



COMMITTEE FOR  
GREEN FOOTHILLS

## NEWS RELEASE

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# Owners of illegally-built Morgan Hill golf course violating state contract, may be committing tax fraud

FRY'S PROPERTY COULD BE COSTING COUNTY THOUSANDS OF DOLLARS A YEAR

SAN JOSE, CA (7/26/05) -- Environmental advocacy group Committee for Green Foothills has formally requested that the Santa Clara County District Attorney investigate potential civil and criminal tax fraud violations associated with a 192-acre property in Morgan Hill operated by The American Institute of Mathematics, a project of Fry's Electronics CEO John Fry.

Committee for Green Foothills' letter to the District Attorney outlines arguments that the landowners have for some time violated a State contract that requires preservation of agricultural and open space uses on the property. The letter further describes that, because of this contract violation, the landowners may be committing tax fraud that could cost state and local governments thousands of dollars a year in lost revenues.

### Lands in contract with state, designed to protect agriculture

According to the after-the-fact Environmental Impact Report for a private golf course built illegally on this property, four of the five parcels operated by the American Institute of Mathematics (AIM) have since 1969 been in contracts under California's Williamson Act, legislation designed to preserve agriculture and open space. The state grants owners of properties in such contracts tax breaks in return for commitments that the properties will be used for agricultural purposes or open space.

The Institute's contract specifically states that the owner shall not use the property, at the former Hill Country Golf Course on Foothill Avenue, "for any purpose other than the production of agricultural commodities and uses compatible thereto." Williamson Act contracts are binding on all successors.

"Not surprisingly, the American Institute of Mathematics is good with numbers," says Committee for Green Foothills' Legislative Advocate Brian Schmidt. "The Institute has harmed the property's agricultural value, effectively benefiting from a taxpayer subsidy which they used to finance an illegal private golf course causing significant environmental damage," Schmidt says. "The Institute should incur penalties for violating this contract and for any laws that were broken."

### Institute has flouted the law for years

The Math Institute has long flouted environmental laws on this property. In 1998, the owners scuffled with Morgan Hill officials when they obtained a permit to grade 40 acres to improve an existing nine-hole course, but then graded 150 acres and constructed an 18-hole golf course without permits, causing serious environmental impacts including loss of habitat for endangered species and threats to surface water and groundwater from fertilizer and pesticide use. The

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City ordered the work stopped and required the production and approval of an environmental impact report, giving after-the-fact approval to the project.

### **Owners violating state contract, reaping benefits at cost to public**

AIM officials should have been well aware of the Williamson Act contract when they purchased the property in 1994. A murky web of relationships over the following years transferred ownership from the Institute to “The Taw LP” and Corralitos Creek LLC, finally resulting in Morgan Hill’s approval for the golf course granted jointly to Corralitos Creek and AIM. The landowners were reminded of their responsibilities in 2003, when the Revised Draft Environmental Impact Report for the illegal golf course stated the contract did not allow “construction, maintenance, or operation of a golf course.”

Morgan Hill officials initially concluded that cancellation of the contract and payment of appropriate fees would reduce the impacts to a “Less Than Significant” level. However, such cancellation of the contract comes with a hefty penalty of 12.5% of the property’s current fair market value. In addition, AIM should pay back taxes for years of non-compliance.

Math Institute officials maintain that the Williamson Act allows a golf course as a compatible open space use, an assertion contradicted by both Santa Clara County officials and by staff at the state Department of Conservation.

### **AIM ignoring warnings and orders**

Institute officials have ignored the City’s orders to begin rectifying the situation. When the City of Morgan Hill subsequently granted after-the-fact approval of the golf course in June 2004, it did not require cancellation of the contract, but it did require the Institute to issue a “non-renewal” notice for the contract, which would end the contract after nine years from the non-renewal notice. However, Committee for Green Foothills’ investigations indicate that the Institute has not yet filed a non-renewal notice.

AIM’s failure to file for non-renewal of the contract — and its continued acceptance of a tax reduction to which it is not entitled — indicates that tax fraud may be occurring. Because this case may set precedent for tax fraud claims over Williamson Act violation, the District Attorney’s office may need some time to research this issue before reaching any conclusion.

Copies of Committee for Green Foothills’ letter to the District Attorney are available at [www.GreenFoothills.org/AIM](http://www.GreenFoothills.org/AIM).

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### **About the Committee for Green Foothills**

Committee for Green Foothills is a regional grassroots organization working to establish and maintain land-use policies that protect the environment throughout San Mateo and Santa Clara Counties. Committee for Green Foothills, established in 1962, is a Bay Area leader in the continuing effort to protect open space and the natural environment of our Peninsula.

For more information about the Committee for Green Foothills or about our work on this issue, visit [www.GreenFoothills.org](http://www.GreenFoothills.org).