what you really want. Why Sunday?

5 MR. SANDLER: Sports, your Honor.

6 THE COURT: Sports on Sunday?

7 MR. SANDLER: That's my understanding, yes.

8 THE COURT: Who? Come on. It's okay. I didn't
9 know that they played from 8:00 to 2:00 on Sunday.

10 MS. YOSHIMARU: Actually, the -- in terms of the
11 draft tentative hours that we talked about jointly, Sunday
12 would remain 7:00 a.m. to 7:00 p.m. veteran access. I think
13 in here we were just generalizing.

14 THE COURT: Okay. Then I'll leave that to all of
15 you to negotiate and to discuss, and if you've got sports
16 teams, and the veterans believe that this is something you
17 want to give, fine. If you don't, then I'm questioning
18 whether it's a Sunday, because I want to open that up, as
19 the veterans' population grows, to the most hours that you
20 can use, because this is your property. Okay? So I'll
21 leave that to you.

22 "Brentwood shall maintain the facilities
23 and grounds at least at the same level
24 of service that it has maintained the
25 grounds and facilities in the past."

1 Fair enough. They've been well cared for.

2 "Brentwood will get in-kind credit." Now,
3 actually, I'd rather get more money from you. Did you know
4 that? Because the in-kind credit I kind of found silly,
5 that we would have \$550,000 of in-kind credit with property
6 that you had, that you had to upkeep anyway. Can I get some
7 more money for you, instead of in-kind credit? Just joking,
8 but --

9 MR. SANDLER: Actually, your Honor, you are, about
10 what's in here.

11 THE COURT: Okay. We're going to go down to it.
12 Okay?

13 MR. SANDLER: Yes, your Honor.

14 THE COURT: Now, that's the 2,000,000 to start
15 with, with Wadsworth Chapel, right?

16 MR. SANDLER: That's correct.

17 THE COURT: Now, I'm going to kid you a little
18 bit, but, if I was to put money in the bank, and if I was --
19 not about what I was. An argument could be made that either
20 you or UCLA -- it doesn't matter, because you're not
21 synonymous -- used this property for a long period of time,
22 and it was undervalued, and I think what might be on the
23 table is, Skip never said before, "Judge, if you give us a
24 longer lease, we might give more money," because you'd have
25 more solidarity.

1 So, hypothetically, if we went from a 10-year
2 lease to a five-year lease, I was thinking this weekend, of
3 course you'd probably be willing to put more money, because
4 you've got more solidarity. You could go back to the board
5 and the school. It's a good investment. But, you know, I'm
6 assisting on a one-year, and no greater than the case we
7 need the property (sic). I don't want to go through this
8 battle again.

9 MR. SANDLER: The Court has made it clear, but,
10 your Honor, we contemplated where the Court is going, and we
11 have that in this term sheet.

12 MR. ROSENBAUM: By "that," you don't mean a five-
13 or 10-year --

14 MR. SANDLER: Not the five- or 10-year. We've
15 contemplated how additional payments could be made as the
16 renewable years go on.

17 THE COURT: Okay. So, in a sense, I thought, and
18 with transparency, "Well, gee, Judge. What happens if you
19 thought that the parties might go to a two-year lease? What
20 would be unfair about that?" And the reason I don't want to
21 do that is because, first of all, I'm finding the highest
22 and best use of this is the land itself, because the VA has
23 maintained, until recently, anyway, that they were basically
24 out of land. From temporary housing to long-term supportive
25 housing, their position has been "We don't have the land."

1 And what that put the Court in the position of
2 doing was seeing every piece of property I could possibly
3 get my hands on, so I didn't run into methane problems or
4 landfill problems or, you know, the Barrington Plaza people
5 getting upset and filing a CEQA lawsuit, I mean, all sorts
6 of things that can happen. So you understand that my
7 highest and best use, no matter what amount of money you
8 offer, is eventually the property itself. Okay? All right.

9 MR. ROSENBAUM: Your Honor, can I ask a question?

10 THE COURT: Please, any time.

11 MR. ROSENBAUM: So the Court has said several
12 times this land is the veterans' land. It's flipping it.
13 The Court has said several times that's the priority. I
14 want to take from your Honor's comments that you would
15 welcome that in the long-form agreement, maybe the very
16 first line?

17 THE COURT: The first line has got to be it.
18 We've got to change our whole way of thinking about this.
19 Unless the Ninth Circuit reverses me, this is veterans'
20 land.

21 MR. ROSENBAUM: So the point that you keep making,
22 which we are taking note of -- what I hear you saying is
23 "That's not implicit. I want that explicit."

24 THE COURT: Absolutely.

25 MR. ROSENBAUM: Okay.

1 THE COURT: And you have to keep reminding me to
2 quit using words like "taking." You have to keep reminding
3 me, because I fall under the habit pattern, also, of this
4 being historically, you know, Brentwood's property. It's
5 not any longer.

6 MR. ROSENBAUM: I actually don't think we need to
7 remind you of anything, but we'll --

8 THE COURT: Well, that has to be right up front.
9 We need to start -- we keep -- remember, and you have to
10 come to the Court and say, "This is what we, as veterans,
11 want," because, if you don't want this, then there's other
12 roads that the Court is going to take.

