

California Supreme Court Historical Society  
2010 Student Writing Competition

Third Place Entry

“The Last of the Beaches:  
Development and Destruction of Palisades del Rey”

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Note: The author submitted a separate Appendix file containing illustrations for his paper in the event of publication. It was not part of the file he submitted for judging, but has been attached here for online viewing.

## **“The Last of the Beaches”: The Development and Destruction of Palisades del Rey**

*“Rising from the silver strands to majestic Headlands – Flanked by the cool, soothing surf of Santa Monica Bay – Palisades del Rey . . . is now being prepared for you.”<sup>1</sup>*

### I. INTRODUCTION

Playa del Rey was a favorite Southern California stop for tourists on the Pacific Electric Railway’s “Balloon Line” route during the early 1900s following a period of great development.<sup>2</sup> The sights included a \$100,000 pavilion with a restaurant, bowling alley, and dance floor, an 18-mile speedway for automobile racing, and the luxury Del Rey Hotel.<sup>3</sup> The area met tough times, however, as the First World War approached. In 1911 and again in 1917, a large portion of the fishing pier collapsed.<sup>4</sup> The pavilion and the hotel, which had become a well-known house of prostitution, both burned down in a devastating fire shortly before the war.<sup>5</sup> A nearby school for mentally-retarded girls was the scene of a tragic fire that caused the death of twenty-two children.<sup>6</sup>

Where some saw defeat, however, others see opportunity. One such visionary was Fritz Burns, a native of Minneapolis, who arrived in Los Angeles following his service as second lieutenant of infantry in World War I.<sup>7</sup> A real estate developer for Dickinson & Gillespie Realtors, Burns oversaw over fifty successful residential developments in the Los Angeles area

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<sup>1</sup> *Display Ad 94*, LOS ANGELES TIMES, Sept. 7, 1924, at D4.

<sup>2</sup> *Lifestyle Gives Seaside Enclave Its Charm*, LOS ANGELES TIMES, Oct. 25, 1992, at Real Estate section, available at 1992 WLNR 4011333.

<sup>3</sup> *Id.*

<sup>4</sup> History of Playa del Rey, California, <http://www.playadelrey.com/history.html> (last visited Oct. 24, 2009).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Fritz B. Burns & Palisades del Rey: Burns biography, <http://157.242.56.37/exhibits/burns/burns.htm> (last visited Oct. 24, 2009).

by the late 1920s.<sup>8</sup> One of Burns' earliest developments in California was Palisades del Rey, a luxurious enclave of beachfront homes and businesses nestled along the Pacific coastline in Los Angeles.

This paper explores the historical significance of the legal battle that ensued between the Palisades del Rey homeowners and Los Angeles International Airport once the city attempted to purchase the Palisades del Rey properties. Billed as the "last of the beaches,"<sup>9</sup> neither Fritz Burns nor any of those who bought Palisades del Rey homes in the 1920s could have imagined what would grow on the fields of barley next door to their new property. What was developed as a private ocean commune became the directly adjacent neighbor of Los Angeles' main portal to the world through its burgeoning airport. Los Angeles International Airport is now the sixth busiest airport in the world, serving almost sixty million passengers annually.<sup>10</sup>

Part II of this paper discusses Palisades del Rey's early development and golden years. The swift sales and unique lifestyle that developed in this tract community lay the framework for better understanding why the battle over the coastal land was so drawn out in the decade between the mid-1960s and the mid-1970s. Next, Part III outlines the dreams of municipal leaders and the mounting fears of residents during the 1940s and 1950s, as thriving "airport communities" and their airports grew and conflict developed. Finally, Part IV dives into the struggle between the city and the Palisades del Rey homeowners over the highly-coveted coastal property, the process of the airport's condemnations and property acquisitions, and the lawsuits that ensued. Perhaps no single area in Los Angeles better encapsulates the intersections, struggles and

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<sup>8</sup> "List of Developments" Dickinson & Gillespie Corporation Sales Pamphlet (circa 1927) (on file with William H. Hannon Library, Loyola Marymount University).

<sup>9</sup> *Display Ad 4*, LOS ANGELES TIMES, Sept. 19, 1924, at A3.

<sup>10</sup> LAX – General Description, [http://www.lawa.org/welcome\\_lax.aspx?id=40](http://www.lawa.org/welcome_lax.aspx?id=40) (last visited Oct. 24, 2009).

disputes between property developers, cities, residents, oil, aircraft and business that has been the history of Southern California better than Palisades del Rey.

Palisades del Rey was a success in its early years. The *Los Angeles Times* reported in a 1925 article that Dickinson & Gillespie had sold more than \$4 million worth of residential property in Palisades del Rey during its first three months on the market.<sup>11</sup> Using the consumer price index, this would be almost \$50 million today.<sup>12</sup> In that article, the *Los Angeles Times* proclaimed, “Graced by a new name, this formerly bleak and almost uninhabited sandy waste has become . . . an aristocratic suburb for attractive beach homes.”<sup>13</sup>

In 1928, however, a new neighbor moved in next door to the residents of Palisades del Rey — the Los Angeles Municipal Airport.<sup>14</sup> For the airport, the Los Angeles City Council acquired 640 acres of land that had formerly been a part of a rancho, directly east of the Palisades del Rey properties.<sup>15</sup> Though the airport grew year by year, expanding from a single hangar in 1928 to multiple terminals, hundreds of destinations, and an annual volume of over twenty million passengers by the late 1960s,<sup>16</sup> the Los Angeles Airport and Palisades del Rey co-existed peacefully until the widespread use of propeller engines gave way to the “jet age” of the 1960s.<sup>17</sup> Coupling the airport’s large-scale expansion and the sudden prevalence of booming jet engines at

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<sup>11</sup> Helen Starr, *District Shows Record Growth*, LOS ANGELES TIMES, Apr. 26, 1925, at F12.

<sup>12</sup> Based on calculations at Measuring Worth – Relative Value of U.S. Dollars, <http://www.measuringworth.com/calculators/uscompare/> (last visited Oct. 24, 2009).

<sup>13</sup> Starr, *supra*, at F12.

<sup>14</sup> LAX Early History, [http://www.lawa.org/welcome\\_lax.aspx?id=1108](http://www.lawa.org/welcome_lax.aspx?id=1108) (last visited Oct. 24, 2009).

<sup>15</sup> *Id.*

<sup>16</sup> Problems Versus Progress at Airports, Speech by Clifton A. Moore, General Manager Los Angeles Department of Airports, to City Economic Development Board (Nov. 21, 1972) (on file with Los Angeles Flight Path Museum).

