

TO: JAMES L. APP, CITY MANAGER

FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: APPEAL OF PLANNING COMMISSION APPROVAL OF TRACT 2358, PLANNED DEVELOPMENT 04-004 AND REZONE 03-009 (PETERSON / FRANKLIN PROJECT)

DATE: MAY 4, 2004

Needs: For the City Council to consider an appeal filed by James O. Cutter regarding the Planning Commission's approval of Tract 2358 on March 23, 2004.

Facts:

1. The subdivision divides two existing parcels of a total of 2.87 acres into seven (7) single family residential lots ranging in size from 9,545 square feet up to 39,445 square feet. (Three of the seven lots are under a previously approved parcel map).
2. The project as approved is consistent with the City's General Plan and Zoning Code, and the State Subdivision Map Act.
3. On March 23, 2004, Mr. Cutter along with neighbors submitted a letter and petition, outlining two topics that identify their Issues of Appeal:
  - o That the addition of 5 single family homes to the 2 existing homes on less than 3-acres, adjacent to 1-acre lots would devalue their property;
  - o That numerous codes and ordinances are being wavered without consideration of sufficient street width for emergency vehicles, allow for enough off-street parking (and enforcement of "no-parking" signs) and add to existing traffic congestion;
4. The letter of opposition / petition submitted by Mr. Cutter and neighbors on March 23, 2004 was discussed during the public hearing at the meeting. The Planning Commission explained that the basis in which the Planning Commission could review and approve the project is whether or not the project meets the General Plan and Zoning regulations.
5. The issues of the street width and parking were discussed by the Planning Commission as well. Each lot would have two parking spaces in the garage, as well as space for two spaces in front of each garage door. There

would not be on-street parking, consistent with other streets in Orchard Bungalow.

6. All parcels in the subject subdivision exceed minimum standards under the General Plan, Zoning and Zoning Code as applicable in the R-1 Zone.
7. Rezone 03-009 was approved by the City Council on April 6, 2004, and is not subject to appeal. By adopting Rezone 03-009 to allow a reduction in the street side setback for the two existing homes on Lots 1 and 7, would allow for the City Standard Street with standard size cul de sac to be constructed to access the lots.

Analysis  
and  
Conclusion:

The following is Section 66474 of the Subdivision Map Act describing the findings the City would have to make in order to deny a tentative map:

**66474.** *A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:*

*(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.*

*(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

*(c) That the site is not physically suitable for the type of development.*

*(d) That the site is not physically suitable for the proposed density of development.*

*(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

*(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.*

*(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. (Amended by Stats. 1982, Ch. 518.)*

The number, size and design of the lots of Tract 2358 meet General Plan and Zoning Code standards. It would appear that there is no basis for denial of the subdivision.

Policy

Reference: General Plan, Zoning, Zoning Code, Subdivision Map Act; actions by the City Council at the April 6, 2004 City Council meeting.

