

Santa Monica Daily Press

A newspaper with issues

LOTTO

FANTASY 5

34, 5, 29, 36, 24

DAILY 3

Afternoon picks: 9, 2, 2

Evening picks: 8, 5, 9

DAILY DERBY

1st Place: 11, Money Bags

2nd Place: 6, Whirl Win

3rd Place: 5, California Classic

Race Time: 1:43.21



NEWS OF THE WEIRD

by Chuck Shepard

Former Kansas City Royals coach Tom Gamboa filed a lawsuit in September against a fan who attacked him during a September 2002 baseball game in Chicago, and also against the ballpark's (U.S. Cellular Field's) security firm and its concessionaire. (However, several days after the initial attack, Gamboa had told the Associated Press, "The fault is with the two people (the fan and his minor son) who did it. I'm not one who looks to (spread) blame. It's nobody's fault but the two idiots who did it.")



QUOTE OF THE DAY

"So many beautiful women and so little time."

— John Barrymore



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Community voices on homeless issue



By Daily Press staff

Dozens of people came to City Hall Tuesday night, waiting to be heard by their elected officials on what they believe should be done about the growing homeless population in Santa Monica.

Every year, the Santa Monica City Council reviews an annual report that analyzes its social services programs geared to getting the homeless off the streets. This past year, City Hall contributed \$1.8 million to the programs, but much more has been spent dealing with vagrants and their anti-social behaviors.

It has become such a serious issue for business owners and residents that they have listed it as their No. 1 concern for five years in a row, according to a city survey. And each year, hundreds of people march in front of the City Council and lodge their complaints.

But City Council members don't apologize for their compassion, nor do most people expect them to. However, many believe the programs put in place aren't effectively addressing the problem. Rather, the programs designed to help those people down on their luck are attracting more homeless here, some argue.

Despite that the contentious issue is residents' top concern living in Santa Monica, the public hearing on the annual report was

See OPINIONS, page 6

(Clockwise from top) Homeless residents Mc Farland and Elaine Timothy; area residents Dudley Cowan and Heidi Plotkin; Santa Monica merchants Roman Gastelum and John Chang; and tourists Ab Zagt and John Miller, offer their opinions on the homeless population in Santa Monica (see page 6). Their comments are in the order of their photos.

John Wood/Daily Press

Edison Elementary fails to make the grade

One child was left behind

BY JAMIE WETHERBE

Special to the Daily Press

A Santa Monica elementary school has failed a new federal program for lack of participation.

Edison Language Academy, a dual-language elementary school — where courses are taught in both Spanish and English — failed this year to meet new federal standards by one-tenth of 1 percent. As a result, Edison could face severe budget problems if federal funding is cut off.

Under the Bush administration's new law "No Child Left Behind," all public schools must adopt grade-level standards — which increase each year — and evaluate student progress through annual standardized tests. If schools fail to make the grade two years in a row, federal funding may be pulled, officials said.

Schools are evaluated based on education and participation.

The law requires a 95 percent test participation rate among students in all categories, which are broken down based on ethnicity and income.

If even one group fails, the entire school fails — as was the case with Edison.

While Edison met or surpassed proficiency criteria in both math and English in all categories, the school failed to meet the participation requirement — by one student.

"It wasn't a lack of education but a lack of participation."

— FRANK KOSA
Parent

Edison's missing student fell under the English-language learner group, giving that subgroup a participation rate of 94.9 percent.

And the federal government didn't round up.

Jury awards lawyer \$146K in fees

BY JOHN WOOD

Daily Press Staff Writer

In less than two hours of deliberations, a Santa Monica jury on Tuesday awarded a local lawyer \$146,000 for representing a Malibu property owner for six years.

Jurors agreed unanimously that Orlando Aliberti, 84, owes Richard Grimwade \$146,284.94 for representing Aliberti in a drawn-out insurance dispute following the

"Ironic since we use rounding skills in the math classes," said Santa Monica-Malibu Unified School District Superintendent John Deasy. He added that the federal program, passed in 2001, needs a "dramatic and substantial" rewrite.

The federal program is a funding initiative designed to pump billions of additional dollars into public schools, so that by 2014, all students demonstrate 100 percent proficiency in math and language arts.

And despite that SMMUSD is situated in one of the most affluent communities in

See EDISON, page 5

1993 fires in Malibu.

"The documents spoke for themselves," said juror John MacNeil, 68, a land surveyor in Topanga Canyon. MacNeil said Grimwade laid out a clear and concise case for why he was owed the money, and said Aliberti's memory lapses worked against him.

"The only contention was (whether) to cut the fee down to a certain amount, but we had

See VERDICT, page 5

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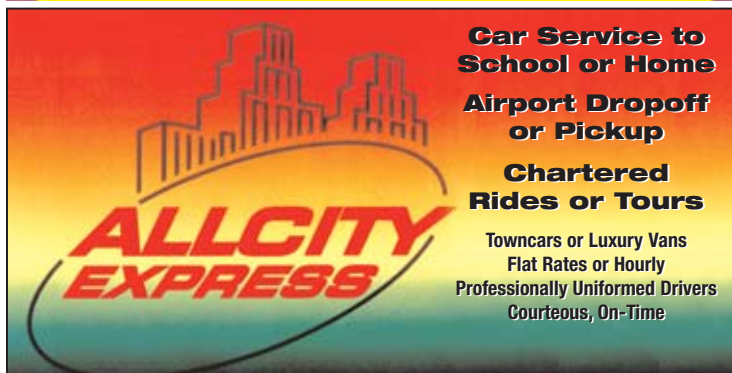
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JACQUELINE BIGAR'S STARS

The stars show the kind of day you'll have:

★★★★-Dynamic ★★★★★-Positive ★★-Average
★★-So-so ★-Difficult

You will speak your mind more freely than in previous years, and others will listen. Your creativity reveals itself, and your charisma helps you zero in on what you want. Learn to deal with the unexpected at home, which often might feel like being on a roller-coaster ride, and you will flow through this year. With your innate intuition, you will come up with solutions. If you are single, there is no reason to stay this way if you don't want to. You will network and meet a lot of people this year. You could meet someone casually on the way to the market or through a friend. If you are attached, this is one of those banner years where you two come to a better understanding. You naturally flow together. CAPRICORN always wants to tap into your knowledge.

ARIES (March 21-April 19)

★★★★ Assume your natural role as a leader. Others come forward and pitch in. You might be surprised by an adversary who turns colors. You get the backing you have always desired. You gain a new sense of what works. Tonight: In the limelight.

TAURUS (April 20-May 20)

★★★★ Your ability to read between the lines takes you into a new realm before you know it. Be willing to go all the way with an idea or concept that someone else presents. This intellectual thinking separates you from others. Others chirp in as well. Tonight: Read between the lines.

GEMINI (May 21-June 20)

★★★★ Deal with what you must, and you'll find that everything comes together. Someone wants one-on-one attention. You are able to speak more clearly to a partner or associate than you have in a long time. Schedule a leisurely meal together. Tonight: The only answer is "yes."

CANCER (June 21-July 22)

★★★★ Deal with others, making sure what you want can happen. You hear news that puts a slightly different perspective on a situation. A child or loved speaks words of wisdom. Be more lively and open with a new friend. Tonight: Say "yes."

LEO (July 23-Aug. 22)

★★★★ Pace yourself, and you'll find that you get a lot done quickly. You might be impressed by your own efficiency. A partner pitches in when it is most needed. Discuss ways of streamlining your workload with this person. Schedule a doctor's appointment soon. Tonight: Easy does it.

VIRGO (Aug. 23-Sept. 22)

★★★★ Your enthusiasm powers your day as well as those around you. Where others seem stuck, you give them that extra shove to get past any barrier. Others appreciate your creativity and willingness. What a nice mixture. Tonight: Rearrange the house, or at least get a couple of errands done.

LIBRA (Sept. 23-Oct. 22)

★★★★ You know how you feel when you deal with your family and those close to you. If you can work from home, you might even become happier and accomplish more. Be direct about your feelings involving a money matter. Tonight: Watch a favorite movie.

SCORPIO (Oct. 23-Nov. 21)

★★★★ Deal with others frankly and directly. Your feelings allow greater creativity and openness among your associates. Not everything is as you think it is, once others start talking about what is on their minds. Revitalize your thinking. Tonight: Speak your mind.

SAGITTARIUS (Nov. 22- Dec. 21)

★★ Finances play a major role in a decision you make early in the day. This decision could involve property or a personal matter. Discussions need to evolve with a roommate or someone who might be involved. Tonight: Your treat.

CAPRICORN (Dec. 22-Jan. 19)

★★★★ What you say goes, which might make you feel like a miniature Napoleon for the day, mind you. Associates carry out your wishes. Zero in on what you want. Use the moment to get as much work done as possible. Tonight: Ask for what you REALLY want!

AQUARIUS (Jan. 20-Feb. 18)

★★ Others seem more than willing to do the running. Why should you? Use your instincts as you study a personal matter and the direction in which it goes. A boss has good moneymaking ideas. Why not follow through? Tonight: Get a good night's sleep.

PISCES (Feb. 19-March 20)

★★★★ A meeting could set the pace for the day. You know what needs to be accomplished, and you appear to be the right one to follow through — on the scene at the right time. Your high energy does make a big difference. Others appreciate your efforts. Tonight: Where the crowds are.

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LOCAL



COMMUNITY BRIEFS

Sustainability the topic of the day

By Daily Press staff

Santa Monica College will offer a discussion on how smart cities are ones that are sustainable.

The free lecture by former Santa Monica Mayor Denny Zane and Southern California planning official Hasan Ikhrata will occur at 6:45 p.m. on Thursday, Nov. 6 in Room 140 of the Santa Monica College Science Complex, 1900 Pico Blvd.

The lecture is the third in SMC's monthly "Environmental Lecture Series," sponsored by the SMC Center for Environmental and Urban Studies, a learning and resource center for SMC and the Santa Monica community.

The center, which is open to the public, features displays, a library and information center, video collection, native garden, and other services and activities related to environmental and urban studies. SMC has been offering a multi-disciplinary Associate of Arts degree in environmental and urban studies since fall of 2001.

For information, call (310) 434-3909.

Therapy dog recruitment

By Daily Press staff

Dog owners are invited to bring their dogs for a free psychological testing this weekend. The tests will determine whether dogs are eligible to become therapy dogs.

Well behaved pooches over 12 months of age and of any size, shape or color are invited to put their best paw forward at the "Breeder's Choice Canine Cheerleaders Pet Therapy Dog Screening and Recruitment Day." As part of the Breeder's Choice "Caring for Both Ends of the Leash" first annual program, the event is intended to grow the volunteer base of therapy dog teams available to visit cancer units in healthcare facilities throughout the community.

Pet Partners of Orange County, an affiliate of the Delta Society, a national volunteer-based therapy dog organization, have registered Denver-based pet evaluators on-site to provide review and aptitude testing, one step in the pre-qualifying process of potential future therapy dogs and their owners.

The team evaluators will have local residents and their dogs perform basic obedience and temperament tests. They will then evaluate basic obedience skills, attention span and temperament.

Dogs and handlers recruited through these events will, upon certification, be earmarked to visit breast cancer patients in local hospitals, in addition to other therapy dog needs.

The testing will be held on Saturday, Nov. 1 from 10 a.m. to 2 p.m. at Katie's Pet Depot, 11137 National Blvd. in Los Angeles. For more information, call (800) 255-4286. The testing is free and participants will receive a free 4.4 pound bag of dog food.

The beauty of math and science

By Daily Press staff

If you don't believe there is beauty in math, science and writing, just ask Leonard Mlodinow.

Mlodinow, a scientist, television writer and book author, will read from his most recent book and talk about the multidimensional beauty of math, science and writing at 11:15 a.m. on Thursday, Nov. 6 at Santa Monica College.