<sup>17</sup> *Cityscape – Homing In*, LOS ANGELES TIMES, Aug. 27, 1995, at Los Angeles Times Magazine, available at 1995 WLNR 44482800.

this time, the noise beneath the takeoff flight path rendered the homes of Palisades del Rey unlivable.<sup>18</sup> The city's Department of Airports condemned or purchased and, after years of fighting, lawsuits, and negotiations, ultimately tore down more than 900 area homes in the early 1970s, leaving behind a ghost town of empty streets still visible on any flight departing from Los Angeles International Airport.<sup>19</sup> Today, the endangered El Segundo blue butterfly, and about 90 other plants and animals are the only remaining residents of Palisades del Rey.<sup>20</sup>

## II. NOT JUST ANOTHER DEVELOPMENT

From its beginning, Palisades del Rey was not just another development. The tract was situated above the ocean by several hundred feet and laid out with substantial homes in mind – nothing constructed there would cost less than \$10,000<sup>21</sup> (\$122,819 today).<sup>22</sup> The business section of the development would be located below the cliff residence sites and near a lagoon.<sup>23</sup> As sales were commencing, Dickinson & Gillespie Company ran advertisements weekly in the *Los Angeles Times* emphasizing the special nature of the Palisades del Rey location. “Only three miles of all Los Angeles’ inadequate Coast line remain – and they are – Palisades del Rey,” said one advertisement.<sup>24</sup> “Never again will you have presented to you the opportunity of procuring

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> An Observer, *Beach Project Close to City*, LOS ANGELES TIMES, Oct. 24, 1924, at E6.

<sup>22</sup> Based on calculations at Measuring Worth – Relative Value of U.S. Dollars, <http://www.measuringworth.com/calculators/uscompare/> (last visited Dec. 18, 2009).

<sup>23</sup> Starr, *supra*, at F12.

<sup>24</sup> *Display Ad 94, supra*, at D4.

at original cost, Beach Lots, Palisade Sites, Investment Sites and Boulevard Frontages – All Improved,” warned another advertisement.<sup>25</sup>

Burns told the *Los Angeles Times* that more than 90 percent of the original lots placed on the market for the development’s preliminary offering were sold in the first day.<sup>26</sup> The remaining homes and home sites were selling on average of one per day, with \$1 million laid out for additional construction after the initial build.<sup>27</sup> This next phase of residential construction, dubbed the new Model City addition, sold \$511,835 worth of property in its first day.<sup>28</sup> Burns conducted the home sales somewhat like a modern “day after Thanksgiving” sale. At 3 p.m. on a specified day, Burns removed construction barricades and “the largest crowd of lot buyers ever assembled at a sale” flooded in and bought over \$450,000 worth of lots within the first two hours of the promotion.<sup>29</sup> Burns set up picnic grounds in a shaded eucalyptus grove and sponsored a treasure hunt on the beach for prospective buyers.<sup>30</sup> Burns also published a biweekly newspaper, the *Palisades del Rey Press*, which covered serious topics like the scandalous new bathing suits seen on the beach there.<sup>31</sup>

### III. HOPE FOR AIRPORT COMMUNITIES

By the late-1940s, airports had grown from small municipal airfields to much larger operations, hauling passengers around the country and the world. Fritz Burns kept a 1952

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<sup>25</sup> *Display Ad 115*, LOS ANGELES TIMES, Sept. 14, 1924, at D6.

<sup>26</sup> *New Record Made in Sale of Lots*, LOS ANGELES TIMES, May 10, 1925, at F1.

<sup>27</sup> Starr, *supra*, at F12.

<sup>28</sup> *Sale Sets High Mark for Realty*, LOS ANGELES TIMES, Aug. 9, 1925, at F2.

<sup>29</sup> Starr, *supra*, at F12.

<sup>30</sup> *L.A. Then and Now*, LOS ANGELES TIMES, Dec. 16, 2001, at California section, *available at* 2001 WLNR 10514583.

<sup>31</sup> JAMES THOMAS KEANE, FRITZ B. BURNS AND THE DEVELOPMENT OF LOS ANGELES 50 (2001).

*Collier's* article in his files about fears regarding life near airports.<sup>32</sup> The article discussed how a number of citizens in Elizabeth, New Jersey, who lived near Newark Airport had asked the airport to close because of three plane crashes that had occurred over the period of just a few months, which plunged into nearby dwellings, killing occupants.<sup>33</sup> After the third crash, the Port of New York Authority closed the Newark field.<sup>34</sup> “If it had not done so, the people of Elizabeth were prepared to close it by mass action,” the article said.<sup>35</sup>

In fact, likely fueled by these fears, Los Angeles was looking for alternative airport options outside city borders around this time. In 1946, Los Angeles acquired the recently built Palmdale Airport, located over seventy miles away from Los Angeles Airport, from the U.S. government.<sup>36</sup> Just four years later, the city returned the airport property to the federal government.<sup>37</sup> Decades later, in 1970 — again, probably fueled by the Palisades del Rey debacle — Los Angeles Airport acquired 17,500 acres of land in Palmdale, adjacent to the earlier airport, to serve as the “Palmdale Intercontinental Airport,” with the express goal of creating a true alternative to LAX.<sup>38</sup> Since this time, no commercial airline has been able to sustain operations at Palmdale, despite receiving over \$6 million in federal grants to underwrite losses during the last attempt to

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<sup>32</sup> “It’s Too Dangerous,” *COLLIER’S* (Apr. 12, 1952) (on file with William H. Hannon Library, Loyola Marymount University).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> LA/Palmdale Regional Airport, [http://en.wikipedia.org/wiki/LA/Palmdale\\_Regional\\_Airport](http://en.wikipedia.org/wiki/LA/Palmdale_Regional_Airport) (last visited Oct. 31, 2009).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

revive the airport in 2007.<sup>39</sup> As of February 2009, Los Angeles airport officials were considering using the large Palmdale property as a solar power facility.<sup>40</sup> Los Angeles World Airports has removed all information about the Palmdale Airport property from its Web site.

The *Collier's* article Fritz Burns kept in his files summarized the airport problem, though it also explained why Burns continued to develop tracts in the Westchester area. The article said that no modern innovation could come without some sacrifice and hardship. Looking to the future, the article told readers that such progress was necessary and could not be stopped. The article concluded, "The fight against the airplane is as sure to fail as the fight against the railroads in their early days. The airplane is here to stay . . . What we call progress may not be an unmixed blessing, but it is inevitable."<sup>41</sup>

In fact, Burns pitched the proximity to the airport as a positive indicator for the future and stability of the community. Burns and his associates had boldly dubbed the Palisades del Rey project "Building a City Where a City Belongs."<sup>42</sup> Burns said that the Westchester area had benefitted from the jobs that the airport provided, from the technically-minded and educated employees and engineers the airport had attracted to the area, and from the strength of the population there, who would stay employed at the airport and keep living there.<sup>43</sup> On this sheet, Burns displayed a table of local noises, showing that the noise a Convair plane creates taking off at Los Angeles Airport was almost identical to the noise of a passing passenger car (110 decibels

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<sup>39</sup> *Id.*

<sup>40</sup> *Palmdale Airport Land May Become a Solar Farm*, LOS ANGELES TIMES, Feb. 23, 2009, at <http://articles.latimes.com/2009/feb/23/local/me-solar23>.