13 So, unless the veterans are coming to me -- and
14 that's why I started the conversation with "Who are the
15 veterans?" Is it the group that filed this lawsuit and went
16 through from 2011, through refileing it again recently? But
17 you need to check with the DAV, you know, all these other
18 groups, because there will be discord on this. Some people,
19 I think, are probably angry enough that they want to plow
20 it. Okay? Other people would be maybe even more generous.
21 I don't know. All right.

22 "The term of the agreement, whatever
23 form it will be, shall be one year on
24 the terms set forth herein, and subject
25 to renewals except as set forth herein."

1 So let's see what the "hereins" are:

2 "The parties agree that, while subject
3 to the agreement, the nature and current
4 use will not be changed."

5 So what we're doing is we're protecting that core.

6 MR. SANDLER: That's exactly right, your Honor.

7 THE COURT: Okay. And, remember, when Mr. Miller
8 offered six tennis courts or something to the Court, I'm not
9 looking to destroy infrastructure.

10 MR. SANDLER: We took you that way, your Honor,
11 and we've identified that portion for the Court's knowledge.

12 THE COURT: But it has to be primarily for the
13 benefit of the veterans, which is -- I'm assessing why we
14 might get one pickleball court out there, because veterans
15 may not be moving that quick. Let's just see. The term of
16 the agreement:

17 "The parties agree that, while subject
18 to the agreement, the nature of the
19 current use will not be changed. The
20 lower softball field, also known as
21 'MacArthur Field'" -- which you've
22 corrected me on, and I appreciate it --
23 "reverts to the VA immediately."

24 Well, in a sense, you've already got it, so we can
25 use the word "revert." That's fine.

1 "However, VA shall have to give 45 days'
2 written notice of its desire to revoke
3 access to MacArthur Field. Once the 45
4 days expire, Brentwood will have no
5 further obligation with respect to
6 maintenance as to the grounds, the
7 facilities, the infrastructure, paying
8 for any utilities, et cetera. The
9 parcel will be treated as if it was
10 never within the agreements to be
11 entered."

12 What does that last portion mean, "The parcel will
13 be treated as if it was never within the agreement to be
14 entered"?

15 MR. SANDLER: Not subject to any of the terms of
16 the -- I want to use the word "lease," your Honor, but --

17 MR. ROSENBAUM: It's a lease.

18 MR. SANDLER: Sorry, Mark?

19 THE COURT: Don't worry about it. I'm just --
20 when I'm reading this, I'm trying to think, what does that
21 mean? You can clear that up later on. This is minutiae,
22 but I don't know what that means.

23 MR. SANDLER: It says that the right, whatever it
24 is, is terminated, your Honor.

25 THE COURT: Now, let's talk about Parcel 9 for a

1 moment:

2 "The baseball and soccer field, also
3 known as 'Parcel 9,' reverts to the VA
4 immediately."

5 Okay. Well, you folks already have it, but maybe
6 we should reword that, and that is that you're consenting
7 that this be used by -- just change the terminology. This
8 is your property. You're consenting that Brentwood uses it.

9 "However, the VA shall have to give
10 notice not earlier than July 1st, 2025,
11 of its desire to revoke access to Parcel
12 9. Once the 180 days expire, Brentwood
13 will have no further obligations with
14 respect to maintenance as to the
15 grounds, the facilities, the
16 infrastructure, paying for any
17 utilities, et cetera. That parcel will
18 be treated as if it was never within the
19 agreement to be entered."

20 All right. You've got the nine acres, but Mr.
21 Soboroff and Mr. Johnson is going to take a while to develop
22 this for long-term supportive housing, right?

23 UNIDENTIFIED SPEAKER: Yes, sir.

24 THE COURT: Now, it seems silly that the Court
25 would come along with nine acres and say, "Here's a padlock.

1 You could stare at this nine acres, but none of your
2 children should set foot on it." By the same token, this is
3 going to be developed for long-term supportive housing.
4 What do you need? What kind of time period do you need?
5 What kind of access do you need? Just think about that when
6 you draft this up. Okay? But this will be long-term
7 supportive housing.

8 Now, I want to segue and stop there for a moment.
9 Unconnected to you, UCLA has made -- or I've received some
10 filing from UCLA, and apparently they're going to have some
11 discussions with you Thursday or Friday.

12 Mr. Johnson and Mr. Soboroff, come on up for just
13 a moment. You wanted to get started, remember, with some
14 short-term -- don't go away. Don't go away.

15 UNIDENTIFIED SPEAKER: Not a problem.

16 THE COURT: You wanted to get started with some
17 short-term temporary housing, right?

18 UNIDENTIFIED SPEAKER: Yes, sir.

19 THE COURT: And one of the problems we had was,
20 what's semi-ready to go? And I think we all agree that we
21 need some kind of foundation. So, if you could put up our
22 diagram again. Now, Mr. Braverman told me, "You know,
23 Judge, if possible," he'd like everything north of Wilshire.
24 That's not possible, and we've semi-agreed, without the VA
25 acquiescing, so they have their appeal rights. But there's

1 going to be about 200 temporary supportive housing, give or
2 take, below, using -- and I don't want to zap you. I'm
3 afraid of using this.

