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7 Plaintiffs-Petitioners in pro per

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE  
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 BRENDA BARNES, an Individual; PETER R. )  
12 NAUGHTON, an Individual; )

13 Plaintiffs-Petitioners, )  
14 )  
15 )  
16 )

16 v. )  
17 )

17 RICHARD BLOOM, as Mayor of the City of Santa )  
18 Monica; ROBERT HOLBROOK, as a City Council )  
19 Member of the City of Santa Monica; GLEAM )  
20 DAVIS, as a City Council Member of the City of )  
21 Santa Monica; PAM O'CONNOR, as a City )  
22 Council Member of the City of Santa Monica; )  
23 TERRY O'DAY, as a City Council Member of the )  
24 City of Santa Monica; BOBBY SHRIVER, as a )  
25 City Council Member of the City of Santa Monica; )  
26 MARSHA JONES MOUTRIE, as the City Attorney )  
27 For the City of Santa Monica; THE CITY OF )  
28 SANTA MONICA, a Charter City of the State of )  
California; and DOES 1 through 20, Inclusive, )

Defendants-Respondents.)

Case No. BC 485472

*JTB*  
**1ST AMENDED COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF AND PETITION FOR WRIT  
OF MANDATE/PROHIBITION AND ATTORNEYS'  
FEES AS PRIVATE ATTORNEYS GENERAL, FOR  
FAILURE TO PROCEED AS REQUIRED BY LAW  
BY: (1) GIVING UNLAWFUL NOTICE OF A MEETING  
WHERE A DEVELOPMENT AGREEMENT WILL BE  
CONSIDERED BY THE PLANNING COMMISSION;  
(2) NOT ACKNOWLEDGING IN THE NOTICE, STAFF  
REPORT, OR ADVICE OF COUNSEL GIVEN TO  
THE PLANNING COMMISSION THAT A PERMIT TO  
REMOVE CURRENT RENT-CONTROLLED HOUSING  
UNITS AT THE PROPERTY IS REQUIRED BEFORE  
ANY DEVELOPMENT AGREEMENT COULD BE  
APPROVED INVOLVING CLOSURE OF THE PARK;  
(3) NOT USING THE PROPER STATE STATUTE ON  
TENANT IMPACT REPORT AND MITIGATION  
REQUIRED IN THE SUBJECT CIRCUMSTANCES,  
WHERE A DEVELOPER, NOT THE CITY, IS ASKING  
FOR CHANGE OF USE OF A MOBILEHOME PARK;  
(4) REFUSING TO ACKNOWLEDGE TO PLANNING  
COMMISSION THE CITY'S CONSPIRING WITH  
DEVELOPERS TO HAVE CITY EMPLOYEES OFFER  
RELOCATION FEES TO CURRENT RESIDENTS OF  
THE PARK ON THE DEVELOPERS' BEHALF,  
KNOWING IT IS UNLAWFUL TO DO SO UNDER**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUN 13 2012

John A. [Signature], Executive Officer/Clerk  
BY [Signature] Deputy

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THE CITY'S OWN RELOCATION FEE LAW, TO PETITIONERS' IRREPARABLE HARM IN BEING LEFT WITH LESS SUPPORT IN FIGHTING THE UNLAWFUL CONSPIRACY OF CITY AND DEVELOPERS; (5) ENCOURAGING PLANNING COMMISSIONERS TO HAVE A SERIES OF EX PARTE DISCUSSIONS ON THE SUBJECT OF THIS DEVELOPMENT AGREEMENT BEING CONSIDERED BY THE PLANNING COMMISSION, IN VIOLATION OF THE BROWN ACT AND WITHOUT NOTICE TO PETITIONERS AND THE REST OF THE PUBLIC THAT SUCH EX PARTE DISCUSSIONS WERE BEING HELD, WITHOUT A RECORD SO MISREPRESENTATIONS COULD BE ANSWERED AND/OR FURTHER UNLAWFUL BEHAVIORS SUCH AS BRIBERY COULD BE PROSECUTED, AND WITHOUT NOTICE THAT PETITIONERS AND THE PUBLIC HAD THE OPPORTUNITY TO EQUALLY PARTICIPATE IN SUCH DISCUSSIONS TO THE EXTENT THEY WERE LAWFUL, IF THEY WERE AT ALL; AND (6) ADVISING THE PLANNING COMMISSION TO ADVISE APPROVAL OF A DEVELOPMENT AGREEMENT THAT IS NOT IN COMPLIANCE WITH THE CITY'S GENERAL PLAN

(C.C.P. §§ 525 et seq. and 1060, 1021.5, and 1085 et seq.; Civ. C. § 798.56(g); Gov't C. §§ 800 and 66427.4, Santa Monica Charter, §§ 1800 et seq. and §§ 2300 et seq., Santa Monica Municipal Code Chapter 4.36.020(a)(3) and 4.56.010; California Constitution, Article 1, section 3.).

**UNLIMITED CIVIL CASE, EQUITABLE RELIEF AND WRIT REQUESTED**

1 **1ST AMENDED COMPLAINT AND PETITION FOR WRIT OF PROHIBITION/MANDATE**

2 Plaintiffs-Petitioners BRENDA BARNES and PETER R. NAUGHTON ("Plaintiffs,"  
3 "Petitioners," or as identified hereinafter individually by the last name of each) allege:

4 **GENERAL ALLEGATIONS**

- 5 1. Plaintiffs are each an individual residing at the subject property, Village Trailer  
6 Park, at 2930 Colorado Avenue, Santa Monica, California ("subject property" or  
7 "Park"). At all times relevant, specifically since on or about July 10, 2006 when  
8 events detailed in this 1st Amended Complaint/Petition began, Plaintiffs have been  
9 authorized and lawful residents of the subject property, as immediate family  
10 members of the registered legal owner, and as members and residual beneficiaries  
11 of the Family Trust to hold ownership the trailer was placed by one of the then-  
12 registered legal owners, their son. Each Plaintiff therefore has an interest sufficient  
13 to bring suit on behalf of himself or herself alone, based on equitable and/or legal title  
14 and residency. Plaintiffs also are taxpayers and voters in the City of Santa Monica,  
15 and bring this action in that capacity as well. Plaintiffs are husband and wife and  
16 therefore will on occasion as allowed by law speak for each other.
- 17 2. The subject property is located in the venue of the West Judicial District,  
18 County of Los Angeles, California.
- 19 3. All Defendants except the City of Santa Monica itself (identified hereinafter by  
20 name or as "Individual Defendants") are employees and officials of the City of Santa  
21 Monica and are sued in their official capacities as such.
- 22 4. Defendant CITY OF SANTA MONICA ("the City") is a charter city of the State  
23 of California, located in the West Judicial District of the County of Los Angeles,  
24 California. The City is enjoined by law to follow its Charter and the general law of the  
25 State of California, the constitutions of California and the United States of America,  
26 and all applicable decisional law in the circumstances. That the City has not done so  
27 and threatens not to do so in the future are the sole bases for this suit.
- 28

1 5. At all times mentioned, Plaintiffs are informed and believe and on that ground  
2 allege Defendants sued herein by fictitious names, DOES 1 through 20, were and are  
3 liable to Plaintiffs due to responsibility in some fashion for their own actions and/or  
4 actions by other Defendants with whom they are related or in concert, as alleged  
5 herein.

6 6. Plaintiffs are unaware of the true names and capacities of Defendants DOES  
7 1 through 20, and will ask leave of court to amend this 1st Amended Complaint/  
8 Petition to insert true names and capacities as soon as each is known.

9 7. Plaintiffs are informed and believe and thereon allege that each Defendant,  
10 including the DOE Defendants, was the agent, employee, servant, aider, abettor, co-  
11 conspirator and/or co-actor of each other Defendant in doing the acts alleged herein  
12 to have been done by Defendants, and that due to their complicity in a conspiracy  
13 with each other each is responsible for all the damage caused to and need for relief  
14 suffered by Plaintiffs and alleged herein, and whether each was the direct actor or  
15 because of his/her vicarious liability due to joining in the conspiracy, is responsible  
16 for the actions of another or others in the conspiracy.

17 FIRST CAUSE OF ACTION

18 (For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing  
19 Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to Ask  
20 Leave of Court to Request Further and Different Types of Relief and Damages As  
21 Soon As The Existence and Extent of Same Are Known, for **FAILURE TO**  
22 **PROCEED AS REQUIRED BY LAW BY GIVING UNLAWFUL NOTICE OF A**  
23 **MEETING WHERE A DEVELOPMENT AGREEMENT WILL BE CONSIDERED BY**  
24 **THE PLANNING COMMISSION**, Against All Defendants; and against DOES 1  
25 through 20, Inclusive, and each of them, jointly and severally, Pursuant to Gov't. C.  
26 §§ 65009, 54955 and 54955.1, and C.C.P. §§ 525 et seq., 1060 and 1085-1103 et  
27 seq.)

28 8. Plaintiffs reallege and incorporate by reference as though set forth and  
repeated in full here, all allegations of Paragraphs 1 through 7, inclusive, above.

Unlawful Notice Improperly Cutting Off Comment Period

9. Defendants have a legislative body, "the City Council", which legislates on  
land use by legislating matters such as development agreements.

1 10. Defendants also have an advisory commission, the Planning Commission,  
2 which previews development agreements and issues an advisory opinion to the City  
3 Council on whether the development agreement at issue should be adopted by the  
4 City Council.

5 11. Defendants are specifically required by law, and therefore have a general  
6 policy that they admitted to Plaintiffs only upon Plaintiffs' specific request, to accept  
7 comments on issues related in any way to development agreements until before or at  
8 the public hearing held by the legislative body, the City Council.

9 12. Nonetheless, in the notice of the May 23, 2012 public hearing before the  
10 advisory commission the Planning Commission, Defendants stated that pursuant to  
11 Gov't. C. § 65009(b)(1), all issues to be raised in a court challenge to the acts done  
12 by the legislative body had to be raised before or at the hearing before the Planning  
13 Commission. A true and correct copy of that hearing notice is attached, denoted  
14 Exhibit "A", and incorporated here by reference as though repeated in full.

15 13. Petitioners are irreparably harmed by the Notice cutting off the public's right to  
16 raise issues to be used in a court challenge, as the public may at any time raise  
17 issues Petitioners may be able to use in a court challenge, which they intend to file  
18 and pursue if the City Council adopts the Development Agreement currently  
19 proposed or any other one that unlawfully destroys Plaintiffs' homes and takes away  
20 their rights to adequate replacement housing in a mobilehome park for their  
21 mobilehome and themselves, or sufficient mitigation of the impacts upon them if that  
22 is not possible, due to the plans of developers to change the use of the Village Trailer  
23 Park in which Plaintiffs live, and to demolish their home. These rights are as  
24 provided under the local rent control law and state law.

25 14. Moreover, in addition to issues that may be raised by others, Plaintiffs  
26 themselves for the first time between May 23, 2012 and whenever the subject  
27 development agreement is considered at a public hearing by the City Council may  
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1 think of issues they did not raise prior to May 23, 2012 or at the Planning  
2 Commission meeting.

