



## PRESS RELEASE



### **Judge Denies Del Mar's Motion to Dismiss Winston School Lawsuit**

DEL MAR, CA - August 22, 2022 - On Friday, August 19, 2022, a judge ruled against the City of Del Mar's motion to dismiss The Winston School's case against the City of Del Mar.

The Winston School was forced to sue the City for bad faith when they attempted to terminate its 55-year lease at the Shores Park in Del Mar, 40 years early. The non-profit school has been educating special education students at its Del Mar Shores campus since its founding in 1988. Winston is currently the only in-person, diploma-bound program serving special needs students in the San Diego region.

The ruling by San Diego County Superior Court Judge Kenneth Medel states, "Based on the pleadings, the Court finds that the action is proper subject of declaratory relief and that an actual controversy exists involving justiciable questions related to the rights and obligations of the Winston School."

Judge Medel also ruled against the City's claim that the lease had been terminated, stating that "Winston is in an ongoing landlord/tenant relationship with the City at least through July 2023."

The City prematurely took a victory lap in July when the judge asked for additional information from The Winston School to make a final determination. As the School noted at the time, this type of ruling seeking clarifications and amendments is not unusual at the beginning of a case.

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"We knew our case had a solid legal footing. The judge's request for additional information in July only made it more robust," said Laura Cunitz, Winston School Board President.

The Winston School brought legal action against the City of Del Mar in 2021 when the City ignored important lease terms that protected the School in the event redevelopment milestones could not be reached through no fault of the School. This included a force majeure clause extending deadlines in events such as pandemics. The City claimed that the COVID-19 pandemic, which shut down schools nationwide, had no significant impact on the School. Not only is this disparaging to every student, teacher, and parent who has endured COVID-19 restrictions for the past 2 1/2 years, it is ironic since the City has yet to reintroduce in-person City Council meetings. New health and safety requirements resulting from the pandemic caused the School to completely redesign its previous campus renovation plans.

Furthermore, the School alleges that the City Council used an "intentionally arduous and grossly unfair process" as the basis for denying more than a dozen plans submitted by the School for its \$5 million renovation. The City Council inappropriately used its authority as both landlord and municipality to modify the standard construction approval process just for the Winston School.

Winston earned their lease as the lead partner for the acquisition of the 5.4-acre Shores Park property by contributing \$3M and helped raise an additional \$2.5M of the \$8M total purchase price as the fiscal sponsor of the Friends of Del Mar Parks community campaign.

The Winston School, one of the oldest and largest nonprofits in Del Mar, is celebrating its 35th school year when it welcomes students back to campus next week. Cunitz adds, "We have been a respected and valued member of the Del Mar community since our founding in 1988. We are indebted to the overwhelming support of our Del Mar neighbors, alumni, parents, and philanthropists who recognize the value of our programs in serving the academic and social needs of students with learning differences. Winston remains committed to our mission and looks forward to completing our campus renovation, which will be an asset to the students and the local Del Mar community for years to come."

Supporters are encouraged to continue to reach out to Del Mar City staff, Council members, and Council candidates.

Facts about The Winston School:

- Founded in 1988, The Winston School is a registered non-profit 501(c)(3).
- The Winston School serves students with learning differences in grades 6-12 whose needs are not met in traditional school settings.
- The Winston School serves up to 115 students each year. Since its inception, thousands of students have graduated from The Winston School, with 95% being accepted into two- and four-year colleges.
- The Winston School serves students from Del Mar and all of San Diego County.
- To learn more about The Winston School, please visit <https://www.thewinstonschool.org/>.

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