<sup>41</sup> COLLIER'S, *supra*.

<sup>42</sup> KEANE, *supra*, at 52.

<sup>43</sup> Greater Westchester (n.d.) (on file with William H. Hannon Library, Loyola Marymount University).



compared to 106 decibels).<sup>44</sup> However, interestingly, Burns had crossed out a portion of his pamphlet draft which would have discussed possible airport expansion.<sup>45</sup> Though his reasons for doing so are unfortunately left to the imagination, one would suppose that Burns did not wish to incite concerns over the negative implications of airport expansion in what was otherwise a rosy portrayal of home life adjacent to an airport.

Los Angeles Airport would not begin its commercial jet operations until 1959.<sup>46</sup> Nevertheless, immediately next to the draft for this pamphlet in Burn's files was an undated pamphlet presumably from the same period that details Los Angeles Airport's planned expansion to become Los Angeles International Airport and an "Air Gateway to the World."<sup>47</sup> Burns knew the airport would continue to grow and expand as the city did, but he had no idea just how much. Again, even without a direct insight into Burn's intentions here, it is unlikely that even he could imagine the large scale by which LAX would grow over the decades to come.

#### IV. THE FIGHT FOR PALISADES DEL REY

##### A. *The Jet Age Brings Condemnations*

As the airport added additional runways and those runways were now being used by the new jet engines that were louder than propeller engines, Los Angeles International Airport had made much of the area — including Palisades del Rey — an uncomfortable place to live.<sup>48</sup> The sound

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Jet Aircraft Noise Damages Denied, The News Letter Los Angeles Department of Airports (Jan. 1, 1968) (on file with Los Angeles Flight Path Museum).

<sup>47</sup> *Id.*

<sup>48</sup> *L.A. Then and Now*, *supra*, available at 2001 WLNR 10514583.

of waves was overtaken by the constant noise of planes flying by.<sup>49</sup> The Airport Commission of the City of Los Angeles, acting based on the powers California Assembly Bill 806 established, voted, and unanimously approved the condemnation of the first set of homes in the Palisades del Rey development in December 1964.<sup>50</sup>

Looking to mitigate the financial damage from the loss of the physical beachfront property rights, the residents of the condemned homes requested that they be permitted to retain the oil and mineral rights on their land without any surface right of entry.<sup>51</sup> Perhaps the residents believed the land might have mineral riches or maybe the residents were looking for an argument with the city they could win. Hoping to placate the soon-to-be displaced residents, the airport agreed. No materials or publications from the time since the condemnations indicated that any residents of the time profited at all from these oil and mineral rights.

Plans for the demolition and removal of Palisades del Rey progressed. The City Council passed a resolution in 1967 decreeing that, upon acquisition of the condemned properties, the city would vacate and abandon twenty-six streets, alleys, and four public walks within Palisades del Rey.<sup>52</sup> Looking at a map of the Palisades del Rey area today, these empty unnamed streets remain on maps.

Disappointed with the money they had received for their homes, ten Palisades del Rey residents filed a lawsuit in Los Angeles Superior Court against the city and the airport, alleging

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<sup>49</sup> *Id.*

<sup>50</sup> Resolution No. 3507 – Resolution Requesting Council Adopt Ordinance Covering Condemnation Playa del Rey Properties (Dec. 2, 1964) (on file with Los Angeles City Attorney).

<sup>51</sup> Department of Airports Memorandum from R.C. Davidson regarding the oil and mineral rights in the Playa del Rey area (Feb. 9, 1966) (on file with Los Angeles City Attorney).

<sup>52</sup> Resolution No. 4022 – Vacation of 26 Streets in Playa del Rey Acquisition Area (Jan. 4, 1967) (on file with Los Angeles City Attorney).

damages caused by jet aircraft noise to the value of their properties.<sup>53</sup> The homeowners alleged during the course of the trial that jet noise at LAX had caused damages to their homes ranging from \$4,000 to \$8,000.<sup>54</sup> They also sought seven percent interest on the damages, dating from January 29, 1959, the date of the first commercial jet operations at the airport.<sup>55</sup> Without referring to specific decibel levels, Judge Levit ruled that the jet noise was not of a “substantial nature” and did not cause depreciation in value of the properties. He further stated that if recovery had been permitted for jet noise disturbances, an “intolerable burden” would be placed on the public with respect to the cost of constructing and operating airports.<sup>56</sup> Judge Levit said that the airplane is a part of the “modern environment of living,” and that the inconveniences caused by airplanes are not compensable.<sup>57</sup> He concluded that the city dweller “must bear a certain amount of inconvenience, unpleasantness and noise as the cost of living in one of our modern cities, and he is not entitled to payment therefore from any governmental body.”<sup>58</sup> Judge Levit favored airplanes and municipal airport growth.

#### B. *Expansion at Los Angeles International Airport*

Following this ruling, the Palisades del Rey Property Owners Association sought an injunction in Superior Court in the fall of 1968, hoping to head off a proposed expansion of the facilities at Los Angeles International Airport that would force more condemnations in their

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<sup>53</sup> Jet Aircraft Noise Damages Denied, *supra*, (on file with Los Angeles Flight Path Museum). The case name and citation are not available.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

community.<sup>59</sup> The homeowners asked the court to stop city zoning officials from granting the Department of Airports a conditional use permit to rezone their single family residential area for industrial use.<sup>60</sup> The complaint said the airport planned to build hangars, office buildings, and flight kitchens on airport property in the area.<sup>61</sup> The homeowners complained that their homes were now less than 300 feet from the airport boundaries and that the new airport construction would increase traffic, create higher noise levels, and reduce home values.<sup>62</sup> Expansion continued.