3 15. The uncertainty everyone involved in raising issues to be used in a court  
4 challenge will face if the Court does not direct Defendants to rescind the cut-off  
5 period given in the notice of May 10, 2012, Exhibit "A," and renote the Planning  
6 Commission meeting without such an invalid notice of cutting off the period for raising  
7 issues, is immeasurable. This is especially true when all the people likely to raise  
8 such issues and make such a court challenge if the City Council adopts the  
9 Development Agreement are now, have been for the past six years since the  
10 proposed developers served an unlawful eviction notice upon them, and will continue  
11 to be in the future under major stress due to thinking the homes they have invested in  
12 for periods of decades in most cases and now own free and clear may be  
13 demolished, and they will not be able to afford to and in any event are many decades  
14 older than when they first invested in such homes, so will not be able to buy new  
15 ones in a place such as Village Trailer Park in a City such as Santa Monica, near  
16 their families or doctors or whatever their particular personal needs may be.  
17 Additional stresses that in the absence of this stress they might be able to tolerate  
18 are so much worse on top of the stress of their homes being possibly lost that  
19 Plaintiffs are irreparably harmed by almost any additional stress.

20 Adjourning Rather than Continuing Meeting, Doing So Without a Vote of the Commission,  
21 and Not Issuing a Notice of a New Meeting

22 16. Defendants are specifically required by law, if a noticed meeting by an  
23 agency such as the Planning Commission has not concluded and disposed of the items on  
24 the noticed agenda, to continue the meeting to a date certain and post a notice near the  
25 door of the meeting room within 24 hours stating it has done so, and the date and agenda  
26 of the continued meeting.

27 17. Nonetheless, at the end of consideration by the Planning Commission of  
28 business at its meeting on May 23, 2012, a motion was made and seconded to

1 continue the meeting to May 30, 2012, which motion was amended by a friendly  
2 amendment to ask staff to discuss in advance all the legal issues that would be  
3 covered at that meeting, the chairperson stated she wanted to clarify for the public  
4 that no public hearing would be held at that meeting, and then the chairperson  
5 stated she "adjourned" the meeting. No vote was taken on the motion to continue  
6 or the amended motion. A true and correct copy of transcript made by Plaintiffs  
7 from the videotape online of this portion of the Planning Commission meeting is  
8 attached, denoted Exhibit "B", and incorporated here by reference as though  
9 repeated in full.

10 18. Plaintiffs also went to the meeting room within 24 hours of the end of the  
11 meeting of May 23, 2012, at 4:00 p.m. on May 24, 2012, and again at about noon  
12 on May 25, 2012, even though most of City Hall was closed, and found no notice  
13 posted so stating, or any notice whatever except the notice similar to the one they  
14 had received in the mail announcing the meeting of May 23, 2012, Exhibit "A",  
15 which was still posted on the bulletin board to the left of the meeting room door.

16 19. Petitioners and the rest of the public are entitled to have a meeting that is not  
17 properly continued be deemed ended. Any further business not conducted at that  
18 meeting therefore must be posted as old business on a new agenda for a new  
19 meeting and noticed as a new meeting, 15 days before the meeting date.

20 20. Petitioners are irreparably harmed by improper adjournment without a vote  
21 and no proper continuance, plus not being given the 15 days' notice required by  
22 law of the meeting to be held the next time the Planning Commission meets, in that  
23 this is an indication Defendants act above the law, as no governmental entity of, by,  
24 and for the people, subject to the rule of law, has any right to do in a democracy.

25 21. Moreover, the public should know Defendants will follow procedures they are  
26 required to follow by law, not just make up things willy-nilly, as such sloppy  
27 procedure in one thing is indicative of all the other kinds of sloppiness in procedure  
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1 and substance in Defendants' practices, as indicated in the remainder of this 1st  
2 Amended Complaint/Petition.

3 Secret Changes in Noticed Matters on Day of Hearing Without New Notice

4 22. Defendants are specifically required by law, to cover meeting items as they  
5 have been noticed, so the public knows and can be ready to comment at the public  
6 hearing on what the commission or body will actually be considering.

7 23. Defendants are also specifically enjoined by law to present all the residents of  
8 a mobilehome park that developers want to close to change the use of the land  
9 thereof with the Tenant Impact Report at least 15 days before the hearing where it  
10 will be considered, but Defendants never presented this changed Tenant Impact  
11 Report that they presented to the Planning Commission to the residents of the Park  
12 at all, although the staff member presenting it stated she had issued a  
13 Supplemental Staff Report on the day of the hearing to the Planning Commission.  
14 Plaintiffs are unaware of the contents of that Supplemental Staff Report and make  
15 no allegations regarding it, reserving their right to do so when they have a less  
16 urgent need to prepare papers on issues already pressing, as is the case now.

17 24. In spite of these two specific requirements of law, Defendants changed the  
18 Tenant Impact Report relocation alternatives from the ones that had actually been  
19 presented to plaintiffs and the other residents of the Park, in three major respects,  
20 removing two of the six alternatives that had been presented, and adding one that  
21 had not been presented. A true and correct copy of the relocation alternatives  
22 presented to the residents and contained in the Tenant Impact Report served on  
23 them on or about the 15<sup>th</sup> day before the hearing, followed by a transcript prepared  
24 by Plaintiffs from the staff report given orally at the Planning Commission hearing  
25 and referring to the page of the written Staff Report presented at the hearing,  
26 where the relocation alternatives presented at the Planning Commission hearing  
27 held May 23, 2012 were written, are attached, denoted Exhibit "C", and  
28 incorporated here by reference as though repeated in full.



1 22. Petitioners and the rest of the public are entitled to have the matters considered  
2 at a meeting be the ones they have received notice of, not others secretly changed  
3 on the day of the meeting.

4 23. Petitioners are irreparably harmed by secret changes being made in what the  
5 Planning Commission will see, in that this is another indication Defendants act  
6 above the law, as no governmental entity of, by, and for the people, subject to the  
7 rule of law, has any right to do in a democracy.

8 24. Moreover, again, the public should know Defendants will follow procedures  
9 they are required to follow by law, not just make up things willy-nilly, as such sloppy  
10 procedure in one thing is indicative of all the other kinds of sloppiness in procedure  
11 and substance in Defendants' practices, as indicated in the remainder of this 1st  
12 Amended Complaint/Petition.

13 Injunctive Relief and/or Writ of Mandate/Prohibition

14 25. Plaintiffs are unable without the intervention of the Court to require  
15 Defendants to renote the meeting without violating specific duties enjoined upon  
16 them by law, by including the offending cut-off of comments notice, not giving the  
17 adequate 15 days' notice required by law, and not including items to be presented  
18 secretly changed the day of the hearing without notice. In fact, since the  
19 Complaint/Petition herein was filed, Defendants have sent a continued meeting  
20 notice, without renoting the original meeting, so it is clear Defendants will not unless  
21 the Court intervenes begin the Planning Commission meeting process again without  
22 the three defects outlined above in this Cause of Action..

23 26. The damage to Plaintiffs from such failure to renote the hearing without the  
24 offending cut-off of ability to raise issues, without improper adjournment instead of  
25 continuance and without the required vote, followed by no new notice of meeting as  
26 required by law, and without matters noticed to be covered being secretly changed  
27 on the day of the hearing without notice, is irreparable as has been stated above,  
28 which statements of irreparable harm are incorporated by reference here as though

1 restated in full. Having to suffer any of this damage without a readily available legal  
2 remedy, or in fact as in the case of these three unlawful actions, without any legal  
3 remedy at all, constitutes inadequacy of legal remedy as well as irreparable harm.

4 27. Allowing Defendants to unlawfully convince unwary members of the public  
5 who have not raised an issue to date that they cannot do so in the future, being able  
6 to just dispense with required procedures meant to assure proper decision-making  
7 and notice thereof to the public, and being allowed to just change what they gave  
8 notice of in secret on the day of the hearing without notice to the public also would  
9 constitute Defendants' inequitably benefiting from their own wrong in failing to follow  
10 laws applicable to them and passed specifically for the benefit of the public and  
11 residents such as Plaintiffs of properties where the City is considering adopting a  
12 development agreement that would involve their losing homes that they own and not  
13 obtaining what the law requires to be given to them, as alleged herein.

14 28. Plaintiffs are likely to prevail in this case, and allowing Defendants to not  
15 rescind their unlawful notices and issue and follow new correct ones in violation of  
16 laws passed specifically to protect Plaintiffs and others similarly situated from such  
17 damage while the case is pending would make meaningless the relief sought.

18 29. Therefore, the Court should enter a temporary restraining order and  
19 peremptory writ of mandate/prohibition immediately, issue an order to show cause  
20 and thereafter preliminarily enjoin/permanently require by writ correction of all such  
21 actions until this case is concluded. This can occur promptly, since this case has  
22 legal priority.

23 30. Thereafter, after separate hearing, the Court should permanently enjoin and  
24 permanently for all time as long as the law requires what Defendants have failed to  
25 provide require by writ addressed to Defendants, and grant Plaintiff incidental  
26 damages for prior violations and such other relief, including but not limited to costs of  
27 suit and attorney's fees, as is provided by law.

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1           Declaratory Relief

2           31.           Defendants claim they have a right to give the offending notice, which  
3           Plaintiffs believe and on that ground allege Defendants place at the bottom of every  
4           notice of a public hearing by any kind of commission or board in the City, when  
5           according to law it can be placed at the bottom of only notices of public hearings  
6           before the legislative body, the City Council, further claim a right to dispense with  
7           whatever “tiny” procedural requirements they wish, and also regularly secretly  
8           change what they have given notice to the public they will consider at meetings.  
9           Plaintiffs claim a right to require Defendants to follow the law applicable and post the  
10          notice only when the public hearing is before the legislative body, so the public will  
11          know it has the full time until then to raise issues and be encouraged to do so (and  
12          certainly not discouraged from doing so); further claim a right to have Defendants  
13          follow all procedural requirements of law; and also a right not to have Defendants  
14          secretly change what they have given notice to the public they will consider at  
15          meetings .

16          32.           The dispute is a current controversy, and therefore Plaintiffs request a  
17          determination of their rights at this time in the circumstances.

18          33.           Plaintiffs also request incidental damages for having to obtain legal help to  
19          prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
20          request.

21          34.           Defendants' actions as alleged above were and threaten in the future to be  
22          arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys' fees  
23          under Gov't C. § 800 for costs they incur for help they receive from attorneys who do  
24          not become their attorneys of record, or for their attorneys of record if they are able to  
25          hire same, for having to sue about these arbitrary and capricious acts.

26          35.           Plaintiffs also are suing on behalf of the public as private attorneys general to  
27          obtain for the public all the rights they have alleged herein for themselves, and  
28          therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5 for

1 the benefit they confer upon the public by so suing to enforce important rights, so  
2 they and others like them will be encouraged to enforce such rights on behalf of the  
3 public, without having to pay the costs they incur for help they receive from attorneys  
4 who do not become their attorneys of record, or for their attorneys of record if they  
5 are able to hire same, for having to sue for the benefit of the public.

6 Damages

7 36. Plaintiffs are unaware of the nature or amount of injuries they suffered, are  
8 suffering now, and will suffer in the future due to the wrongful actions of Defendants  
9 detailed herein, and will seek leave of court to amend this 1st Amended  
10 Complaint/Petition further at the various junctures after future discovery has been  
11 completed and they have filed whatever claim forms are needed in the  
12 circumstances, when the nature and extent of their damages becomes more fully  
13 known.

