

1 STUART F. DELERY  
Acting Assistant Attorney General

2 ANDRE BIROTTE JR.  
3 United States Attorney  
4 LEON W. WEIDMAN  
Chief, Civil Division  
5 ALARICE M. MEDRANO  
(SBN 166730)

6 Assistant United States Attorney  
7 Room 7516 Federal Building  
300 North Los Angeles Street  
8 Los Angeles, CA 90012  
Telephone: (213) 894-0460  
9 Facsimile: (213) 894-7819  
E-mail: Alarice.Medrano@usdoj.gov

JUDRY L. SUBAR  
Assistant Branch Director  
ELISABETH LAYTON  
Senior Counsel  
KAREN S. BLOOM  
KAREN P. SEIFERT  
Trial Attorneys  
U.S. Department of Justice  
Civil Division  
Federal Programs Branch  
20 Massachusetts Ave., N.W.  
Washington, DC 20001  
T: (202) 514-3183;F: (202) 616-8470  
Email: Elisabeth.Layton@usdoj.gov

10 *Attorneys for Defendants*

11  
12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14  
15 GREGORY VALENTINI, et al.,  
Plaintiffs,

16 vs.

17 ERIC SHINSEKI, et al.,  
18 Defendants

) Case No.: CV-11-04846-SJO-MRW

)

) DECLARATION OF RALPH D.

) TILLMAN

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[Before the Honorable James S. Otero]

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1 I, Ralph D. Tillman, do hereby declare:

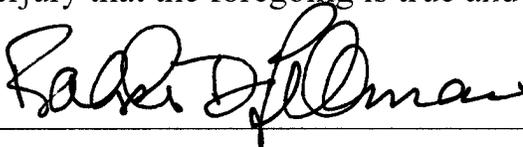
2 1. I am the Chief of Communications and External Affairs for the Greater  
3 Los Angeles Healthcare System within the United States Department of Veterans  
4 Affairs ("VA"). In this position and in my prior positions with VA over the last  
5 fifteen years, I have had responsibility for managing the process whereby VA has  
6 entered into Enhanced Sharing Agreements ("ESAs") with sharing partners on  
7 VA's West Los Angeles ("WLA") campus. As the Contracting Officer for the  
8 WLA campus, my responsibilities have included conducting negotiations with  
9 prospective sharing partners concerning land use agreements on the WLA campus  
10 and, in conjunction with other VA personnel, determining whether VA should  
11 agree to enter proposed ESAs.

12 2. It has recently come to my attention that the attached twenty-nine  
13 pages should be added to the administrative record in this matter. The reason for  
14 this addition is that these documents constitute materials that VA considered  
15 indirectly before ultimately entering into one of the agreements included within the  
16 Administrative Record, as supplemented.

17 3. I hereby certify that the Administrative Record in this matter, as filed  
18 on October 22, 2012 and supplemented on November 20, 2012, February 19, 2013,  
19 and today, to the best of my knowledge, information, and belief, reflects the non-  
20 privileged information and materials (exclusive of information and materials that  
21 implicate the privacy of third parties or that constitute or consist of confidential  
22 business information) considered by VA in reaching decisions to enter into each of  
23 the ESAs identified in the administrative record as the subjects of that record.

24 I certify under penalty of perjury that the foregoing is true and correct.

25  
26 Dated: April 10 2013

  
\_\_\_\_\_  
Ralph D. Tillman

**THIRD SUPPLEMENT TO THE  
ADMINISTRATIVE RECORD**

*Valentini v. Shinseki*

2:11-cv-04846

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# U.S. House of Representatives

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<http://veterans.house.gov>

February 2, 2000

Honorable Richard J. Griffin  
Inspector General (50)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Mr. Griffin:

Congresswoman Corrine Brown, Ranking Member of the House Veterans' Affairs Subcommittee on Oversight and Investigations, joins me in requesting your review of Enhanced Sharing Agreement V691S-171 between the Brentwood School and the VA Greater Los Angeles Healthcare System, West Los Angeles. The contract, finalized in August 1999, pursuant to title 38 United States Code section 8153, would provide the school with use of approximately 22 acres of federal land for a period of ten years with one ten-year option in consideration for an annual rent of \$300,000. It is anticipated that the school, at its own expense, would construct an athletic complex on the property.

As a threshold question of legality, we note that section 421(b)(2) of Public Law 100-322 provides as a special rule that the Secretary of Veterans Affairs may not declare as excess to the needs of the Department of Veterans Affairs, "or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres) ... described in letters dated February 5, 1986, ... from the Administrator to the Committees on Veterans' Affairs ...."