The free event will be held in the SMC Concert Hall, 1900 Pico Blvd.

Mlodinow received his doctorate in mathematical physics from the University of California at Berkeley and worked as a postdoctoral research fellow at the California Institute of Technology.

He also has been a writer for such TV shows as Star Trek: The Next Generation, Night Court and MacGyver. He is currently writing a novel and is working with renowned scientist Stephen Hawking on his new book, "A Briefer History of Time" (Random House), as well as a series of books on science and mathematics for young readers.

Mlodinow has published two books, "Euclid's Widow," a history of geometry from parallel lines to hyperspace, and "Feynman's Rainbow: A Search for Beauty in Physics and Life," about his friendship with the late physicist and Nobel laureate Richard Feynman at Caltech.

The lecture is sponsored by the SMC Associates, a private organization that raises funds for speakers and special events on campus. For information, call (310) 434-4003.

surf report

Look for a mixture of slowly fading SW swell and a touch of WNW swell today. Spots with good SW exposure see waves in the waist- shoulder-high range.

OUTLOOK: The surf fades further on Thursday, but best SW spots still see some playful sets. Even smaller surf out of the SW is due on Friday.

Write us at wood@smdp.com and tell us what the surf is doing today at your local break. We'll print your report in a future issue of the Daily Press

Today the water is:

68°

Sunrise: 7:15 a.m.
Sunset: 6:12 p.m.

	LOW TIDE				HIGH TIDE			
	Morning	Height	Evening	Height	Morning	Height	Evening	Height
SATURDAY	3:09	0.7	4:01	-0.6	9:22	6.5	10:14	5.0
SUNDAY	2:43	1.1	3:49	-0.9	8:56	6.7	10:08	4.6
MONDAY	3:17	1.6	4:42	-0.9	9:33	6.8	11:10	4.1
TUESDAY	3:54	2.2	5:42	-0.7	10:15	6.5	N/A	N/A
WEDNESDAY	4:37	2.7	6:53	-0.4	12:28	3.7	(11:04)	6.1
THURSDAY	5:38	3.2	8:14	-0.1	2:13	3.6	12:08	5.6
FRIDAY	7:36	3.4	9:34	0.0	4:01	3.8	1:35	5.1

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The Q Line

The Santa Monica City Council is reviewing an annual report of how well its social service programs have helped the city's growing homeless population become self-sufficient through shelters and work programs. While City Hall contributes \$1.8 million in funding toward the cause, millions more are spent in controlling the anti-social behavior of vagrants, as well as cleaning up after them.

And business owners, residents and tourists say Santa Monica loses out from lost revenue because they shy away from the

area as a result of its vagrant population.

For the past five years, Santa Monica's homeless population has been the top concern among residents, according to a city survey.

So this week Q-Line wants to know, "Do you feel City Hall's efforts have made a positive difference here? Why or why not?"

Call (310) 285-8106 with your response before Thursday at 5 p.m. We'll print them in Friday's paper. Please limit your comments to a minute or less. It might help to think first about the wording of your response.



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LETTERS

Censored?

Editor:

As a faculty member at SMC, I appreciate your recent and interesting coverage of the ongoing controversies that are occurring on campus. However recently, I am not sure you are aware that all of your newspaper copy has been censored and removed from campus, making it impossible for me and others to read your fair and balanced coverage.

You might want to follow up with the campus administration on what is so threatening about discussing campus issues in your newspaper.

Howard Stahl

Professor, SMC computer science department

(Editor's note: The SMC administration removed SMDP racks from the campus earlier this month, saying the cafeteria is the only dedicated place to put newspapers).

Falling on deaf ears in City Hall

Editor:

Thank you for printing Christian Boyce's terrific letter and for Bill Bauer's "My write" (SMDP, Oct. 24, page 4), both addressed the City Council's lack of accountability and sustainability in a courageous and insightful way.

I recently saw an City Confidential on A & E featuring a crime that took place in Santa Monica. In the documentary, Santa Monica was described as a quaint, quiet, laid-back, slow, gentle city by the ocean. I burst out laughing. When had the researchers for the documentary last been here? In 1976 maybe. Certainly not in the last three or four years.

The City Council and/or city planning department really do not seem to get it. On many levels and many issues, from the homeless situation so beautifully covered by Bill Bauer, to cutting down palm trees for no discernible reason, to pouring more and more traffic into the already crazy traffic mix.

Either the City Council doesn't realize or doesn't care that Santa Monicans are tired of the blinders used in most of the decision making for the city. Like the impact of the artificial turf Christian Boyce describes, there doesn't seem to be a person on the City Council who has the foresight or knowledge to think these things through. This lack of foresight is ridiculous. For instance, housing. Yes, Santa Monica needs affordable housing — but think this through: Putting up one 50-unit building will throw from 50 to 100 more cars into the traffic/parking mix. Then multiply that by all the apartment/condos the city continues to allow to go up and you are throwing more and more cars into an already bulging-at-the-seams traffic and parking situation. On top of this, they are planning medians, congesting traffic even more.

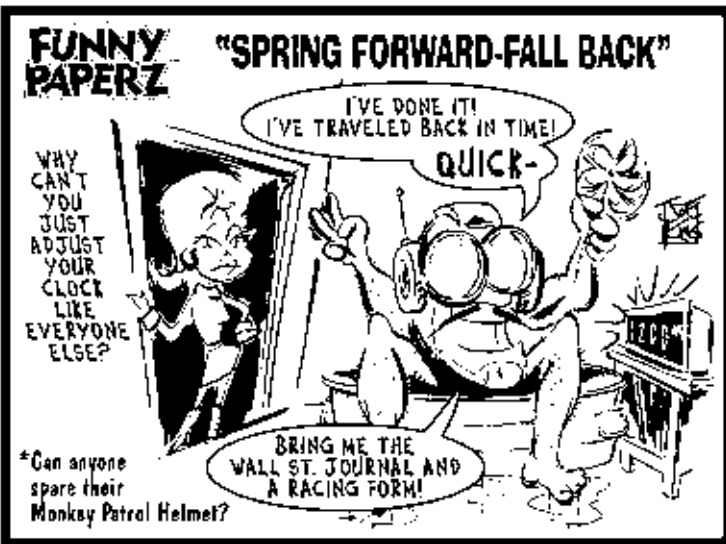
Can we connect the dots and realize that more apartment buildings mean more cars? That allowing more and more apartment buildings to shoot up all over Santa Monica is throwing way too many cars and SUVs into the already present driving and parking nightmare? The city nixed the proposal for a Target going up in the downtown

area because they felt the traffic would be adversely affected. Duh. But I guess they feel that all the apartments and condos they allow don't adversely affect the traffic flow. Wake up and smell the exhaust. When the alleys and parking garages are light-ed better than the city sidewalks, we all know we live in a place and time where cars are king, and where one's self approval rating depends not on personal accomplishments but, sadly, on the kind of vehicle we drive.

The City Council reminds me of the soldiers sitting Bull dreamed about just before the battle of Little Big Horn. The dream depicted soldiers falling into his camp — and they had no ears. This was a true vision. Many scouts and people who knew what they were talking about tried to warn Custer again and again, but he, like many politicians we know, had no ears to hear the truth. So it is with the City Council. Do they not get how upset people in Santa Monica have become? Or do they just not care? Either way, it's time for a change. And while I don't believe any of them will suffer Custer's fate — I do believe that the City Council will definitely have ears to hear us loud and clear on election day.

Marilyn Brennan

Santa Monica



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Florida and Christian right make life a living hell



INCITES

By Ed Silverstein

Terri Schiavo is still living. Living dead that is.

Terri Schiavo doesn't know who she is. She doesn't know who her parents or her husband are. She is unable to respond to any cognitive stimuli. She has been brain dead for 14 years.

Only her parents want her to go on. Only her parents are clinging to the hope for a non-existent miracle. Only her parents want Terri to continue sucking up desperately needed health care funds and personnel, thus depriving other desperate parents of achievable miracles. Only her parents ... and the state of Florida.

Jeb Bush and the flag bearers of the right, the Florida legislature, pandering to the same extremist Christian ghouls who forced a late term abortion law that allows the mother to die, believe it is OK to execute a mentally disabled person and are willing to allow their own children to die of AIDS rather than teach contraception. They

have triumphed in their "fight for life."

Jeb and his Florida thugs, who operate under the assumption that America is an exclusively Christian fundamentalist country, have created politically motivated legislation that will again force a feeding tube down Terri's throat. This will be done against her husband's wishes, according to him and others.

So what excuse did Florida use to insert themselves between a husband and wife, to ignore the wishes of this woman who can no longer speak for herself? What excuse did these holy rollers use to ignore 17 court decisions? What gives these hypocrites who promise less government the ability to insinuate themselves into our most personal decisions? It is the fact that Terri failed to draw up a living will.

It is so unfair to penalize a young woman of 25, who, barely in the blush of her adulthood, failed to have the foresight of her own death, when even someone like me, much older and in dread of opportunistic, pork barrel, glad handing, bible thumping, baby kissers, has failed to write a living will of my own. So here it is.

I, Ed Silverstein, of relatively sound mind and body, hereby make the following desires known:

Should I become comatose or exist in a vegetative state for a period of more than

30 days, I do not desire to be kept alive by artificial or any other extraordinary means.

Even if there is a chance that I might someday regain consciousness, I do not wish to be sustained unless there is a high degree of certainty that, should I regain consciousness, I would do so with full use of all my faculties. If there were any chance that I would survive with the diminished intelligence that allows people to feel that it is their right to inflict their limited belief systems on the rest of us, then I would prefer to die.

Further, if I should sustain injuries that would likely leave me a quadriplegic, paraplegic or require a respirator to stay alive, despite my respect for Christopher Reeves, I refuse any medical procedure that could save my life. It is my belief that it is the quality of life that is sacred, not the ability of science to artificially prolong it.

And finally, what is most important, particularly in light of the despotism of our current Attorney General, John Ashcroft, who, without any medical training, is criminally prosecuting doctors for prescribing to the terminally ill what he deems as too much pain killer. Most importantly because the man, whose belief in the Devil is confirmed in his mirror every morning, has terrified those doctors

into under-prescribing pain medication. It is particularly important because of this delusional extremist who has created hell on Earth by forcing our grandmothers and grandfathers, mothers and fathers, sisters and brothers, and our children to end their final days in horrifying agony.

What is most important is that I grant permission to any member of the medical profession or any of my immediate family members to assist in my suicide in the event that I am suffering from a terminal or wasting disease, one that causes intolerable pain, or in the event of prolonged coma or any chronic vegetative state.

Further, I stipulate that my death be carried out in a manner that best allows my organs to be harvested for transplant.

If any stipulation in this living will is deemed contradictory, illegal or unenforceable, I direct my wife, not an elected representative, to speak for me in all matters.

Those are my wishes.

What I wish for Terri Schiavo is that her parents allow her to die. And if they really want a miracle, donate her organs to give someone else life.

(Ed Silverstein is a freelance writer whose mortal body resides in Santa Monica. Comments, suggestions and column ideas are welcomed at edsincites@aol.com).

LOCAL



Edison on track to improve its standards for next year

EDISON, from page 1

California, Edison, located on Kansas Avenue in the city's eastside, is classified as a "Title 1" school.

Title 1 schools accept federal funding with the goal of providing extra help in reading and math to students who need it most with high levels of poverty.

Edison is one of 10 elementary schools in the SMMUSD system and nearly 8,000 students are subject to the federal standards.

Overall, SMMUSD elementary schools met the criteria and participation requirements, and test scores even improved since last year — especially among minority students.

This year's English scores throughout the district improved by 20 percent. And English students' scores also improved with about 45 percent demonstrating proficiency. Though less significantly, math scores improved about 2 percent, with almost 56 percent of students showing proficiency.