14 37. Plaintiffs may also have been damaged and/or will in the future be damaged  
15 by such actions by Defendants as alleged above and will have suffered and/or will  
16 suffer actual damages in ways and amounts that are subject to proof. Plaintiffs  
17 therefore reserve the right to amend this 1st Amended Complaint/Petition to allege  
18 entitlement to compensatory damages for future similar actions by Defendants before  
19 or after trial, according to proof to be presented at the relevant time, and after they  
20 have filed the requisite claim with Defendants and it has been denied or deemed  
21 denied, unless such claim is accepted.

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SECOND CAUSE OF ACTION

(For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to Ask Leave of Court to Request Further and Different Types of Relief and Damages As Soon As The Existence and Extent of Same Are Known, for **FAILURE TO PROCEED AS REQUIRED BY LAW BY FAILING TO NOTIFY EITHER THE PLANNING COMMISSION IN STAFF REPORT OR LEGAL ADVICE AFTER THE PUBLIC HEARING, OR THE PUBLIC IN THE NOTICE OF HEARING, THAT ADVISING THE CITY COUNCIL TO APPROVE THE DEVELOPMENT AGREEMENT WOULD HAVE TO BE SUBJECT TO THE DEVELOPERS FIRST OBTAINING A PERMIT FROM THE RENT CONTROL BOARD TO REMOVE FROM RENT CONTROL THE CURRENT 109 REGISTERED RENT-CONTROLLED RENTAL HOUSING UNITS AT THE PROPERTY, AND THAT SINCE A SUBDIVISION MAP IS REQUIRED FOR THE PROPOSED DEVELOPMENT, THE HOUSING ELEMENT OF THE CITY CURRENTLY LACKS THE PROVISION SO STATING REQUIRED BY CHARTER SECTION 1803 (t)(3)—IN FACT IN THE INSTANCE OF LEGAL ADVICE GIVEN TO THE PLANNING COMMISSION AFTER THE PUBLIC HEARING ADVISING THE PLANNING COMMISSION TO THE EXACT OPPOSITE EFFECT, BY STATING THAT UNDER STATE LAW THE DEVELOPER COULD CLOSE THE PARK WITHOUT ANY PERMITS IF HE GAVE A YEAR'S NOTICE TO RESIDENTS**, Against All Defendants; and against DOES 1 through 20, Inclusive, and each of them, jointly and severally, Pursuant to Civ. C. § 798.56(g), Gov't. C. § 66427.4(a) and (c), and C.C.P. §§ 525 et seq., 1060 and 1085-1103 et seq.)

38. Plaintiffs reallege and incorporate by reference as though set forth and repeated in full here, all allegations of Paragraphs 1 through 7 and 9 through 37, inclusive, above.
39. No notice that a removal permit is first required from the Rent Control Board for the 109 registered rent-controlled rental housing units at the subject property, before any city agency can approve a development agreement or any other discretionary approval, as is specifically enjoined upon Defendants by the City Charter, is included in either the Notice of Hearing (Exhibit "A"), or in the written Staff Report given to the Planning Commission and made available to the public on the dais on May 23, 2012.
40. Moreover, the oral Staff Report presented to the Planning Commission mentioned 17 times that a Memorandum of Understanding ("MOU") had been

1 entered into in 2007 by the City with the developers, which MOU required the City to  
2 attempt to find a way a development agreement could qualify the proposed  
3 developers for a removal permit for the 109 rent-controlled rental housing units at the  
4 subject property. However, never in the presentation was it admitted that neither had  
5 the removal permit been obtained, nor did the Rent Control Board have any  
6 provision available to it in the City Charter to grant a removal permit where, as here  
7 and now, the current zoning does not permit construction of as many replacement  
8 housing units to be agreed not to be exempt from rent control as the proposed  
9 developer must build to qualify for the removal permit, and that therefore the zoning  
10 would have to be changed first, before the development agreement were considered  
11 by the City Council.

12 41. Plaintiffs are informed and believe and on that ground allege that Defendants  
13 know the City can change the zoning, but they both do not want to admit to the  
14 voters that the City wants to change the zoning in order to eliminate the trailer park  
15 where plaintiffs live, and also Defendants are afraid that if they do not hurry and  
16 approve the subject development agreement—which they would not be able to do  
17 quickly if they first had the required public hearings to rezone the area where  
18 plaintiffs live—then the public will become aware of what the City is doing and vote  
19 the Council out to stop it.

20 42. In fact, the implication by the Staff Report and the oral summary of its  
21 mentioning a removal permit 17 times but each and every time referring to the MOU,  
22 was that somehow the City had solved this problem, and/or claims on no authority  
23 that the City is required by state law to change the zoning. The developer made the  
24 very argument that local rent control is preempted by another provision then relevant  
25 of the very same Mobilehome Residency Law being referred to here, and lost on the  
26 preemption claim in *Village Trailer Park, Inc. v. Santa Monica Rent Control Bd.* (2<sup>nd</sup>  
27 Dist., 2002) 101 Cal.App.4th 1133, 1138. There is no excuse for the City to pretend  
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1 it thinks the preemption argument has gotten any better than when it lost at the  
2 Board, at the Superior Court, and at the Court of Appeal in 2002.

3 43. Finally, in the advice given by the assigned City Attorney after the public  
4 hearing concluded, the straightout statement was made that the developers could  
5 close the Park under state law without any permits if no local permits were needed,  
6 by merely giving 12 months' notice of closure to the residents. (See, transcript  
7 prepared by Plaintiffs from online videotape of hearing, a true and correct copy of  
8 which is attached, denoted Exhibit "D," and incorporated by reference as though  
9 repeated in full here.) On top of 17 times implying in the Staff Report that the  
10 removal permit problem had been solved, this irrelevant note from legal counsel that  
11 IF NO LOCAL PERMITS WERE NEEDED --irrelevant as the City knows because  
12 even the MOU admitted A REMOVAL PERMIT FROM THE RENT CONTROL  
13 BOARD IS NEEDED before the development agreement can be approved—adds  
14 intentional confusion to the abundant obfuscation of the Staff Report.

15 Injunctive Relief and/or Writ of Mandate/Prohibition

16 44. Plaintiffs are unable without the intervention of the Court to require  
17 Defendants to state the clear requirement of both state and local law that all required  
18 local permits must be obtained first (or be being applied for at a public hearing within  
19 15 days) before a change of use is even noticed to residents such as Plaintiffs by  
20 developers who want to change the use of a mobilehome park (as these developers  
21 did in 2006, claiming on no authority whatever that they were entitled to level the  
22 Park and keep it empty for future investment). In fact, the City has been for six years  
23 making the same unsupported claims that somehow it is required by state law to  
24 change zoning. Defendants follow that untrue statement with the implication and  
25 sometimes outright explicit statement that somehow these developers had some  
26 claim not to need local permits that scared Defendants so much that to avoid  
27 litigation they took the side of the developers against their own rent-controlled senior  
28 citizens. Defendants for six years have used this same justification and invalid,

1 unsupported reasoning to try to coerce Plaintiffs and other residents of the subject  
2 property to move, and claiming to the Landmarks Commission and the City Council  
3 and the public that the developers have an absolute right to both of these outcomes.  
4 Therefore, Plaintiffs believe and on this ground allege that Defendants threaten to  
5 continue to so claim unless the Court intervenes.

6 45. The damage to Plaintiffs from such obfuscation, innuendos, and intentional  
7 misrepresentation of the law is irreparable. City agencies such as the Planning  
8 Commission are composed of persons unschooled in law, and when everyone they  
9 work with month after month employed by the City to advise them tells them this  
10 same story, Plaintiffs and other members of the public cannot prevail to convince  
11 them the City Attorney is just outright misrepresenting the state of the law. Having to  
12 suffer any of this damage without a readily available legal remedy, or in fact, without  
13 any legal remedy at all, constitutes inadequacy of legal remedy as well as irreparable  
14 harm.

15 46. Allowing Defendants to unlawfully convince unwary members of the public  
16 and pollute the public's minds with such nonsense also would constitute Defendants'  
17 inequitably benefiting from their own wrong in failing to follow laws applicable to them  
18 and passed specifically for the benefit of the public and residents such as Plaintiffs of  
19 properties where the City is considering adopting a development agreement that  
20 would involve their losing homes that they own and not obtaining what the law  
21 requires to be given to them, as alleged herein.

22 47. Plaintiffs are likely to prevail in this case, and allowing Defendants to not stop  
23 misrepresenting the contents of clear laws passed specifically to protect Plaintiffs and  
24 others similarly situated from such damage while the case is pending would make  
25 meaningless the relief sought.

26 48. Therefore, the Court should enter a temporary restraining order and  
27 peremptory writ of mandate/prohibition immediately, issue an order to show cause  
28 and thereafter preliminarily enjoin/permanently require by writ correction of all such



1 actions until this case is concluded. This can occur promptly, since this case has  
2 legal priority.

3 49. Thereafter, after separate hearing, the Court should permanently enjoin and  
4 permanently for all time as long as the law requires what Defendants have failed to  
5 provide to be required by writ addressed to Defendants, and grant Plaintiff incidental  
6 damages for prior violations and such other relief, including but not limited to costs of  
7 suit and attorney's fees, as is provided by law.

8 Declaratory Relief

9 50. Defendants claim they have a right to make the offending statements, which  
10 of course they do as private citizens with a right of free speech, but as officials bound  
11 to do public duty and dispensing such nonsense to the public under color of law, they  
12 act in violation of Plaintiffs' fundamental rights to not have their homes they own be  
13 demolished for the relatively non-fundamental interests that are not even of the level  
14 of rights at all, of developers to make millions in profits, the City to make millions in  
15 fees and continue its generations-long process of decimating the poorest, most  
16 minority-filled, and oldest areas of the City to make the City richer, whiter, and more  
17 "world-class" as the City sees it, and planners and land use attorneys to look good to  
18 their bosses.

19 51. The dispute is a current controversy, and therefore Plaintiffs request a  
20 determination of their rights at this time in the circumstances.

21 52. Plaintiffs also request incidental damages for having to obtain legal help to  
22 prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
23 request.

24 53. Defendants' actions as alleged above were and threaten in the future to be  
25 arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys' fees  
26 under Gov't C. § 800 for costs they incur for help they receive from attorneys who do  
27 not become their attorneys of record, or for their attorneys of record if they are able to  
28 hire same, for having to sue about these arbitrary and capricious acts.

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54. Plaintiffs also are suing on behalf of the public as private attorneys general to obtain for the public all the rights they have alleged herein for themselves, and therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5 for the benefit they confer upon the public by so suing to enforce important rights, so they and others like them will be encouraged to enforce such rights on behalf of the public, without having to pay the costs they incur for help they receive from attorneys who do not become their attorneys of record, or for their attorneys of record if they are able to hire same, for having to sue for the benefit of the public.

Damages

55. Plaintiffs are unaware of the nature or amount of injuries they suffered, are suffering now, and will suffer in the future due to the wrongful actions of Defendants detailed herein, and will seek leave of court to amend this 1st Amended Complaint/Petition further at the various junctures after future discovery has been completed and they have filed whatever claim forms are needed in the circumstances, when the nature and extent of their damages becomes more fully known.