Honorable Richard J. Griffin  
February 2, 2000  
Page 2

Of concern also is the use by the Greater Los Angeles Healthcare System of 38 U.S.C. sec. 8153 (sharing of health-care resources) as authority to enter into a long-term real estate contract with a private sector entity for a non-medical purpose. Although your review may find such a contract to be technically legal, we would appreciate your observations regarding its meeting the spirit and intent of the authorizing legislation which, primarily, was to secure health-care resources not otherwise feasibly available.

Enhanced sharing agreements, which may be executed by local facility officials, do not provide the public and the Department with the degree of protection that is afforded by enhanced-use leases as authorized in 38 U.S.C. sec. 8162. The enhanced-use lease option – which may have been the more appropriate authority with regard to the Brentwood School, if disposition of the property was possible at all – was not available to the West Los Angeles officials. Subsection (c)(1) of 38 U.S.C. sec. 8162 prohibits the Department of Veterans Affairs – except for child care services – from entering into an enhanced-use lease covering lands described in the second paragraph of this letter.

We are concerned that because management of the Greater Los Angeles Healthcare System was prohibited from entering into an enhanced-use lease for their West Los Angeles facility, they may have exceeded their sharing agreement authority. In doing so, they may have increased the Department's liability as a landowner.

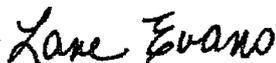
We note the law provides that any proceeds to the government received from an enhanced sharing agreement are credited to the funds allotted to the facility that furnished the resources involved (38 U.S.C. sec. 8153(b)). Because sharing agreements can be negotiated locally and more quickly than enhanced-use leases, Congresswoman Brown and I are concerned that other VA medical facilities also may be increasing the Department's liability as a landowner. We also would appreciate you determining if other VA facilities use or are likely to make use of the enhanced sharing authority as has the VA Greater Los Angeles Healthcare System.

Honorable Richard J. Griffin  
February 2, 2000  
Page 3

At the conclusion of your review, we would appreciate any recommendations you may have regarding needed legislative modifications that would allow the Department to maximize the use of its property while fully protecting its interests.

Your rapid and complete response to this inquiry would be appreciated.  
With best wishes, we are

Sincerely,



LANE EVANS  
Ranking Democratic Member



CORRINE BROWN  
Ranking Democratic Member  
Subcommittee on Oversight  
and Investigations

FEB-08-2000 11:57

P.01/04

*W. Wilson*

*✓*  
**Hanson, John**

From: Holley, James  
Sent: Monday, February 7, 2000 4:31 PM  
To: Hanson, John; Riffin, Phillip; Duffy, Dennis; McMichael, Guy; Bayard, Dave  
Subject: FW: press release - Evans, Brown challenge VA "sharing" contract

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RANKING DEMOCRATIC MEMBER  
COMMITTEE ON VETERANS AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES

Room 333 Cannon HOB  
Contact:  
Washington, DC 20515  
202-225-9756

For More Information

Bill Crandell @

FOR RELEASE: IMMEDIATELY

Evans, Brown challenge VA "sharing" contract  
with elite school in West Los Angeles  
Brentwood School to build million dollar sports complex on VA land

*← look into all sharing agreements in W. LA*

Washington, DC - A questionable contract will allow an elite prep school in the exclusive Brentwood-Westwood area of Los Angeles to fence off Department of Veterans Affairs (VA) land and build itself a million dollar sports complex. "This unusual agreement was brought to my attention," said Congressman Lane Evans of Illinois, Democratic Leader of the House Veterans Affairs Committee, "by a veteran who sent me a letter raising concerns about the VA's decision. This contract needs to be severed immediately and the entire matter investigated."

*creative techniques for review*

*independent of IG analysis*

*Mark C. Dennis & John*

Today Evans and Congresswoman Corinne Brown, Ranking Member of the House Veterans Affairs Subcommittee on Oversight and Investigations, sent a letter to the

*quick answer to Lane*

Secretary of Veterans Affairs, Togo D. West, Jr., calling upon him to cancel the contract because of apparent legal problems with the process used. Evans and Brown also wrote to the VA Inspector General Richard J. Griffin, asking him to review a "sharing agreement" between the private Brentwood School and the VA Greater Los Angeles Healthcare System, West Los Angeles. "What started out as a modest home for old soldiers on the rural outskirts of Los Angeles has become what some consider the most valuable property in the United States," says the LA Times in a recent story on the need for tighter control of VA land. The 430-acre VA facility is located in an area where unimproved land has been valued at "well more than \$1 million per acre."

