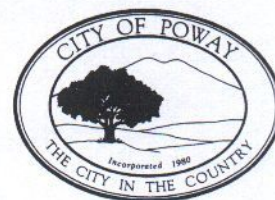


# CITY OF POWAY

MICKEY CAFAGNA, Mayor  
MERRILEE BOYACK, Deputy Mayor  
BOB EMERY, Councilmember  
DON HIGGINSON, Councilmember  
BETTY REXFORD, Councilmember



June 6, 2007

Dear Property Owner/Interested Party:

Re: Follow Up Regarding Mina De Oro Road

The purpose of this letter is to update you regarding Mina de Oro Road and the Eucalyptus Heights Gate, and to answer some of the recent questions that the City has received about these subjects.

## What is the Status of the Eucalyptus Heights Gate?

On May 15, 2007, the City Council passed a resolution rescinding the approval of the Eucalyptus Heights Gate, and ordered the parties who installed the gate to remove it and associated columns within 60 days. This action was necessary to comply with the court's decision in Keena v. Shoval. The 60-day deadline will occur on or about July 14, 2007. As a result of this Council action, the gate no longer has the necessary permit to remain in place. Therefore, if it is not removed within the 60-day deadline, the City will have no choice but to take legal action to force its removal.

It is our understanding that the gate currently remains closed and locked. We are requiring by this letter that the property owners responsible for the gate open it and leave it open pending its removal, in order to comply with the spirit, as well as the letter of the court's ruling.

## What is the Status of the other Gates/Obstructions on Mina de Oro Road?

The City has received questions about other gates and obstructions on Mina de Oro Road, and why the City is not requiring them to be removed. The City currently has no authority to order the removal of any gates or obstructions, other than the Eucalyptus Heights Gate. The only issue in the Keena v. Shoval lawsuit against the City, was the approval of the Eucalyptus Heights Gate. The court's order in that case only addresses that particular gate. Any disputes regarding other gates or obstructions on Mina de Oro are private disputes to be resolved between the area property owners. Additionally, the one gate that the City has received a specific complaint about was confirmed by staff to be located on the property owner's driveway, and not on the historical alignment of Mina de Oro Road.



Will the City be Improving or Maintaining Mina de Oro Road?

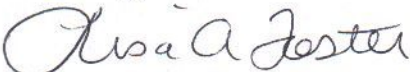
In order to answer this question, it is critical to distinguish between a public road and a City street. A public road is a vehicle route with some evidence of usage, but is not required to be publicly or privately maintained (Vehicle Code § 527). A "street," on the other hand, is a way or place that must be publicly maintained for vehicular traffic (Vehicle Code § 590). After reviewing the historical information about Mina de Oro Road, the court in Keena v. Shoval specifically found that Mina de Oro is a public road, not a City street. The City never accepted Mina de Oro Road into the City street system, and the City has no obligation to improve or maintain Mina de Oro Road. If future development proposals are brought forward that propose the use of Mina de Oro Road as access, necessary improvements to the road for access purposes will be required as a condition of development.

Will the City be Vacating Mina de Oro Road?

After studying this issue, it has been determined that there is no reason to vacate Mina de Oro Road at this time, as it is not a part of the City street system and the City has no further obligations with regard to the road.

I hope this has clarified our position on this matter.

Sincerely,



Lisa A. Foster  
City Attorney

cc: Mayor and Members of the City Council  
Rod Gould, City Manager  
Penny Riley, Assistant City Manager  
Niall Fritz, Director of Development Services

PETERSON DENNIS & JOAN  
15355 RUNNING DEER TRAIL  
POWAY CA 92064

HOVER JESSE 1995 LIVING TRUST  
15332 HIGHWAY 67  
POWAY CA 92064

IMAD SHAHHAL  
ELCH LTD PARTNERSHIP  
2715 RICH LYNN RIDGE RD  
ESCONDIDO CA 92025

DRAPER EDWARD & KAREN  
15101 MINA DE ORO RD  
POWAY CA 92064

SHOVAL MENACHEM & PEGGY  
13801 ADRIAN ST  
POWAY CA 92064

HOVER JESSE  
1995 LIVING TRUST  
15227 MINA DE ORO RD  
POWAY CA 92064

WIXTED SALLY  
PAVELCHEK ANDREW  
15545 WESTVIEW RD  
POWAY CA 92064

NODES THOMAS & BEVERLY  
REV LIVING TRUSTS  
13951 CALVARY RD  
POWAY CA 92064

HILSABECK FAM (EXEMPTION) TRS  
HILSABECK MARITAL TRS ET AL  
11611 S W SKYLINE DR  
SANTA ANA CA 92705

ROGERS HARRY A JR  
14875 MINA DE ORO RD  
POWAY CA 92064

WEBB WARREN W  
14825 MINA DE ORO RD  
POWAY CA 92064

BLUE GROTTO L P  
2008 GOSHAWK ST  
SAN DIEGO CA 92123

BONAGUIDI PAT & KRISTEN  
TRS 6-28-01  
10755 SCRIPPS POWAY PKWY #F430  
SAN DIEGO CA 92131

STERGER ALLEN & LINDA  
16071 EUCALYPTUS HEIGHTS RD  
POWAY CA 92064

KEENA DENNIS & KAREN  
2650 TERN DR  
SAN DIEGO CA 92123

LIU FRANK CHANG-YAN &  
LINDA XU-LO  
16040 EUCALYPTUS HEIGHTS RD  
POWAY CA 92064

THOMAS JERRY & CATHY  
16024 EUCALYPTUS HEIGHTS RD  
POWAY CA 92064

BAINBRIDGE JAMES &  
CABRERA IRMA  
16008 EUCALYPTUS HEIGHTS RI  
POWAY CA 92064

GRANT MICHAEL A  
15525 WESTVIEW RD  
POWAY CA 92064

LUCIDI FAMILY LTD PARTNERSHIP  
11974 AVENIDA CONSENTIDO  
SAN DIEGO CA 92128

SCHAEFER EDWIN & JO LYNNE  
15151 CROCKER RD  
POWAY CA 92064

JOHN FITCH  
14544 CEDAR RIDGE COURT  
POWAY CA 92064

NEIL & PAMELA LARSON  
16011 EUCALYPTUS HEIGHTS RD  
POWAY CA 92064

SOUTH POWAY RESIDENTS ASSN.  
13033 EARLGATE CT.  
POWAY, CA 92064

PAT KUMPAN  
POWAY NEWS CHIEFTAIN  
P.O. BOX 685  
POWAY, CA 92064