56. Plaintiffs may also have been damaged and/or will in the future be damaged by such actions by Defendants as alleged above and will have suffered and/or will suffer actual damages in ways and amounts that are subject to proof. Plaintiffs therefore reserve the right to amend this Complaint/Petition to allege entitlement to compensatory damages for future similar actions by Defendants before or after trial, according to proof to be presented at the relevant time, and after they have filed the requisite claim with Defendants and it has been denied or deemed denied, unless such claim is accepted.

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THIRD CAUSE OF ACTION

(For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to Ask Leave of Court to Request Further and Different Types of Relief and Damages As Soon As The Existence and Extent of Same Are Known, for **FAILURE TO PROCEED AS REQUIRED BY LAW BY FAILING TO NOTIFY EITHER THE PLANNING COMMISSION IN STAFF REPORT OR LEGAL ADVICE AFTER THE PUBLIC HEARING, OR THE PUBLIC IN THE NOTICE OF HEARING, THAT ADVISING THE CITY COUNCIL TO APPROVE THE DEVELOPMENT AGREEMENT, BECAUSE IT REQUIRES A SUBDIVISION MAP AND BECAUSE THE CHANGE OF USE OF THE MOBILEHOME PARK IS BEING SOUGHT BY DEVELOPERS RATHER THAN THE CITY, WOULD HAVE TO BE SUBJECT TO THE DEVELOPERS MITIGATING ALL THE IMPACTS OF CLOSING THE PARK AND DISPLACING THE CURRENT RESIDENTS WHICH WOULD BE DISPLACED ALONG WITH THEIR MOBILEHOMES, NOT LIMITED TO THE COST OF RELOCATION AS IT WOULD BE IF THE CITY WERE CLOSING THE PARK**, Against All Defendants; and against DOES 1 through 20, Inclusive, and each of them, jointly and severally, Pursuant to Civ. C. § 798.56(g), Gov't. C. § 54952.2(b) (1), (2), and (c), and C.C.P. §§ 525 et seq., 1060 and 1085-1103 et seq.)

57. Plaintiffs reallege and incorporate by reference as though set forth and repeated in full here, all allegations of ¶¶ 1 through 7, 9 through 37, and 39 through 56, inclusive, above.

58. The Development Agreement by which the City and Certain third-party developers seek to get around rent control and close the trailer park where Plaintiffs live is unlawful because the City is using the wrong Government Code section about relocation of the current homeowners. It uses Govt C. Section **65863.7, which by its terms states it does not apply, since the proposed change of use requires a new subdivision under the Subdivision Map Act. Govt C. Section 65863.7(a)** states: "Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the

1 impact of the conversion, closure, or cessation of use on displaced mobilehome park  
2 residents, the report shall address the availability of adequate replacement housing  
3 in mobilehome parks and relocation costs.

4 59. That code section therefore has to do only with what is required for a Tenant  
5 Impact Report under state law in certain circumstances (when a government agency  
6 is closing a park). *Sequoia Park Assoc. v County of Sonoma* (1st Dist.2009) 176  
7 Cal.App. 4th 1270,1285: states that when a developer is closing a park to change its  
8 use, that is when there are "displaced tenants due to change of use," and what the  
9 developer is required to provide then is "adequate space in a mobilehome park for  
10 their mobilehome and themselves", pursuant to Government Code Section 66427.4  
11 (a). If it is not possible to provide that, then the developer is required to "mitigate the  
12 impacts" of not being able to provide that, pursuant to subdivision (c).

13 60. The reason the City has confused the issue of which section to apply--when  
14 the Code section the City uses is so explicitly clear it does not apply--is the section  
15 the City chooses to use has a limit on how much has to be paid for mitigation of  
16 impacts on the displaced residents, if adequate replacement space for themselves  
17 and their mobilehomes in a mobilehome park is not possible to provide. When a City  
18 or County or some other governmental jurisdiction has to close a park, it is the  
19 agency responsible for paying the costs of displacing the tenants, so to avoid  
20 ruination of governmental jurisdictions doing their duty, a limit is placed on those  
21 costs, the limit being the cost of relocation. No such limit is placed on what  
22 developers have to pay to close a park for another use. Compare Government Code  
23 Section 66427.4 (c) to. Govt C. Section 65863.7(e).

24 61. Besides being explicitly stated in law (specially enjoined by law upon Defendants, in  
25 the terms of C.C.P. § 1085), so it cannot be misunderstood by anyone who reads  
26 English, much less people who claim to be educated planners and attorneys), the  
27 difference in these two sections is only reasonable and fair. If developers are  
28 displacing residents to make profits, they have to pay ALL the costs of displacing

1 those residents. Otherwise, they are taking other people's property for their own  
2 profit, without paying just compensation. If a city is trying to close an unsanitary or  
3 blighted park, that is one thing. If, as in this case, a developer is trying to close a  
4 non-blighted, 62-year-old park where residents own their own homes and have  
5 invested in those homes and their upkeep for up to 37 years, in one of the most  
6 desirable places in the world, that is a completely different situation. A developer  
7 cannot get highly desirable property unless he pays the price it costs, which in the  
8 case of a development like this one requiring a subdivision map, means replacing  
9 what the displaced residents have or paying for the displaced residents to replace it.

10 Injunctive Relief and/or Writ of Mandate/Prohibition

11 62. Plaintiffs are unable without the intervention of the Court to require  
12 Defendants to state the clear requirement as enjoined upon Defendants by state law  
13 that all tenant impacts must be mitigated by developers who want to evict the  
14 residents of a mobilehome park in order to change its use. In fact, by combining the  
15 misrepresentation referred to in this Cause of Action of what tenant impacts such a  
16 developer must pay for, with the tandem misrepresentation of the state of the law  
17 referred to above in the Second Cause of Action, the City for the six years it has  
18 been trying to push through this Development Agreement has not only been making  
19 the same unsupported claims it made in front of the Planning Commission that  
20 somehow it is required by state law to change zoning and somehow these  
21 developers had some claim not to need local permits that scared the City so much  
22 that to avoid litigation they took the side of the developers against their own rent-  
23 controlled senior citizens. Defendants have also for six years been trying to coerce  
24 residents of the Park such as Plaintiffs to move and claiming to the Landmarks  
25 Commission and the City Council and the public that the developers have an  
26 absolute right to both of these outcomes. In addition, the City has pushed the claim  
27 that these developers are entitled to get their zoning change with its estimated \$22 to  
28 \$40 million windfall benefit to them, without paying a tenth of that to the current

1 residents on whose back they are hoping to make the windfall with the help of their  
2 friends at the City. Defendants therefore threaten based on their past behavior  
3 sustained for six years to so claim and act in the future as well, unless the Court  
4 intervenes.

5 63. The damage to Plaintiffs from such obfuscation, innuendos, and intentional  
6 misrepresentation of the law is irreparable. City agencies such as the Planning  
7 Commission are composed of persons unschooled in law, and when everyone they  
8 work with month after month employed by the City to advise them tells them this  
9 same story, Plaintiffs and other members of the public cannot prevail to convince  
10 them the City Attorney is just outright misrepresenting the state of the law. Having to  
11 suffer any of this damage without a readily available legal remedy, or in fact , without  
12 any legal remedy at all, constitutes inadequacy of legal remedy as well as irreparable  
13 harm.

14 64. Allowing Defendants to unlawfully convince unwary members of the public  
15 and pollute the public's minds with such nonsense also would constitute Defendants'  
16 inequitably benefiting from their own wrong in failing to follow laws applicable to them  
17 and passed specifically for the benefit of the public and residents such as Plaintiffs of  
18 properties where the City is considering adopting a development agreement that  
19 would involve their losing homes that they own and not obtaining what the law  
20 requires to be given to them, as alleged herein.

21 65. Plaintiffs are likely to prevail in this case, and allowing Defendants to not stop  
22 misrepresenting the contents of clear laws passed specifically to protect Plaintiffs  
23 and others similarly situated from such damage while the case is pending would  
24 make meaningless the relief sought.

25 66. Therefore, the Court should enter a temporary restraining order and  
26 peremptory writ of mandate/prohibition immediately, issue an order to show cause  
27 and thereafter preliminarily enjoin/permanently require by writ correction of all such  
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1 actions until this case is concluded. This can occur promptly, since this case has  
2 legal priority.

3 67. Thereafter, after separate hearing, the Court should permanently enjoin and  
4 permanently for all time as long as the law requires what Defendants have failed to  
5 provide to be required by writ addressed to Defendants, and grant Plaintiff incidental  
6 damages for prior violations and such other relief, including but not limited to costs  
7 of suit and attorney's fees, as is provided by law.

8 Declaratory Relief

9 68. Defendants claim they have a right to make the offending statements, which  
10 of course they do as private citizens with a right of free speech, but as officials  
11 bound to do public duty and dispensing such nonsense to the public under color of  
12 law, they act in violation of Plaintiffs' fundamental rights to not have their homes  
13 they own be demolished for the relatively non-fundamental interests that are not  
14 even of the level of rights at all, of developers to make millions in profits, the City to  
15 make millions in fees and continue its generations-long process of decimating the  
16 poorest, most minority-filled, and oldest areas of the City to make the City richer,  
17 whiter, and more "world-class" as the City sees it, and planners and land use  
18 attorneys to look good to their bosses.

19 69. The dispute is a current controversy, and therefore Plaintiffs request a  
20 determination of their rights at this time in the circumstances.

21 70. Plaintiffs also request incidental damages for having to obtain legal help to  
22 prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
23 request.

24 71. Defendants' actions as alleged above were and threaten in the future to be  
25 arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys' fees  
26 under Gov't C. § 800 for costs they incur for help they receive from attorneys who  
27 do not become their attorneys of record, or for their attorneys of record if they are  
28 able to hire same, for having to sue about these arbitrary and capricious acts.

1 72. Plaintiffs also are suing on behalf of the public as private attorneys general to  
2 obtain for the public all the rights they have alleged herein for themselves, and  
3 therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5 for  
4 the benefit they confer upon the public by so suing to enforce important rights, so  
5 they and others like them will be encouraged to enforce such rights on behalf of the  
6 public, without having to pay the costs they incur for help they receive from  
7 attorneys who do not become their attorneys of record, or for their attorneys of  
8 record if they are able to hire same, for having to sue for the benefit of the public.

9 Damages

10 73. Plaintiffs are unaware of the nature or amount of injuries they suffered, are  
11 suffering now, and will suffer in the future due to the wrongful actions of Defendants  
12 detailed herein, and will seek leave of court to amend this 1st Amended  
13 Complaint/Petition further at the various junctures after future discovery has been  
14 completed and they have filed whatever claim forms are needed in the  
15 circumstances, when the nature and extent of their damages becomes more fully  
16 known.

17 74. Plaintiffs may also have been damaged and/or will in the future be damaged  
18 by such actions by Defendants as alleged above and will have suffered and/or will  
19 suffer actual damages in ways and amounts that are subject to proof. Plaintiffs  
20 therefore reserve the right to amend this 1st Amended Complaint/Petition to allege  
21 entitlement to compensatory damages for future similar actions by Defendants  
22 before or after trial, according to proof to be presented at the relevant time, and  
23 after they have filed the requisite claim with Defendants and it has been denied or  
24 deemed denied, unless such claim is accepted.