*GC and VHA*

*review sharing agreements*

The contract, finalized in August 1999, would provide the school with use of approximately 22 acres of federal land for a period of ten years with an

10 7-1-98  
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# U.S. House of Representatives

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February 7, 2000

The Honorable Togo D. West, Jr.  
The Secretary  
Department of Veterans Affairs  
Washington, DC 20420

Dear Secretary West:

A recent letter from a concerned veteran, combined with a January 23, 2000, article in the *LA Times* entitled "Seeking Tighter Control of VA Land", raises serious concerns about the appropriate use by the Department of statutory authority to enter into agreements for the sharing of health-care resources. In view of the concerns which have been raised, we request that you immediately take steps to terminate the Brentwood School agreement thereby limiting Department liability for any expenses incurred by the school acting in good faith on the signed agreement. If it is subsequently determined that an agreement with Brentwood School to build an athletic complex on federal land at West Los Angeles is proper, within your sharing health-care resources authority and in the best interest of veterans, the agreement could be renegotiated. The text of the article referred to from the *LA Times* is enclosed for your information.

Section 8153 of title 38, United States Code, was enacted primarily to secure health-care resources not otherwise feasibly available. However, pursuant to that authority, VA Greater Los Angeles Healthcare System, West Los Angeles entered into an agreement with Brentwood School in August 1999 to provide the school with use of approximately 22 acres of federal land for a period of ten years with one ten-year option in consideration for an annual rent of \$300,000. It was anticipated that the school, at its own expense, would construct an athletic complex on the property. We are concerned that authority provided by Congress under section 8153 to encumber federal land may have been exceeded at West Los Angeles.

The Honorable Togo D. West, Jr.  
February 7, 2000  
Page 2

We note that section 421(b)(2) of Public Law 100-322 provides, as a special rule, that the Secretary of Veterans Affairs may not declare as excess to the needs of the Department of Veterans Affairs, "or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres) ... described in letters dated February 5, 1986, ... from the Administrator to the Committees on Veterans' Affairs ...." We are very concerned that if the 22-acre Brentwood School parcel is part of the referenced 109-acres, the Department may have been prohibited by law from entering into the Brentwood School agreement.

We further note the *LA Times* reference to the restriction in the original deed that required the land to be "permanently" used for veterans. We seek your assurance that any transfer of property rights to the Brentwood School not endanger the West Los Angeles land grant.

On February 2, 2000, we asked Inspector General Richard Griffin to review the Brentwood School agreement. A copy of that request is enclosed. We also requested that the Inspector General determine if other VA facilities use or are likely to make use of the enhanced sharing authority as has the VA Greater Los Angeles Healthcare System. We support the proper use of the enhanced sharing agreement authority as a valuable local management tool. We would like your assurance that such an important authority is not being abused by other medical centers.

The enhanced sharing agreement authority provides that any proceeds to the government received from such an agreement are credited to the funds allotted to the facility that furnished the resources involved. This incentive for local contracting initiative, when combined with the fact that sharing agreements can be completed more quickly than enhanced-use leases as authorized by section 8162 of title 38, could result in local facility officials exceeding the statutory authority under section 8153. We also note local sharing agreements also have the potential for being undervalued, sole-source contracts that do not provide the public and the Department with the protections of enhanced-use leases, and can significantly increase VA's liabilities as a landowner.

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Honorable Richard J. Griffin  
February 2, 2000  
Page 2

Of concern also is the use by the Greater Los Angeles Healthcare System of 38 U.S.C. sec. 8153 (sharing of health-care resources) as authority to enter into a long-term real estate contract with a private sector entity for a non-medical purpose. Although your review may find such a contract to be technically legal, we would appreciate your observations regarding its meeting the spirit and intent of the authorizing legislation which, primarily, was to secure health-care resources not otherwise feasibly available.

Enhanced sharing agreements, which may be executed by local facility officials, do not provide the public and the Department with the degree of protection that is afforded by enhanced-use leases as authorized in 38 U.S.C. sec. 8162. The enhanced-use lease option – which may have been the more appropriate authority with regard to the Brentwood School, if disposition of the property was possible at all – was not available to the West Los Angeles officials. Subsection (c)(1) of 38 U.S.C. sec. 8162 prohibits the Department of Veterans Affairs – except for child care services – from entering into an enhanced-use lease covering lands described in the second paragraph of this letter.