In 1970, a group of the 373 remaining Palisades del Rey homeowners<sup>63</sup> filed another lawsuit in Superior Court against nine major airlines, the City of Los Angeles Department of Airports, and the Federal Aviation Administration seeking to prevent the airport from using its new north runway, to prevent the runway's proposed extension to the ocean, and to declare its use a confiscation of their property without due process of law.<sup>64</sup> The Palisades del Rey residents contended in their suit that the new runway constituted "conspiracy and deliberate planning" to depreciate the value of their property before condemnation.<sup>65</sup> The suit further alleged that residents of the communities surrounding the airport suffered both personal and property damage through the deliberate acts of the airport administration.<sup>66</sup>

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<sup>59</sup> *Ban Sought on Airport Expansion*, LOS ANGELES TIMES, Sept. 12, 1968, at D12.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *City Poll Supports Condemnation of 'Island' at Airport*, LOS ANGELES TIMES, Feb. 22, 1970, at CS1.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

### *C. The City Council Gets Involved*

The battle lines had been drawn between the airlines, city airports and planning officials, and business interests on one side and the dozens of remaining angry Palisades del Rey residents, who were doing everything possible to avoid losing their homes. In a heated city council hearing, Councilman Louis R. Nowell said he would offer a proposal that would permit the airport facilities to be built, but would assure the remaining property owners in the beach front Palisades del Rey “island” that their properties would be purchased by the Airports Department at fair market value.<sup>67</sup> Caving to pressure from his Palisades del Rey constituents who wanted to stay, City Council president L.E. Timberlake said that he would oppose the airport expansion measure at all costs.<sup>68</sup> “The only answer to the problem is a new airport in a new location,” he said. “To squeeze out every inch to get a buck is not the answer.”<sup>69</sup>

The council, however, must have realized that there were few other places an airport could go. After all, the area where LAX developed had been the “country” just thirty years prior, set apart from the commercial areas of Los Angeles, and no viable alternatives seemed available in the short term that could handle the increasing load of passengers traveling to Southern California.

On the contrary, the majority of the city council wanted to see LAX expand. The expansion of LAX meant that employment in the airlines’ aircraft maintenance and food services would rise from 1,000 to 7,000 by 1975, that airport payrolls would jump from \$2 million to \$57 million, and that the total economic growth of the project would mean an increase in \$300 million for the

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<sup>67</sup> *Expansion of Airport to Face Test Thursday*, LOS ANGELES TIMES, Dec. 16, 1968, at SG1.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

Los Angeles economy, with millions going directly to the city and county in the form of taxes.<sup>70</sup>

With this growth and so much additional revenue on the horizon, Palisades del Rey was all but doomed. Certainly, the airport had a vested interest in its expansion. As the airport expanded, so did the city around it, and with the construction of the 405 Freeway on the east end of the airport in by the late 1950s,<sup>71</sup> few options for additional airport space remained. The City Clerk sent a letter to the Airport Commission informing them that the appeals to the city council by the Palisades del Rey residents to block the conditional use permit needed for airport expansion had been denied, and that the permit was effective immediately.<sup>72</sup> The fate of Palisades del Rey was sealed.

#### *D. Resolution No. 5048*

Councilman Timberlake and the residents could not hold out for much longer. Airport manager Clifton Moore submitted Resolution No. 5048 to the Los Angeles City Council, and urged them to approve it.<sup>73</sup> The resolution stated that the City Attorney would prepare and present for adoption an ordinance of condemnation to acquire 97 acres west of Los Angeles International Airport.<sup>74</sup> Robert Dunn, a Palisades del Rey resident who favored acquisition, said that he believed most of the property owners would settle on a price without going to court and

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<sup>70</sup> *Id.*

<sup>71</sup> Historic Photos and Maps of Southern California Highways, <http://members.cox.net/mkpl2/hist/hist.html> (last visited Dec. 18, 2009).

<sup>72</sup> Letter from Rex E. Layton, City Clerk, to Airport Commission (Dec. 19, 1968) (on file with Los Angeles City Attorney).

<sup>73</sup> Letter from Clifton A. Moore, General Manager, Department of Airports, to The Honorable City Council of the City of Los Angeles (Jan. 22, 1969) (on file with Los Angeles City Attorney).

<sup>74</sup> Industry and Transportation Report (Jan. 22, 1969) (on file with Los Angeles City Attorney).

that the acquisition protects property owners from suffering economically because values may have been depressed by the proximity to the airport.<sup>75</sup>

Over a year later, in March 1970, the council finally adopted Resolution 5048, and the City Attorney commenced actions to condemn the remaining Palisades del Rey properties.<sup>76</sup> The City Council passed an ordinance that would allow the airport to condemn the properties in fee simple on June 15, 1970.<sup>77</sup> An assembly bill that would provide additional relocation funds to residents did not pass.<sup>78</sup>

#### *E. Noise Complaints*

At the same time, several lawsuits over noise complaints had been filed in Los Angeles Superior Court and United States District Court. Court decisions favoring the Department of Airports were handed down in four separate suits that had been decided during the spring and summer of 1970. Judge David Williams of the U.S. District Court dismissed an action by the City of Inglewood requesting an injunction preventing the use of the airport's north runways and asking for alleged personal injury and property damages due to jet aircraft noise, because the claim did not establish the jurisdictional minimums for damages for each individual plaintiff.<sup>79</sup> Shortly thereafter, Superior Court Judge Robert Kenny dismissed an injunction to prevent the use

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<sup>75</sup> *Id.*

<sup>76</sup> Letter from Rex E. Layton, City Clerk, City of Los Angeles, to, Peyton Moore, City Attorney, City of Los Angeles (Mar. 18, 1970) (on file with Los Angeles City Attorney).

<sup>77</sup> Ordinance No. 1405968 (June 15, 1970) (on file with Los Angeles City Attorney).

<sup>78</sup> Based on Resolutions No. 4012 through No. 6011 (fee simple acquisitions of Palisades del Rey properties), none of which mention any additional payment for relocation fees (on file with Los Angeles City Attorney).

<sup>79</sup> Court Decisions Favor Dept. of Airports in Two Jet Noise Suits, *The News Letter*, Los Angeles Department of Airports (May 1, 1970) (on file with Los Angeles Flight Path Museum).

of the newly-constructed north runway.<sup>80</sup> In this decision, Judge Kenny cited *Loma Portal Civic Club v. American Airlines*,<sup>81</sup> in which the court ruled that an injunction is not proper when the use involved is in the public interest and the public has come to rely on that use.<sup>82</sup>

Next, Superior Court Judge Stevens Fargo sustained a demurrer to the nine causes of action in a complaint by the Inglewood Residents Protective Association seeking damages and restriction of airport operations because he said he was unwilling to recognize a right of individuals subjected to inconvenience to halt the airport operation or recover damages from the city.<sup>83</sup> The suit claimed property damage, personal injury, punitive damages, and injunctive relief as a result of airport operations.<sup>84</sup> Judge Fargo said that the general public must tolerate the inconvenience created by the lawful and necessary operation of a metropolitan airport “just as it must tolerate the noise of sirens or emergency vehicles, freeway traffic, building construction, and the like.”<sup>85</sup> In another decision and for the same reasons as above in the case brought by the Inglewood residents, Judge Fargo dismissed a suit by the Palisades del Rey Property Owners Association which sought to prohibit the use of the airport’s north runways.<sup>86</sup>

Once the new north runway opened, five homeowners brought a proceeding to Los Angeles Superior Court in 1968, alleging inverse condemnation against the city for damages done to their

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<sup>80</sup> *Id.*

<sup>81</sup> *Loma Portal Civic Club v. American Airlines, Inc.*, 61 Cal. App. 2d 582 (1964).