4 MR. SOBOROFF: We know which ones. One, two,
5 four.

6 THE COURT: What we've drawn in -- thank you.
7 We've drawn in that parking lot that we didn't have before.

8 MR. SOBOROFF: Correct.

9 THE COURT: So what's accurate or inaccurate is
10 that we now have this parcel (indicating). See it?

11 MR. SOBOROFF: Yes, sir.

12 THE COURT: That's a parking lot now.

13 UNIDENTIFIED SPEAKER: Right.

14 THE COURT: It's not (indiscernible). So we have
15 this location with the solar panels, this location with the
16 solar panels. We have a contiguous parking lot, which is
17 paved, and we now have this about six-acre parcel, give or
18 take.

19 MR. SOBOROFF: Yes, yes.

20 THE COURT: Why aren't we immediately putting in
21 temporary supportive -- or temporary housing right here
22 (indicating) on the paved portion of UCLA's parking lot?

23 MR. JOHNSON: We could, but, Judge, I --

24 THE COURT: We have an infrastructure here
25 (indicating). We have a parking lot here. I've got --

1 you've got utilities here. Why can't we start immediately
2 with some kind of temporary housing in addition? Because
3 it's going to take you a while to get rid of these solar
4 panels here (indicating), to put any kind of paving in here
5 (indicating). Are you following me? Why can't we start
6 putting up 60 or 70 temporary housing units right here
7 (indicating)?

8 MR. JOHNSON: You know, we could, but we wanted to
9 test the temporary supportive housing, the 220 units, to see
10 if we got acceptance.

11 THE COURT: Well, I'm going to add to it now.
12 You've got 220 units, and you're taking time.

13 MR. JOHNSON: If there's a big time delay, then
14 yes.

15 THE COURT: You said you want to get going.
16 Unless you use this paved parking lot right here -- use
17 that, right?

18 MR. JOHNSON: Right.

19 UNIDENTIFIED SPEAKER: Yes.

20 THE COURT: Why not also here (indicating)? Why
21 not add 60 or 70 units?

22 UNIDENTIFIED SPEAKER: I felt that --

23 THE COURT: Why don't we do it?

24 MR. JOHNSON: We have to look at the site for
25 infrastructure and everything else.

1 THE COURT: Well, go look at it. I've looked at
2 it. You've looked at it. It's just as good as any site,
3 and certainly better than this site (indicating), where we
4 have to get infrastructure into a grassy area down here
5 that's not paved. It's certainly better than waiting for
6 our solar panels to come off these two lots.

7 MR. SOBOROFF: Well --

8 THE COURT: The only alternative you have is paved
9 down here (indicating). Why are we ignoring this parking
10 lot?

11 MR. SOBOROFF: Judge, if that red dot where it is
12 right now, if that is preferred to be permanent supportive
13 housing, instead of temporary supportive housing, and if the
14 solar lots can come down right away, I don't see why it
15 can't catch up with putting temporary supportive housing
16 there, because the idea of what the temporary supportive
17 housing is can vary from containers to these
18 eight-by-eights, and what we're trying to do is have
19 something that's respectful to the veterans, and not be
20 moved two years from now.

21 THE COURT: Well, just a moment. I need to get
22 homeless off the street now.

23 MR. SOBOROFF: Okay.

24 THE COURT: And you said you wanted to get going,
25 so get going.

1 MR. SOBOROFF: We can convert that to temporary
2 supportive housing.

3 THE COURT: Okay. Done.

4 MR. SOBOROFF: Yes. We can convert that to
5 temporary supportive housing.

6 THE COURT: Good. And it's an acre and a half, so
7 we can get 40 or 50 temporary units in there now.

8 MR. SOBOROFF: That's correct.

9 THE COURT: Okay.

10 MR. SOBOROFF: That's correct.

11 THE COURT: Now, do you need this block of field
12 at the present time? If so, we're going to do it. If you
13 want to leave it temporarily, leave it.

14 MR. SOBOROFF: I'd just as soon leave that up to
15 the negotiations, with whatever happens with UCLA.

16 THE COURT: Well, I'm done saying that, too, now.

17 MR. SOBOROFF: You aren't or are?

18 THE COURT: I'm not sure yet.

19 MR. SOBOROFF: Okay. Well, you may.

20 THE COURT: I see this lot back here (indicating).
21 Before, we somehow cut that lot in half, because we've got
22 half cemetery and half UCLA.