Edison parents this week received a letter from the school district, declaring Edison a "program improvement school" based on the participation standard. The federal government requires school districts to send notification to parents when a school fails to meet the standards.

Edison is the only school in the district that will implement the improvement program to meet next year's standards, said Steven Cannell, the director of the district's educational services department, adding that part of the school's plans include targeting a 95 percent participation rate.

"(Participation) is the easier target," Cannell said, adding the academic component is a more difficult target to reach.

Historically, Edison's test participation rate has often fallen below 95 percent because parents have opted out of testing.

"In the past, we were encouraged not to (have our children) take the test" because classes are taught mainly in Spanish until about the third grade, said Carol Davis whose daughter attends Edison, adding both parents and Edison weren't aware of the possible federal repercussions.

The district also could face consequences. Under federal program, parents can transfer their children to another district school that passed the standards.

But that's not likely because Santa Monica and Malibu schools already are overcrowded.

Officials said they don't foresee many transfers.

"Parents will just now have to reevaluate allowing their children to take these exams," said Harry Keily, president of the Santa Monica Malibu Classroom Teachers Association.

Edison "does a remarkably great job" providing students with alternative education — not reflected by the federal standard, Keiley said.

And parents seems to agree.

Cannell said he received only one reaction regarding the letter — a parent declaring her support for Edison and the dual-language program.

Several parents also said they feel that the federal program unjustly stigmatizes Edison and its unique language program.

"It wasn't a lack of education but a lack of participation," said Frank Kosa, whose two children attend Edison. "I'm sure next spring we'll be passing with flying colors."

Malibu man may appeal jury's verdict, lawyer says

VERDICT, from page 1

no expertise on how to do that and there was no evidence given us to reduce the fee," he said of an effort by two jurors to fashion a compromise.

Paul Cohen, Aliberti's new attorney, said he is will consider filing a motion for a new trial in the next 10 days. Grimwade did not return calls seeking comment.

Aliberti first hired Grimwade to represent him after the 1993 Malibu blaze scorched his home and a six-unit apartment building on Rambla Pacifica. Allstate Insurance Co. agreed to pay \$2 million to rebuild Aliberti's home, but, because he had a "limited liability" clause on the insurance covering the apartment building, the company only handed over \$450,000 for the apartment building.

Unsatisfied, Aliberti sued Allstate. The case was first tossed out of court on the grounds that Aliberti waited too long to file it. Grimwade appealed that ruling and won, but when it finally went to court a jury ruled in favor of Allstate.

Aliberti wanted Grimwade to represent him in an appeal. But because he said he was still due \$146,000 in fees, Grimwade refused and dropped the case. Grimwade said he was paid a total of about \$9,000 for the work he did for Aliberti.

After dropping Aliberti as a client, Grimwade sued him.

At issue in the case was what fee agreement existed between the two. Though the

last signed contract indicated Grimwade should be paid a \$125 hourly rate plus 20 percent of any money recovered from the insurance company, Cohen argued the two later renegotiated that deal to a straight 40 percent contingency agreement.

Cohen also questioned the quality and quantity of work Grimwade did and accused him of duping an old man into a protracted legal battle, and giving him false hopes of winning big.

"The bottom line is, at the end of the day, he is limited to a 'reasonable' fee," Cohen said after the ruling.

Grimwade said he worked 14 and 16 hours a day on the case and was facing a team of six lawyers working for Allstate. He said he negotiated a favorable \$500,000 settlement from Allstate that he suggested Aliberti accept but that Aliberti pushed for the trial on principle and lost.

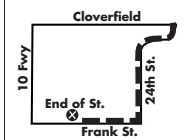
Also at issue in the case was the accuracy of Aliberti's testimony. After slipping and hitting his head in February of 2000, Aliberti spent four weeks in a coma and another two weeks in the hospital. Since then, his memory has been clouded at times, lawyers said.

Aliberti, a white-haired veteran who fought under Lt. Jimmy Doolittle in the WWII Army Air Corps., sat in Santa Monica Superior Court Judge Valerie Baker's courtroom as the verdict was delivered.

"He wants it to be over," Cohen later said. "Basically it's just disbelief. He's surprised."

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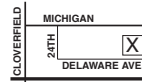
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**LOCAL**

City Councilman: Put the homeless to work

OPINIONS, from page 1

placed last on the City Council's Tuesday agenda. The public wasn't expected to speak on the issue until at least 11 p.m. and the meeting was expected to run into the early morning hours today. As of presstime, the hearing hadn't started and it was unknown how many people waiting to speak had left.

City Hall spokeswoman Judy Rambeau said public hearings have for years been placed last on the agendas, which are set by the city manager's office, the city clerk's

office and the mayor.

"It's where public hearings go," she said. "It's organized by the types of things, there's no mystery about it."

The City Council has been criticized in the past for forcing residents to stay up late into the night and the early morning hours to comment on issues because the hearings were scheduled at the end of the meetings.

The SMDP took a random sampling of residents, tourists, merchants and homeless people on Tuesday to find out their position on the issue of homelessness in Santa Monica:

■ Mc Farland, 64, homeless in L.A. for six months.

"It's about the same everywhere. You can't accommodate everybody. People just have to make up their own minds to get off the streets. I'm going to get off and make some money myself ... I'm going to start spending my money differently. I've been messing up but now the winter is coming — in the summer you can make it work, but in the winter it's time to make an adjustment."

■ Elaine Timothy, 48, homeless in Santa Monica for four years.

"(Social programs are) a temporary fix. They're not going to fix the real issue. We're supposed to have affordable housing. We need affordable housing ... Everybody's rich. There's a whole middle class and we've been the backbone of America — now, we're getting kicked to the curb ... At least what we need is a campground or something. Away from the tourist eye, but something ... It'd be nice to have at least Porta-Potties as well for us. It's hard for the women."

■ Dudley Cowan, 83, 30-year resident of Ocean Park.

"It's one of those things where if you help them, they all come to the area. If you don't help them, you feel heartless ... They're nice people, basically, that ran into hard luck. I feel compassion for them but you can't help all of them ... If we advertise that we're helping them, it's going to bring in just a flock of homeless people so we have to do it sort of on the Q.T."

■ Heidi Plotkin, 48, of Malibu, former resident of the Sea Castle apartments in Santa Monica.

"It's almost an impossibility when you're at that point to get out. Most of them are not bad guys, it's like a fraternity, they pool their resources ... Maybe they choose to do what they're doing and it's not so bad, you know, living on the beach in Santa Monica. I used to open my window and look out ... and there was a guy sleeping right there. I didn't like that. It's disgusting. It's frightening."

■ Ramon Gastelum, 48, manager of Star Liquor on Main Street.

"I've been in a lot of fights. Physical fights, you know? ... There's too many (homeless people). I talk to the police every day and say, 'What's happening? There's new faces every day.' I've been working here 24 years and I always try to help people but now there's too much ... If you do those things to put them inside, what are they going to do in the daytime? They're going to be on the streets."

■ John Chang, 50, owner of SK Philly Steak on Colorado Avenue.

"They sleep here most times when we close the doors. A sleeping party is OK, but sometimes they (defecate and) urinate on our store ... It's kind of hard because Santa Monica is not really working together with the business owner. Realistically, when the homeless cause a problem, we have to be able to flush it with a hose and that's against the ordinances in Santa Monica ... The solution might be stronger restrictions and to pick them up ... It's the freedom they want.

And if the freedom is somewhat controlled or repressed then they might think twice."

■ Ab Zagt, 47, visiting Santa Monica from Holland.

"It's a worldwide problem. If you travel across any country, any big city, you see these guys ... It goes with the territory. Usually when (officials) solve the problem in one place they move to another part of town. Maybe you would miss them if they were gone. Two nights ago they approached me and I didn't feel very at ease. I said, 'No, no, no,' and they left ... In other countries, they are often more aggressive."

■ John Miller, 54, visiting Santa Monica from Scotland.

"I think something's got to be done because you've got a twin-pronged problem. First of all, you have to find a place for them to live ... because they are human beings who have a use. Next, you have to get a kind of program where they're actually giving back instead of just taking. That might help alleviate the problem ... If this situation gets worse you could have a situation like 'Clockwork Orange' where you have gangs beating up homeless people. It's happened in London and if it happened here it could be a real shame."

■ Santa Monica City Councilman Herb Katz, 72, resident of Sunset Park.

(Editor's note: Katz was not available to comment for the Tuesday edition, which polled City Council members on their positions relating to the homeless population. He called after that issue went to press from his vacation in Philadelphia and gave these answers.)

What is your response to members of the public who complain the homeless situation has not been adequately addressed by the council?

"I don't think it has. I think we need the social services and especially places for them to defecate. We need 24/7 restrooms. But on the other hand, we haven't done enough to get them off of private property and get them back into the mainstream."

What is City Hall doing right in how it deals with the homeless population?

"City Hall works hard, along with social services, on controlled feeding programs which I think is an asset. There is no reason why anybody needs to go hungry. There are places where they can get food and I think City Hall is trying the best they can, except the theory I have on (the homeless) contributing to our community."

What could City Hall be doing better?

"Part of my personal agenda is, why haven't we had homeless people contribute to our community by having them help out in community service, mandatory. Since the people who live here contribute through purchasing, through taxes and through commercial services, (the homeless) could help keep our city clean. They could help root out graffiti, they could do all kinds of things and then they become part of our community. Two things can occur from that in my opinion. One, they feel good about themselves. Two, we feel like they're part of our community and we can then answer the public that we're doing something. And then No. 3, those that don't want to contribute, leave. You'll cut down your homeless numbers real quick, and the others we'll take in with open arms and we'll know them."

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STATE



Southern California fires still remain out of control

By The Associated Press

TOTALS:

Size: 564,984 acres.
Homes: 1,608 destroyed.
Deaths: 16.
Personnel: 11,467.

CEDAR FIRE: (San Diego County)

Size: 210,000 acres.
Homes: 881 homes destroyed, including at least 350 in Scripps Ranch and 11 in Tierrasanta. 10 homes damaged, 166 outbuildings destroyed and nine damaged.

Deaths: 10.**Containment:** 0 percent.**Start:** Oct. 25 in eastern San Diego County.

Key facts: Burned 30,000 acres inside San Diego city limits. Fire spread at a rate of 6,000 acres per hour in its first 36 hours. The front was 45 miles long Tuesday and extended to Scripps Ranch, Poway, Miramar Marine Corps Air Station, Ramona and portions of Santee, Lakeside and Blossom Valley. Pine Valley, Descanso and Julian evacuated.

Personnel: 2,300 firefighters.

Cause: Authorities believe a hunter set signal fire when he got lost.

PARADISE FIRE: (San Diego County)

Size: 37,000 acres.
Homes: 57 destroyed, 103 outbuildings.
Deaths: Two.

Containment: 15 percent.

Start: Oct. 26 in Valley Center area near Interstate 15.

Key facts: Mandatory evacuations for Mount Palomar, a community of 10,000 residents, and Lake Hinshaw.

Personnel: 929 firefighters.**Cause:** Under investigation.**OTAY (DULZURA) FIRE:** (San Diego County)

Size: 46,000 acres.
Homes: 1 home, 1 outbuilding, and 11 structures damaged.

Deaths: None.

Containment: 90 percent. Full containment expected Tuesday night and full control by Oct. 30.
Start: Sunday, Oct. 26 in southern San Diego County.

Key facts: Evacuations lifted for Jamul, a rural area east of San Diego. Flames skipped over the border into eastern Tijuana but the fire then turned back to the U.S. side. One firefighter injured.

Personnel: 248 firefighters.**Cause:** Under investigation.**GRAND PRIX FIRE:** (San Bernardino County)

Size: 57,232 acres.
Homes: 50 homes destroyed, 48 outbuildings burned.