We are concerned that because management of the Greater Los Angeles Healthcare System was prohibited from entering into an enhanced-use lease for their West Los Angeles facility, they may have exceeded their sharing agreement authority. In doing so, they may have increased the Department's liability as a landowner.

We note the law provides that any proceeds to the government received from an enhanced sharing agreement are credited to the funds allotted to the facility that furnished the resources involved (38 U.S.C. sec. 8153(b)). Because sharing agreements can be negotiated locally and more quickly than enhanced-use leases, Congresswoman Brown and I are concerned that other VA medical facilities also may be increasing the Department's liability as a landowner. We also would appreciate you determining if other VA facilities use or are likely to make use of the enhanced sharing authority as has the VA Greater Los Angeles Healthcare System.

The Honorable Togo D. West, Jr.  
February 7, 2000  
Page 3

We would appreciate your prompt attention to the serious issues we have raised. Particularly, the possibility of a national pattern of enhanced sharing agreement abuse and the termination by the Department of the agreement with the Brentwood School until this matter is fully and satisfactorily explored. If possible, please respond by COB, March 10, 2000.

Sincerely,

*Lane Evans*

LANE EVANS  
Ranking Democratic Member

*Corrine Brown*

CORRINE BROWN  
Ranking Democratic Member  
Subcommittee on Oversight  
and Investigations

Enclosures

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 by Jim Murray



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• Growth: Complaints by descendants of two families that donated the site in 1888 have prompted a promise of better oversight for the prime property.

By BOB POOL, Times Staff Writer

People have lined up to get into the place for 111 years—ever since that gray winter day in 1889 when its first residents arrived after marching, military-style, 300 miles to get there.

But old soldiers aren't the only ones these days who covet a spot at the 430-acre federal veterans center in West Los Angeles.

Movie makers, ad executives, athletic coaches, homeless advocates, medical researchers, theater producers, apartment operators, hotel owners, bus drivers, restaurant managers, educators and museum officials are among those jockeying to keep or get pieces of the sprawling, largely undeveloped VA Medical Center grounds that span Wilshire Boulevard.

That clamor angers descendants of the two pioneer families that donated the property and has veterans groups up in arms.

In response, officials of the Department of Veterans Affairs now promise to never again sell off chunks of medical center land. They also vow that future leases of the property to outsiders will be done with care—and with the concurrence of veterans and community members.

Bounded by high-rise offices and nearby million-dollar estates in Brentwood and Westwood, what started as a modest home for old soldiers on the rural outskirts of Los Angeles has become what some consider the most valuable property in the United States.

The newly appointed head of the West Los Angeles VA center is acknowledging that mistakes have been made in the use of the land.

"In the past, the VA has not done everything it could to be viewed as a member of the community," said Philip P. Thomas, chief executive officer of the

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VA Greater Los Angeles Healthcare System for the past seven months.

Thomas, a 49-year-old former Army major who served in the Persian Gulf War, said the VA will develop a master plan for the site that will map out renovation goals and such projects as a proposed Alzheimer's treatment unit for veterans.

Planned improvements include turning land beneath 14 old trailer buildings into green space and a \$3-million renovation of the landmark Victorian-style chapel.

"We are not going to be divvying up the land. It will remain intact. I'm making a commitment that we're not going to subdivide our property. That happened in the past. We're going to retain ownership," he said. "We may change the green space, but we never will destroy it."

That has not always been the case. For decades, developers have nibbled at the property.

The huge Federal Building at Wilshire and Veteran Avenue (where the VA rents office space for \$3 million a year) was once earmarked to be an old soldiers home. So was Army Reserve and National Guard land along Federal Avenue on the west side of the VA grounds.

The transfer of a two-acre chunk of VA land along Sepulveda Boulevard that ended up as Salvation Army low-income housing prompted a lawsuit by heirs of the families that donated the land to the government in 1888.

John P. Farquhar and other descendants of Arcadia Bandini de Baker and John P. Jones charged that the original deed required that the land be "permanently" used for veterans. They lost their case in 1990 in a federal appeals court on what they say was a technicality.

These days, family members continue to view the VA operation with skepticism. They say they are prepared to demand that the remaining land be returned to them if it is not exclusively used for the benefit of veterans.

"They started chipping away at the land in 1924," said Farquhar, an 88-year-old Hollywood resident who remembers as a child seeing Civil War veterans living in Victorian-style barracks at what was then known as the National Soldiers Home.