23 MR. SOBOROFF: Yes, sir, except that the 500-foot
24 freeway mark goes right to where the red is right now.

25 THE COURT: Okay. So, in other words --

1 MR. SOBOROFF: If you don't want --

2 THE COURT: We have -- is that about 500 feet?

3 MR. SOBOROFF: A little bit more to the left.

4 THE COURT: There (indicating)?

5 MR. SOBOROFF: Yes. It's basically --

6 THE COURT: Why can't we put in some more
7 temporary supportive housing there?

8 MR. SOBOROFF: There's a small sliver there.
9 That's possible, yes.

10 THE COURT: Why don't you go look at it with me,
11 maybe --

12 MR. SOBOROFF: Yes. Yes.

13 THE COURT: -- and let's see if we can put in some
14 more temporary, and here's why. I'm not having to wait for
15 a certain number of veterans getting into home -- strike
16 that -- into shelters now, while we mess around with whether
17 we can pave around these trees --

18 MR. SOBOROFF: Yes, sir, but we're --

19 THE COURT: -- or remove these solar panels, which
20 we can do simultaneously.

21 MR. SOBOROFF: But, Judge, we need you to tell us
22 not to mess around with the solar panels, and not to mess
23 around with that property south (sic), because it can
24 happen. It can happen fast. We just need the support.

25 THE COURT: Good. You've got it now. This is

1 ready to go.

2 MR. SOBOROFF: From you? From you?

3 THE COURT: This is ready to go.

4 MR. SOBOROFF: I know, but I need the same support
5 down there, too.

6 THE COURT: This is ready to go.

7 MR. SOBOROFF: Yes, sir, a portion.

8 THE COURT: This is ready to go.

9 MR. SOBOROFF: Yes, sir.

10 THE COURT: You've got infrastructure. You've got
11 plumbing.

12 MR. SOBOROFF: It's easy, yes.

13 THE COURT: You want to get going.

14 MR. SOBOROFF: Yes.

15 THE COURT: Let's go.

16 MR. SOBOROFF: Okay. But can I go back to the
17 other question of the two solar lots that also have the
18 infrastructure and the --

19 THE COURT: No.

20 MR. SOBOROFF: Why not?

21 THE COURT: I want you to work on these at the
22 same time.

23 MR. SOBOROFF: We can.

24 THE COURT: Good. We have an agreement.

25 MR. SOBOROFF: I just want you to be in as big a

1 rush down there as you are up there.

2 THE COURT: I am, but I've already got a paved
3 parking lot right here, which cuts my cost and my time, and
4 I've got solar panels, which I have to pave. If you've
5 looked at that property, when I take out the solar panels,
6 I've got dirt under them.

7 MR. SOBOROFF: Well, come back next Thursday, and
8 I'll have it paved.

9 THE COURT: We'll be here Thursday. Good.

10 MR. SOBOROFF: I mean, I just need you to give us
11 the green light, sir.

12 THE COURT: Here's a suggestion. Get this going,
13 here.

14 MR. SOBOROFF: Okay.

15 THE COURT: Okay. Get this going, here.

16 MR. SOBOROFF: We hear you.

17 THE COURT: And then, if we run into problems with
18 paving, et cetera, we're working simultaneously. So we're
19 going to have our 230. We're going to get up to about 300.

20 MR. SOBOROFF: When you say, "Get this going," who
21 are we getting it going for, them?

22 UNIDENTIFIED SPEAKER: (Indiscernible.)

23 MR. SOBOROFF: Okay. Well, do they say the
24 same -- it doesn't matter what they say, right?

25 UNIDENTIFIED SPEAKER: No. Hey, Steve?

1 MR. SOBOROFF: Is it okay if we get this going?

2 THE COURT: No, we're talking, because otherwise
3 I'm going to move it near the hospital, which Doctor
4 Braverman doesn't want, trying to accommodate him. No, just
5 walk over and talk to him for a moment. Both of you go with
6 him, (indiscernible) go with him. Walk up and talk to him.
7 This is silly.

8 We've got paved lots ready to go, with
9 infrastructure, and you can move simultaneously on this,
10 along with the dirt portions. So, if we have problems with
11 these two lots, trust me, when we get to the paving down
12 here, what problems we're going to have with -- this is the
13 same circle we're going in. Let's see if we're going to get
14 these off the ground. And if we have to go through all
15 sorts of planning departments for this, I could just imagine
16 if we have a few trees involved, and some grass and some
17 paving.

18 Counsel, while you think about this, we've got the
19 rainy season coming. I want these veterans off the streets,
20 as many as possible.

21 Anne (phonetic), would you go ahead and put this
22 one -- or the other one up.

23 UNIDENTIFIED SPEAKER: Right here (indicating)?

24 THE COURT: Yes. Not the wide one, the other
25 single one. Never mind. You know what? Ali (phonetic),

1 never mind. Let him use the Elmo for this.

2 And, Skip, we'll be with you in just a moment.

3 Pardon the interruption. Okay?

4 MR. MILLER: No problem.

5 MR. SILBERFELD: Should I go ahead? So, your
6 Honor, Roman Silberfeld. We've had a discussion about the
7 Court's request about those various locations for temporary
8 housing, and what we're going to do is, in very short order,
9 maybe in the next couple of days, we're going to prepare a
10 detailed order that we will share with VA counsel. They
11 will either agree to it or object to it, and we'll submit
12 it.

