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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO-NORTH COUNTY DIVISION**

10
11 ROY B. GARRETT, and individual;)
MARY GARRETT, an individual,)
12)
Petitioners,)

13)
14 vs.)

15 CITY OF ESCONDIDO, a California)
Municipality and DOES 1-10,)
16)
Respondents,)

17)
18 _____)
ESCONDIDO PUBLIC LIBRARY)
BOARD OF TRUSTEES,)
19)
Real Party in Interest.)
20 _____)

Case No. 37-2017-00045061-CU-WM-NC

**DECLARATION OF ROY B.
GARRETT IN SUPPORT OF
PETITIONERS' MOTION FOR
TEMPORARY RESTRAINING
ORDER AND FOR PRELIMINARY
INJUNCTION TO STAY
PRIVATIZATION OF THE
ESCONDIDO PUBLIC LIBRARY**

TRO HEARING TIME: 1/8/2018
TRO HEARING TIME: 8:30 a.m.

PRELIMINARY INJUNCTION:
DATE:
TIME:
DEPT: N-28
Hon. Earl H. Maas, III

21
22 I, Roy B. Garrett, declare as follows:

- 23 1. I am a Petitioner in the above-stated matter. I am an attorney at law licensed to practice
24 law in the State of California. I have personal knowledge of the facts stated herein,
25 unless stated under information and belief, in which case I believe said fact to be true and
26 correct.
- 27 2. My wife and I moved to Escondido in 1972, and bought several rental houses in
28 Escondido since then. We lived in Escondido city limits for approximately 17 years and

1 then built a home just outside the city limits where we lived another 16 years. We have
2 lived in our current home in Escondido city limits since approximately 2010.

3 3. My wife and I have paid property taxes on Escondido real property every year since
4 approximately 1972. I have voted in every election in which I was eligible to vote
5 including Escondido city elections when I lived within the city limits.

6 4. When the effort of the Escondido City Manager to out source the management of the
7 Escondido Public Library was first publicly disclosed, I did some research and found
8 California Education Code Section 18910 which states management of a public
9 municipal library such as the Escondido Public Library shall rest with a library board of
10 trustees. The Escondido Public Library has such a Board of Trustees, to wit: Ron
11 Guiles, Trustee/President, Elmer Cameron, Trustee, Mirek Gorney, Trustee, Gary Knight,
12 Trustee, and Mayra Salazar, Trustee/Secretary.

13 5. I also discovered California Education Code Section 19104.5, which states: “(t)he board
14 of trustees . . . of a library district . . . shall comply with all of the following requirements
15 before entering into a contract to operate the city’s or the district’s library or libraries
16 with a private contractor that will employ library staff to achieve cost savings . . .”
17 Included therein are provisions that the board of trustees publish notice of contemplated
18 action, that the board of trustees clearly demonstrate that the contract will result in actual
19 overall cost savings to the city, that the contract shall not be approved solely on the basis
20 that savings will result from lower contractor pay rates, that the contract not cause an
21 existing city or library district employee to incur a loss of his or her employment or
22 employment seniority or reduction in wages, benefits or hours, that the contract shall be
23 awarded through a publicized, competitive bidding process, that the contract shall include
24 specific provisions pertaining to the qualifications of the staff, that the contract shall
25 provide that it may be terminated at any time by the city or library district without
26 penalty, and specific requirements for contracts whose cost for services exceed \$100,000
27 annually.” This Section clearly articulates the California statutory proscriptions and
28 prescriptions regarding outsourcing library operations and management, most of which

1 were not followed by the Respondent.

2 6. I attended Escondido City Council meetings before October 18, 2017, and pointed out
3 that the California Education Code sections to the council and staff and notified them that
4 the City did not have authority to outsource management of the Escondido Public Library
5 and that management rested with the Escondido Public Library Board of Trustees.

6 7. I was present at the Escondido Public Library Board of Trustees meeting on August 8,
7 2017, when all five members of the Board opposed outsourcing management of the
8 Escondido Public Library. The Board was unanimously resolved to undertake full
9 management of the Escondido Public Library. The Board caused a letter to be delivered
10 to the Escondido City Council on or about September 27, 2017, and delivered to the
11 Escondido City Council and City Manager long before the City Council vote of October
12 18, 2017. A true and correct copy of the letter dated September 27, 2017, is attached as
13 Exhibit 1.

14 8. I was present on October 18, 2017, when the outsourcing contract was considered by the
15 Escondido City Council. Approximately 250 residents attended with 57 residents
16 speaking against. The Escondido City Council voted 4-1 in favor of outsourcing the
17 management of the Escondido Public Library to a Maryland based limited liability
18 company called Library System & Services LLC.

19 9. The Escondido City Councilmembers voting in favor stated that financial considerations
20 and pension costs were the basis of their decision to favor despite there being much
21 disagreement about the financial information on which they relied. I am aware of a
22 pending California Supreme Court case concerning municipal pension issues which may
23 alleviate pension obligations to employees in future years of employment while fully
24 vesting pension rights up to the date of modification.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

27 Dated: 12-27-2017



Roy B. Garrett, Petitioner

Exhibit 1

Library Board of Trustees

Escondido Public Library
239 South Kalmia Street, Escondido, CA 92025
Phone: 760-839-4601
library@escondido.org

September 27, 2017

TO: Mayor, Sam Abed; Deputy Mayor, John Masson, Council Member, Ed Gallo; Council Member, Olga Diaz; Council Member, Michael Morasco

FROM: Escondido Library Board of Trustees

SUBJECT: Exploring Alternative Options to Outsourcing the Escondido Public Library

Dear Escondido Mayor and Council Members,

On August 8, 2017, the Library Board of Trustees voted unanimously against the proposal to outsource Escondido Public Library (EPL) management to Library Systems & Services (LS&S) and presented our position formally in a letter to the City Council. We have read and reviewed the study done by the previous Interim Director of Library and Community Services, Cynthia Smith, regarding the possibility of joining the San Diego County Library system. With this information, we find it appropriate to explore the possibility of EPL becoming a branch within the County Library system.

In response to continued efforts to move forward with this privatization, the Trustees would like to formally request that the City Council direct City Staff to submit a request to the County of San Diego's Chief Administrative Office to develop a proposal for the integration of EPL into the County Library System.

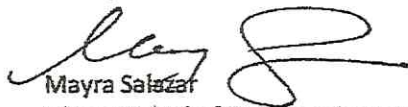
Furthermore, in the event that Education code §18910 be legally upheld the Escondido Library Board of Trustees would accept the responsibility of managing the library for the City of Escondido.

We look forward to action being taken towards exploring other outsourcing options prior to a Council vote to sign any contract with LS&S.

Sincerely,



Ron Guiles
Library Board of Trustees, President



Mayra Salazar
Library Board of Trustees, Secretary

Mirek Gorney
Library Board of Trustees



Elmer Cameron
Library Board of Trustees



Gary Knight
Library Board of Trustees

CC: City Manager, Jeffrey Epp
Deputy City Librarian, Joanna Axelrod