Deaths: None.

Containment: 35 percent. Containment expected Oct. 31.

Start: Oct. 21 near San Bernardino National Forest.

Key facts: Mandatory evacuations in Lytle Creek, Mount Baldy, and parts of LaVerne, Devore and Devore Heights, and other foothill communities of the San Gabriel Mountains. Evacuations were lifted in several areas, including Rancho Cucamonga and Cucamonga.

Personnel: 2,275 firefighters.**Cause:** Arson.**OLD FIRE:** (San Bernardino County)

Size: 28,000 acres.
Homes: 520 homes, 10 commercial buildings destroyed.

Deaths: Four.**Containment:** 10 percent.

Start: Oct. 25 near San Bernardino National Forest.

Key facts: Mandatory evacuations Tuesday in Big Bear Lake community and areas along Highway 38 corridor, including Heart Bar, Angeles Oaks, Forest Falls and Mountain Home Village. Running Springs and Arrowbear added to evacuation list Monday. Evacuations last weekend in foothill areas of San Bernardino and mountain communities, including Crestline and Lake Arrowhead. One firefighter sustained third-degree burns.

Personnel: 1,632 firefighters.**Cause:** Arson.**PADUA FIRE:** (Los Angeles County)**Size:** 8,000.**Homes:** 59 homes destroyed.**Deaths:** None.

Containment: 30 percent. Full containment expected Oct. 31.

Start: Flames entered L.A. County on Oct. 25 from Grand Prix fire.

Key facts: Originally part of Grand Prix fire, but separated at county line. About 50 homes mandatory evacuated in the Baldy Village area. Small part burning in the Angeles National Forest.

Personnel: 499 firefighters.**Cause:** Arson related to Grand Prix fire.**SIMI VALLEY:** (Ventura and Los Angeles counties)**Size:** 95,000 acres.

Homes: 16 destroyed. 64 outbuildings destroyed. Eight structures damaged.

Deaths: None.**Containment:** 25 percent.**Start:** Oct. 25.

Key facts: Mandatory evacuations in Chatsworth area of Los Angeles. Voluntary evacuations in parts of Stevenson Ranch, Box Canyon, Brown Canyon and other areas of Simi Valley. Two injuries.

Personnel: 1,115 firefighters.**Cause:** Under investigation.**PIRU FIRE:** (Ventura County)**Size:** 55,812 acres.

Homes: Three homes and three outbuildings destroyed.

Deaths: None. 7 injuries.**Containment:** 30 percent.

Start: Oct. 23 west of Lake Piru in Ventura County.

Key facts: The fire in Los Padres National Forest damaged a small corner of Sespe Wilderness and the Sespe Condor sanctuary. There were no condors in the refuge. Voluntary evacuations in Fillmore.

Personnel: 1,083 firefighters.**Cause:** Under investigation.**MOUNTAIN FIRE:** (Riverside County)**Size:** 10,000 acres.

Homes: 21 destroyed, including three houses and 18 trailers and mobile units used as residences.

Deaths: None.

Containment: 75 percent. Full containment expected Oct. 31.

Start: Oct. 26 in southern Riverside County.

Key facts: Evacuation order lifted for 300 homes near Lake Skinner. Two civilian injuries. Five minor firefighter injuries.

Personnel: 697 firefighters.**Cause:** Under investigation.**CONTAINED:****CAMP PENDLETON:** (San Diego County, also called Roblar No. 2)**Size:** 9,000 acres.**Homes:** None.**Deaths:** None.**Burned:** Oct. 21 to Oct. 27.**VERDALE FIRE:** (Los Angeles County)**Size:** 8,680 acres.**Homes:** None.**Deaths:** None.**Burned:** Oct. 24 to Oct. 27.**WELLMAN FIRE:** (Riverside County)**Size:** 100 acres.**Homes:** None.**Deaths:** None.**Burned:** Oct. 26 to Oct. 27.**HAPPY FIRE:** (Santa Barbara County)**Size:** 160 acres.**Homes:** None.**Deaths:** None.**Burned:** Oct. 24 to Oct. 27.

Source: California Department of Forestry and Fire Protection and fire and law enforcement officials.

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DAYS ON THE MARKET

By Jodi Summers

Jimmy owns a couple of income properties in now-trendy Venice. He bought them way back in the undesirable days for \$75,000. Each property is now worth \$600,000. Jimmy is 58 years old. He thinks about selling off some of his holdings and traveling. But he has questions — he needs to know what his taxable consequences are. Are there ways of avoiding or deferring his tax obligations?

One very simple answer: Pay the tax, pocket the rest of your gain and enjoy your money. Our government is doling it out more freely these days. For property sales transactions between May 6, 2003 and Dec. 31, 2008, the capital gains tax rate has been reduced from 20 percent to 15 percent. For taxpayers in the lower brackets of 10 or 15 percent, the tax will only be 5 percent of the gain.

If you plan to sell, it's in your best interest to do it by the 2008 deadline. As for what to do with your money, you have a number of options. Before taking any action, be sure to consult your financial advisor. Benny Kass, senior partner with the Washington, D.C. law firm of Kass, Mitek & Kass, PLLC and a specialist in real estate, said property options can include:

1. Sell and pay the tax: Assume Jimmy has depreciated the property by \$30,000 over the years. His basis in the property will be \$45,000 (\$75,000 minus \$30,000). If he were to sell the property for \$600,000, he will have made a profit of \$555,000 (\$600,000 minus \$45,000). This does not take into account other costs and expenses which may reduce his gain — fix-up costs, closing fees and real estate commissions. For Federal tax purposes, Jimmy will owe Uncle Pat \$83,250 (at the 15 percent rate), not including state taxes and other prizes.

When Jimmy's done with the federal government, his bottom line (excluding

state taxes and other expenses), will be approximately \$516,750 in gross sales proceeds. Any remaining mortgage fees will have to be paid off at settlement.

2. Do a "Like Kind" exchange: Under section 1031 of the Internal Revenue Code, Jimmy can exchange his property for another piece of property that will be equal to or more expensive than his current property, deferring his capital gains tax obligation along the way. Jimmy can purchase a replacement property for \$600,000. However, since this is an exchange, his tax basis will be the basis of the relinquished property, i.e. \$45,000.

There are strict rules applicable to 1031 exchanges. Net sales proceeds must be held by a neutral intermediary. Replacement properties must be identified within 45 days after the sale of the relinquished property. The title needs to be taken to the replacement property within 180 days after the sale of the relinquished property. 1031 exchanges are only if you want to continue on as a landlord and keep that income stream running in.

3. Installment Sale: Jimmy can defer — but not avoid — paying capital gains tax if he sells the property and carries back a mortgage. This is known as an "installment sale." Under this arrangement, you pay a portion of the capital gains tax as the money comes in each year.

4. Donate the property to a charity: There are restrictions and limitations on such donations which Jimmy should fully understand before he decides to go this route.

5. Sell the property to a family member: Is the property worth keeping in the family? Jimmy can sell it to a family member and carry back the financing. If he is concerned about estate tax issues, he can gift up to \$11,000 per person per year on the outstanding balance of the money he is owed by his family on his property.

In layman's terms, Jimmy sells the property for \$600,000 to his children and agrees to carry back all of the purchase price. His lucky kids sign a promissory note in the amount of \$600,000. There will be a deed of trust (mortgage) on the property in this amount. If Jimmy's two children now own the property and if Jimmy is

married, he and his wife can gift back — tax free — \$44,000 of the balance of the note each and every year. Thus, in the first year, the note balance will be reduced down to \$556,000 (\$600,000 minus \$44,000), and so on each and every year.

There are a number of ways in which you can dispose of your rental property.

But talk with your family — and your financial advisors — before making any final decisions.

(If you would like to more information of interest to property owners, e-mail Jodi Summers at jodis@boardwalkrealty.com, or call at (310) 309-4219).

LOS ANGELES 2003 Q3

STUDLEY REPORT

Los Angeles showing signs of stability

After spiking last quarter to 20.9 percent, the Class A availability rate for the Los Angeles region dropped to 20.2 percent in the third quarter. However, leasing activity was significantly slower than last quarter. As a result, Class A rents continued to fall, posting a 4 percent decline from a year ago, according to the third quarter "Studley Report."

Downtown Los Angeles was unusually quiet. The most notable transaction was the lease extension of the Trust Company of the West for 182,190 square feet at 865 South Figueroa St. Interestingly, after exploring several relocation alternatives, TCW chose to stay in its existing location, which includes very prominent signage at the top of the building. Only two large relocations occurred downtown during the quarter: Latham & Watkins for 45,053 square feet at 555 West 5th St., and PACE for 42,559 square feet at 1055 Wilshire Blvd.

The Westside saw an increase in big tenant activity. Many companies looking to capitalize on historically low rents in the area are signing long-term leases. Two major companies that signed deals this quarter were Electronic Arts, which leased 253,360 square feet at Water's Edge/Playa Vista, and HBO, which leased 105,304 square feet at

2500 Broadway in Santa Monica.

Another positive sign that activity in West Los Angeles may be picking up is that other large companies have initiated due diligence in the area. Companies such as Northrop Grumman and Herbalife have begun the evaluation of long-term facility needs which, combined, could potentially account for 450,000 square feet of new leases.

In the historically tight Tn-Cities submarket, the Class A availability rate was 20.5 percent, higher than in past quarters. In Burbank, which is dominated by the entertainment industry, the Class A availability rate was up to 26.2 percent, reflecting a continued slowdown in job creation.

Remarkably, the investment sales market has been on fire. Fueled by low interest rates and an abundance of capital, several high-quality buildings sold at record prices. These transactions included 10 Universal City Plaza in Universal City for \$190 million; 3900 Alameda in Burbank for \$115 million; and 801 South Figueroa in downtown Los Angeles for \$105 million. However, this activity is not expected to continue, as it is anticipated that underwriting criteria will tighten if leasing fundamentals remain weak.