"There shouldn't be any other uses on the property. It's not consistent with what the land was given for," said family member Ricardo Bandini Johnson, who lives in Agoura Hills.

Descendant Carolina Barrie of Santa Monica also decried the land being "piecemealed away."

#### **Veteran Warns of 'Land Grab'**

Local veterans groups also condemn what they suggest has been the parceling off of VA land.

"Half of it's gone already when you consider the Federal Building is on VA retirement property," said Joe Adamski, commander of the West Los Angeles chapter of the Vietnam Veterans of America.

Vietnam veteran Frank Juarez, a Santa Monica telephone company manager, said he joined the American Legion specifically to fight the dismantling of the VA site. Last week he appealed to members nationwide for help.

"The 'land grab' is on and veterans are not invited," Juarez warned in a letter to American Legion Magazine. He urged members to push for federal action "immediately prohibiting" the use of West Los Angeles VA land by non-veteran organizations.

The Salvation Army land acquisition--coupled with its lease of several buildings on remaining VA property--has particularly irked some veterans groups.

They say that the Salvation Army's presence on government land violates the concept of separation of church and state. They say that despite the sound of its name, the group has nothing to do with the American military.

"Let them build someplace else. They have the money," said AMVETS unit commander Ray Delgado, a plumbing company manager from Mar Vista.

Salvation Army officials have defended their VA operations as both appropriate and effective, however.

In a memo, Salvation Army Program Director Roy Snapp-Kolas said his organization was invited by the VA in 1994 to run a program for homeless veterans. Since then, more than 9,000 veterans have been helped there, and services have been expanded to include substance abuse treatment.

VA officials say the success of the Salvation Army program, called Haven, led them to lease a second building to another outside group. The New Direction organization is run by a decorated Vietnam combat veteran, John Keaveney, and is supported by veterans groups.

Keaveney and other veterans have proposed creation of a "Veterans Village" on the VA grounds. They envision it as a veteran-run community that would provide affordable housing, nursing care and other services for elderly and disabled veterans and their families.

The VA's Thomas says he is opposed to that because it would mean the surrendering of control of the West Los Angeles site.

"I'm not about to give up the rights to this property to any particular group," he said.

His plan for closer oversight of the 430 acres includes next month's planned creation of a

community advisory committee made up of local residents, business owners and representatives of local government agencies and veterans groups, he said.

Thomas said his staff has been instructed to take a tougher stance on future lease proposals--including the types negotiated with the Salvation Army and New Direction. In the meantime, proposals such as the one from an advertising company to pay \$300,000 a year to put three billboards on VA land are being rejected.

Sticker shock could be in store for longtime leaseholders when their contracts come up for renegotiation, according to John Fitzgerald, West Los Angeles facilities manager for the VA.

The historic Wadsworth Theater, which the VA rented out for \$400 a month in the past, is now leased for \$8,000 a month to a New York promoter who will also pay an incentive based on ticket sales.

A 200-space parking lot at the north end of the VA grounds used by Brentwood Village shoppers will soon generate about \$50,000 a year. "In the past we basically got nothing for it," said Fitzgerald.

Negotiations are underway with UCLA that will require the university to pay for continued use of a VA athletic field that in the past it used in exchange for a share of concession stand revenues.

Other leases include Brentwood School athletic fields, parking facilities for the Getty Center and a school bus company, headquarters land for the Red Cross, a drilling site for an oil company, and laundry facilities for a hotel firm.

Officials say the harder-line lease approach is necessary because of VA funding squeezes.

"We have a new philosophy," Fitzgerald said. "We can't afford to give things away anymore."

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DEPARTMENT OF VETERANS AFFAIRS  
Office of the General Counsel  
Washington DC 20420

In Reply Refer To:

**Transmittal Memorandum**

**To:** The Secretary of Veterans Affairs

**From:** General Counsel

**Date:** FEB 23 2000

**Subject:** Memorandum directing the Deputy Under Secretary for Health and the General Counsel to review the expanded sharing agreement between the Greater Los Angeles Healthcare System West LA, California and the Brentwood School.

- Congressman Lane Evans and Congresswoman Corrine Brown have questioned whether the proper legal authority was exercised and whether VHA policy and procedures were followed.

