

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

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

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SANTA CLARA**

10  
11 BULLIS CHARTER SCHOOL,

12 Petitioner,

13 v.

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

17 Respondents.

CASE NO. 109 CV 144569

**SUPPLEMENTAL DECLARATION OF  
RANDY KENYON IN SUPPORT OF  
RESPONDENTS LOS ALTOS SCHOOL  
DISTRICT; BOARD OF TRUSTEES OF  
THE LOS ALTOS SCHOOL DISTRICT; and  
TIM JUSTUS' SURREPLY TO PETITION  
FOR WRIT OF MANDATE**

Trial: October 15, 2009

Petition Filed: June 10, 2009

Time: 9:00 a.m.

Dept.: 1

Judge: Hon. James P. Kleinberg

21  
22 I, Randy Kenyon, declare:

23 I am Assistant Superintendent, Business Services, for the Los Altos School District,  
24 Respondent in the above matter, and have held that position since 1987. I have personal  
25 knowledge of the matters stated in this declaration and could testify to them if called as a witness.  
26

27 1. Beginning with the District's Proposition 39 facilities offer for the 2008-2009  
28 school year, I relied upon the calculations of Gelfand Partners Architects, the architects

**RECEIVED**

**OCT 09 2009**

1 responsible for the design of the buildings for the modernization of all of the comparison group  
2 sites except Covington. The square footage calculations for the turf area, blacktop and  
3 kindergarten area for each of the comparison group schools and the BCS facility for the 2008-  
4 2009 and 2009-2010 school year facilities offer were provided by Lawrence Schadt of Gelfand  
5 Partners Architects. Attached as Exhibit A is a true and correct copy of an electronic mail  
6 message from Lawrence Schadt providing me the square footage measurements. Mr. Schadt did  
7 not provide me with any site plans or drawings depicting these areas, but only the measurements  
8 contained in Exhibit A.  
9

10 2. Prior to the 2008-2009 school year, I relied upon the measurements provided by  
11 the District's former construction manager. Adjustments were made to the blacktop area if  
12 portable buildings were added to that area.  
13

14 3. I have reviewed the newspaper article attached as Exhibit 11 to the Declaration of  
15 Andrea Eyring. I do not believe that it is possible from the photograph accompanying the article  
16 to determine the exact location on the Loyola campus depicted on the photograph on page 2 of the  
17 exhibit.  
18

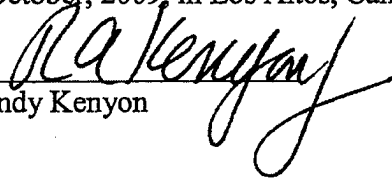
19 4. I have reviewed the Declaration of David Carter. In paragraph 9, he cites a  
20 number of provisions from various editions of the Facilities Use Agreements between the parties  
21 in which BCS assume financial responsibility for the "maintenance, repair, removal and cleanup,"  
22 and "installation, maintenance and/or removal" of the Multi-Use Room at BCS. However, I  
23 believe that BCS would contend that under 5 C.C.R. 11969.4(b) of the Proposition 39 regulations  
24 that the District is still responsible for all major maintenance, including the utility infrastructure  
25 of the Multi-Purpose Room. 5 C.C.R. 11969.2(h) also defines "Facilities Costs" to include  
26 maintaining the grounds of a school site. Since the BCS Multi-Purpose Room sits on District  
27 grounds, for which the District is responsible, I believe the District properly included the Multi-  
28

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1 Purpose Room in the pro-rata share calculation.

2 I declare under the penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct. Executed this 8<sup>th</sup> day of October, 2009, in Los Altos, California.

4  
5 Randy Kenyon



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# EXHIBIT A

Message

**Randy Kenyon**

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**From:** Larry Schadt [Larry@gelfand-partners.com]  
**Sent:** Thursday, March 13, 2008 8:40 AM  
**To:** Randy Kenyon  
**Subject:** RE: Revised Areas (again)

Randy,

Sorry... I forgot Bullis. Here it is:

**Bullis:**

Lower West Blacktop [south of building "1"]: 12,700 s.f.  
 Upper Blacktop [above wall and south of recently proposed portables]: 33,940 s.f.  
 Turf [Useable field only]: 49,130 s.f.  
 Kindergarten Play: 10,300 s.f.

Please let me know if there is any further information required.

Lawrence Schadt  
 Principal  
 Gelfand Partners Architects  
 450 Geary Street, Suite 100  
 San Francisco, CA  
 Ph: (415) 346-4040  
 Fx: (415) 346-4103

---

**From:** Randy Kenyon [mailto:rkenyon@losaltos.k12.ca.us]  
**Sent:** Wednesday, March 12, 2008 6:03 PM  
**To:** Larry Schadt  
**Subject:** RE: Revised Areas (again)

I emailed too soon. You left out Bullis-Purissima. Can you calc that no later than tomorrow AM?

Randy Kenyon

Los Altos School District

-----Original Message-----

**From:** Larry Schadt [mailto:Larry@gelfand-partners.com]  
**Sent:** Wednesday, March 12, 2008 2:41 PM  
**To:** Randy Kenyon; Marlene Shafran  
**Subject:** Revised Areas

Randy,

I have recalculated the highlighted areas per your request and I have included the Egan camp school.

00000001

Also, attached is a PDF of the latest Bullis portable configuration.

**Almond:**

Blacktop: 78,446 s.f.

Turf: 132,125 s.f.

Kindergarten Play: 10,387 s.f.

**Covington:**

Blacktop: 54,217 s.f.

Turf: 84,917 s.f.

Kindergarten Play: 7,635 s.f.

**Egan Camp [BCS]:**

Blacktop: 49,330 s.f.

Turf: 60,110 s.f.

Shared Turf: 31,300 s.f.

Kindergarten Play: 6,850 s.f.

**Loyola:**

Blacktop [North]: 27,110 s.f.

Blacktop [South]: 30,478 s.f.

Turf: 91,673 s.f.

Kindergarten Play: 5,557 s.f.

**Santa Rita:**

Blacktop: 43,930 s.f.

Turf: 188,770 s.f.

Kindergarten Play: 6,007 s.f.

Lawrence Schadt

Principal

**Gelfand Partners Architects**

450 Geary Street, Suite 100

San Francisco, CA

Ph: (415) 346-4040

Fx: (415) 346-4103

1 **PROOF OF SERVICE**

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

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

7 On the date set forth below I served the foregoing document described as **SUPPLEMENTAL  
8 DECLARATION OF RANDY KENYON IN SUPPORT OF LOS ALTOS SCHOOL  
9 DISTRICT; BOARD OF TRUSTEES OF THE LOS ALTOS SCHOOL DISTRICT; and  
10 TIM JUSTUS' SURREPLY TO PETITION FOR WRIT OF MANDATE** on interested  
11 parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as  
12 follows:

13 **SEE ATTACHED SERVICE LIST**

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

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

21  **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the  
22 addressee.

23  **(VIA OVERNIGHT MAIL)** I caused such envelope to be deposited at an authorized  
24 "drop off" box on that same day with delivery fees fully provided for at 71 Stevenson  
25 Street, 19th Floor, San Francisco, CA 94105, in the ordinary course of business.

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

28  **(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 October 9, 2009, at San Francisco, California.

23 Michele Knox-Thomas  
24 Type or Print Name

  
Signature

MILLER BROWN & DANNIS  
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**Service List**

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