

MILLER BROWN & DANNIS
71 STEVENSON STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

1 SUE ANN SALMON EVANS, State Bar No. 151562
JOHN R. YEH, State Bar No. 154576
2 DONALD A. VELEZ, State Bar No. 143132
MILLER BROWN & DANNIS
3 71 Stevenson Street, 19th Floor
San Francisco, CA 94105
4 Telephone: (415) 543-4111
Facsimile: (415) 543-4384
5

RECEIVED
SEP 10 2009

6 Attorneys for Respondents
LOS ALTOS SCHOOL DISTRICT; BOARD OF
TRUSTEES OF THE LOS ALTOS SCHOOL
7 DISTRICT; and TIM JUSTUS

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA CLARA**

11 BULLIS CHARTER SCHOOL,
Petitioner,

CASE NO. 109 CV 144569

12 v.

**ANSWER TO AMENDED VERIFIED
PETITION FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY
RELIEF**

13 LOS ALTOS SCHOOL DISTRICT;
14 BOARD OF TRUSTEES OF THE LOS
ALTOS SCHOOL DISTRICT; and TIM
15 JUSTUS, in his capacity as District
Superintendent

16 Respondents.
17

18
19 Pursuant to Code of Civil Procedure §431.30, Respondents LOS ALTOS SCHOOL
20 DISTRICT; BOARD OF TRUSTEES OF THE LOS ALTOS SCHOOL DISTRICT; and TIM
21 JUSTUS hereby answer Petitioner BULLIS CHARTER SCHOOL as follows:

22 The following allegations/paragraphs are: a) vague; b) contain irrelevant material;
23 c) contain legal argument or other argument; d) fail to contain adequate facts and/or e) are
24 factually incorrect, and therefore, the Respondents deny each and every one of them in their
25 entirety based on lack of information and/or belief to admit them, except where otherwise noted
26 herein:
27
28

1 Numbered Paragraphs 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22,
2 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48,
3 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74,
4 and 75; Page 1, lines 2-11 and 13-20; Page 1, lines 21 - Page 2, line 14; Page 7/ footnotes 1-2,
5 Page 12/footnote 3, Page 15/footnote 4, and Page 17/footnote 6.

6 Respondents hereby fully incorporate the prior responses and/or denials set forth in this
7 Answer and without waiving them, add further responses to the following allegations of
8 Petitioner's Amended Verified Petition:
9

10 Paragraph 6: Respondents admit Los Altos School District is a public school district duly
11 organized and existing under the laws of the State of California.

12 Paragraph 7: Respondents admit that the Board of Trustees for the Los Altos School
13 District is an elected body with authority to govern LASD.

14 Paragraph 8: Respondents admit that Tim Justus is the Superintendent of LASD.

15 Paragraph 13: Respondents admit the proper venue for this matter is Santa Clara Superior
16 court.
17

18 Paragraph 19: Respondents admit that Bullis is located on a portion of the District's Egan
19 Junior High School Campus.

20 Paragraph 28: Respondents are informed and believe that the County Board did not deny
21 the revision of the Bullis charter.
22

23 Paragraph 30: Respondents lack sufficient information and belief to admit this paragraph
24 as stated. Respondents are informed and believe that on December 1, 2008, the Bullis Board of
25 Directors passed "A motion to open the middle school no later than the fall of 2010 by which time
26 we shall have the funding in hand to pay for the start up costs and we shall address whether we
27 have a unified or stratified funding model."
28

1 Paragraph 31: Respondents admit that Bullis submitted a Proposition 39 Facilities
2 Request.

3 Paragraph 35: Respondent Los Altos School District admits it submitted a Preliminary
4 Offer to Bullis pursuant to Proposition 39.

5 Paragraph 38: Respondent Los Altos School District admits it submitted a Final Offer to
6 Bullis pursuant to Proposition 39.

7
8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 AS A FIRST AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION ON
11 FILE HEREIN, Respondents allege that Petitioner's petition is barred by the provisions of
12 Code of Civil Procedure §§ 338(a)-(h), 340(a)-(e), 342 and/or 343, and other applicable Code
13 of Civil Procedure sections.

14 **SECOND AFFIRMATIVE DEFENSE**

15 AS A SECOND AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION
16 ON FILE HEREIN, Respondents allege that Petitioner's petition is barred by the equitable
17 doctrine of laches.

18 **THIRD AFFIRMATIVE DEFENSE**

19 AS A THIRD AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION ON
20 FILE HEREIN, Respondents allege that Petitioner's petition is barred by the equitable doctrine
21 of unclean hands.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 AS A FOURTH AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION ON
24 FILE HEREIN, Respondents allege that Petitioner's petition is barred by the doctrine of waiver.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 AS A FIFTH AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION ON
27 FILE HEREIN, Respondents allege that Petitioner's petition is barred by the equitable doctrine of
28 estoppel.

MILLER BROWN & DANNIS
71 STEVENSON STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SIXTH AFFIRMATIVE DEFENSE


AS A SIXTH AND SEPARATE AFFIRMATIVE DEFENSE TO THE PETITION ON FILE HEREIN, Respondents allege that as to acts which the Petitioner alleges were or were not done, Respondents were privileged and/or justified with respect to such allegations.

WHEREFORE, this answering defendant prays for judgment as follows:

1. The Petitioner's petition be denied in its entirety;
 2. That the relief requested by Petitioner, including attorneys' fees, be denied; and
- For such other relief in favor of Respondents as the Court deems just and proper

DATED: September 8, 2009

MILLER BROWN & DANNIS

By: 
JOHN R. YEH
DONALD A. VELEZ
Attorneys for Respondents
LOS ALTOS SCHOOL DISTRICT; BOARD
OF TRUSTEES OF THE LOS ALTOS
SCHOOL DISTRICT; and TIM JUSTUS

MILLER BROWN & DANNIS
71 STEVENSON STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

PROOF OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: 71 Stevenson Street, 19th Floor, San Francisco, CA 94105.

On the date set forth below I served the foregoing document described as **ANSWER TO AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF** on interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Arturo J. Gonzalez
Suzanna Pacht Brickman
Maggie Mayo
MORRISON & FOERSTER, LLP
425 Market Street
San Francisco, CA 94105-2482
Tel: 415-268-7000
Fax: 415-268-7522

(VIA U.S. MAIL) I caused such document to be placed in the U.S. Mail at San Francisco, California with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(VIA FACSIMILE) I caused such document to be transmitted via facsimile to the addressee from the facsimile machine of Miller Brown & Dannis whose phone number is (415) 543-4384. The transmission by facsimile was reported as complete and without error

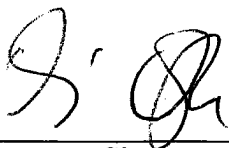
(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

Executed on September 8, 2009, at San Francisco, California.

Diana Bik Ooghe
Type or Print Name


Signature