**CONCURRENCES:** None.

**RECOMMENDATION:** Sign and transmit memorandum.

Proposing Official:

*Leigh A. Bradley*  
Leigh A. Bradley

Reviewed:

*OC 2/24/00*  
Executive Secretary

Special Assistant

Approved:

Disapproved:

See Me:

*2/24/00*

*CS 2-24-00*



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

February 24, 2000

MEMORANDUM TO THE DEPUTY UNDER SECRETARY FOR HEALTH AND  
THE GENERAL COUNSEL

SUBJ: Review of Expanded Sharing Agreement Between the Greater Los Angeles Healthcare System, West Los Angeles, California, and the Brentwood School

It was recently brought to my attention through a press release and a letter from Congressman Lane Evans and Congresswoman Corrine Brown that VA has entered into an agreement with the Brentwood School, West Los Angeles, California, to provide "the school with the use of approximately 22 acres of Federal land for a period of years with one ten-year option in consideration for an annual rent of \$300,000." (See letter from Congressman Lane Evans and Congresswoman Corrine Brown dated February 7, 2000, attached.) The legal authority as well as the annual payments which VA negotiated have been questioned.

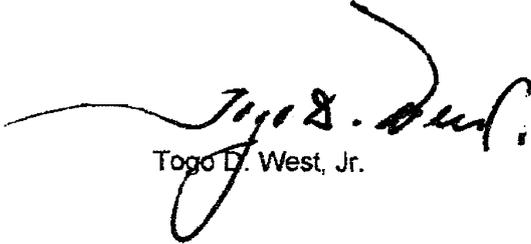
Accordingly, the General Counsel is directed to determine if the sharing agreement is legally sufficient, including whether the expanded sharing provision, Title 38 U.S.C. § 8153, is the proper statutory authority on which to base the agreement.

Further, the Deputy Under Secretary for Health, in coordination with the General Counsel, should determine whether the agreement comports with the Department's expanded sharing policy. Additionally, the Deputy Under Secretary for Health should determine whether the fee is a reasonable one.

I have been advised that the development and review of this agreement may not have been in accordance with established Department procedures. The Deputy Under Secretary for Health, with the assistance of the General Counsel, should determine if the formal coordination process was followed and, if not, should provide me with assurances that such formal consultation will occur in the future with respect to these agreements.

It has also been suggested that some of the stakeholders were not fully informed and that some do not concur with this action. The Deputy Under Secretary for Health should assure that the stakeholders; i.e., the local community, the veterans service organizations, and relevant Members of Congress have been or are fully informed of this agreement and all of their concerns considered.

Your findings and recommendations should be submitted to my office by  
March 13, 2000.



Togo D. West, Jr.

Attachment



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

MAR 10 2000

In Reply Refer To:

The Honorable Lane Evans  
Ranking Democratic Member  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Evans:

This is in response to your letter to Secretary West, co-signed by Congresswoman Corrine Brown, regarding the legality and appropriateness of a Title 38, Section 8153, Sharing Agreement between the West Los Angeles VA Medical Center (VAMC) and the Brentwood School.

On February 25, 2000, the West Los Angeles VAMC, in consultation with VA's General Counsel, asked the Brentwood School to suspend work on this project until further notice. This will allow VA to thoroughly review the appropriateness of this project and to limit any additional costs to VA and the Brentwood School if termination is required. This review will contribute to our developing policy guidance concerning this authority. Subsequently, the Veterans Health Administration will issue a directive containing that policy guidance.

VHA will provide a complete response by March 31. Thank you for your interest and support for veterans' health care. A similar response has also been sent to Congresswoman Brown.

Sincerely,

A handwritten signature in black ink that reads "Thomas L. Garthwaite".

Thomas L. Garthwaite, M.D.  
Deputy Under Secretary for Health



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

MAR 10 2000

In Reply Refer To:

The Honorable Corine Brown  
Ranking Democratic Member  
Subcommittee on Oversight  
and Investigation  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Congresswoman Brown:

This is in response to your letter to Secretary West, co-signed by Congressman Lane Evans, regarding the legality and appropriateness of a Title 38, Section 8153, Sharing Agreement between the West Los Angeles VA Medical Center (VAMC) and the Brentwood School.

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Sincerely,

A handwritten signature in black ink that reads "Thomas L. Garthwaite".