Fiscal

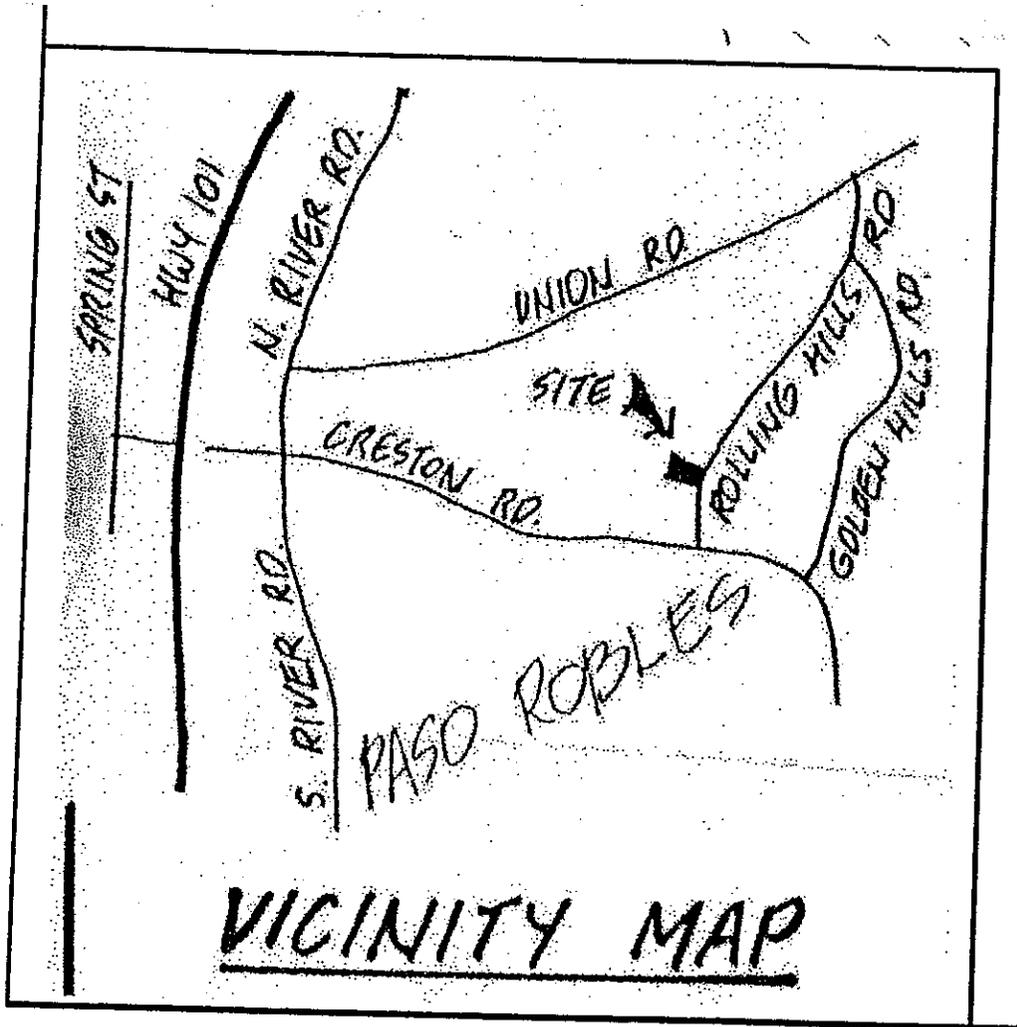
Impact: None

Options:

- a. Based on the Tract 2358 and PD 04-004 meeting requirements of the City's General Plan and Zoning Code, and the issues of the appeal not meeting the required findings of denial as listed in Section 66474 of the Subdivision Map Act, that the City Council deny the appeal and uphold the Planning Commission's approval of Tentative Tract 2358 and PD 04-004, subject to the conditions of approval contained in Planning Commission Resolution No. 04-00.
- b. Amend, modify or reject the foregoing option.

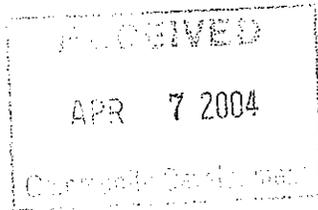
Attachments:

1. Vicinity Map
2. Tract Map
3. Letter of Appeal from James O. Cutter, dated April 7, 2004



**VICINITY MAP**  
Tract 2358, PD 04-004, Rezone 03-009  
(Peterson / Franklin)





April 7, 2004

**TO:** Paso Robles City Council & Planning Commission

**SUBJECT:** Submittal of an appeal to the Planning Commission's approval of rezoning and development plan 04-004

**REFERENCE:** a. Tract 2571 and rezone 03-009 (Peterson/Franklin)

b. Letter to Planning Commission **AND** City Council dated March 23, 2004 with (5) attachments including a petition opposing rezoning/development and a list of questions/concerns.