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SOLD	576 DRYAD RD. SANTA MONICA 90402	SOLD	2337 OAK ST #5, SANTA MONICA 90405	SOLD	837 LINCOLN BL #7, SANTA MONICA 90403
Date Sold	SqFt: 1,238 List Price: \$849,000 Bed: 3	Date Sold	SqFt: 1,335 List Price: \$439,000 Bed: 3	Date Sold	SqFt: 1,139 List Price: \$559,000 Bed: 3
10/24/2003	Lot Size: 4,965 Sold Price: \$1,010,000 Bath: 2	10/23/2003	HOD: \$180 Sold Price: \$440,000 Bath: 2.5	10/21/2003	HOD: \$250 Sold Price: \$571,000 Bath: 2
SOLD	1207 OAK ST. SANTA MONICA 90405	SOLD	848 PACIFIC ST #3, SANTA MONICA 90405	SOLD	1242 BERKELEY ST #5, SANTA MONICA 90404
Date Sold	SqFt: 2,928 List Price: \$949,000 Bed: 4	Date Sold	SqFt: 0 List Price: \$445,000 Bed: 2	Date Sold	SqFt: 1,621 List Price: \$589,000 Bed: 2
10/23/2003	Lot Size: 6,499 Sold Price: \$1,120,000 Bath: 3.5	10/24/2003	HOD: \$260 Sold Price: \$448,000 Bath: 2	10/24/2003	HOD: \$356 Sold Price: \$589,000 Pool Bath: 2.5
SOLD	1146 FRANKLIN ST. SANTA MONICA 90403	SOLD	2663 CENTINELA AVE #301, SANTA MONICA 90405	SOLD	723 PALISADES BEACH RD #325, SANTA MONICA 90402
Date Sold	SqFt: 1,400 List Price: \$1,025,000 Bed: 2	Date Sold	SqFt: 1,583 List Price: \$459,000 Bed: 2	Date Sold	SqFt: 1,438 List Price: \$759,000 Bed: 2
10/21/2003	Lot Size: 9,000 Sold Price: \$1,081,500 Bath: 1	10/20/2003	HOD: \$250 Sold Price: \$459,000 Pool Bath: 2	10/20/2003	HOD: \$450 Sold Price: \$0 Bath: 2
SOLD	202 21ST PL. SANTA MONICA 90402	SOLD	1138 12TH ST #10, SANTA MONICA 90403	SOLD	515 S OCEAN AVE #506, SANTA MONICA 90402
Date Sold	SqFt: 1,297 List Price: \$1,395,000 Bed: 3	Date Sold	SqFt: N/A List Price: \$499,000 Bed: 2	Date Sold	SqFt: 1,490 List Price: \$799,000 Bed: 2
10/22/2003	Lot Size: 10,498 Sold Price: \$1,265,000 Bath: 2	10/24/2003	HOD: \$246 Sold Price: \$483,000 Bath: 2	10/22/2003	HOD: \$723 Sold Price: \$842,00 Pool Bath: 2
SOLD	2502 MARGUERITA AVE. SANTA MONICA 90402	SOLD	1012 7TH ST #5, SANTA MONICA 90403	SOLD	1233 11TH ST. SANTA MONICA 90401
Date Sold	SqFt: 2,887 List Price: \$1,695,000 Bed: 3	Date Sold	SqFt: 961 List Price: \$499,000 Bed: 2	Date Sold	SqFt: 0 List Price: \$1,299,000 #Units: 3
10/23/2003	Lot Size: 8,698 Sold Price: \$1,695,000 Pool Bath: 3.5	10/24/2003	HOD: \$175 Sold Price: \$488,000 Bath: 2	10/22/2003	Lot Size: 7,496 Sold Price: \$1,300,000 GRM: 13.36
SOLD	757 OCEAN AVE #312, SANTA MONICA 90402	SOLD	1417 26TH ST #D, SANTA MONICA 90404	SOLD	1143 LINCOLN BLVD. SANTA MONICA 90403
Date Sold	SqFt: 712 List Price: \$399,000 Bed: 1	Date Sold	SqFt: 1,595 List Price: \$539,000 Bed: 3	Date Sold	SqFt: 10,434 List Price: \$2,695,000 #Units: 8
10/21/2003	HOD: \$275 Sold Price: \$415,000 Pool Bath: 1	10/23/2003	HOD: \$155 Sold Price: \$512,000 Bath: 2.5	10/22/2003	Lot Size: 7,496 Sold Price: \$2,695,000 GRM: 12.77
SOLD	2022 DELAWARE AVE #3, SANTA MONICA 90404	SOLD	910 20TH ST #B, SANTA MONICA 90403		
Date Sold	SqFt: 1,489 List Price: \$439,000 Bed: 3	Date Sold	SqFt: 1,525 List Price: \$549,000 Bed: 3		
10/24/2003	HOD: \$150 Sold Price: \$435,000 Bath: 2.5	10/24/2003	HOD: \$250 Sold Price: \$555,000 Bath: 2.5		

REAL ESTATE



What to do as a landlord if your tenant bails



IN YOUR SPACE

By Christina S. Porter

After the dot com blowout and the subsequent tenuous state of our economy, I am sure the landlords in the Bay area and in the country in general have plenty to say about what remedies to include when drafting a lease as a preparation for a tenant breach.

As unexpected as it is, there are many reasons that even your best tenant, either willingly or unwillingly, could breach his lease. Among them are partner disagreements, poor business management and a failing economy. Whatever the reason, every tenant, no matter how solid they appear to be could potentially walk out of the lease, leaving the landlord without the income promised. Below are a few suggestions to help mitigate this situation.

■ Specifically state the remedies for a breach in the lease.

There is a civil code (please consult your attorney for specific and up to date information) which states that in the event that a tenant breaches his lease the landlord may recover the following: 1) Unpaid

back rent until lease termination. 2) Unpaid rent from the time the lease was terminated up until the time of the award minus any amounts that the tenant can prove could have been mitigated through reasonable efforts to re-let the premises. 3) All future rent due under the lease minus any amounts the tenant proves could have been mitigated through reasonable efforts to re-let the premises. Notwithstanding this provision in the civil code the landlord can only recover future rent due under the lease if either the lease expressly authorizes recovery of future rent, or the landlord has in fact re-let the premises. It is important that a landlord include language in the lease that authorizes the recovery of future rent in the lease.

This same civil code allows the landlord to recover "any other amount necessary to compensate the lessor for all the detriment proximately caused by lessee's failure to perform his obligations under the lease." However, an attorney with a good amount of experience in real estate law warns that a landlord should "specifically list the possible items of damage, including brokerage fees to find a new tenant, the unamortized portion of tenant improvements and leasing commissions, the cost of tenant improvements to attract a new tenant and storage and auction costs for any personal property left on the

premises by the breaching tenant."

■ Limit the "Quiet Enjoyment" covenant.

According to legal counsel, unless otherwise stated, commercial leases have an implied covenant of quiet enjoyment, which ensures that the landlord will not interfere with the tenant's business. It has been the experience of many landlords that some tenants use this covenant too broadly as an excuse for their breach of a lease. A suggestion is to limit the definition of quiet enjoyment to include only "true" breaches such as failure to provide utilities or blocking the entrance to the

premises and not to include noise or odor from neighboring tenants.

Finally, the landlord should limit the tenant's remedies to injunction or damages that would forbid it from withholding rent due to a "perceived breach."

Most of the leases that I have negotiated through the years include some or all of these provisions, which serve as guidelines. I have found that spelling out what will happen if an "unanticipated situation" occurs prior to its occurrence; being as specific as possible, and communicating clearly, protects both parties in a contract and is to everybody's benefit.

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9/09/03	Stewart Street	\$18,850,000	75,336 sq.ft.
9/04/03	Ocean Avenue	\$4,500,000	15,000 sq.ft.
9/02/03	24th Street	\$770,000	2,334 sq.ft.
8/21/03	Pico Blvd.	\$750,000	2,200 sq.ft.
8/03/03	17th Street	\$675,000	2,150 sq.ft.

At what point does corporate housing become a hotel?



Guest Commentary

By Monica Witt

In the past, a bright line existed between hotel products and housing products. An establishment was considered a hotel if it facilitated, arranged, offered or provided amenities and services such as maid service, concierge services, room service, food and beverage service, dry-cleaning, valet parking, and bell/porter services. Traditionally, hotel guests occupied their units for less than 30 days and paid transient occupancy taxes.

In contrast, a building was considered housing if it provided nothing more than the services connected with the use or occupancy of the rental unit: repairs, maintenance, landscaping, painting, laundry facilities, elevator service, refuse removal and off-street parking.

Today, however, the hotel industry is in flux, and the line between corporate housing, short-term rental housing, extended stay facilities and hotels is blurred. While some operators of corporate housing require a minimum 30-day stay to support an argument that they cannot be deemed a hotel, the 30-day stay is no longer the measure of what constitutes a hotel. For example, the City of Santa Monica has defined "short-term housing" that is designed for use by individuals who will stay for at least 30 days but who intend their occupancy to be temporary and, in fact, maintain a permanent place of residence elsewhere; and includes services and amenities such as maid and linen service, business service centers and valet parking.

Corporate housing, short-term housing and extended stay facilities are the new darlings of the hospitality industry. For example, the Year End Lodging Econometrics Research Report indicates that in 2000, 180 extended stay products,

representing 19,703 rooms, opened in the United States. Similarly, in April 2001, within six years after opening its first extended stay hotel, Extended Stay America, Inc. opened its 400th hotel. The Highland Group recently reported that the number of extended stay rooms available in 2000 represents a 300 percent increase over the number of extended stay rooms available in 1995. Many extended stay facilities create a better bottom line by not pampering their guests the way a full-service hotel would — they offer weekly maid service in lieu of daily maid service, and they eliminate the concierge, the bell/porter service, and the 24-hour front desk personnel. In other words, this type of product creates a hedge against a down economy and the resulting decreases in occupancy.

At the same time, however, other corporate housing facilities offer some or all of the services and amenities typically associated with a traditional hotel product. For example, Oakwood Apartments offers a lodging product called the "Oakwood Residences," which are advertised as "combining the spacious comfort of a private home with the services and security of a hotel, including a 24-hour front desk, airport pickup, daily housekeeping and on site restaurant." Many Oakwood products are available for short-term occupancy, including, for example, the Marina del Rey Oakwood property, which advertises units and daily housekeeping with only a three-day minimum stay.

The blurring of the distinction between short-term housing products and traditional hotel products is perhaps best illustrated by the fact that corporate housing facilities are often approved as multi-family housing, and on property that is not zoned for commercial uses. In connection with their approval as multi-family residential uses, the corporate housing facilities are often able to garner development incentives such as increases in the permitted building height, number of stories and floor area

ratio, exemptions from environmental review and discretionary approvals, and relief from onerous development requirements such as guest parking, kitchens, private open space and, in mixed use projects, separate and secure access.

While developers may laud the opportunity to develop hotels in areas that were previously inaccessible to them by virtue of zoning restrictions, many communities now assert that corporate housing facilities are essentially commercial uses which introduce a transitory nature into established residential neighborhoods, lead to a deterioration of neighborhood character and disrupt the quality of life within residential areas. Further, under state law, every community is required to satisfy housing quotas known as "State Housing Fair Share Requirements." Many communities have used corporate housing units to satisfy their fair share requirements, only to realize that in practice, there is a possibility that the state will not recognize those units as housing and will require the community to replace those credits with true housing units.

Furthermore, the blurring of the bright-line test has the potential to divide the hospitality industry. Many owners paid a premium for their hotel properties on the grounds that zoning restrictions prevented the development of new hotels within the same zone and vicinity. In the current market, however, these owners are finding that new developers are able to sneak into previously inaccessible zones by pulling building permits for multi-family housing and then, as a practical matter, operating like a hotel and marketing their facilities to hotel customers. By avoiding zoning restrictions and transient occupancy taxes, and taking advantage of development incentives, the new brand of corporate housing is able to offer significantly lower rates than the old-guard hotel.

As a result of these concerns, many municipalities are taking steps to define

corporate housing as a commercial use which should be restricted to certain districts and not considered a housing development. For example, the Catalina Island community of Avalon permits "transient rentals" in all districts only upon the issuance of a conditional use permit. The City of Santa Monica has imposed a moratorium on the development or conversion of any residential building for short term housing use.

At the end of the day, hotels are operating businesses, whereas housing is simply real estate. Ambiguities in zoning codes may create the perception that development of corporate housing in zones previously inaccessible to hotel uses is an unexplored market niche, or that hotel-like products that are developed under the guise of "corporate housing" can skirt zoning restrictions, obtain housing development incentives, and avoid imposition of transient occupancy taxes. In fact, however, many communities are recognizing that the distinction between corporate housing, short term rental housing, extended stay hotels, and traditional hotel products is nothing more than a continuum. Many communities are now reviewing their zoning codes to support the argument that a developer who has pulled building permits for housing does not have a vested right to facilitate, arrange, offer or provide the services and amenities that are typically associated with a traditional hotel. As a result, the development of corporate housing requires an in-depth analysis of the community in which the development will be located, including all applicable ordinances, development requirements and development restrictions.

(Monica Witt, a partner in the Land Use, Environment & Energy Department at Jeffer, Mangels, Butler & Marmaro, practices land use law, including transactional and litigation matters, eminent domain and inverse condemnation).