13 THE COURT: Okay. Well, this is my --

14 MR. SILBERFELD: That accomplishes --

15 THE COURT: -- my suggestion, my hope. If I can
16 get 60 or 70 veterans off and out of a cardboard box before
17 the rain comes, and this is a fast-track way to do it, where
18 this lot is already paved, that's exactly what I'm
19 suggesting we could do, and I see problems and delay with
20 the solar panels of maybe 30 days, paving, and if we can't
21 even do this, how do we expect to go through the other more
22 complicated lots that aren't even paved, have solar panels?
23 So, to me, time is of the essence because, every time we get
24 up a temporary structure that can be moved again, we've got
25 a couple veterans, maybe 50, 60 off the streets and now in

1 the rain.

2 Number two, I'm not accepting the problem that was
3 raised by Mr. Soboroff and Mr. Johnson about permanency.
4 These are easily put down, and they're easily picked up, and
5 if I need to put up that picture again, Ali, go over there,
6 because I'm going to -- let's just display it again. Well,
7 we had it up in the last hearing. It was to -- yes.

8 I'm going to repeat like a broken record, if you
9 can watch this go up in 60 days to 90 days as permanent
10 structures in a country called Georgia, which is Stalin's
11 birthplace, near Gori, you can't tell me that not only
12 permanent structures can't go in, you can't tell me that
13 temporary structures can't go in. That's what my country
14 can do, right there.

15 MR. SOBOROFF: Judge, will you rule out those
16 eight-by-eight things as temporary structures?

17 THE COURT: Come on up here.

18 MR. SOBOROFF: Those are cruel and unusual
19 punishment.

20 THE COURT: No, I'll rule those out. You told me
21 you were going to get me 400-foot.

22 MR. SOBOROFF: I'm just -- I'm saying you can do
23 things faster.

24 THE COURT: I know. We agree. I don't want the
25 tiny homes there.

1 MR. SOBOROFF: Thank you, sir.

2 THE COURT: Okay. I want temporary modules, about
3 400-foot, as you recommended to me. You can put them on
4 pallets. You've got power there. You've got lighting
5 there. You've got sewer there. And you wanted to get
6 going. Get going. Now, that way, if you wanted to travel,
7 this is simultaneous with the other 230-some. Nothing slows
8 you down on that. You walk and chew gum at the same time.

9 MR. SILBERFELD: We'll draft an order, circulate
10 it, and submit it.

11 THE COURT: Well, I'd like you to do that now,
12 because, if they're going to be in opposition to that, then
13 I'd like on the record to know why they're in opposition to
14 it. So start drafting.

15 MR. SILBERFELD: Okay.

16 THE COURT: Okay? And also remain a simultaneous
17 action (sic), today, tomorrow, whatever you need, but, if
18 there's going to be opposition, why are we flying back to
19 Washington, D.C., to e-mail you, to cause me to have another
20 hearing? I'm not going to do that. So, if there's a
21 problem with this, let's find out now. Thank you very much.

22 I'm sorry, Mr. Miller. My apologies for breaking
23 into the presentation. Come back up here, and thank you,
24 and, sir, if you'd like to continue, I appreciate it.

25 MR. MILLER: I just want to emphasize, your Honor,

1 as we go through this, we're in accord. Plaintiffs and
2 Brentwood School have agreed, and we're on the same page.

3 THE COURT: Great. We're on page two.

4 MR. MILLER: Okay.

5 THE COURT: Because, if I have a question, you
6 don't want to come back and waste your time. So let's ask
7 it now. Okay. All right.

8 MR. MILLER: Go ahead.

9 MR. SANDLER: Thank you.

10 Your Honor, we're on the final bullet, page two.

11 THE COURT: Just a moment. Let me catch up.
12 Great.

13 "The parties all agree that currently
14 approved VA master plan which calls for
15 the development of 1,200 permanent units
16 does not presently plan to construct
17 said units on any of the 22.06 acres."

18 So we're all in agreement at the present time of
19 those 1,200 units. There was no plan. In fact, the last
20 400-plus units we don't even have a plan for. We're about a
21 little under 800.

22 "The same is the case for the 750
23 temporary units. Other than with
24 respect to the lower softball field and
25 Parcel 9, VA shall only be permitted to

1 reclaim" --

2 Now, once again, you need to change that language.
3 That has to be reversed.

4 MR. SANDLER: Yes, your Honor.

5 THE COURT: This does not belong -- it belongs to
6 the veterans.

7 "Only be permitted to reclaim other
8 parcels as a matter of last resort. To
9 be more specific, but in no way to limit
10 the category, the entry of
11 Barrington" --

12 Which is your entrance off of Barrington, right?

13 MR. SANDLER: Yes, your Honor.

14 THE COURT: I agree.

15 MR. SANDLER: That's our primary egress.

16 THE COURT: And you've got parking there, too,
17 about an acre and a half.

18 "The swimming pool, the pavilion, the
19 track and football fields, and the
20 tennis courts are designed as areas of
21 last resort."

22 Skip referred to those as "core facilities."

23 MR. SANDLER: Yes, your Honor.

24 THE COURT: "Which means that VA shall
25 use its best efforts to use other

1 parcels of land."

2 I would change that wording, that the veterans are
3 consenting. Okay? This whole wording needs to be changed
4 around.

5 "In the former lease grounds for any
6 veteran-related purposes before giving
7 notice to Brentwood of its intention to
8 cancel further use by Brentwood of the
9 described property. VA can only revoke
10 access to the core facilities if it is
11 determined by either the Court or the
12 court-appointed monitor."