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1 FOURTH CAUSE OF ACTION

2 (For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing  
3 Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to  
4 Ask Leave of Court to Request Further and Different Types of Relief and  
5 Damages As Soon As The Existence and Extent of Same Are Known, for  
6 **FAILURE TO PROCEED AS REQUIRED BY LAW BY REFUSING TO  
7 ACKNOWLEDGE TO THE PLANNING COMMISSION EITHER IN STAFF  
8 REPORT OR LEGAL ADVICE AFTER THE PUBLIC HEARING, OR THE  
9 PUBLIC IN THE NOTICE OF HEARING, THAT ADVISING THE CITY  
10 COUNCIL TO APPROVE THE DEVELOPMENT AGREEMENT WOULD  
11 HAVE TO HAVE RESULTED AT LEAST IN PART FROM THE LACK OF  
12 109 RESIDENTS LEFT IN THE PARK TO OPPOSE IT, DUE TO THE CITY'S  
13 CONSPIRING WITH DEVELOPERS TO HAVE CITY EMPLOYEES OFFER  
14 RELOCATION FEES TO CURRENT RESIDENTS OF THE PARK ON THE  
15 DEVELOPERS' BEHALF, KNOWING IT IS UNLAWFUL TO DO SO UNDER THE  
16 CITY'S OWN RELOCATION FEE LAW, WITH THE RESULT THAT NEARLY HALF  
17 OF THE PARK'S RESIDENTS ARE ALREADY GONE AND NOT PRESENT TO  
18 OBJECT TO THE DEVELOPMENT AGREEMENT AND MORE ARE LIKELY TO  
19 BE COERCED INTO ACCEPTING THE UNLAWFUL PAYMENTS, TO  
20 PETITIONERS' IRREPARABLE HARM IN BEING LEFT WITHOUT SUPPORT IN  
21 FIGHTING THE UNLAWFUL CONSPIRACY OF THE CITY AND DEVELOPERS**  
22 Against All Defendants; and against DOES 1 through 20, Inclusive, and each of  
23 them, jointly and severally, Pursuant to Civ. C. § 798.56(g), Santa Monica Municipal  
24 Code Chapter 4.36.020(a)(3) and 4.56.010, and C.C.P. §§ 525 et seq., 1060 and  
25 1085-1103 et seq.)

17 75. Plaintiffs reallege and incorporate by reference as though set forth and repeated in  
18 full here, all allegations of ¶¶ 1 through 7, 9 through 37, 39 through 57, and 59  
19 through 74, inclusive, above.

20 76. The City Municipal Code requires and specifically enjoins upon Defendants  
21 the duty to assure, in Section 4.36.020(3), that a relocation fee be paid when a  
22 landlord seeks to recover possession of a rental housing unit to demolish or  
23 otherwise withdraw it from residential rental housing use after having obtained all  
24 proper permits from the City, if any such permits are required. No notice that this is  
25 so is included in either the Notice of Hearing (Exhibit "A"), or in the written Staff  
26 Report given to the Planning Commission and made available to the public on the  
27 dais on May 23, 2012.

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1 77. Moreover, the oral Staff Report presented to the Planning Commission  
2 mentioned nothing about how up to six City employees at a time came to the Park to  
3 coerce residents into taking relocation fees from the developer, who, as indicated  
4 above in the Second Cause of Action, still does not have a removal permit from the  
5 Rent Control Board as required by the City Charter and as acknowledged by the City  
6 in the 2007 MOU.

7 78. Finally, in the advice given by the assigned City Attorney after the public  
8 hearing concluded, again the flatout statement—possibly even incriminating, certainly  
9 admitting knowingly unlawful behavior--was made that the City did not pass a  
10 mobilehome park closing law as some other cities did because in 2007 when it  
11 entered into the MOU the City realized that with only one privately-owned  
12 mobilehome park left in the City, the City could more easily use the development  
13 agreement process to close the Park and approve the proposed development.  
14 Therefore, anyone with this attitude of how free the City allegedly was to trample on  
15 Plaintiffs' and the other residents' rights would not—and the City Attorney did not—  
16 feel it necessary to admit he knowingly participated in offering and having the  
17 developer pay residents relocation fees, telling the residents that was all they were  
18 entitled to under the City's relocation fee ordinance, when in fact the ordinance did  
19 not even apply at all, since the developers had not gotten the permit required from  
20 the Rent Control Board.

21 Injunctive Relief and/or Writ of Mandate/Prohibition

22 79. Plaintiffs are unable without the intervention of the Court to require  
23 Defendants to stop coercing the residents of the Park into moving by telling them not  
24 only that a relocation fee ordinance that does not apply does apply, but also by  
25 telling them that the inapplicable ordinance is all that applies to require the proposed  
26 developers to mitigate effects on them of being displaced from the Park so the use  
27 can be changed. Such misstatements to get residents to give up their rights under  
28 the law constitute fraud and deprivation of rental housing services under City

1 Municipal Code section 4.56.010. (As to both of these types of misstatements and  
2 coercion, see Exhibit "E," which is incorporated by reference as though repeated in  
3 full here.)

4 80. The damage to Plaintiffs from such intentional misrepresentation of the law is  
5 irreparable. City agencies such as the Planning Commission are composed of  
6 persons unschooled in law, and when everyone they work with month after month  
7 employed by the City to advise them tells them this same story, Plaintiffs and other  
8 members of the public cannot prevail to convince them the City Attorney is just  
9 outright misrepresenting the state of the law. Having to suffer any of this damage  
10 without a readily available legal remedy, or in fact , without any legal remedy at all,  
11 constitutes inadequacy of legal remedy as well as irreparable harm.

12 81. Allowing Defendants to unlawfully convince unwary members of the public  
13 and pollute the public's minds with such nonsense also would constitute Defendants'  
14 inequitably benefiting from their own wrong in failing to follow laws applicable to  
15 them and passed specifically for the benefit of the public and residents such as  
16 Plaintiffs of properties where the City is considering adopting a development  
17 agreement that would involve their losing homes that they own and not obtaining  
18 what the law requires to be given to them, as alleged herein.

19 82. Plaintiffs are likely to prevail in this case, and allowing Defendants to not stop  
20 misrepresenting the contents of clear laws passed specifically to protect Plaintiffs  
21 and others similarly situated from such damage while the case is pending would  
22 make meaningless the relief sought.

23 83. Therefore, the Court should enter a temporary restraining order and  
24 peremptory writ of mandate/prohibition immediately, issue an order to show cause  
25 and thereafter preliminarily enjoin/permanently require by writ correction of all such  
26 actions until this case is concluded. This can occur promptly, since this case has  
27 legal priority.

28

1 84. Thereafter, after separate hearing, the Court should permanently enjoin and  
2 permanently for all time as long as the law requires what Defendants have failed to  
3 provide to be required by writ addressed to Defendants, and grant Plaintiff incidental  
4 damages for prior violations and such other relief, including but not limited to costs  
5 of suit and attorney's fees, as is provided by law.

6 Declaratory Relief

7 85. Defendants claim they have a right to make the offending statements, which  
8 of course they do as private citizens with a right of free speech, but as officials  
9 bound to do public duty and dispensing such nonsense to the public under color of  
10 law, they act in violation of Plaintiffs' fundamental rights to not have their homes they  
11 own be demolished for the relatively non-fundamental interests that are not even of  
12 the level of rights at all, of developers to make millions in profits, the City to make  
13 millions in fees and continue its generations-long process of decimating the poorest,  
14 most minority-filled, and oldest areas of the City to make the City richer, whiter, and  
15 more "world-class" as the City sees it, and planners and land use attorneys to look  
16 good to their bosses.

17 86. The dispute is a current controversy, and therefore Plaintiffs request a  
18 determination of their rights at this time in the circumstances.

19 87. Plaintiffs also request incidental damages for having to obtain legal help to  
20 prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
21 request.

22 88. Defendants' actions as alleged above were and threaten in the future to be  
23 arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys' fees  
24 under Gov't C. § 800 for costs they incur for help they receive from attorneys who  
25 do not become their attorneys of record, or for their attorneys of record if they are  
26 able to hire same, for having to sue about these arbitrary and capricious acts.

27 89. Plaintiffs also are suing on behalf of the public as private attorneys general to  
28 obtain for the public all the rights they have alleged herein for themselves, and

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therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5 for the benefit they confer upon the public by so suing to enforce important rights, so they and others like them will be encouraged to enforce such rights on behalf of the public, without having to pay the costs they incur for help they receive from attorneys who do not become their attorneys of record, or for their attorneys of record if they are able to hire same, for having to sue for the benefit of the public.

Damages

90. Plaintiffs are unaware of the nature or amount of injuries they suffered, are suffering now, and will suffer in the future due to the wrongful actions of Defendants detailed herein, and will seek leave of court to amend this 1st Amended Complaint/Petition further at the various junctures after future discovery has been completed and they have filed whatever claim forms are needed in the circumstances, when the nature and extent of their damages becomes more fully known.

91. Plaintiffs may also have been damaged and/or will in the future be damaged by such actions by Defendants as alleged above and will have suffered and/or will suffer actual damages in ways and amounts that are subject to proof. Plaintiffs therefore reserve the right to amend this 1st Amended Complaint/Petition to allege entitlement to compensatory damages for future similar actions by Defendants before or after trial, according to proof to be presented at the relevant time, and after they have filed the requisite claim with Defendants and it has been denied or deemed denied, unless such claim is accepted.

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1 FIFTH CAUSE OF ACTION

2 (For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing  
3 Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to  
4 Ask Leave of Court to Request Further and Different Types of Relief and  
5 Damages As Soon As The Existence and Extent of Same Are Known, for  
6 **FAILURE TO PROCEED AS REQUIRED BY LAW BY ENCOURAGING**  
7 **PLANNING COMMISSIONERS TO HAVE A SERIES OF EX PARTE**  
8 **DISCUSSIONS ON THE SUBJECT OF THIS DEVELOPMENT AGREEMENT**  
9 **BEING CONSIDERED BY THE PLANNING COMMISSION, IN VIOLATION**  
10 **OF THE BROWN ACT AND WITHOUT NOTICE TO PETITIONERS AND**  
11 **THE REST OF THE PUBLIC THAT SUCH EX PARTE DISCUSSIONS WERE**  
12 **BEING HELD, WITHOUT A RECORD SO MISREPRESENTATIONS COULD**  
13 **BE ANSWERED AND/OR FURTHER UNLAWFUL BEHAVIORS SUCH AS**  
14 **BRIBERY COULD BE PROSECUTED, AND WITHOUT NOTICE THAT**  
15 **PETITIONERS AND THE PUBLIC HAD THE OPPORTUNITY TO EQUALLY**  
16 **PARTICIPATE IN SUCH DISCUSSIONS TO THE EXTENT THEY**  
17 **WERE LAWFUL, IF THEY WERE AT ALL,** Against All Defendants;  
18 and against DOES 1 through 20, Inclusive, and each of them, jointly and  
19 severally, Pursuant to Gov't. C. § 54952.2, Calif. Const. art. 1, sec. 3, and  
20 C.C.P. §§ 525 et seq., 1060 and 1085-1103 et seq.)

21 92. Plaintiffs reallege and incorporate by reference as though set forth and  
22 repeated in full here, all allegations of ¶¶ 1 through 7, 9 through 37, 39 through 57,  
23 59 through 74, and 76 through 91, inclusive, above.