**BACKGROUND:**

- The Planning Commission approved reference (a) on March 23, 2004 on a 4 - 3 vote.
- Prior to that presentation, reference (b) was hand-carried to the City Clerk's office
- During the discussion, on March 23, of the Planning Commission members, **NO** mention was made of the signed petition. The crux of the discussion concluded that the project plan of multi homes would not devalue the properties specifically on Burro Verde and surrounding streets.
- At the meeting on April 6, the City Council members stated that they **NEVER** received reference(b) which was co-addressed to them.
- It is this facet which baffles and concerns us and the questions, therefore, asked are: (1) Why wasn't the letter delivered to the members of the City Council and (2) How could an unbiased and honest determination be made without having and reviewing such compelling documentation?
- Exception is taken to the Planning Commission's 4 - 3 decision that multi housing on the doorstep of \$600K homes will not devalue the properties. We emphasize that the first line in real estate is location-location-location.

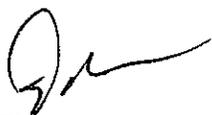
- Mr. Flynn, the chairman of the Planning Commission voted NO on the plan and recommended that the tract be kept open. That is precisely our position and we concur with his recommendation.
- We the undersigned on reference (b) along with all the opposition as stated on the petition urge that you reconsider your approval and re-assess our appeal to disapprove the plan on reference (a).

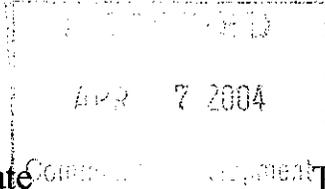
Respectively,



James O. Cutter  
Spokesman for the Petitioners

Received at City Hall:

Name  Date APR 7 2004 Time           



# REFERENCE (b)

March 23, 2004

**ATTENTION:** City of El Paso de Robles Planning Commission and City Council  
**SUBJECT:** Opposition to rezoning and development  
**REFERENCE:** City letter dated March 9, 2004, tentative tract 2358, Planned Development 04-004 and Rezone 03-009

Attached is a petition signed by (53) residents surrounding the area of the reference lots who vehemently oppose the proposed rezoning/development.

We firmly believe that rezoning to build an additional 5 single family homes on less than three acres adjacent to our one acre zoned parcels will greatly devalue our properties. The development is building a high density neighborhood in an existing low density area. Furthermore, FBI statistics state that low cost housing vastly increases the noise level and crime rate, mainly, burglaries, theft and robberies to nearby residential homes.

It appears that numerous codes and ordinances are being wavered without due consideration for potential problems such as; (a) a wide enough street to accommodate emergency vehicles and (b) "no parking" signs without enforcement, and (c) adding to the already existing traffic congestion.

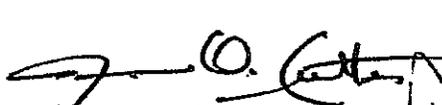
The City Council is elected and along with the Planning Commission are supposedly entrusted to represent and support ALL of the taxpaying residents of this city, not just the outside-developers who are eager to profit from Paso's already-zoned properties.

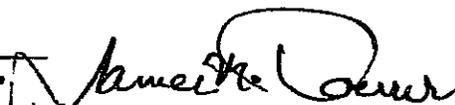
Our petition only canvassed the inside peripheral of Orchard, Burro Verde, Walnut, Vista Grande, Rolling Hills and Creston streets. Unfortunately, some of the residents were not available. However, of the surveyed residents, only three declined to oppose. The numbers speak loud and clear. What possible rationale can the commission use to approve the rezoning/development.

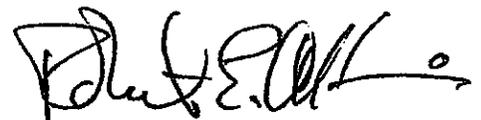
In our Democratic process, where the people's voice should decide the outcome, any approval with such an overwhelming opposition would be unconscionable.

We therefore urge the Planning Commission to seriously consider our opposition and disapprove this rezoning/development.

If the Commission and City Council should approve this rezoning/development we may be forced to pursue legal action to challenge said development.