13 And I would say I wouldn't accept a
14 court-appointed monitor. They don't have authority to make
15 this decision. You need to strike that.

16 "If those parcels are necessary to be
17 used for the development of either
18 short-term or long-term housing of
19 veterans and/or their families. VA
20 shall have the right to revoke."

21 Now, here's my problem. Let's assume that the VA
22 maintains its present position, or at least its initial
23 position that they are on land with temporary, they're out
24 of land with permanent. Then there's no other option except
25 to look at UCLA. There's no other option except to look at

1 Brentwood, and I don't want to be tied to a lot of
2 optionals, let's say, that I don't even know if they exist
3 or not in the future.

4 I need the most parcels of land, so that we can
5 choose from those, but I understand Skip's point and your
6 point is -- look. Eventually we get done with this. In the
7 veterans' interest and your interest, this should be the
8 last we look at, and that's not the last of the 380-some
9 acres. That's the last portion of the 22.06 acres, correct?

10 MR. SANDLER: Correct, your Honor.

11 THE COURT: That's our concept.

12 MR. SANDLER: Yes, your Honor.

13 THE COURT: If this is truly valuable to the
14 veterans, then you have to tell me this, but, if it's truly
15 valuable, you get a swimming pool. You get use of a track.
16 I don't know what value the auditorium was going to be. If
17 there was an agreement, that was going to be the first thing
18 I was going to -- well, never mind. Tennis courts, don't
19 want to destroy those, if we can have tennis and pickleball
20 courts, but it has to be of value to the veterans,
21 principally of value to the veterans. Got it? If it's not,
22 you need to tell me that. All right.

23 "Once the 365 days expire, Brentwood
24 will have no further obligations with
25 respect to the maintenance as to the

1 grounds, facilities, infrastructure, or
2 paying for any utilities."

3 Now, what I understand from this, and I neglected
4 to read it, is "VA shall have the right to revoke access to
5 the core facilities upon 365 days' written notice." I
6 really like that, for one reason. You can't have this Court
7 or another court come along and just say that this is one
8 year and -- in other words, if this was ever to be
9 terminated, it's minimally a year, and I would expect that
10 each of you would write in some reasonableness, because, if
11 the property has to be transferred at some point in the
12 future -- and I can't imagine that happening if it's of true
13 benefit to the veterans, especially as we increase our
14 population, but I think it's really fair that we recognize
15 that, hey, it may take a little bit longer, transferring,
16 you know, in-place facilities. Okay?

17 And so there needs to be some kind of language
18 about reasonableness between the parties, so you minimally
19 have a year, and, hopefully, you write in some kind of
20 language that recognizes that there could be some unique
21 circumstances presented to a court, but we should be
22 reasonable and say, "You know what? It took six months
23 longer." Okay? But that means it's one year to start with,
24 but reasonableness on everybody's part. Okay? I think I
25 understand it.

1 "Brentwood shall have the right" -- now the next
2 page, the first paragraph:

3 "Brentwood shall have the right to
4 terminate the agreement at its sole
5 discretion, upon one year's notice."

6 Why? If you're trying to protect the core
7 property, it seems to me that that's a silly paragraph.

8 MR. SANDLER: Your Honor, mutuality is part of the
9 concept.

10 THE COURT: But you don't own the land. They're
11 graciously letting you use it.

12 MR. SANDLER: I understand, your Honor. And so
13 this is a year-to-year concept, that Brentwood would also be
14 able to say --

15 THE COURT: I'll leave that to the two of you. I
16 don't understand it.

17 "The parties agree that Brentwood will
18 be required to pay on a monthly basis an
19 annual fee. Brentwood agrees to
20 maintain monthly rent payments,
21 annualized to equal \$350,000, to the VA,
22 subject to the agreement being renewed.
23 Commencing on year two of the renewal,
24 the annualized rent will increase by
25 three percent or CPI, whichever is

1 greatest, each subsequent year. The
2 amount of rent will be subject to
3 renegotiation to fair market value,
4 using the same methodology as currently
5 in place, every three years, commencing
6 on year five of the renewals."

7 Explain that to me.

8 MR. SANDLER: With respect to the fair market
9 value appraisal, your Honor, it would start -- in other
10 words, you wouldn't have to do an appraisal every single
11 year.

12 THE COURT: Okay.

13 MR. SANDLER: It would -- the three percent would
14 continue to occur every year, the escalator on the base, and
15 then, starting in year, I guess, six, depending upon how you
16 think about it, or the fifth renewal, that would be when
17 there would be a new appraisal to set the number.

18 THE COURT: I see. That's good.

19 MR. SANDLER: It's similar to what we have now,
20 your Honor, or what existed before.

21 THE COURT: Okay. "However, the amount" -- well,
22 the argument is it's severely undervalued at the present
23 time.

24 MR. SANDLER: I understand the argument, your
25 Honor, and that's -- we're accounting for a lot of this

1 money, and that's also why we're going to have this fair
2 market value determination.