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FACE-to-FACE with the Women & Children of Iraq

Local resident Kelly Hayes-Raitt just returned from her second trip to Iraq, where she found some of the children and women who touched her so deeply during her first visit in February. She also saw firsthand the impact of the bombings and invasion on innocent people's lives, homes and hearts. The trip revealed much devastation — and much inspiration. She will be speaking about the people she met — and remet — in Baghdad, Hillah, Babylon, Fallouja, Basra and Umm Qasr.



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Since February, Kelly has addressed over 60 audiences, including religious congregations, state women's conferences, school classes, community clubs, large peace rallies and small neighborhood meetings. If you would like her to address your group, please call (310) 581-4421 or e-mail C2CCampaigns@aol.com. Photos may be viewed at www.CommunityCampaigns.com/Iraq.

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STATE

Vintners hope small picking tubs will reap big benefits

BY MICHELLE LOCKE
Associated Press Writer

GEYSERVILLE — Gregorio Rodales has been picking merlot grapes since dawn, gloved hands darting in and out of the pale green leaves as his hooked knife nicks bunches of dusty purple fruit off the slender vines.

It's hard work; his forehead glistens despite the cool breeze blowing through the Clos du Bois vineyard. But this year, the going's a little easier thanks to a new approach being tried by some California wineries — smaller picking tubs designed to reduce worker injuries.

That's a big development for workers who have to heft the tubs full of berries over their heads dozens of times a day to flip the fruit into a two-ton gondola.

In the past, Rodales would finish the day "mas cansado," more tired, he says, twisting his torso to show that his back's still limber despite hours of bending and stretching.

For winery managers, fewer injuries mean happier workers, lower workers' compensation costs and a chance to hold on to a trained work force. The smaller tubs mean workers make more trips to dump their grapes, but that adds only about 15 minutes to the picking day, says Clo du Bois viticulturist Douglas Price.

"We maintain production and yet we also provide a safer environment. That's a great thing," says Price. "The other part is the guys appreciate them. They understand that they are a tool to help them."

With the tubs, picker injuries have "almost gone away," says Price.

Filled up, the new tubs weigh about 46 pounds — 11 pounds less than the average weight of the older versions, with three of those pounds due to using lighter manufacturing material. The tubs are narrower, meaning the weight is distributed better when they are picked up.

The smaller bins came out of a study by the University of California at Davis, which has a center devoted to agricultural safety.

"This is a huge topic," says Dr. Marc Schenker, director of the Western Center for Agricultural Health and Safety. "There are 20,000 disabling injuries a year in California agriculture."

John Miles, a professor and investigator for the Agricultural Ergonomics Center at Davis, says his research showed about 65 percent of pickers using the old tubs were reporting persistent pain by the end of the season. That dropped down to 25 percent with the smaller tubs.

Miles knew he was on to something when he'd go out to the field with a pickup full of prototype tubs and turn around to find most of them gone, "borrowed" by pickers.

At the start of the season, about 3,000 of the smaller tubs were being used by various wineries, Miles says. Other wineries heard of the innovation, and the company making the tubs soon sold out. "It's moving very quickly at this point."

About two-thirds of California grapes are picked by machine, Miles estimates, but tubs are an issue for higher-end wineries where grapes are hand-picked to make sure shriveled fruit and leaves don't go into the product.

Mother, son 'ringleaders' sentenced in caviar poaching

BY DON THOMPSON
Associated Press Writer

SACRAMENTO — Mother-and-son leaders of a West Coast caviar poaching ring were sentenced to partially suspended jail terms Tuesday, capping a two-year effort to protect the largest freshwater fish in North America.

Tamara Andreyevna Bugriyev, 51, and her son, Yuriy Stanislavovich Bugriyev, 28, sold roe from Sacramento-San Joaquin River white sturgeon through California, Oregon and Washington, mainly within the Russian community as a replacement for premium Caspian Sea caviar.

They faced the only felony allegations among 20 Sacramento-area residents charged with catching, selling or possessing the bony, bottom-feeding fish — so-called "living fossils" that have changed little since the days of the dinosaurs.

They were each sentenced to 150 days in jail, but 60 days were suspended for Tamara Bugriyev and she can avoid the remaining 90 by performing 540 hours of community service. Yuriy Bugriyev was ordered to serve 60 days in jail and the remaining 90 on work projects. Tamara Bugriyev was fined \$1,000 and Yuriy Bugriyev \$5,000 on their August guilty plea to felony conspiracy, fines effectively tripled under state law.

The arrests followed an undercover investigation dubbed Operation Delta Beluga, named after the renowned Russian caviar that can bring more than \$1,000 a pound.

Tamara Bugriyev "had a reputation of being a real good cook or preparer of caviar" at home in the Ukraine, said her attorney, Victor Haltom. He noted the Bugriyevs bought the sturgeon from others who faced only misdemeanors.

"These people are Russian immigrants," said John Duree Jr., attorney for Yuriy Bugriyev. "They came from an area in Russia where they eat caviar on a daily basis. A lot of people think it has medicinal value. It's not really the gourmet caviar that we here in the United States think of."

Their California caviar sold for \$50 to \$100 a pound on the black market, authorities said.

"We're always happy when we take any poachers out of circulation," said Steve Martarano, a spokesman for the California Department of Fish and Game. "This was a very long and exhaustive case. We put a lot of time and resources into it."

While the Bugriyevs could have faced up to three years in prison, Martarano said he hopes a requirement that the pair stay 150 feet from sturgeon-bearing waterways during their five years of probation will deter any recurrence.

Demand and prices for American-grown caviar grew after the collapse of the Russian sturgeon fishery following the fall of the former Soviet Union. Wildlife organizations warned this spring that U.S. sturgeon and paddlefish populations can't sustain the increased legal and illegal pressure brought by the resulting higher prices and increased demand.

STATE



Dems cautiously consider Schwarzenegger's hand

BY TOM CHORNEAU
Associated Press Writer

SACRAMENTO — Asked by the voters to bring change to the Capitol but lacking the legislative support to impose it, Gov.-elect Arnold Schwarzenegger faces the difficult task of building consensus with Democrats already uneasy over his plans to fix the budget by spending cuts and reorganization.

To succeed, political analysts and lawmakers say, he'll have to work closely with legislators of both parties and stay focused on the economic arguments that helped him get elected.

"I don't see him coming in as some extreme ideologue," said Sen. Gloria Romero, D-Los Angeles. "I heard people saying this is Re-Pete, as in Pete Wilson his mentor. I reject that. I think he will be a lot more bipartisan."

Romero, chair of the Senate's Democratic Caucus, said Schwarzenegger supports a number of Democratic ideas including gun control, abortion rights and environmental protection.

But the new governor has also made a number of campaign promises that will prove difficult for him to deliver if he has hopes of working cooperatively with the Democrats.

The biggest issue is the budget. Schwarzenegger campaigned on a promise to fix the state's finances, which are still reeling from a spending imbalance that will produce a deficit of \$8 billion during the 2004-2005 fiscal year.

He also said he would fix the problem without raising taxes and by cutting waste and duplication. He appointed an outside audit team to examine the state's books and recommend ways for saving money.

If he doesn't find billions in waste and duplication, Schwarzenegger's next option appears to be cutting spending on services. Which services would be cut, however, isn't clear.

Schwarzenegger has promised not to touch education, even though public schools represent almost 60 percent of the general fund budget. He has also recently expressed support for local law enforcement agencies and for cities and counties.

Meanwhile, the new governor has pledged to repeal the hike in the car tax — a move made last summer to help bridge the spending gap. If Schwarzenegger repeals the tax hike, he'll either have to impose big financial hardships on local governments and law enforcement programs or add another \$4.2 billion to the state deficit next year.

Democrats are hoping Schwarzenegger gives in on some of his campaign promises.

"I think it will be next to impossible for him not to," said Assemblyman Joe Nation, D-San Rafael. "I don't think you can roll back the vehicle license fees, not raise replacement money and still maintain spending for education — unless there just a wholesale dismantling of almost all other programs."

One major target for cuts is likely to be health and human services programs — which account for nearly a quarter of the state's general fund.

Helping Schwarzenegger figure out the budget is Donna Arduin, budget director for Florida Gov. Jeb Bush, who is known for cutting billions in social services in Florida by eliminating money for such things as eyeglasses, hearing aids and

dentures for low-income residents.

Such tactics here, however, could end Schwarzenegger's political honeymoon, some Democrats said.

"The rubber will hit the road when the budget is presented," said Assemblyman Fabian Nunez, D-Los Angeles. "That's when we will go back to fighting about the things we care about."

Nunez, a leader of the powerful Latino Legislative Caucus, said Schwarzenegger will not be able to fulfill all his campaign promises. "He's getting near a cliff. I'm hoping he will see that a balanced approach is the only way — some cuts and some new revenues."

Fighting Schwarzenegger, however, could present political problems for some Democrats, said Republican political consultant Dan Schnur, who noted the recall was supported by voters in all but 15 counties. There may be as many as 24 Democratic legislative districts were voters supported both the recall and Schwarzenegger.

"There will be extraordinary pressure on these people to find common ground with the new governor," said Schnur. "Most of these members have never run in anything but an absolutely safe district. This might be the first time they've had to think about what the voters want."

For example, in Assemblywoman Gloria Negrete-McLeod's district that includes parts of Los Angeles and San Bernardino counties, 60 percent of the voters supported the recall, according to an analysis of election results. Fifty-eight percent of voters in Assemblyman Juan Vargas' south San Diego County district supported removing Gov. Gray Davis. Assemblyman John Longview's San Bernardino County district supported recall by 57 percent.

In a number of Democratic districts the vote was split — such as those represented by Assemblywoman Jenny Oropeza, D-Long Beach; Assemblyman Dario Frommer, D-Los Angeles; and Assemblywoman Judy Chu, D-Monterey Park.

While Schwarzenegger may have some leverage with Democrats, he also has a mandate not to cause further gridlock, said Darryl Sragow, a strategist for the Democratic Caucus. He said if the new governor tries to push all the budget solutions through cuts to health and human services, Democrats will have little choice but to dig in.

Instead, Sragow said, Schwarzenegger will propose some cuts but also may also consider tax increases.

"He can come back and say, the budget deficit is far worse than we thought — we've been lied to," Sragow said. "It's what Ronald Reagan did."

Romero agreed, noting that Schwarzenegger's political mentor, Republican former Gov. Pete Wilson, also helped solve a budget crisis by raising taxes. She said she's optimistic about working with Schwarzenegger, and that Democratic lawmakers may find him easier to deal with than Davis.

Both parties should "look at the recall as an almost cultural revolt against leaders that are perceived to be out of touch," said Tim Hodson, a professor of political science at California State University, Sacramento.

"This could be a pivotal point in California history," he said. "Whether or not people of good will are going to keep the discussion and the negotiations going."

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NATIONAL

New Jersey looking to produce more goat meat

By The Associated Press

TRENTON, N.J. — The Garden State is looking for goat farmers.

A growing demand for goat meat, which is leaner than beef, has prompted officials in New Jersey to find ways to encourage more farmers to raise the animal.

Goat meat is popular among Greeks, Mexicans, Asians and other immigrants, but experts say it is being increasingly sought after in mainstream America. Although it has more cholesterol than beef, goat meat is considered healthier because it has a lower fat content.

A pound of goat meat sells for about \$3.50 at butcher shops, and industry officials say the demand for goat meat has outstripped the supply in the United States since 1992.

"Agriculture in the U.S. used to be the farmer produced the animal the way he wanted it. Now you have to produce the product that the consumer wants," Dan Wunderlich, an agent with Rutgers Cooperative Extension in Sussex County, told The Star-Ledger of Newark for Monday's editions.

New Jersey will use a \$31,000 federal grant to encourage more farmers to raise goats. The 1997 farm census found 440 farms with goats in New Jersey, and some farmers recently have formed the New Jersey State Meat Goat Association.