  
James O. Cutter  
1021 Burro Verde

  
James M. Downs  
1019 Burro Verde

  
Robert E. Atkinson  
1017 Burro Verde

ATTACHMENTS:

1, 2, 3, 4, 5

# ATTACHMENT (1)

## PETITION

TO PREVENT REZONING AND PLANNED DEVELOPMENT OF (7) SINGLE FAMILY LOTS  
(as outlined in the city of Paso de Robles letter of March 9, 2004, same subject)

WE, THE RESIDENTS IN THE AREAS OF THE ORCHARD BUNGALOW DISTRICT, AS WELL  
AS SURROUNDING STREETS ENCOMPASSING THE REFERENCED PARCEL # 009-641-020  
VEHEMENTLY OPPOSE THE REZONING AND/OR DEVELOPMENT OF THIS PROJECT.

NAME	SIGNATURE	ADDRESS
JAMES O. CUTTER	<i>J. O. Cutter</i>	1021 BURRO VERDE
GERALDINE J. CUTTER	<i>Geraldine J. Cutter</i>	" " "
JAMES M. DOWNS	<i>James M. Downs</i>	1019 Burro Verde
HEIGA H. DOWNS	<i>Heiga H. Downs</i>	1019 Burro Verde
JERRY W. FARWOOD	<i>Jerry W. Farwood</i>	1009 Burro Verde
PATRICIA NEARWOOD	<i>Patricia Nearwood</i>	1009 BURRO VERDE
Lucille A. Baty	<i>Lucille A. Baty</i>	738 Orchard Dr
Leslie W. Baty	<i>Leslie W. Baty</i>	738 Orchard Dr
Crystal A. Nevosh	<i>Crystal A. Nevosh</i>	740 Orchard Dr
Paul M. Nevosh	<i>Paul M. Nevosh</i>	740 Orchard Dr
Catherine Sterner	<i>Catherine Sterner</i>	742 Orchard Dr
Fred Sterner	<i>Fred Sterner</i>	742 Orchard Dr
Shawn Weber	<i>Shawn Weber</i>	748 Orchard Dr
Donna Weber	<i>Donna Weber</i>	748 Orchard Dr
Maria McGuire	<i>Maria McGuire</i>	750 Orchard Dr
Tom McGuire	<i>Tom McGuire</i>	750 Orchard Dr
MIKE WITTEKIND	<i>Mike Wittekind</i>	822 WALNUT DR.
QUE WITTEKIND	<i>Que Wittekind</i>	822 WALNUT DR
Betty Peters	<i>Betty Peters</i>	1016 VISTA GRANDE
DENNIS PETERS	<i>Dennis Peters</i>	1016 VISTA GRANDE
PAUL MAZELIN	<i>Paul Mazelin</i>	1020 VISTA GRANDE
Janis Bailey	<i>Janis Bailey</i>	1024 Vista Grande
Patricia Hart Schultz	<i>Patricia Hart Schultz</i>	1032 Vista Grande St
Eric Schultz	<i>Eric Schultz</i>	1032 Vista Grande
Mark Martin	<i>Mark Martin</i>	1034 VISTA GRANDE
Peggy A. Marty	<i>Peggy A. Marty</i>	1034 VISTA GRANDE

# ATTACHMENT (2)

## PETITION

TO PREVENT REZONING AND PLANNED DEVELOPMENT OF (7) SINGLE FAMILY LOTS  
(as outlined in the city of Paso de Robles letter of March 9, 2004, same subject)

WE, THE RESIDENTS IN THE AREAS OF THE ORCHARD BUNGALOW DISTRICT, AS WELL  
AS SURROUNDING STREETS ENCOMPASSING THE REFERENCED PARCEL # 009-641-020  
VEHEMENTLY OPPOSE THE REZONING AND/OR DEVELOPMENT OF THIS PROJECT.