3 THE COURT: "However, the amount of rent
4 that will be payable to the VA will
5 follow the same ratio as contemplated,
6 including the in-kind service
7 recognition and the 650,000 payment
8 to" --

9 And then that's set forth. Explain that to me.

10 MR. SANDLER: Your Honor, right now -- well,
11 excuse me. Before the Court's order, the lease provided to
12 fair market value. Fair market value had two components to
13 it -- excuse me. What Brentwood was responsible to do under
14 the lease had two components to it, financial and in-kind
15 services. That concept -- and I've heard discussion of it
16 in this courtroom. That concept would continue into this
17 next agreement, whatever it is, and that's what we're trying
18 to account for here. With respect to the financial, your
19 Honor, you'll see in the next bullet how the 650 breaks in.

20 THE COURT: "Brentwood agrees to make
21 monthly payments annualized to equal
22 \$650 to" -- and then blank -- "subject
23 to the agreement being renewed
24 commencing on year two of the renewal,
25 and annualized payment will increase by

1 three percent or CPI, whichever is
2 greater, each subsequent year. This
3 shall be to a trust that is established
4 to benefit veterans."

5 What trust? In other words, you run into problems
6 in your briefing with disabled American veterans, and when
7 you ask for those documents showing what the DAV had done
8 with that money, you represent -- I think it's on page
9 seven, I forget -- you represent you couldn't get an
10 accounting from DAV, that the best you could get from DAV
11 about what happened to this money was that now they were
12 simply coordinating taxi or Uber services, so, once again,
13 you couldn't trace the money.

14 MR. SILBERFELD: Right. This is to create a new
15 entity, your Honor.

16 THE COURT: Who's going to do that, my monitor?
17 Is the VA going to have a separate account? In other words,
18 I'm asking the VA for a separate account for the parking
19 lot. Are we going to give that back to the VA and see if
20 they'll have a separate account for this?

21 MR. SILBERFELD: No. It would be a new nonprofit,
22 obviously with the consent of VA, that gets created.

23 THE COURT: Okay. And then you go on to say:
24 "This can be to a nonprofit, to be used
25 at the West L.A. VA campus as long as

1 the nonprofit has two veterans and one
2 representative of the VA on the board.
3 Brentwood would like to be invited to
4 board meetings to see if we can lend
5 assistance beyond the money set forth,
6 but will not have a vote."

7 Okay. All right.

8 MR. SANDLER: Your Honor, on the invitation part,
9 I do think it's worth noting, one of the things we all heard
10 last week was the methane gas problem could be solved -- one
11 of the methane gas problems could be solved with buying
12 monitors or alarms, like a fire alarm.

13 THE COURT: Right, right.

14 MR. SANDLER: We don't want that to be the holdup.
15 That's why Brentwood would participate.

16 THE COURT: Right. Okay.

17 "The parties agree that Brentwood is
18 required to provide in-kind services,
19 and will receive recognition as to the
20 overall value of those in-kind services
21 in the renewable agreement. The
22 specific services and recognition will
23 be worked out in the long form, but
24 Brentwood will not be required to pay
25 more than 1.5 million per year of

1 in-kind services during any term."

2 I have to tell both of you, not with Brentwood,
3 but I'm always skeptical of in-kind services. I don't know
4 how to value them, and, therefore, the problem I had was the
5 550,000 that I mentioned before being in-kind services that
6 Brentwood already had. So I don't attach much value to
7 that. I'd almost rather get more real money, but I
8 recognize that Brentwood doesn't want to do that, because
9 they don't have a longer term than one year, so it's not a
10 good investment for them, but, however you value that:

11 "Amongst the services that Brentwood
12 should be prepared to fund are
13 maintenance, of course, and you've
14 already done that, by the way, the
15 summer at Brentwood, as well as an
16 increased number of scholarships and
17 financial aid for qualified and admitted
18 children of veterans."

19 Now, that is of value. So, if you've got children
20 being financed, if you've got scholarships going on, that's
21 of tremendous value.

22 MR. SANDLER: And we consider that part of our
23 in-kind services, your Honor.

24 THE COURT: Okay.

25 MR. SANDLER: It's the shuttles. It's all the --

1 THE COURT: Yes. You can attach the shuttle in
2 there, too. Just keep me away from the maintenance and put
3 550,000. Okay?

4 "If no party has exercised their option
5 to terminate or revoke the core
6 facilities starting on year two of the
7 renewable agreement, Brentwood will make
8 a payment in the amount of 350,000 to
9 the same charitable trust as referred to
10 above. If no party has exercised their
11 option to terminate or revoke the core
12 facilities starting on year three of the
13 renewable agreement, Brentwood will make
14 a payment in the amount of 350,000 to
15 the same charitable trust as referred to
16 above. If no party has exercised their
17 option to terminate or revoke the core
18 facilities, starting on year four of the
19 renewable agreement, Brentwood will make
20 a payment in the amount of 350,000 to
21 the same charitable trust as referred to
22 above. If no party has exercised their
23 option to terminate or revoke the core
24 facilities starting on year five of the
25 renewable agreement, Brentwood will make

1 a payment in the amount of 500,000 to
2 the same charitable trust as referred to
3 above. If no party has exercised their
4 option to terminate or revoke the core
5 facilities, starting on year six of the
6 renewable agreement, Brentwood will make
7 a payment in the amount of 700,000 to
8 the same charitable trust as referred to
9 above."