Thomas L. Garthwaite, M.D.  
Deputy Under Secretary for Health

03/13/00 19:46 FAX 2022252034

HVAC DEMOCRATCS

- VA Cong Affairs 002

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U.S. House of Representatives

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CHAIRMAN

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<http://veterans.house.gov>

March 13, 2000

RECEIVED  
2000 MAR 14 PM 4:26  
CONSTITUTIVE  
CORRESPONDENCE

Dr. Thomas L. Garthwaite  
Deputy Under Secretary for Health  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Dr. Garthwaite:

Thank you for your prompt interim response to the February 7, 2000, letter that Congresswoman Corrine Brown and I wrote to Secretary West regarding the sharing agreement between West Los Angeles VA Medical Center and the Brentwood School. Your request of the Brentwood School on February 25, 2000, to suspend work on their athletic complex until further notice was prudent as it applied to the project in question.

I have been informed, however, that on February 25, 2000, the Chief Executive Officer of the VA Greater Los Angeles Healthcare System also advised the Director of New Directions, Inc. that a hold was being placed on any new proposals and that VA would not be proceeding any further with its discussions about a dual diagnosis program. I would appreciate your clarification of this matter and the extent to which VA may have placed holds on other new and worthwhile projects throughout the country.

I note from your March 10<sup>th</sup> letter that the Department is developing policy guidance concerning the use of VA's sharing agreement authority under section 8153 of title 38 United States Code. Please provide me with a copy of the Department policy guidance under which the West Los Angeles VA Medical Center has been operating since enactment of section 8153.

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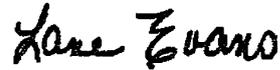
EVAC DEMOCRATCS

→ VA Cong Affairs 003

Dr. Thomas L. Garthwaite  
March 13, 2000  
Page 2

Your equally prompt response to this inquiry would be appreciated.

Sincerely,



LANE EVANS

Ranking Democratic Member



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

APR 13 2000

In Reply Refer To:

The Honorable Corrine Brown  
Ranking Democratic Member  
Subcommittee on Oversight and Investigations  
Committee on Veterans' Affairs  
U. S. House of Representatives  
Washington, DC 20515

Dear Congresswoman Brown:

This is to further update you and Congressman Lane Evans regarding the legality and the appropriateness of a Title 38, Section 8153 Sharing Agreement between the Greater Los Angeles Healthcare System (VA) and the Brentwood School.

Negotiations are continuing with officials from the General Counsel, Veterans Health Administration, and Office of Congressional Affairs to determine if the agreement for the use of certain specified VA property as athletic fields complies with existing VA policy, including stakeholder involvement. Our negotiations are taking longer than expected, but we hope to have a final reply for you within thirty days.

Thank you for your interest and support of veterans' health care. A similar response has been sent to Congressman Evans.

Sincerely,

A handwritten signature in black ink that reads "Thomas L. Garthwaite". The signature is written in a cursive style.

Thomas L. Garthwaite, M.D.  
Deputy Under Secretary for Health



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Health Administration  
Washington DC 20420

APR 13 2000

In Reply Refer To:

- The Honorable Lane Evans  
Ranking Democratic Member  
Committee on Veterans' Affairs  
U. S. House of Representatives  
Washington, DC 20515

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Thank you for your interest and support of veterans' health care. A similar response has been sent to Congresswoman Brown.

Sincerely,

  
Thomas L. Garthwaite, M.D.  
Deputy Under Secretary for Health

81936

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# U.S. House of Representatives

## COMMITTEE ON VETERANS' AFFAIRS

BOB STUMP  
CHAIRMAN

ONE HUNDRED SIXTH CONGRESS

335 CANNON HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

<http://veterans.house.gov>

April 26, 2000

Dr. Thomas L. Garthwaite  
Deputy Under Secretary for Health  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Dr. Garthwaite:

Thank you for your April 13<sup>th</sup> letter updating me regarding the legality and appropriateness of the sharing agreement between the Greater Los Angeles Healthcare System and the Brentwood School. I look forward to your substantive response to the original letter Congresswoman Corrine Brown and I wrote to Secretary West on February 7, 2000, regarding this serious issue of the Department's interpretation of its legislative authority.

In my March 13, 2000, letter thanking you for your prompt interim response to the February 7<sup>th</sup> letter, I asked for clarification of the report that the Chief Executive Officer of the VA Greater Los Angeles Healthcare System had advised the Director of New Directions, Inc. that a hold was being placed on any new proposals and that VA would not be proceeding any further with its discussions about a dual diagnosis program. I asked the extent to which VA may have placed holds on other new and worthwhile projects throughout the country. To date, I have not received even an interim response to my March 13<sup>th</sup> letter.