<sup>82</sup> Court Decisions Favor Dept. of Airports in Two Jet Noise Suits, *supra*, (on file with Los Angeles Flight Path Museum).

<sup>83</sup> Court Rulings Favor Department in Two Jet Noise Suits, *The News Letter*, Los Angeles Department of Airports (Aug. 1, 1970) (on file with Los Angeles Flight Path Museum).

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*



homes, families and persons caused by the opening and operation of the north runway at Los Angeles International Airport.<sup>87</sup> The Superior Court judge entered a judgment in favor of the city and the airport, ruling that the city was entitled to acquire a fee simple interest in various residential properties located near the airport for public benefit.<sup>88</sup> On appeal, the California Court of Appeal considered a series of extensive negotiations that took place between the parties following the Superior Court trial, which were done with the intent of concluding the litigation.<sup>89</sup> The court said that the city had first denied that any of the five homeowners had sustained compensable damages, but then initiated a proceeding to condemn the properties in fee simple.<sup>90</sup>

In July 1971, the Superior Court entered a judgment in favor of condemnation, decreeing that the city was entitled to take the entire fee interests of the property owners if it so wished in return for their expressly agreeing that there were no remaining issues in inverse condemnation and that they would dismiss all their claims against the city for receiving the fair market value of their properties.<sup>91</sup> Affirming the trial court judgment, the appeals court held that the homeowners were bound by these agreements and that there was no equitable basis for relieving the appellants from those bargains.<sup>92</sup>

#### F. *Closing Palisades del Rey One House at a Time*

The City of Los Angeles acquired the remaining properties of Palisades del Rey one-by-one during the period from April 5, 1967 to November 18, 1970. The lowest price paid for a lot was

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<sup>87</sup> *City of Los Angeles v. Monahan*, 55 Cal. App. 3d 846, 850 (1976).

<sup>88</sup> *Id.*

<sup>89</sup> *City of Los Angeles*, 55 Cal. App. 3d at 851.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

\$207 (just over \$1000 in today's currency under the consumer price index) and the most paid for a lot was \$210,000 (just over \$1 million today).<sup>93</sup> Considering that it is difficult to purchase a home with even an ocean view for anything less than \$1 million in Los Angeles County today,<sup>94</sup> it is understandable then why many of the Palisades del Rey residents were not satisfied with the prices paid for their homes and went to court.

The court in the *Monahan* case would not award damages for inverse condemnation where the homeowners were paid fair market value for the acquisition of their homes, but airports were not wholly immune from paying damages to homeowners either. The plaintiffs sought inverse condemnation damages in *Klopping v. City of Whittier*<sup>95</sup> for the constant noise and diminution to home values after the opening of a new runway, but where residents' homes were not condemned, and the court did award damages to pay the homeowners for an avigation easement. The trial court awarded \$224,370.77 (as part of the same award) in inverse condemnation damages to homeowners for injuries to the value of properties caused by the overflight of jet aircraft.<sup>96</sup> On appeal, the court held that the damages awarded were proper.<sup>97</sup>

#### G. *The Airport's Difficult Position*

These cases showcase the difficult position of the Los Angeles International Airport during these years. The opening of the new runway in 1970 did not come without much increased jet noise in the community. For some homeowners, this meant an added annoyance, whereas, for

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<sup>93</sup> *Id.*

<sup>94</sup> Lowest sale price for house in Los Angeles County with ocean view on Pritchett-Rapf Realtors Web site (<http://www.pritchett-rapf.com>) on June 28, 2010 is \$1,150,000.

<sup>95</sup> *Klopping v. City of Whittier*, 8 Cal. App. 3d 39 (1972).

<sup>96</sup> *Parker v. City of Los Angeles*, 44 Cal. App. 3d 556, 559 (1974).

<sup>97</sup> *Parker*, 44 Cal. App. 3d. at 562.

the Palisades del Rey homeowners, the runway and jet noise meant the end of their community altogether. Over the course of the three years in which the city and the airport acquired the last block of homes in Palisades del Rey, the acquisitions were done with care, one-by-one, and the court recognized the airport's thorough efforts in dealing with homeowners to acquire their property by not awarding the homeowners any additional damages.

It is apparent from the contemporaneous documents and statements made by their officials that the airport had no better option than displacing residents from their homes. James R. Mettler of the airport's public relations department gave a speech in which he talked about how the airport acquired adjacent property only out of necessity.<sup>98</sup> Doing so was essential for the continued operations of the airport, driven by the technological needs and innovations of the era. Mettler pointed to the fact that by the end of 1971, the Los Angeles Department of Airports had committed to purchase nearly 2,500 residences at a cost of over \$100 million (five times the \$20 million they had expected) in the noise sensitive areas adjacent to LAX.<sup>99</sup>

## V. CONCLUSION

Palisades del Rey was an unfortunate situation for all parties involved. In a way, the rise and fall of Palisades del Rey is a classic story from Los Angeles' history; complete with power, celebrity, and struggle. Nonetheless, Palisades del Rey was not a fight that anyone, whether in the airport offices or at home on the beach, wanted to have. It was a hurdle for the airport as it looked to expand, and also for the homeowners as they sought to protect their homes and their financial investment in them. None of the players appeared to have bad intentions. The airport needed to expand to handle the onslaught of passengers that were flocking to LAX, which grew

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<sup>98</sup> What's Wrong with Airports?, Speech by James R. Mettler (n.d.) (on file with Los Angeles Flight Path Museum).

<sup>99</sup> *Id.*

from a small municipal airport, to a major access point on the West Coast and for the world. No one — not Burns, not any airport officials, not the residents of Palisades del Rey — could have expected the extent of the transformation that would take place in Los Angeles between the early 1920s and the 1970s.

Los Angeles had grown from a small Western city before World War II into a major commercial center. Equally so, the Westchester community and the airport had each been growing without much recognition that they might be encroaching on each other. It did not become apparent until it was too late. As airport manager Clifton Moore outlined in one of his speeches, no one anticipated the jet age or just how much noise would come with it in the late 1950s. Palisades del Rey and its residents just happened to be in the wrong place at the wrong time.