10 So what you want to make certain, it sounds like,
11 is "Look. As we make these yearly contributions, we don't
12 want to be paid for something on the front side that's
13 exorbitant," from your perspective. "We want to make sure
14 we've gone long enough for the one year."

15 MR. SANDLER: The concept, your Honor, is that
16 there will be a total payment of \$5,000,000. The first
17 2,000,000, on top of the --

18 THE COURT: No, but you're back-loading it. The
19 point is, you're back-loading it to make certain that you
20 have an incentive to extend out on the one-year renewables.

21 MR. SANDLER: Exactly, your Honor.

22 THE COURT: Okay. Fair enough.

23 MR. SANDLER: We front-loaded the \$2,000,000.

24 THE COURT: "The Brentwood party has
25 exercised their option to terminate or

1 revoke core facilities. The school
2 promises \$1,000,000."

3 I'm just joking, Counsel.

4 MR. SANDLER: Thank you.

5 THE COURT: "Starting on year seven of
6 the renewable agreement, Brentwood will
7 make a payment in the amount of 750,000
8 to the same charitable trust as referred
9 to above."

10 Okay. You just need to reverse this language, and
11 this has to be clear it's coming from the veterans. In
12 other words, it has to be rewritten.

13 MR. SANDLER: Understood.

14 THE COURT: All right. Now, what's the difference
15 between an agreement and a joint use agreement? Go research
16 that for a moment. Is this --

17 MR. SILBERFELD: We --

18 THE COURT: Is this renewable agreement a
19 renewable joint use agreement? We've left that kind of
20 defined -- undefined -- in paragraph six. Six. And there
21 is a difference between a lease and renewal -- and a joint
22 agreement -- or a joint use agreement. I'm sorry.

23 MR. SILBERFELD: We had a call, your Honor, this
24 morning with VA parties, actually some of the contracting
25 folks in Washington, and it's clear to us that the language

1 that we use, the words we use, will determine, based upon
2 how they have to operate, how the VA has to operate, whether
3 the money that comes from Brentwood stays here, meaning in
4 West Los Angeles, or goes to the general treasury.

5 MR. SILBERFELD: Okay. Thank you.

6 THE COURT: No one on any side wants these
7 proceeds to end up having to be sent to the general -- so
8 that could change from "lease" to "joint use," or "joint use
9 lease agreement." In other words, that's something that
10 everybody agrees, "We'd like to keep it here for the benefit
11 of the West L.A. center."

12 MR. SILBERFELD: Correct.

13 THE COURT: Okay. I understand that now.

14 MR. SILBERFELD: So, by way of example, we learned
15 on Sunday in a call that if we were to call this a
16 "revocable license," that terminology has meaning within the
17 VA structure, and that means the money goes to the treasury.

18 THE COURT: I see.

19 MR. SILBERFELD: So we want to call it anything
20 other than a "revocable license," for that reason. So
21 everybody is aligned with the idea that whatever comes from
22 Brentwood that gets paid to VA --

23 THE COURT: I'm just joking. Let's confuse them,
24 call it a "joint use revocable." I'm just joking. "Just
25 use one-year renewable, license subject to revocation."

1 MR. SILBERFELD: We want it to stay here. That's
2 the point --

3 THE COURT: Okay. I understand that.

4 MR. SILBERFELD: -- and we need to work out,
5 obviously, the lingo that accomplishes that.

6 Okay. What do you want me to do now, other than
7 all of you getting busy and drafting?

8 MR. SANDLER: I think, if the Court will give time
9 to allow --

10 THE COURT: No, I'm going to continue the session.
11 Our time now is every day.

12 MR. SANDLER: So I think, your Honor, if -- one
13 moment, please, your Honor.

14 THE COURT: Well, no. I'll check with you at
15 4:30. How's that? Okay? Let's start. You get as far as
16 4:30, and then we'll meet tomorrow at 8:00 o'clock. Okay?

17 MR. SANDLER: Your Honor, I'm not sure that I'm
18 following what the Court is suggesting.

19 THE COURT: I'm going to sit here until this gets
20 done. That's the easiest way I can communicate this. Now,
21 that's subject to Brad going back, and Cody going back, to
22 D.C. I understand that, but we're going to see what that
23 long form looks like, and you're not going back to your
24 offices now. So I'll get "bad judge of the year" award.
25 I'll sit right here, but we start drafting now. Okay?

1 We're in consecutive session.

2 MR. SANDLER: Your Honor, I'll make another
3 proposal.

4 THE COURT: No. Thank you very much. Have a good
5 time. I'll see you at 4:30.

6 (Proceedings concluded.)

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1 I certify that the foregoing is a correct
2 transcript from the electronic sound recording of the
3 proceedings in the above-entitled matter.

4

5 /s/Lorraine Caldwell 10/3/2024
6 Transcriber Date

7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

8

9 /s/L.L. Francisco
10 L.L. Francisco, President
Echo Reporting, Inc.

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