NAME	SIGNATURE	ADDRESS
ERNEST GARCIA	Ernest Garcia	910 VISTA GRANDE
LINDA GARCIA	Linda Garcia	910 VISTA GRANDE
ALBERT MEDEIROS	A.J. Medeiros	1006 VISTA GRANDE
VAL MEDEIROS	Val Medeiros	1006 VISTA GRANDE
DAVID POWELL	David Powell	1014 VISTA GRANDE
RAND SALKE	Rand Salke	1022 VISTA GRANDE
STEPHANIE SALKE	Stephanie Salke	1022 VISTA GRANDE
AARON KUSTER	Aaron Kuster	1048 VISTA GRANDE
JUDY KUSTER	Judy Kuster	1048 VISTA GRANDE

# ATTACHMENT (3)

## PETITION

TO PREVENT REZONING AND PLANNED DEVELOPMENT OF (7) SINGLE FAMILY LOTS  
(as outlined in the city of Paso de Robles letter of March 9, 2004, same subject)

WE, THE RESIDENTS IN THE AREAS OF THE ORCHARD BUNGALOW DISTRICT, AS WELL  
AS SURROUNDING STREETS ENCOMPASSING THE REFERENCED PARCEL # 009-641-020  
VEHEMENTLY OPPOSE THE REZONING AND/OR DEVELOPMENT OF THIS PROJECT.

NAME	SIGNATURE	ADDRESS
	Creighton Bowden	1038 VISTA GRANDE
Wendy Bowden	Wendy Bowden	1038 VISTA GRANDE
Sofia Nathony	Sofia Nathony	715 Rolling Hill Rd.
Tracy Orsinger	Tracy Orsinger	1713 Rolling Hill St
McKae Houston	McKae Houston	713 " "
Ray L. Collier	Ray L. Collier	1016 Burro Verde
Connie Collier	Connie Collier	1016 Burro Verde
Margaret T. Dippley	Margaret T. Dippley	758 Orchard
Laurie Nicholson	Laurie Nicholson	746 Orchard Dr

ATTACHMENT (4)

PETITION

TO PREVENT REZONING AND PLANNED DEVELOPMENT OF (7) SINGLE FAMILY LOTS  
(as outlined in the city of Paso de Robles letter of March 9, 2004, same subject)

WE, THE RESIDENTS IN THE AREAS OF THE ORCHARD BUNGALOW DISTRICT, AS WELL  
AS SURROUNDING STREETS ENCOMPASSING THE REFERENCED PARCEL # 009-641-020  
VEHEMENTLY OPPOSE THE REZONING AND/OR DEVELOPMENT OF THIS PROJECT.

NAME	SIGNATURE	ADDRESS
Doreen Rogers	<i>Doreen Rogers</i>	1023 Burro Verde
JEFF ROGERS	<i>JEFF ROGERS</i>	1023 BURRO VERDE
Alfred Jr	<i>Alfred Jr</i>	965 Creston Rd
Jackie Nelson	<i>Jackie Nelson</i>	705 Creston Rd
Fesli Coelho	<i>Fesli Coelho</i>	710 Orchard Dr.
Sion Coelho	<i>Sion Coelho</i>	710 Orchard Dr
Jan Goldx	<i>Jan Goldx</i>	270 orchard
Jeann Jean	<i>Jeann Jean</i>	724 Orchard
		724 orchard

# ATTACHMENT (5)

The Staff Report is misleading and vague on existing codes and ordinances. Because of this we pose the following questions:

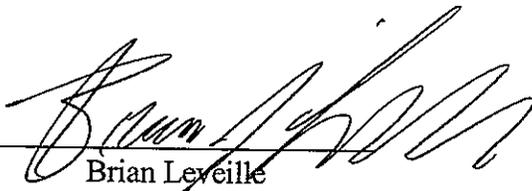
1. What is the size of the cul de sac?
2. Are the lot sizes measured to the middle of the street?
3. Clarify whether the street is private or city owned.
  - Who will enforce on-street parking?
  - Will Fire Department vehicles including large trucks and equipment be able to turn around in cul de sac per the Uniform Fire Code?
4. What standards will the new single family dwellings meet?
  - Some of the adjacent dwellings are valued less than \$100K whereas some adjacent homes overlooking the development are valued at \$600K or more.
5. Are there any two story homes planned?
6. Are these homes being considered for rentals?
7. What city codes are being amended and/or revised to meet authorization of this development?
8. It states that two existing parcels of a total of 2.87 acres will be divided into (7) lots ranging in size from 9.545 sq. ft. up to 39.445 sq. ft. However, the two existing dwellings comprise the largest portions and the additional (5) lots will be considerably smaller.
9. The initial study concluded that the proposed project will not have any significant effect on the environment.
  - When was that done and when is a final report due?
10. The Staff Report states the existing berm and culvert serves no purpose and should be removed.
  - How will the existing culvert be rerouted to collect heavy run off during rain? During heavy rains there can be a "river" there.