Ultimately, the social utility of the airport for all of Los Angeles outweighed the private interests of the handful of Palisades del Rey residents, regardless of how rich, well-connected or well-represented they might have been. The greater good prevailed at the expense of damage to a few. The residents were not happy, but the city and the airport did their best to listen to the residents' concerns and to offer fair prices for their homes. Indeed, it is to the credit of the city and the airport that they did not take the most expedient or the least expensive route to their goal, which would have provided less compensation to the residents.

Not surprisingly, however, the amount of litigation that the airport's expansion and the closure of Palisades De Rey spawned was quite large, and lasted for years. In reviewing the available cases and commentaries, it appears that the residents tried the obvious and not-so-obvious ways to first stop the expansion of the airport through litigation and political persuasion,

and then once the outcome of that battle was inevitable, to sought ways to maximize their compensation.

By the time the jet age came in 1959 and growth of the airport in the 1960s made Palisades Del Rey no longer a viable residential community, it is unknown how many of the homes there were still owned by the original purchasers. Many likely arrived after the development of the airport and purchased their homes knowing that the city's airport was next door. No published statistics provided this data, but it is likely that in the almost forty years between the original development of the first homes and the aviation conflict, many if not most of the homes would have changed hands, and probably more than once. Certainly those who purchased there in the 1960s could hardly be heard to complain that they were not aware of the issue. For example, Judge Levit's ruling that the jet noise did not impose a "substantial burden" on area residents seemed to be at odds with what just about everyone else at the time conceded to be a given. His unwillingness to acknowledge a problem that just about everyone else did see can perhaps only be explained by his unwillingness to grant relief, and his saying what he believed he had to say to get to that end.

California has seen many fortunes made in land development and ownership. Home ownership has even to this day been seen as almost a "right" and the surest path to a retirement fund. The tale of Palisades Del Rey, however, reminds us that when push comes to shove, what is best for the greater number of people will prevail over the power and powers of persuasion of even the privileged few. That tale, now nearly a half-century in the past, is still relevant today. "A man's home is his castle," at least until the government needs it for that new runway or for that diamond lane on the freeway. While this progress cannot be stopped, our laws and court system fortunately do provide at least some measure of compensation to those displaced.

## APPENDIX

### **FIGURE 1**

Fritz Burns in 1953  
*Life Magazine*



1

Flying over new housing development, dictating memos while inspecting the houses.

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<sup>1</sup> Fritz Burns - LIFE, <http://www.life.com/image/50653645> (last visited Dec. 18, 2009).

FIGURE 2

Display Ad 115 – Palisades del Rey  
*Los Angeles Times*



**TO BE PRESENTED AT PUBLIC SALE**

The last three miles of Ocean frontage contiguous to Los Angeles---Overlooking ALL the Beaches on Santa Monica Bay ---At the Convergence of five Boulevards--Adjoined by Beach Club and proposed Yacht Harbor.

**Palisades Del Rey**  
"THE LAST OF THE BEACHES"

Never again will you have presented to you the opportunity of procuring at original cost, Beach Lots, Palisade Sites, Investment Sites and Boulevard Frontages---All Improved.

**September Sale of Lots**  
**Sat., 20th and Sun., 21st**

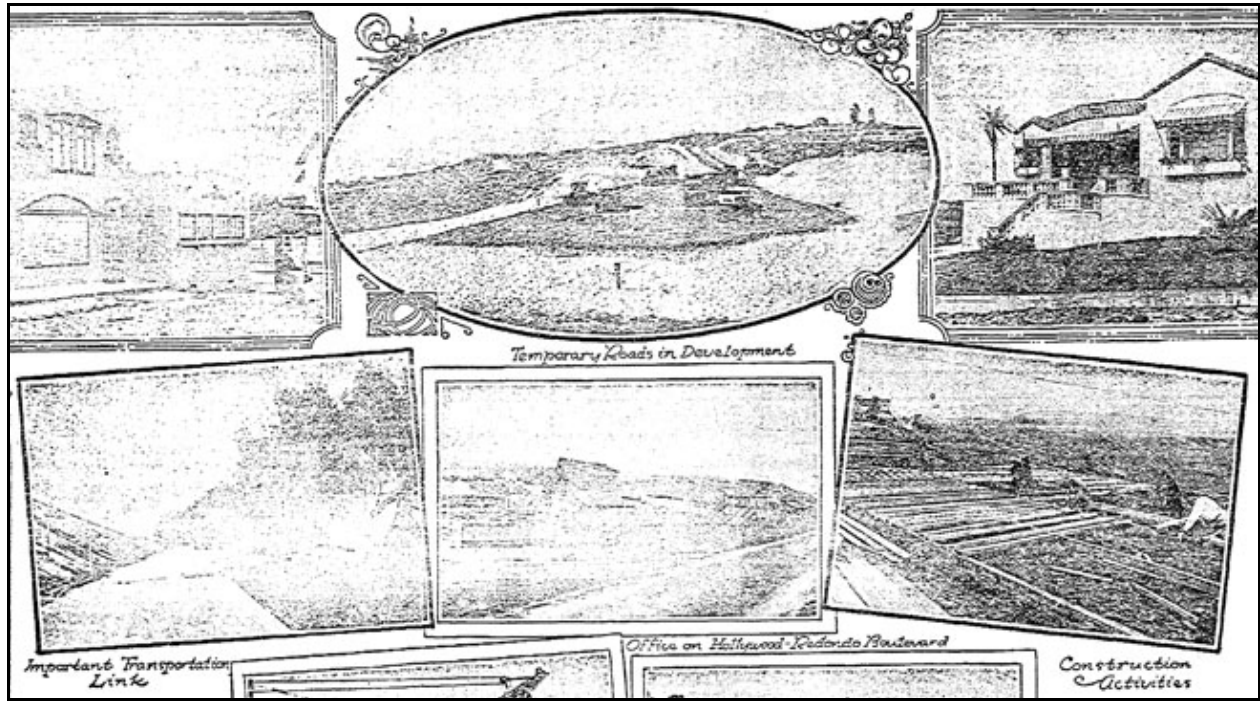
...And so, Dickinson & Gillespie, with a syndicate of well-known and far-sighted Los Angeles business men, secured these three miles. They saw something which all the other beach cities lacked--Facilities for wide, winding avenues and boulevards, conforming to the rolling contour of the terrain. THAT enables every home the advantage of bespeaking its own individuality. . . ."