24 93. From the fact that the chairperson of the planning commission stated that they  
25 did not need to so disclose but she “just [thought] it [was] good practice,” when she  
26 asked the commissioners to disclose with whom of people involved in the case  
27 they had had ex parte communications before the public hearing, it is obvious the  
28 Commissioners have been given legal advice accordingly.

94. Actually, however, the Ralph M. Brown open meetings Act reads in relevant  
part as follows:

Gov't. C. § 54952.2.

(a) As used in this chapter, "meeting" means any congregation of a majority of  
the members of a legislative body at the same time and location, including  
teleconference location as permitted by Section 54953, to hear, discuss,

1 deliberate, or take action on any item that is within the subject matter  
2 jurisdiction of the legislative body.

3 (b) (1) A majority of the members of a legislative body shall not, outside a  
4 meeting authorized by this chapter, use a series of communications of any  
5 kind, directly or through intermediaries, to discuss, deliberate, or take action  
6 on any item of business that is within the subject matter jurisdiction of the  
7 legislative body.

8 (2) Paragraph (1) shall not be construed as preventing an employee or official  
9 of a local agency, from engaging in separate conversations or communications  
10 outside of a meeting authorized by this chapter with members of a legislative  
11 body in order to answer questions or provide information regarding a matter  
12 that is within the subject matter jurisdiction of the local agency, if that person  
13 does not communicate to members of the legislative body the comments or  
14 position of any other member or members of the legislative body.

15 (c) Nothing in this section shall impose the requirements of this chapter upon  
16 any of the following: (1) Individual contacts or conversations between a  
17 member of a legislative body and any other person that do not violate  
18 subdivision (b). [Emphasis added.]

19 95. Clearly, then, when every single member of the Planning Commission  
20 disclosed that s/he had met with the proposed developer in his office or at lunch,  
21 and also met with one resident of the Park and her attorney and a friend, a majority  
22 —in fact, all—of the Planning Commission had used a series of conversations to  
23 discuss an item on the Commission's agenda, so had violated the duty specifically  
24 enjoined upon them by law in the Brown Act not to have a series of conversations  
25 with individuals other than City staff about matters before the Commission.

26 96. Moreover, the parties involved in these ex parte communications did not  
27 keep any record of the discussions of the Commission's item of business, nor did  
28 they disclose at the public meeting the substance of what was said in any of the

1 discussions. In these circumstances, the potential is enormous for the public's  
2 business to be done by people other than in public, and other than under the  
3 public's direction, in violation of Article 1 of the California Constitution, section 3  
4 stating we the people do not give over our affairs to our representatives to handle  
5 for us without our knowledge.

6 97. Finally on this subject, until the public meeting where these ex parte  
7 communications were disclosed, Plaintiffs were unaware such ever took place.  
8 Therefore, if the conversations were lawful—which Plaintiffs seriously doubt—they  
9 were limited to the developers and one insider who were introduced to or knew the  
10 Commissioners, so there was no equal opportunity for the remainder of the public  
11 including Plaintiffs to participate in conversations reported each to last an hour,  
12 when parties are limited to three minutes to tell the Planning Commission why their  
13 whole life should not be disrupted by the subject development agreement. In such  
14 a circumstance, the damage to Plaintiffs of not being able to participate in the  
15 conversations if they were lawful or being able to prohibit or at least have them  
16 made lawful if they were not, is irreparable. Once people have been told lies, it is  
17 very difficult to undo the damage, but if it is lawful for the lies to be told, at least  
18 everyone should get an equal time to try to undo the damage. Plaintiffs also are  
19 still unaware whether these conversations under the circumstances were lawful,  
20 and therefore without knowing that they were, do not want to themselves ask  
21 Planning Commissioners to speak with Plaintiffs in the same ex parte fashion,  
22 without a record, without proof Plaintiffs did not try to bribe someone or do some  
23 other unlawful act, and without knowing the rest of the public has also been  
24 informed of their right to meet privately with Planning Commissioners.

25 Injunctive Relief and/or Writ of Mandate/Prohibition

26 98. Plaintiffs are unable without the intervention of the Court to require  
27 Defendants to either stop encouraging these ex parte communications, and/or if  
28 they are lawful, keep records of them and disclose them so the public can be ready



1 to answer what was said and to guard against unlawful behavior such as bribery,  
2 and/or if they are lawful, make sure all the public equally is given an opportunity to  
3 participate.

4 99. The damage to Plaintiffs from such ex parte communications seems to  
5 Plaintiffs to be irreparable. Certainly is it so if none of the safeguards or equality  
6 mentioned in the last paragraph is required for the conversations to occur. Having  
7 to suffer any of this damage without a readily available legal remedy, or in fact ,  
8 without any legal remedy at all, constitutes inadequacy of legal remedy as well as  
9 irreparable harm.

10 100. Allowing Defendants not to even have to explain themselves to an unwary  
11 public also would constitute Defendants' inequitably benefiting from their own  
12 wrong in failing to follow laws applicable to them and passed specifically for the  
13 benefit of the public and residents such as Plaintiffs of properties where the City is  
14 considering adopting a development agreement that would involve their losing  
15 homes that they own and not obtaining what the law requires to be given to them,  
16 as alleged herein.

17 101. Plaintiffs are likely to prevail in this case, and allowing Defendants to not stop  
18 misrepresenting the contents of clear laws passed specifically to protect Plaintiffs  
19 and others similarly situated from such damage while the case is pending would  
20 make meaningless the relief sought.

21 102. Therefore, the Court should enter a temporary restraining order and  
22 peremptory writ of mandate/prohibition immediately, issue an order to show cause  
23 and thereafter preliminarily enjoin/permanently require by writ correction of all such  
24 actions until this case is concluded. This can occur promptly, since this case has  
25 legal priority.

26 103. Thereafter, after separate hearing, the Court should permanently enjoin and  
27 permanently for all time as long as the law requires what Defendants have failed to  
28 provide to be required by writ addressed to Defendants, and grant Plaintiff

1 incidental damages for prior violations and such other relief, including but not  
2 limited to costs of suit and attorney's fees, as is provided by law.

3 Declaratory Relief

4 104. Defendants claim they have a right to encourage the one-sided,  
5 undocumented conversations. Plaintiffs, on the other hand, find the practice as it  
6 unfolded astoundingly rife with the potential if not the actuality of illegality and  
7 corruption.

8 105. The dispute is a current controversy, and therefore Plaintiffs request a  
9 determination of their rights at this time in the circumstances.

10 106. Plaintiffs also request incidental damages for having to obtain legal help to  
11 prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
12 request.

13 107. Defendants' actions as alleged above were and threaten in the future to be  
14 arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys'  
15 fees under Gov't C. § 800 for costs they incur for help they receive from attorneys  
16 who do not become their attorneys of record, or for their attorneys of record if they  
17 are able to hire same, for having to sue about these arbitrary and capricious acts.

18 108. Plaintiffs also are suing on behalf of the public as private attorneys general to  
19 obtain for the public all the rights they have alleged herein for themselves, and  
20 therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5 for  
21 the benefit they confer upon the public by so suing to enforce important rights, so  
22 they and others like them will be encouraged to enforce such rights on behalf of  
23 the public, without having to pay the costs they incur for help they receive from  
24 attorneys who do not become their attorneys of record, or for their attorneys of  
25 record if they are able to hire same, for having to sue for the benefit of the public.

26 Damages

27 109. Plaintiffs are unaware of the nature or amount of injuries they suffered, are  
28 suffering now, and will suffer in the future due to the wrongful actions of

1 Defendants detailed herein, and will seek leave of court to amend this 1st  
2 Amended Complaint/Petition further at the various junctures after future discovery  
3 has been completed and they have filed whatever claim forms are needed in the  
4 circumstances, when the nature and extent of their damages becomes more fully  
5 known.

6 110. Plaintiffs may also have been damaged and/or will in the future be damaged  
7 by such actions by Defendants as alleged above and will have suffered and/or will  
8 suffer actual damages in ways and amounts that are subject to proof. Plaintiffs  
9 therefore reserve the right to amend this 1st Amended Complaint/Petition to allege  
10 entitlement to compensatory damages for future similar actions by Defendants  
11 before or after trial, according to proof to be presented at the relevant time, and  
12 after they have filed the requisite claim with Defendants and it has been denied or  
13 deemed denied, unless such claim is accepted.

14 SIXTH CAUSE OF ACTION

15 (For Injunctive and Declaratory Relief, a Writ of Mandate/Prohibition Directing  
16 Defendants as Indicated Herein, and Attorneys' Fees, Reserving the Right to  
17 Ask Leave of Court to Request Further and Different Types of Relief and  
18 Damages As Soon As The Existence and Extent of Same Are Known, for  
19 **FAILURE TO PROCEED AS REQUIRED BY LAW BY ADVISING THE**  
20 **PLANNING COMMISSION TO ADVISE APPROVAL OF A DEVELOPMENT**  
21 **AGREEMENT THAT IS NOT CONSISTENT WITH THE CITY'S GENERAL**  
22 **PLAN**, Against All Defendants; and against DOES 1 through 20, Inclusive,  
23 and each of them, jointly and severally, Pursuant to Civ. C. § 798.56(g), Santa  
24 Monica Municipal Code Chapter 4.36.020(a)(3) and 4.56.010, and C.C.P. §§  
25 525 et seq., 1060 and 1085-1103 et seq.)

26 111. Plaintiffs reallege and incorporate by reference as though set forth and  
27 repeated in full here, all allegations of ¶¶ 1 through 7, 9 through 37, 39 through  
28 57, 59 through 74, 75 through 91, and 93 through 110, inclusive, above.

112. Development agreements are required by state law and the Municipal Code to  
be "consistent with the General Plan." General terms of the General Plan  
applicable to Village Trailer Park such as "retain existing neighborhoods" all  
clearly would be violated if Village Trailer Park, a neighborhood in itself, were  
bulldozed. Particularly is that so when the proposal is to replace it with yet

1 another sterile anonymous apartment-condo enormous mass more appropriate to  
2 New York City—if anywhere, it is so childish in having four different kinds of  
3 architecture and thinking painting one building red doth a design statement make.

4 113. More specifically and importantly, the explicit requirement of the General Plan  
5 applicable to Village Trailer Park is the City General Plan requires Village Trailer  
6 Park be retained to the extent feasible. The City has the burden of proof to  
7 prove it is not feasible. Yet in every staff report or attorney advice rant the  
8 speaker goes right past the part of the General Plan that says Village Trailer  
9 Park will be retained to the extent feasible, and starts talking about one of the off-  
10 the-wall ways explored earlier by which these people who decided to close the  
11 Park in 2007 try to change the subject of what applicable law actually is.