Texas produces the most goat meat, raising about 1.2 million goats a year, according to the U.S. Department of Agriculture. New Jersey, however, is among the nation's leaders in processing the meat. Half of the nation's goat meat is processed in slaughterhouses in New Jersey and Texas.

Two companies purchase Colorado's largest wind farm

By The Associated Press

LAMAR, Colo. — Two wind energy companies have teamed up to buy what will become Colorado's largest wind farm, a project now under construction in the southeastern corner of the state.

PPM Energy Inc. and Shell WindEnergy Inc. announced Monday they were purchasing the Colorado Green Wind Project from developer GE Wind Energy. The Denver Post first reported the \$212 million deal.

The sale solidifies the future of the project, which is expected to become the nation's fifth-largest wind farm when it is finished in December.

It is supposed to produce a peak capacity of 152 megawatts of electricity when high winds are blowing. However, because the wind is intermittent, the project is expected to have a general production capacity of one-third of that, or enough for about 54,000 consumers.

Xcel Energy's Public Service Company of Colorado has made plans to buy the electrical production.

"We're pleased that the project is moving forward," said Xcel spokesman Steve Roalstad.

The utility already has two small wind farms in northern Colorado to supply power to customers who volunteer to pay an extra charge for it.

But officials said the Lamar operation would fit into Xcel's regular power supply. It was approved last year by the Colorado Public Utilities Commission.

"The great thing about this project is that it had to compete with every other form of electrical generation — and it won," said Jan Johnson, a spokeswoman for the Portland, Ore.-based PPM Energy.

The project is to feature 108 wind turbines spanning 11,840 acres. The turbines' footprint will cover less than 2 percent of the acreage, and the majority of the land will be used for ranching.

Colorado ski season begins with a single run at Loveland

By The Associated Press

DENVER — As snow fell Tuesday on the Colorado Rockies, Loveland became the first ski area in the country to open for the season after a two-week delay caused by dry, unseasonably warm weather.

About 100 ski and snowboard fanatics were waiting when the lift opened at 9 a.m. Loveland, about 60 miles west of Denver, offered a single run covered with manmade snow.

"It's awesome," said Brian Elliott, a 30-year-old skier from Superior who has been at Loveland for opening day for three straight years.

Elliott takes his skiing seriously. He has skied at least once for 73 straight months, hiking to glaciers in the summer and fall months to get in a few turns.

Warm weather and rain has delayed snowmaking at Killington, a Vermont resort that competes with Loveland to be the first to open.

A half dozen Colorado resorts are making snow this week, including Arapahoe Basin, Keystone, Breckenridge, Winter Park and Copper Mountain, which opens Friday.

Arapahoe Basin had been racing Loveland for first-opening honors, using snowmaking equipment installed last summer, but conceded victory to the more seasoned crew on the other side of Loveland Pass.

Loveland relied on its snowmaking equipment to piece together a full run. Officials are hoping a cold front later this week will bring the real thing, and were happy to see snowflakes Tuesday.

"It's really coming down," said Kevin Wright, a spokesman for the ski area.

NATIONAL



Veterans reveal they were underage when they enlisted

BY MICHELLE SAXTON

Associated Press Writer

ELKVIEW, W.Va. — At a time when the nation desperately needed a few good men, they stood silently among thousands of military volunteers driven by patriotism, financial security and adventure.

All had come prepared to face conflict, but theirs was an exclusive club whose members shared a secret they would guard for decades as fiercely as the wars they were enlisting to fight: All were just kids — boys and girls who fooled the U.S. government.

"Somebody described us as a group of government-certified liars," said 71-year-old Chet Fleming. "That's the only way we could get in."

He was only 16 when, playing hooky from school with some buddies, he told an Army recruiting sergeant in Ohio that he was 18. He enlisted and later served in Korea.

More than 50 years later Fleming, state commander of the West Virginia Veterans of Underage Military Service, wants to find others like him who began their military careers as frauds. More than 200,000 veterans are believed to have joined the military as underage children during the World War II and Korean War eras.

"We want them to understand there's nothing to be ashamed of. There's nothing to hide," Fleming said.

The Maryland-based national organization Veterans of Underage Military Service, founded in 1991, lists more than 1,200 active members, 26 of them women.

Ray Jackson, of Tempe, Ariz., the group's 74-year-old national commander, joined the Marines when he was 16, a year before he could legally join with his parents' permission, two years before he could sign up on his own — a rule still in existence in all branches of the military.

"I always felt that it was time to get out on my own," said Jackson, who lived on a farm in Idaho. Jackson's mother and two of his brothers died when he was young, and he stayed with an older sister and two other brothers while his father moved around in order to make a living.

Times were tough financially and Jackson yearned for more than just working on a farm and being a hired hand for other farmers.

"I was working in the fields a lot and lifting heavy bales of hay, and I thought, 'There's got to be a better way,'" he said.

Fleming said those who grew up during World War II were eager to enlist. "Some kids want to be firemen, some want to be cowboys. We wanted to be military."

But that wasn't the only reason.

"Some of these guys came from large families and there wasn't enough food to go around, and this was a way out," Jackson said. "Others just had family problems and wanted to get away."

At age 14, Don Green forged a birth certificate and enlisted in the Marine Corps Reserve and then the Army a few months later. For him, the military was the only way out of a hardscrabble existence. His father had died, leaving 11 children on the family farm in West Virginia.

"I just wasn't old enough to do a mining job or do any other work," said Green, who's 68.

Being a younger soldier didn't bother Green, who was in "top physical condition" from the strenuous farmwork. But he admits to taking some dangerous chances that he may not have taken if he'd been more mature, such as

traveling between units at night in Korea — where he turned 16.

"I got shot at a lot of times," he said. "I was scared all the time."

Still, Green loved military life. He spent a total 38 years of service in the Marines, Army, Air Force and Air National Guard — with 17 1/2 of those years on active duty.

"There's still people today that will not join our association because they're afraid they will get caught on the fraudulent enlistment and get punished ... We broke the law to serve. It's a badge of honor for us."

— RAY JACKSON

National commander,
Veterans of Underage Military Service

Green, who also earned his general equivalency diploma and became a real estate appraiser, said that had he not chosen military life, he likely would have earned a college degree.

But he is sure he made the right decision.

"The military really enriched my life," he said. "You make a lot of lasting friends."

While underage enlistments were fairly common during the era of both World Wars, they would be unlikely today.

"The information age has made it much simpler to find out if the information given by the candidate is accurate," said Chief Petty Officer Will Borrall, public affairs officer with the Navy Recruiting District in Richmond, Va.

Also, he said, "there's not an immense pressure to join the military service as there was in 1941 following Pearl Harbor or there was in previous wars."

The attack on Pearl Harbor helped compel Orvil Schoonover, of Cocoa, Fla., to forge his birth certificate and enlist in the Navy just days shy of his 15th birthday.

"I just thought I needed to do it," said Schoonover.

Schoonover, 74, recalls being scared only once: when an enemy plane crashed near his ship during the Invasion of Okinawa in 1945. The plane was so close, "the water splashed on us."

"I unbuckled my gun ... but I buckled it right back," he said. "I was just too young, too crazy to get scared."

One of the youngest veterans on record was Calvin Graham, of Texas, who joined the Navy at age 12 and served on the USS South Dakota during the 1942 Battle of Guadalcanal.

"He was wounded, but he helped save a number of his shipmates and was awarded the Bronze Star and the Purple Heart," Jackson said.

But when his true age was discovered, Graham was thrown in the brig and stripped of his medals over fraudulent enlistment.

He was released from the brig after his sister threatened to contact the newspapers. He was released from the Navy just after his 13th birthday. He joined the Marines at 17, but his military career ended about three years later when he fell from a pier and broke his back.

The Navy reinstated his medals, all but the Purple Heart, in 1978 after Graham wrote to congressmen and presidents.

Graham, whose story was the subject of the 1988 movie "Too Young the Hero," died in 1992. His Purple Heart was presented to his widow, Mary, nearly two years later.

Most veterans did not talk about their underage service for years, until they began retiring, long after they had raised families and fulfilled their careers.

"Our enlistments were fraudulent. And with a fraudulent enlistment we could be court-martialed," Jackson said. "There's still people today that will not join our association because they're afraid they will get caught on the fraudulent enlistment and get punished."

Even today, Jackson doesn't consider what these men and women did to gain admission to the military a typical case of lying.

"We broke the law to serve," he said. "It's a badge of honor for us."

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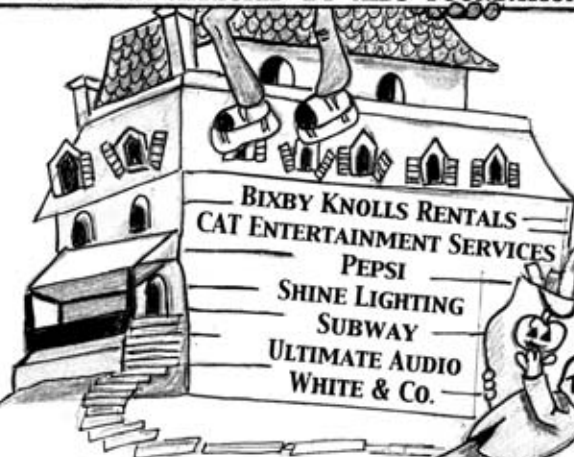
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NATIONAL □ INTERNATIONAL

Car bomb takes at least four victims in Fallujah

BY TAREK AL-ISSAWI

Associated Press Writer

FALLUJAH, Iraq — A car bomb exploded Tuesday near a police station on a major street in the tense city of Fallujah, killing at least four people, police said. The attack came a day after a series of suicide bombings in Baghdad left about three dozen dead.

Later Tuesday, eight massive explosions were heard after sundown in Fallujah, coming from the southern area of the city. U.S. officials in Baghdad said they were unaware of the explosions, which residents described as "deafening."

The violence in Fallujah came after a string of bold and deadly attacks in the Iraqi capital targeting the U.S.-led occupation and Iraqis who are perceived as working with it.

In Baghdad, the U.S. occupation authority announced that gunmen killed one of the capital's three deputy mayors in a hit-and-run shooting Sunday — the same day that insurgents hammered a Baghdad hotel with rockets, killing an American soldier.

Those attacks were followed on Monday with the bloodiest day in Baghdad since Saddam's regime fell more than six months ago. Suicide bombers struck the Red Cross headquarters and three police stations, killing eight Iraqi policemen, at least 26 Iraqi civilians and a U.S. soldier.

In Washington, President Bush blamed both loyalists to Saddam Hussein and foreign terrorists for the recent attacks.

"Basically what they're trying to do is cause people to run ... That's what terrorists do," Bush told a Rose Garden news conference Tuesday.

After Monday's attacks, aid organizations Tuesday were weighing their role in the insurgency-plagued nation. U.S. officials were unsure who was responsible.

Investigators are trying to determine whether a would-be fifth suicide bomber is truly Syrian as he claims, an official of the U.S. occupation authority said.

The man had a Syrian passport and investigators are trying to determine if it's authentic, said the official on condition of anonymity.

In the northern city of Mosul, the editor of an independent Iraqi newspaper was shot and killed Tuesday by men who followed him up to the roof of his office's building as he made a phone call.

Ahmed Shawkat, editor of the independent "Without Direction," had received death threats for his writings, which have been critical of the anti-U.S. resistance as well as the U.S. occupation, said his daughter, Roaa.

Tuesday's bomb in Fallujah, 40 miles west of Baghdad, was in a Toyota that exploded in front of a power station and about 30 yards from a school and 100 yards from a police station, witness Hamid Ali said. The target was unclear.

Tawfiq Mijbel, who was badly injured by shrapnel, said he had been driving directly behind the vehicle that exploded. "It stopped in front of the power company. A man got out, while another stayed in the

car. A few seconds later it blew up," Mijbel said from his hospital bed.

