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12
13 **IN THE UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF ARIZONA

14 Roy and Josie Fisher, et al.,
15 Plaintiffs

CV 74-90 TUC DCB
(Lead Case)

16 v.
17 United States of America,
18 Plaintiff-Intervenor,

**NOTICE AND REQUEST FOR
APPROVAL OF SALE OF
REYNOLDS SCHOOL
PROPERTY**

19 v.
20 Anita Lohr, et al.,
21 Defendants,

22 Sidney L. Sutton, et al.,
23 Defendants-Intervenors,

CV 74-204 TUC DCB
(Consolidated Case)

24 Maria Mendoza, et al.
25 Plaintiffs,

26 United States of America,
27 Plaintiff-Intervenor,

28 v.
Tucson Unified School District No. One, et al.
Defendants.

1 **I. Background**

2 The Tucson Unified School District, No. 1 (“TUSD” or the “District”), hereby
 3 submits this Notice and Request for Approval of the former Reynolds Elementary School
 4 site (“Reynolds Property”), an action approved by TUSD’s Governing Board on February 9,
 5 2016. *See* Exhibit 1, Governing Board Actions from 2.9.16, Item 6. This request is made
 6 pursuant to the January 6, 2012 Order Appointing Special Master (ECF 1350) and this
 7 Court’s August 22, 2012 Order (ECF 1385).

8 The Reynolds Property formerly housed Reynolds Elementary School. In June of
 9 2010, the TUSD Governing Board voted to merge Reynolds with three neighboring
 10 elementary schools: Erickson to the west, Ford to the east, and Lyons to the south. The
 11 proposed buyer of the property is a developer who intends to demolish the existing structure
 12 on the property to build townhouses or assisted living on the property. *See* Exhibit 2,
 13 Reynolds Desegregation Impact Analysis (DIA).

14 **II. Process**

15 On December 1, 2015, the District submitted the DIA to the Special Master and
 16 Plaintiffs to request preliminary approval, offer an opportunity for objections, and solicit
 17 feedback that could be shared with the Governing Board to inform its decision. *See* Exhibit
 18 3, Taylor Email to Special Master and Plaintiffs, 12.1.15. In response, counsel for the
 19 Fisher Plaintiffs shared a 2011 site assessment of the Reynolds Property, noting that the
 20 “additional background information [] might prove useful in assessing the Reynold’s DIA.”
 21 *See* Exhibit 4, Salter Email to Special Master and Parties, 12.1.15. On December 4, 2015,
 22 the Department of Justice indicated that it had no objection. *See* Exhibit 5, Eichner Email
 23 to Special Master and Parties, 12.4.15. Dr. Hawley and counsel for the Mendoza Plaintiffs
 24 did not respond to the District’s request for approval or comment. Between December 2015
 25 and February 9, 2016, neither the Special Master nor any party objected to the sale or
 26 provided additional feedback or comment (other than the additional information provided
 27 by counsel for the Fisher Plaintiffs in December 2015).

1 **III. Request**

2 As described in the DIA, “21 students would be produced by this development
3 assuming townhouses are built. Due to small number of students expected from the
4 development, the projection impacts are insignificant in each school level.” *See* Exhibit 2,
5 Reynolds DIA, p.1. The DIA also notes that if the developer elects to build apartments
6 rather than the 70 projected townhouses, “it is unlikely that the number would exceed 100
7 units, which would generate fewer students than the 70 townhouses.” *Id.*

8 The development is expected to produce a maximum of 21 students: eleven
9 elementary students, five middle school students, and five high school students. *Id.*
10 “Students from the projected development will attend Erickson Elementary School, Secrist
11 Middle School and Santa Rita High School ... or they can choose another TUSD school
12 through TUSD’s School Choice Program.” *Id.*, p.2. The projected students’ enrollment
13 into the identified schools will likely result in no significant change to the
14 “segregation/integration at the schools...” *Id.* However, Erickson is an integrated school
15 under the USP; therefore each additional student attending Erickson from the proposed
16 development will increase the number of students attending an integrated school. Similarly,
17 both Secrist and Santa Rita are within five percentage points of meeting the USP definition
18 of an integrated school and both have a diverse student population that is approximately
19 40% Anglo, 40% Latino, and 15% African American.

20 The District has analyzed whether the Reynolds Property is necessary to serve TUSD
21 students in the future, and has concluded that “all of the surrounding schools are expected to
22 have excess capacity” over the next five years. *Id.*, p.3. The DIA further analyzes how the
23 proposed change might impact the District’s obligations under the USP, and reports on two
24 relevant USP areas: student assignment and family engagement. As relates to TUSD’s
25 student assignment obligations, the District finds that the sale will have a “minimal
26 potential impact” because the Reynolds Property is located “in the District’s south-
27 southeast quadrant in an area that has seen student populations decline over the past decade.
28

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1 Due to declining student population the additional capacity that Reynolds could provide is
2 not expected to be needed in the future. The addition of 21 students to the area will not
3 impact the District’s ability to meet its student assignment obligations.” Id., p.4. The
4 District also assessed whether the Reynolds Property would be an appropriate candidate for
5 a future family center and concluded that it was not because the District “has developed
6 multiple family centers” and because the existing “Palo Verde family center is
7 approximately 1.5 miles from the Reynolds site, about a seven minute drive...” Id.

8 **IV. Conclusion**

9 As the sale will not negatively impact the District’s ability to meet its USP
10 obligations under student assignment, or any other USP area, and as the sale may even
11 increase the number of students attending an integrated and/or diverse school, the District
12 respectfully requests approval of the request to sell the Reynolds Property.

13 DATED this 16th day of February, 2016.

14 **TUCSON UNIFIED SCHOOL DISTRICT**
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24 **ORIGINAL** of the foregoing filed via the CM/ECF
25 Electronic Notification System and transmittal of a
26 Notice of Electronic Filing provided to all parties
27 that have filed a notice of appearance in the District
28 Court Case, as listed below.

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