12 114. “Feasible” means “capable of being accomplished in a successful manner  
13 within a reasonable period of time, taking into account economic, environmental,  
14 legal, social, and technological factors,” according to Gov’t. C. § 65080.01(c).  
15 There seem to be no principles of feasibility applicable—and Defendants have  
16 mentioned none—in defining “feasible” as to keeping Village Trailer Park open as  
17 a trailer park other than the incorrect legal principles described above in the  
18 Second through Fourth Causes of Action, plus the idea of the Park owner being  
19 entitled to more profit than obtained from the Park as it was before this  
20 Development Agreement was proposed, which would increase the owners' profits  
21 by at least 100-fold over the next few decades. Defendants have mentioned this  
22 as scaring them into thinking the third-party developers could prove inverse  
23 condemnation against the City by its not approving the Development Agreement,  
24 so besides being an economic consideration, this could be seen in Defendants'  
25 minds as a legal one barring keeping the Park as “feasible,” as well. However,  
26 the true duty is enjoined upon Defendants by law to recognize that no land owner  
27 is entitled to what s/he wants in profits from the land, but only enough not to be  
28 deprived of all use of the land, in order to free a city from fear of inversely

1 condemning the owner's land. The truth, as the Court states in Yee v.  
2 Mobilehome Park Rental Review Bd. (4<sup>th</sup> Dist., 1998) 62 Cal.App.4th 1409, 1421  
3 [aka Yee IV]:

4 The central principle, of course, is . . . that a rent control ordinance, like a  
5 zoning or land use regulation, "is not invalid and does not bring about a  
6 compensable taking unless all beneficial use of the property is denied. [Citations.]"  
7 . . . Certainly, at every stage of these proceedings, from Yee I and Yee II through  
8 Yee III, it has been clear that (as we noted in Yee III) the Yees have not been  
9 denied all beneficial use of the property, but have only suffered a reduction in their  
10 expected profits therefrom. With this proposition there can be no argument.

11 [Emphasis added.]

12  
13 115. Moreover, no owner of Village Trailer Park has ever applied for a rent  
14 increase—and the proposed developers did not apply for a removal permit when  
15 they finally did apply for one recently—on the ground of not being able to make a  
16 fair return from the property as a mobilehome park. Therefore, there is no  
17 evidence available to the City to prove the Park is not feasible on economic  
18 grounds.

19 116. The other factors for feasibility are just as unlikely to ever be able to prove,  
20 which is why no Defendant has ever mentioned any of the others in a public  
21 hearing. One commenter did claim the old-fashioned chestnut that the City is  
22 entitled to have its land put to its “highest and best use.” However, the reason  
23 that platitude is outmoded is the land does not belong either to the City or to  
24 misinformed members of the public such as that commenter. In fact, given that  
25 the voters of Santa Monica rent-controlled it and have not provided any legal way  
26 to get it removed from rent control, the land, although privately owned, remains  
27 subject to rent control until and unless the voters change that status. Neither  
28 does “highest and best use” even mean maximum development. Overdevelop-

1           ment in a massive building covering most of the land and blocking sun and air  
2           from neighboring buildings, such as is proposed here, which would be almost five  
3           (5) times as dense as the surrounding neighborhood, is not defined in any law or  
4           treatise as either highest or best use of land. Also, since avoiding urban sprawl  
5           is an excuse being offered by some for overdevelopment in urban areas, the  
6           subject property is located over 7/10 of a mile from the proposed transit station—  
7           although planners for the City often “accidentally” move it four or five blocks  
8           closer on maps they draw. Given the standard of Southern California  
9           Association of Governments that transit-oriented developments are defined as  
10          within a half-mile or less of a transit station, the subject property does not qualify.  
11          In fact, no reason appears for Defendants to be able to avoid the duty specially  
12          enjoined upon them, to comply with the General Plan by retaining Village Trailer  
13          Park as a trailer park under rent control.

14          117. Finally on this subject, neither the Staff Report nor any legal advice given to  
15          the Planning Commission even attempted to prove it was not feasible to retain  
16          the Park as a mobilehome park as it has been for 62 years and as the residents  
17          have a right for it to remain unless the City can prove that is not feasible. That  
18          means that the Staff Report and the City Attorney are both recommending the  
19          Planning Commission advise the Council to approve a development agreement  
20          that is not consistent with the General Plan's requirement to retain the Park to the  
21          extent feasible.

22          118. “Consistent with the general plan” means “considering all its aspects, it will  
23          further the objectives and policies of the general plan and not obstruct their  
24          attainment.” *Clover Valley Foundation v. City of Rocklin* (3<sup>rd</sup> Dist., 2011) 197  
25          Cal.App.4th 200, 238. A development agreement destroying an existing  
26          neighborhood without any relocation plan in conformity with law cannot be  
27          feasible, but the preliminary question specially enjoined by law upon Defendants  
28          to be answered before any replacement is considered, is not is the replacement

1 suggested feasible, but instead, is Village Trailer Park feasible. If it is, the City  
2 cannot choose something else and be in compliance with the General Plan. This  
3 is so whatever its reasons, as impermissible as some indicated above, or even  
4 virtuous motives, if the City had any, notwithstanding.

5 Injunctive Relief and/or Writ of Mandate/Prohibition

- 6 119. Plaintiffs are unable without the intervention of the Court to require  
7 Defendants to stop recommending advising approval of a development  
8 agreement that is inconsistent with the General Plan of Santa Monica, and  
9 therefore unlawful. That they have convinced each other since 2007 that this  
10 development agreement must be adopted is astounding, but nonetheless that  
11 constitutes irreparable harm to Plaintiffs.
- 12 120. The damage to Plaintiffs from such intentional misrepresentation of the law is  
13 irreparable. City agencies such as the Planning Commission are composed of  
14 persons unschooled in law, and when everyone they work with month after  
15 month employed by the City to advise them tells them this same story, Plaintiffs  
16 and other members of the public cannot prevail to convince them the City  
17 Attorney is just outright misrepresenting the state of the law. Having to suffer  
18 any of this damage without a readily available legal remedy, or in fact , without  
19 any legal remedy at all, constitutes inadequacy of legal remedy as well as  
20 irreparable harm.
- 21 121. Allowing Defendants to unlawfully convince unwary members of the public  
22 and pollute the public's minds with such nonsense also would constitute  
23 Defendants' inequitably benefiting from their own wrong in failing to follow laws  
24 applicable to them and passed specifically for the benefit of the public and  
25 residents such as Plaintiffs of properties where the City is considering adopting a  
26 development agreement that would involve their losing homes that they own and  
27 not obtaining what the law requires to be given to them, as alleged herein.

1 122. Plaintiffs are likely to prevail in this case, and allowing Defendants to not stop  
2 misrepresenting the contents of clear laws passed specifically to protect Plaintiffs  
3 and others similarly situated from such damage while the case is pending would  
4 make meaningless the relief sought.

5 123. Therefore, the Court should enter a temporary restraining order and  
6 peremptory writ of mandate/prohibition immediately, issue an order to show  
7 cause and thereafter preliminarily enjoin/permanently require by writ correction  
8 of all such actions until this case is concluded. This can occur promptly, since  
9 this case has legal priority.

10 124. Thereafter, after separate hearing, the Court should permanently enjoin and  
11 permanently for all time as long as the law requires what Defendants have failed  
12 to provide to be required by writ addressed to Defendants, and grant Plaintiff  
13 incidental damages for prior violations and such other relief, including but not  
14 limited to costs of suit and attorney's fees, as is provided by law.

15 Declaratory Relief

16 125. Defendants claim they have a right to make the offending statements, which  
17 of course they do as private citizens with a right of free speech, but as officials  
18 bound to do public duty and dispensing such nonsense to the public under color  
19 of law, they act in violation of Plaintiffs' fundamental rights to not have their  
20 homes they own be demolished for the relatively non-fundamental interests that  
21 are not even of the level of rights at all, of developers to make millions in profits,  
22 the City to make millions in fees and continue its generations-long process of  
23 decimating the poorest, most minority-filled, and oldest areas of the City to make  
24 the City richer, whiter, and more "world-class" as the City sees it, and planners  
25 and land use attorneys to look good to their bosses.

26 126. The dispute is a current controversy, and therefore Plaintiffs request a  
27 determination of their rights at this time in the circumstances.  
28



1 127. Plaintiffs also request incidental damages for having to obtain legal help to  
2 prepare the 1st Amended Complaint/Petition and appear regarding the TRO/writ  
3 request.

4 128. Defendants' actions as alleged above were and threaten in the future to be  
5 arbitrary and capricious, and therefore Plaintiffs allege entitlement to attorneys'  
6 fees under Gov't C. § 800 for costs they incur for help they receive from  
7 attorneys who do not become their attorneys of record, or for their attorneys of  
8 record if they are able to hire same, for having to sue about these arbitrary and  
9 capricious acts.

10 129. Plaintiffs also are suing on behalf of the public as private attorneys general to  
11 obtain for the public all the rights they have alleged herein for themselves, and  
12 therefore they allege they are entitled to attorneys' fees under C.C.P. § 1021.5  
13 for the benefit they confer upon the public by so suing to enforce important  
14 rights, so they and others like them will be encouraged to enforce such rights on  
15 behalf of the public, without having to pay the costs they incur for help they  
16 receive from attorneys who do not become their attorneys of record, or for their  
17 attorneys of record if they are able to hire same, for having to sue for the benefit  
18 of the public.

19 Damages

20 130. Plaintiffs are unaware of the nature or amount of injuries they suffered, are  
21 suffering now, and will suffer in the future due to the wrongful actions of  
22 Defendants detailed herein, and will seek leave of court to amend this 1st  
23 Amended Complaint/Petition further at the various junctures after future  
24 discovery has been completed and they have filed whatever claim forms are  
25 needed in the circumstances, when the nature and extent of their damages  
26 becomes more fully known.

27 131. Plaintiffs may also have been damaged and/or will in the future be damaged  
28 by such actions by Defendants as alleged above and will have suffered and/or

1 will suffer actual damages in ways and amounts that are subject to proof.  
2 Plaintiffs therefore reserve the right to amend this 1st Amended  
3 Complaint/Petition to allege entitlement to compensatory damages for future  
4 similar actions by Defendants before or after trial, according to proof to be  
5 presented at the relevant time, and after they have filed the requisite claim with  
6 Defendants and it has been denied or deemed denied, unless such claim is  
7 accepted.

8 **WHEREFORE, Plaintiffs-Petitioners pray::**

9 On All Causes of Action, Against All Defendants, jointly and severally :

- 10 1. After minimum notice as required by law and separate hearing, for a  
11 temporary restraining order and writ of mandate/prohibition and an order to  
12 show cause why a preliminary injunction enjoining and a preliminary writ of  
13 mandate mandating what is specially enjoined on Defendants by law each  
14 and every action by Defendants proven as alleged in each cause of action  
15 should not be entered, and for entry of such preliminary injunction and  
16 issuance of such writ until after trial or such other time as the Court deems just  
17 and proper;
- 18 2. Thereafter, after separate motion and hearing, for entry of a permanent  
19 injunction and writ of mandate/prohibition enjoining each and every action by  
20 Defendants proven as fulfilling the elements of each cause of action of  
21 Plaintiff, until such time as the Court deems just and proper;
- 22 3. For incidental damages associated with having to obtain injunctive relief,  
23 according to proof after appropriate discovery;
- 24 4. For a declaration affirming Plaintiff's rights as to each cause of action;
- 25 5. If Plaintiffs request, leave of court to amend this 1st Amended  
26 Complaint/Petition to add claims for further damages both compensatory  
27 and/or punitive, as shown to be proper, after further discovery and filing and  
28 rejection of any necessary claims;

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- 6. For costs of suit herein incurred, including reasonable attorney's fees pursuant to applicable law for Plaintiff as pro per aided by attorneys who do not become attorneys of record, and/or for attorneys themselves after Plaintiff hires same to prosecute this action;
- 7. For attorneys' fees as incurred according to proof for having to sue regarding Defendants' arbitrary and capricious actions as alleged herein, according to proof, pursuant to Gov't C. § 800;
- 8. For attorneys' fees as incurred according to proof for defending valuable rights on behalf of the public, as private attorneys general, pursuant to C.C.P. § 1021.5; and
- 9. For such other and further relief as the Court may deem just and proper.