**DICKINSON & GILLESPIE CO.**  
Planners and Developers of Successful Subdivisions  
525-27-29 West 8th Street      Telephone VAndike 2426  
LOS ANGELES

<sup>2</sup> Display Ad 115, *supra*, at D4.

**FIGURE 3**

“Group of Fine Dwellings ... Typifying Tract’s Development”  
*Los Angeles Times*

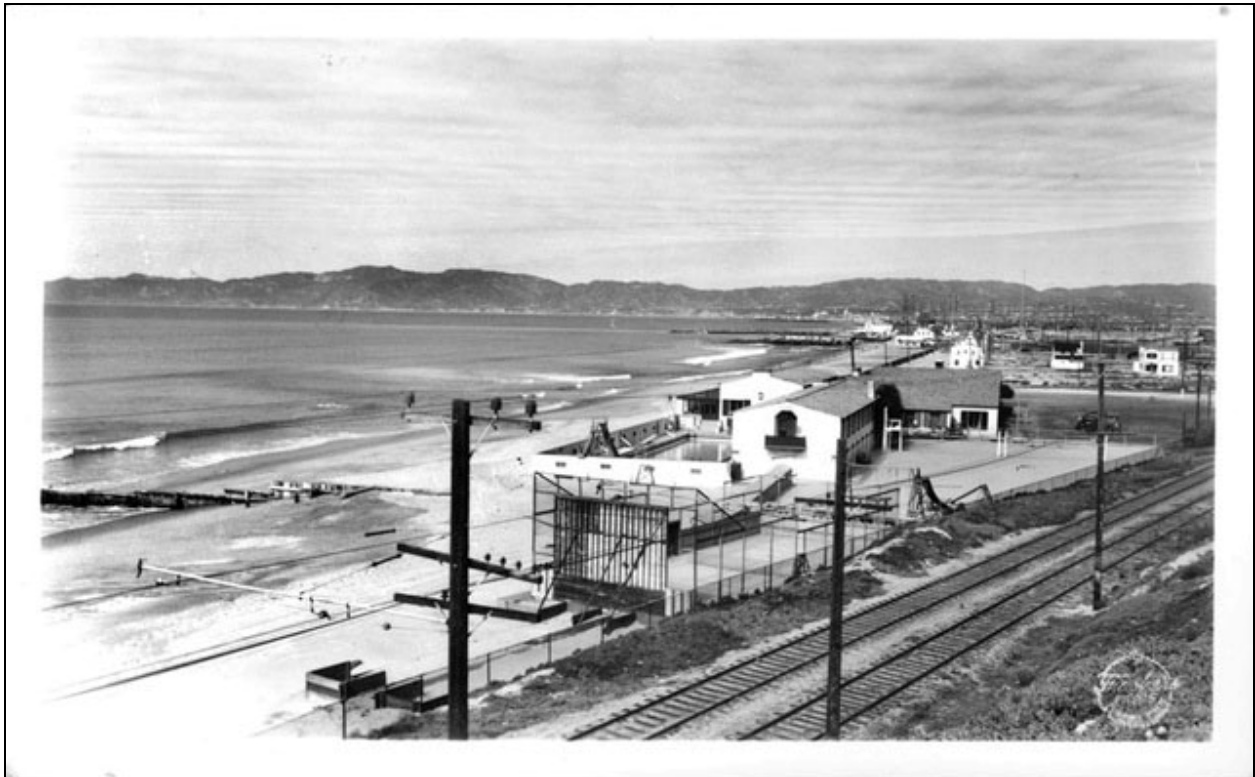


<sup>3</sup> Group of Fine Dwellings in Palisades Del Rey District Typifying Tract’s Development, *supra*, at E6.



## FIGURE 4

Westport Beach Club in 1940



4

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<sup>4</sup> Playa del Rey, Westport Beach Club, <http://www.oac.cdlib.org/ark:/13030/kt800019z4/?brand=oac4> (last visited Dec. 18, 2009).

## FIGURE 5

Dickinson & Gillespie Salesmen Group Calisthenics on the Beach, Circa 1925



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<sup>5</sup> Fritz B. Burns & Palisades del Rey: The Sales Team, *supra*, at <http://157.242.56.37/exhibits/burns/sales.htm>.