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2000 MAY - 1 PM 3:28  
CORRESPONDENCE

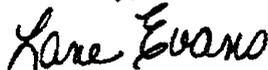
Dr. Thomas L. Garthwaite  
April 26, 2000  
Page 2

In my March 13<sup>th</sup> letter, I also requested a copy of the Department policy guidance under which the West Los Angeles VA Medical Center has been operating since enactment of section 8153 of title 38 United States Code. Again, after more than a month, I have received no response.

Now, in addition to the questions I raised in my March 13<sup>th</sup> letter, I would appreciate a full explanation for your undue delay in answering such straightforward congressional inquiries and the need for internal negotiations at this time to be able to respond to these inquiries.

Your prompt response would be appreciated.

Sincerely,



LANE EVANS

Ranking Democratic Member



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

**JUN 02 2000**

In Reply Refer To:

The Honorable Lane Evans  
Ranking Democratic Member  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington DC 20515

Dear Congressman Evans:

This is in response to your letters of March 13 and April 26, 2000, regarding the Department of Veterans Affairs' decision to suspend further action on a sharing agreement between the Greater Los Angeles Health Care System (GLAHCS) and the Brentwood School until a full review of the legality and appropriateness of the agreement was completed.

The Secretary directed the Veterans Health Administration (VHA) and the Office of General Counsel (OGC) to determine if the Brentwood agreement complies with existing VA policy. Action on the Brentwood agreement was temporarily suspended during this review.

The OGC reviewed the Brentwood agreement and determined that VA had the authority pursuant to 38 U.S.C. § 8153 to enter into the agreement. Furthermore, Veterans Health Administration determined the price paid for the space was reasonable. The review is completed and the OGC is negotiating changes to the agreement with counsel for the Brentwood School.

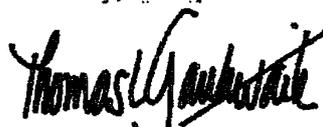
You also requested a copy of the current Department policy for Expanded Sharing Authority under 38 U.S.C. § 8153. A copy of VHA Directive 97-015 is enclosed. The Department will issue a new directive on selling resources under this authority, following the completion of an investigation by the Office of the Inspector General.

The Honorable Lane Evans

Page 2

Your interest in Department of Veterans Affairs' sharing proposals is appreciated.

Sincerely,



Thomas L. Gerthwaite, M. D.  
Acting Under Secretary for Health

Enclosure



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

**JUN 26 2000**

In Reply Refer To:

The Honorable Lane Evans  
Ranking Democratic Member  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington DC 20515

Dear Congressman Evans:

This is in response to your letter co-signed by Congresswoman Brown regarding the legality and the appropriateness of a Title 38, Section 8153 Sharing agreement between the Greater Los Angeles Healthcare System (VA) and the Brentwood School. I understand that the Acting Under Secretary for Health also responded to you regarding this issue on June 2, 2000.

I directed the Veterans Health Administration (VHA) and the Office of General Counsel (OGC) to determine if the agreement for the use of certain specified VA property as athletic fields complies with existing VA policy, including stakeholder involvement. I also directed OGC to determine the legal sufficiency of the agreement and directed VHA to determine whether the negotiated fee is a reasonable one. Action on the Brentwood agreement was temporarily suspended during this review.

OGC reviewed the terms and conditions of the agreement and determined that VA had the authority pursuant to 38 U.S.C. § 8153 to enter into this agreement. Furthermore, VHA determined the price paid for the space was reasonable.

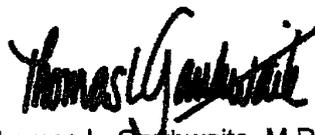
The review is completed and VA is proceeding with the Brentwood agreement. The General Counsel is negotiating changes to the agreement with counsel for the Brentwood School.

The Honorable Lane Evans

Page 2

Thank you for your interest and support of veterans' health care. A similar response has been sent to Congresswoman Brown.

Sincerely,

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Thomas L. Garthwaite, M.D.  
Acting Under Secretary for Health



**DEPARTMENT OF VETERANS AFFAIRS**  
Veterans Health Administration  
Washington DC 20420

**JUN 26 2000**

In Reply Refer To:

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Ranking Democratic Member  
Subcommittee on Oversight  
and Investigations  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington DC 20515

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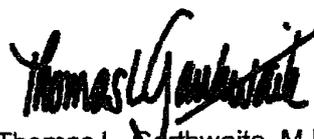
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The Honorable Corrine Brown

Page 2

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Thomas L. Garthwaite, M.D.  
Acting Under Secretary for Health