Khamis Mijbal, who owns a shop opposite the spot where the car blew up said the blast produced a massive ball of fire and that debris flew in all directions.

The school was closed, but police said one body was found inside. Police Col. Jalal Sabri said all the victims appeared to have been bystanders. Sabri said at least four people were dead but the number could reach six. The count was difficult because some victims were dismembered, he said.

To the north near Mosul, Iraq's third-largest city, two U.S. patrols were ambushed Monday night, wounding three American soldiers.

In southern Iraq, an explosive went off as a patrol passed, wounding a British soldier and two Iraqis the military command said. It was the third roadside bombing in the Basra area in the last three days. There have been no fatalities reported.

In Baghdad, the deputy mayor for technical services — Faris Abdul Razzaq al-Assam — "was shot in a hit-and-run incident" on Sunday, Tom Basile, a coalition spokesman said. Basile said he had no information that any suspects had been apprehended.

Anti-U.S. resistance forces have assassinated or attempted to assassinate several political or police figures holding posts under the occupation. The most prominent was Aquila al-Hashimi, a member of Iraq's interim Governing Council, who was fatally wounded by gunmen on Sept. 20.

The brazen and deadly attacks in

Baghdad attested to the surge in resistance by opponents of the American occupation.

Secretary of State Colin Powell urged the Red Cross and other nongovernment organizations to stay in Iraq.

"They are needed. Their work is needed. And if they are driven out, then the terrorists win," Powell said Monday in Washington.

Antonella Notari, chief spokeswoman for the International Committee of the Red Cross in Geneva, said no decision had been taken whether to evacuate non-Iraqi staff. Twelve of the dead in Monday's attacks were killed in the car-bombing outside the ICRC office in Baghdad.

The German TV network ARD quoted the head of the ICRC delegation in Iraq as saying the evacuation of Red Cross personnel would begin Tuesday.

Last week, before Monday's bombing, the Netherlands has moved its diplomatic staff in Iraq to Jordan, citing safety concerns, the Dutch Foreign Ministry said Tuesday. Five foreign staff members were relocated to Amman, while Iraqi staff continued to work at the Dutch embassy, said spokeswoman Hannah Tijmes.

While Pentagon officials pointed to Saddam loyalists in Monday's attacks, some coalition and Iraqi officials blamed foreign fighters.

A coalition spokesman, Charles Heatly, told the British Broadcasting Corp. that "there certainly are indications that there are foreign terrorists who are coming into Iraq," but he did not explicitly accuse them of responsibility.



WORLD BRIEFLY

North Korea appears to back down

By The Associated Press

SEOUL, South Korea — North Korea is softening its stand on the dispute over its nuclear weapons development and there are hopes that another round of crisis talks will be held in December, top officials in South Korea said Tuesday.

"I think North Korea is revising its position," South Korean Unification Minister Jeong Se-hyun said. "North Korea has shown some positive steps forward."

Jeong cited North Korea's new willingness to consider President Bush's offer of multilateral security assurances in return for dropping its nuclear programs.

Previously, North Korea had demanded a nonaggression treaty with the United States, a demand that Washington has ruled out.

Separately, South Korean Foreign Minister Yoon Young-kwan said he hoped another round of talks on the nuclear crisis will be held in December.

Sony Corp. to cut jobs

By The Associated Press

TOKYO — Sony Corp. is trimming 20,000 jobs, or about 13 percent of its global work force, in the next three years as part of a turnaround strategy announced Tuesday to better integrate the Japanese manufacturer's entertainment, video-game and electronics businesses.

Of those job cuts, 7,000 will be in Japan, but the Tokyo-based electronics and entertainment giant did not give further regional breakdowns or other details. Sony employs about 154,500 people worldwide.

Sony said it will integrate administrative and corporate jobs that overlap and increase efficiency, such as relocate U.S. marketing operations divided between the West and East Coasts mainly to the West Coast.

The plan includes bringing together engineers in the company's home and mobile electronics sectors, such as

cell phones, TVs and video-game consoles, to beef up development of computer chips and devices, Sony said.

Speaking to reporters at a Tokyo hotel, Sony officials said they were presenting a two-stage plan to cut costs and get growth going.

Tobacco giants unite

By The Associated Press

CHARLOTTE, N.C. — R.J. Reynolds Tobacco Co. and rival Brown & Williamson Tobacco Corp. are uniting their U.S. operations as a way to weather an onslaught of discounted brands and lawsuits.

The deal vastly expands the reach of two tobacco companies that together produce about one of every three cigarettes smoked in the United States. The merged operation will be called Reynolds American Inc., with about \$10 billion in annual sales. It will still trail industry giant Philip Morris USA, whose brands command about half the U.S. cigarette market.

R.J. Reynolds makes Camel, Winston, Salem and Doral, while Brown & Williamson's top brands include Kool, Lucky Strike, GPC and Capri.

Brown & Williamson is the U.S. subsidiary of British American Tobacco PLC.

R.J. Reynolds will pay \$2.6 billion in cash and stock for a 58 percent controlling stake in the new company, RJR spokesman Tommy Payne said. British American Tobacco will own 42 percent of the new company through its Brown & Williamson subsidiary.

Dem pleased to defect to GOP

By The Associated Press

PITTSBURGH — Steelworker Andy Miklos is so happy with President Bush's tariffs on foreign-made steel that the card-carrying Democrat is considering casting his first vote for a Republican next year.

In Michigan, meanwhile, auto parts manufacturer

Dennis Keat is threatening to defect from the GOP if the White House doesn't drop the sanctions immediately.

Both voters are emblematic of their industries 18 months after Bush slapped steep tariffs on imported steel to shield domestic producers from foreign competition. The president's next step in the process — keep the tariffs until they expire in March 2005 or eliminate them — could be crucial to Bush's re-election prospects in 2004.

The steel tariffs are pitting the Midwest states against the Rust Belt — two regions where the margin between the Republican candidate and Democrat Al Gore was a hair's breadth in 2000, and where Bush is determined to prevail in 2004.

The sanctions endeared the GOP president to traditionally Democratic steelworkers in states such as Pennsylvania, Ohio and West Virginia. But coming on the heels of a slumping economy, the tariffs have since angered owners and employees of small manufacturing companies that make up part of his GOP base in Michigan, Minnesota and Wisconsin.

Billions in corporate tax cuts create rift

By The Associated Press

WASHINGTON — A proposed \$128 billion corporate tax cut is exposing deep disagreements among lawmakers over how to help U.S. manufacturers compete in a global economy.

Congress finds itself forced into a debate over corporate tax laws after the World Trade Organization declared that a \$5 billion annual tax break for U.S. exporters amounts to an illegal subsidy. The United States faces \$4 billion in sanctions if the tax break is not repealed.

House Ways and Means Committee Chairman Bill Thomas, R-Calif., offered a \$200 billion corporate tax cut this past summer to replace the old tax system. He was forced back to the drafting table when GOP lawmakers pressed hard for more direct aid to U.S. manufacturers.

The result is a smaller tax cut that aims two-thirds of its benefits at domestic manufacturers, "even though multinationals currently receive over 90 percent of the (old) benefits and employ over 60 percent of the United States' manufacturing work force," a committee summary said.

The committee was considering the revised proposal Tuesday.

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PEOPLE IN THE NEWS

Nelly the victim of a \$1M jewelry heist in Vegas hotel

By The Associated Press

■ **LAS VEGAS** — Rapper Nelly had more than \$1 million in jewelry stolen from his Las Vegas Strip hotel room while he was in town for the 2003 Radio Music Awards, authorities said Tuesday.

Nelly, whose real name is Cornell Haynes, claimed the pieces were taken Monday from his room at the Aladdin hotel-casino.

Singer Michelle Branch, who also was staying at the Aladdin, reported that computer equipment was stolen from her room.

Las Vegas Police Officer Tina Ellison said the burglaries were reported at 8:50 p.m. Monday and were being investigated.

Representatives of the two performers had no immediate information Tuesday about the burglaries.

Haynes, of St. Louis, won the award for best driving song for "Shake Ya Tailfeather," which he performed during the show with Sean "P. Diddy" Combs and Murphy Lee.

■ **OLD SAYBROOK, Conn.** — Katharine Hepburn's estate, including her 7-acre home on Long Island Sound, is worth \$17.4 million, probate court documents show.

An inventory filed by the executor of the actress' estate lists her home and real estate at \$10 million, The Hartford Courant reported Tuesday. It also said she left behind \$4.1 million in securities and cash, a \$2.6 million trust fund and \$700,000 worth of furniture, art, silver and other possessions. She also owned a 1995 Ford Crown Victoria worth \$4,425.

Hepburn, who died in June at 96, left 4 acres of her property to an environmental group of her executor's choosing. The remaining 3 acres are for sale for \$12 million.

The house needs renovations and has a flooding

problem, which has prompted real estate agents and neighbors in the Fenwick section of town to say the home is overvalued.

Town Assessor Norm Wood agrees. He put the assessment of the property at \$5.5 million, which is equal to 70 percent of what he believes the market value should be — \$7.9 million.

The assessment takes into account the condition of the house and its location, but not the fame of its late owner, as the current sales price does, Wood said.

The inventory makes only a passing reference to Oscar statues.

During her 60-year career, she won a record four Academy Awards and was nominated 12 times, which stood as a record in the acting categories until Meryl Streep surpassed her nomination total in 2003. Her Oscars were for "Morning Glory" (1933), "Guess Who's Coming to Dinner" (1967), "The Lion in Winter" (1968) and "On Golden Pond" (1981).

■ **RALEIGH, N.C.** — Andy and Opie are on a permanent fishing trip "immortalized in a bronze statue unveiled Tuesday by Andy Griffith, whose portrayal of a genial Southern sheriff has become a television staple.

The sculpture depicts the scene in the opening credits of "The Andy Griffith Show" in which Sheriff Andy Taylor walks to a fishing hole with his son, Opie, to the tune of the jaunty, whistled theme song.

"That beats anything. I kind of wish I looked like that now," the white-haired, 77-year-old Griffith told hundreds of fans who gathered next to a pond in Raleigh's Pullen Park for the morning ceremony.

The cable network TV Land agreed to build and maintain the statue at no cost to the city, similar to deals over the past two years that placed a Mary Tyler Moore statue in Minneapolis and a statue of Jackie Gleason's "Honeymooners" character, Ralph Kramden, in New York City.

Griffith, who's from Mount Airy, now lives on the North Carolina coast in Manteo. Some in Mount Airy "considered a model for Mayberry" have grumbled that their town is a better spot for the statue.

The actor said the Raleigh park was a great location, but added "I hope they'll do something for Mount Airy in the future."

■ **MILWAUKEE** — Priscilla Presley says she's such a fan of Green Bay Packers quarterback Brett Favre, she even missed her daughter's rock concert to see a Packers game.

Her adoration started a couple years ago when Presley took her 16-year-old son, Navarone, to a Packers-49ers playoff game in San Francisco, she said Monday while speaking at the Marcus Center for the Performing Arts.

Presley was able to get her son on the field after the game. The boy found Favre and asked if he would sign his souvenir helmet. The quarterback said he had to do an interview, but would come back and give him the autograph. And he did.

Presley sent Favre a three-page thank-you note.

Recently, the actress was in Chicago to see her daughter, Lisa Marie, on her rock tour. The Packers and Bears were playing that night and Priscilla Presley had a tough choice.

"I told Lisa I'd catch her next time around," the mother admitted.

Presley, 58, also recounted how she rescued Elvis' Graceland estate from near-bankruptcy, turning it into a museum that attracts 650,000 visitors a year.

She invested \$560,000 in restoring Graceland and made her money back 38 days after the mansion opened to the public.

"Graceland was a battle, and I'm so proud of it today," she said.

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