**AFFIDAVIT**  
**OF MAIL NOTICES**  
**PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING**

I, Brian Leveille, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Appeal of Tentative Tract 2358, on this 8th day of April 2004.

City of El Paso de Robles  
Community Development Department  
Planning Division

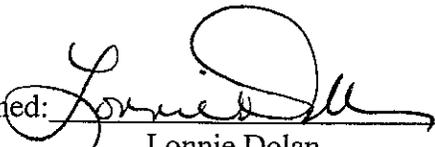
Signed: \_\_\_\_\_

  
Brian Leveille

**AFFIDAVIT**  
**OF MAIL NOTICES**  
**PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING**

I, Lonnie Dolan, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Appeal of Tentative Tract 2358, Planned Development 04-004 and Rezone 03-009 (Cutter – Franklin/Peterson) on this 20<sup>th</sup> day of April 2004.

City of El Paso de Robles  
Community Development Department  
Planning Division

Signed:   
Lonnie Dolan

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL  
PROJECT NOTICING

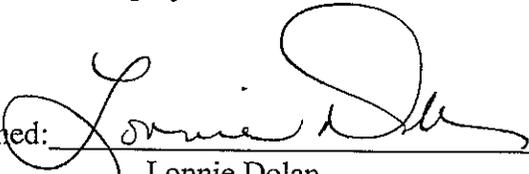
Newspaper: Paso Robles Press

Date of Publication: April 21, 2004

Meeting Date: May 4, 2004  
(City Council)

Project: Appeal of Tract 2358, Planned  
Development 04-004 and  
Rezzone 03-009 (Cutter/Peterson-  
Franklin)

I, Lonnie Dolan, employee of the Community  
Development Department, Planning Division, of the City  
of El Paso de Robles, do hereby certify that this notice is  
a true copy of a published legal newspaper notice for the  
above named project.

Signed:   
Lonnie Dolan

forms/newsaffi.691

CITY OF  
EL PASO DE ROBLES  
NOTICE OF PUBLIC  
HEARING

NOTICE IS HEREBY  
GIVEN that the City  
Council of the City of El  
Paso de Robles will hold a

Public Hearing to consider  
an application filed by  
James Cutter for an appeal  
of the Planning  
Commission decision to  
approve Tract 2358, PD 04-  
004 and Rezzone 03-009 on  
March 23, 2004.

The project consists of the  
following: a tentative tract  
map, development plan and  
rezzone that would divide  
the two existing parcels  
totaling up to 2.87 acres  
into 7 single family residen-  
tial lots. The project would  
be located at 723 and 733  
Rolling Hills Road.

The meeting will begin at  
the hour of 7:30 pm on  
May 4, 2004, in the  
Conference Center (First  
Floor) at the Paso Robles  
Library/City Hall, 1000  
Spring Street, Paso  
Robles, California. All  
interested parties may  
appear and be heard at  
this hearing.

Written comments on the  
proposed appeal may be  
mailed to the Community  
Development Department,  
1000 Spring Street, Paso  
Robles, CA 93446 provided  
that such comments are  
received prior to the time of  
the public hearing. Oral  
comments may be made at  
the hearing. Should you  
have any questions regard-  
ing this application, please  
call Darren Nash at (805)  
237-3970.

If you challenge the appeal  
in court, you may be limited  
to raising only those issues  
you or someone else  
raised at the public hearing  
described in this notice, or  
in written correspondence  
delivered to the Planning  
Commission at, or prior to,  
the public hearing.

/s/Darren Nash, Associate  
Planner

Pub: 4/21/2004  
Paso Robles Press  
Legal #9972