FIGURE 6

Home Supreme  
*Los Angeles Times*



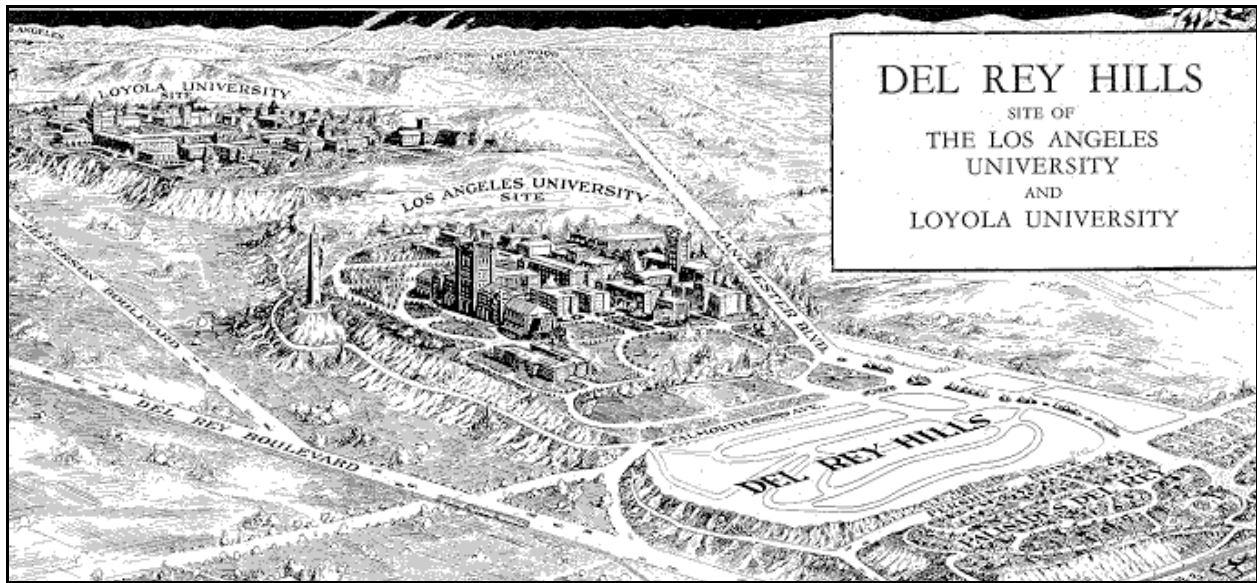
6

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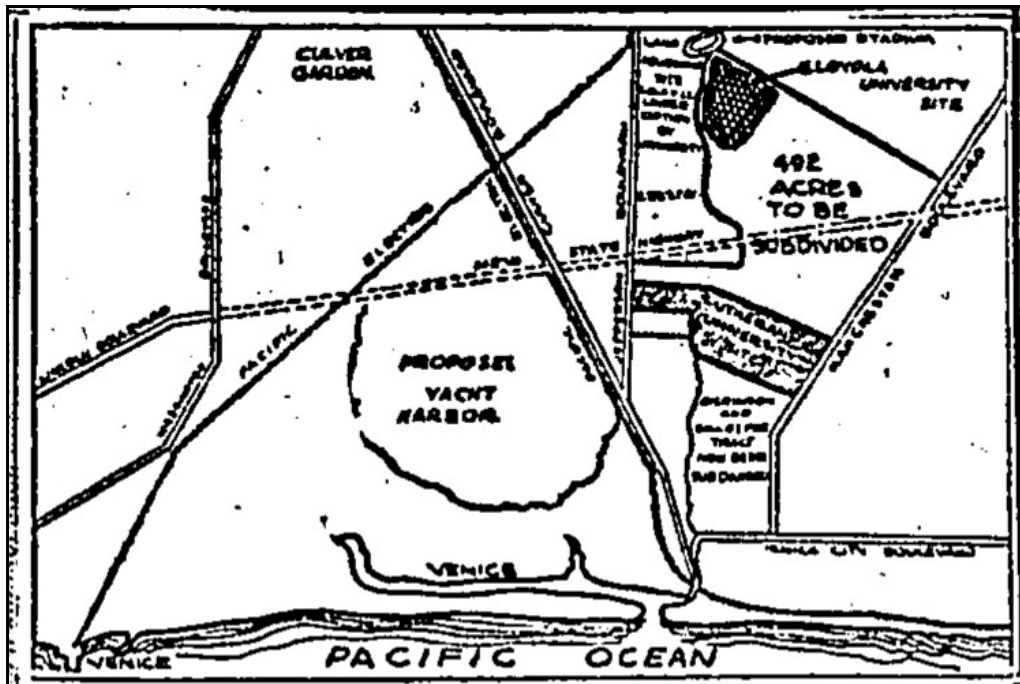
<sup>6</sup> *Wonder House Ready for Public*, *supra*, at F5.

**FIGURE 7**

Maps of Del Rey Hills Development, LMU Site, and Surrounding Areas



7



8

<sup>7</sup> Fritz B. Burns & Palisades del Rey: Loyola University, <http://157.242.56.37/exhibits/burns/loyola.htm> (last visited Dec. 18, 2009).

<sup>8</sup> *Second University Project Announced for Del Rey Hills Region*, LOS ANGELES TIMES, Dec. 25, 1927, at F1.



## FIGURE 8

L.E. Timberlake Upon Being Elected Council President for the Third Time in 1967



<sup>9</sup> *Timberlake Re-Elected as Council Head, supra*, at A3.

**FIGURE 9**

Palisades del Rey and LAX Today



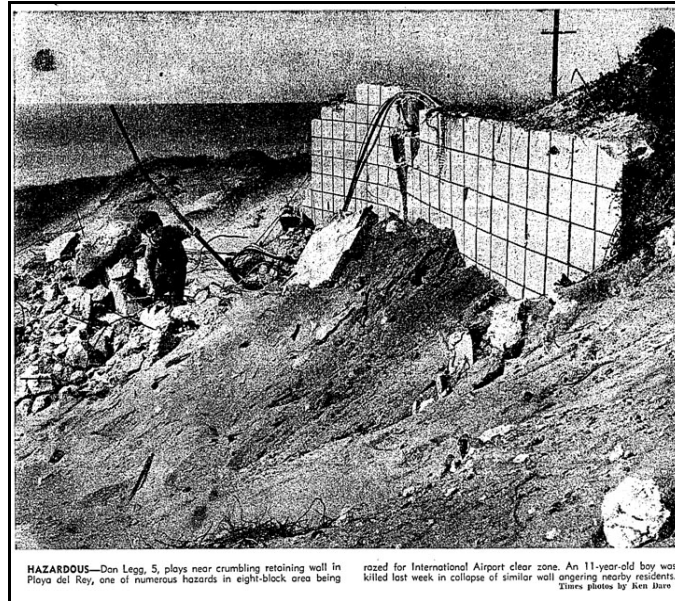
10

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<sup>10</sup> LAX – Google Maps,  
[http://maps.google.com/maps?f=q&source=s\\_q&hl=en&geocode=&q=LAX&sll=34.052234,-118.243685&sspn=1.155998,2.425232&ie=UTF8&hq=&hnear=Los+Angeles+International+Airport,+Los+Angeles,+California+90045&ll=33.940084,-118.427854&spn=0.018087,0.037894&t=h&z=15](http://maps.google.com/maps?f=q&source=s_q&hl=en&geocode=&q=LAX&sll=34.052234,-118.243685&sspn=1.155998,2.425232&ie=UTF8&hq=&hnear=Los+Angeles+International+Airport,+Los+Angeles,+California+90045&ll=33.940084,-118.427854&spn=0.018087,0.037894&t=h&z=15) (last visited Dec. 18, 2009).

## FIGURE 10

### “24-Hour Protection Demanded at Hazards in Airport Cleaning” *Los Angeles Times*



11



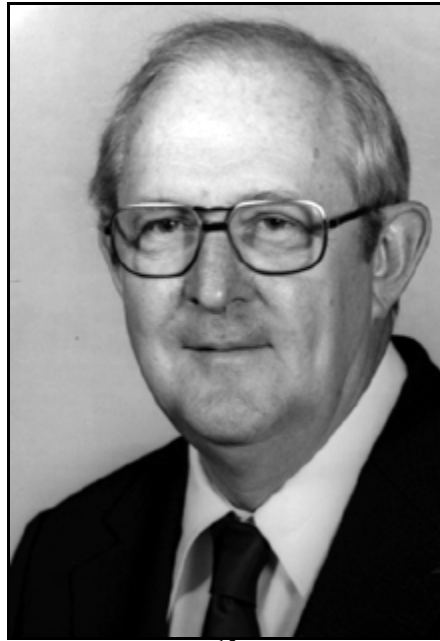
12

<sup>11</sup> 24-Hour Protection Demanded at Hazards in Airport Clearing, *supra*, at CS1.

<sup>12</sup> *Id.*

## FIGURE 11

Airport manager Clifton A. Moore in later years



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<sup>13</sup>Air Cargo News, <http://www.aircargonews.com/090614/FT090613.html> (last visited Dec. 18, 2009).