DATED: June 12, 2012

Respectfully submitted,

Brenda Barnes  
Peter R. Naughton  
Plaintiffs-Petitioners in pro per

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VERIFICATION

The undersigned, says:

I am a Plaintiff-Petitioner in this action, and sign this verification and state the following on the basis of my own personal knowledge.

I have read the foregoing 1st Amended Complaint/Petition, and it is true, of my own personal knowledge, except for matters stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 12, 2012, at Santa Monica, California.

\_\_\_\_\_  
BRENDA BARNES

1 VERIFICATION

2 The undersigned, says:

3 I am a Plaintiff-Petitioner in this action, and sign this verification and state the  
4 following on the basis of my own personal knowledge.

5 I have read the foregoing 1st Amended Complaint/Petition, and it is true, of my own  
6 personal knowledge, except for matters stated on information and belief, and as to those  
7 matters, I believe it to be true.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
9 June 12, 2012, at Santa Monica, California.

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12 PETER R. NAUGHTON  
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**EXHIBIT A**

**NOTICE OF A CONTINUED PUBLIC HEARING  
BEFORE THE SANTA MONICA PLANNING COMMISSION**

**SUBJECT:** Development Agreement 07-005 - Village Trailer Park Development Agreement  
2930 Colorado Avenue  
**APPLICANT:** Village Trailer Park LLC  
**PROPERTY OWNER:** Village Trailer Park Inc. and Village Trailer Park I.L.C as  
tenants-in-common

The public hearing, which began on May 23, was continued to May 30, and will conclude with deliberations by the Planning Commission on June 20, 2012 on the following request:

The applicant is requesting Planning Commission consideration and recommendation to the City Council of a Development Agreement for a mixed-use project consisting of 486 residential units, up to 8,960sf of creative office space, and up to 17,780sf of neighborhood retail space. The project involves the closure of Village Trailer Park. The residential units would consist of 147 rent-controlled apartments, of which 27 would be deed restricted for very low income households and 11 would be deed-restricted for extremely low income households. The remainder of the residential units would be 339 market-rate condominiums. The project would include surface easements for an extension of Pennsylvania Avenue from Stanford Street to the western property line and a New Road to provide project access from Colorado Avenue. The project would have a building height that ranges between 35 feet and 57 feet. The project would have 838 parking spaces in a two-level subterranean parking garage. The Development Agreement would provide for a change of use of the Village Trailer Park within the meaning of Civil Code §798.56(g)(1). The Tenant Impact Report required by Government Code §65863.7 has been attached to this notice and provided to residents of the Village Trailer Park in compliance with Civil Code §798.56(h). Pursuant to Santa Monica Municipal Code (SMMC) Section 9.48.130, the Planning Commission shall hold a public hearing on the proposed development agreement and shall make its recommendation to the City Council for review.

**DATE/TIME:** WEDNESDAY, June 20, 2012, AT 7:00 PM

**LOCATION:** City Council Chambers, Second Floor  
Santa Monica City Hall  
1685 Main Street, Santa Monica, California

**HOW TO COMMENT**

The City of Santa Monica encourages public comment. You may comment at the Planning Commission public hearing, or by writing a letter. Written information will be given to the Planning Commission at the meeting. Address your letters to: Jing Yeo, AICP, Special Projects Manager, Re: 07DEV-005, City Planning Division, 1685 Main Street, Room 212, Santa Monica, CA 90401

**MORE INFORMATION**

If you want more information about this project or wish to review the project file, please contact Jing Yeo at (310) 458-8341, or by e-mail at [jing.yeo@smgov.net](mailto:jing.yeo@smgov.net). The Zoning Ordinance is available at the Planning Counter during business hours and on the City's web site at [www.smgov.net](http://www.smgov.net). The meeting facility is wheelchair accessible. For disability-related accommodations, please contact (310) 458-8341 or (310) 458-8696 TTY at least 72 hours in advance. All written materials are available in alternate format upon request. Santa Monica Big Blue Bus Lines numbered 2, 3, Rapid 3, 8, and 9, serve City Hall. Pursuant to California Government Code Section 65009(b), if this matter is subsequently challenged in Court, the challenge may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City of Santa Monica at, or prior to, the public hearing.

**ESPAÑOL**

Esto es una noticia de una audiencia pública para revisar aplicaciones proponiendo desarrollo en Santa Monica. Si desea más información, favor de llamar a Carmen Gutierrez en la División de Planificación al número (310) 458-8341.

**NOTICE OF A PUBLIC HEARING  
BEFORE THE SANTA MONICA PLANNING COMMISSION**

**SUBJECT:** Development Agreement 07-005, 2930 Colorado Avenue  
Village Trailer Park Development Agreement  
**APPLICANT:** Village Trailer Park LLC  
**PROPERTY OWNER:** Village Trailer Park Inc. and Village Trailer Park LLC as  
tenants-in-common

A public hearing will be held by the Planning Commission to consider the following request:

The applicant is requesting Planning Commission consideration and recommendation to the City Council of a Development Agreement for a mixed-use project consisting of 486 residential units, up to 8,960sf of creative office space, and up to 17,760sf of neighborhood retail space. The project involves the closure of Village Trailer Park. The residential units would consist of 147 rent-controlled apartments, of which 27 would be deed restricted for very low income households and 11 would be deed-restricted for extremely low income households. The remainder of the residential units would be 339 market-rate condominiums. The project would include surface easements for an extension of Pennsylvania Avenue from Stanford Street to the western property line and a new Road to provide project access from Colorado Avenue. The project would have a building height that ranges between 35 feet and 57 feet. The project would have 238 parking spaces in a two-level subterranean parking garage. The Development Agreement would provide for a change of use of the Village Trailer Park within the meaning of Civil Code §798.56(a)(1). The Tenant Impact Report required by Government Code §65863.7 has been provided to residents of the Village Trailer Park in compliance with Civil Code §798.56(b). Pursuant to Santa Monica Municipal Code (SMC) Section 9.48.130, the Planning Commission shall hold a public hearing on the proposed development agreement and shall make its recommendation to the City Council for review.

**DATE/TIME:** WEDNESDAY, May 23, 2012, AT 7:00 PM

**LOCATION:** City Council Chambers, Second Floor  
Santa Monica City Hall  
1685 Main Street, Santa Monica, California

**HOW TO COMMENT**

The City of Santa Monica encourages public comment. You may comment at the Planning Commission public hearing, or by writing a letter. Written information will be given to the Planning Commission at the meeting.

Address your letters to: Jing Yeo, AICP, Special Projects Manager  
Rm. 07DEV-005  
City Planning Division  
1685 Main Street, Room 212  
Santa Monica, CA 90401

**MORE INFORMATION**

If you want more information about this project or wish to review the project file, please contact Jing Yeo at (310) 458-8341, or by e-mail at [jing.yeo@smgov.net](mailto:jing.yeo@smgov.net). The Zoning Ordinance is available at the Planning Counter during business hours and on the City's web site at [www.sm.gov/planning](http://www.sm.gov/planning). The meeting facility is wheelchair accessible. For disability-related accommodations, please contact (310) 458-8341 or (310) 458-8696 TTY at least 72 hours in advance. All written materials are available in alternate format upon request. Santa Monica Big Blue Bus Lines numbered 2, 3, Rapid 3, 8, and 9, serve City Hall. Pursuant to California Government Code Section 65009(b), if this matter is subsequently challenged in Court, the challenge may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City of Santa Monica at, or prior to, the public hearing.



**EXHIBIT B**

**Transcript of Santa Monica City Planning Commission. May 23, 2012 Meeting**  
**-Motion to adjourn**

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**Chairperson Newbold, (Chairperson)** So, I, we are clearly not going to get to the end of this issue tonight. It is now 11.30. We have lost one of our commissioners,uhmm, ah, he's left. I would propose that we continue this meeting until next week...and..we adjourn the meeting tonight

**Commissioner Kennedy (Kennedy)** I'll second that

**Chairperson** that is a motion

**K Kennedy** I'll second it

**Commissioner Winterer (Winterer)** Can...can., do we need to, ah, make a friendly amendment that perhaps the city attorney addresses the issues raised by commissioner Ries and, while some of our questions may be easily answered, I, I, he's, partially addressed the issues raised by the Legal Aid Foundation. I don't know if you've gotten the letter from Ms. Venskus and (inaudible) and sooner, somewhere I'd like to have your interpretation of her concerns about the EIR and other issues

**Staff attorney A. Seltzer** . um, I'd...

**Winterer** Available to us next week

**Staff attorney A. Seltzer** So we would at the beginning of the hearing, I would work with staff and we would respond to uhm those two items we received, ah, ah, uhm, one of those letters tonight at the end of the hearing

**Chairperson** huh, uhm ummm

**Winterer** ahmm did you also get the correspondence from Ms. Barnes about legal issues?

**Staff attorney A. Seltzer** yes

**Winterer** and they could possibly address those, any of these legal issues, that you know cause , ah, even though I'm gonna go to law school for a week...

**Staff attorney A. Seltzer** ha ha, will do

**Winterer** could use your help.

**Chairperson** So I wanna be very clear for the public, will we have public comment then, is this new issues? 'cause normally we would, when we continue something we would take no more public comment..umm, if we're gonna be looking at Ms. Vaskus, Vaskusses,I'm sorry I'm saying her name wrong, is that new business?

**Staff attorney A. Seltzer** I don't believe so if you're

**Chairperson** I think you need to turn...you need to turn on your mike. I don't think.  
Am I

**Mr. Martin** you can, but I don't know which one it is

**Chairperson** I don't usually control your mike

**Mr. Martin** assistant manager, it says it somewhere

**Chairperson** ummm

**Staff attorney A. Seltzer** there you go . so to the extent that you're continuing to ask questions that would not be new business-

**Chairperson** ok

**Staff attorney A. Seltzer** so if there's a supplemental staff report, or new information, that you've requested, then, the, in my experience, then public comment

**Chairperson** ok

**Staff attorney A. Seltzer** would be limited to just the new information.

**Chairperson** ok

**Staff attorney A. Seltzer** so as we're just responding to questions.

**Chairperson** ok, so I just wanted to be clear that we're not expecting a new staff report, and so I think people should not come here expecting to do public comment.

**Winterer** might we also ask for, uhm, some sort of staff feedback on the reduced alternative that was presented by Mr. Goldman without opening up a new public hearing?

**Chairperson** well that could be a question of staff, uhm, ah, I assume that's a question of staff and they can answer that question next week when we re-adjourn.

**Winterer** reconvene.

**Chairperson** reconvene.

**Winterer** your, wishful wishful wishful thinking.

**Chairperson** wishful thinking thank you  
(laughter)  
It's late, I'm tired

**Staff attorney A. Seltzer** set the date

**Chairperson** ahm, mr.

**Staff attorney A. Seltzer** Could you. Yea, You should definitely adjourn to a the date certain

**Commissioner Newbold, chairperson** yes

**Staff attorney A. Seltzer** and mention the date so we don't have to renotece the hearing

**Chairperson** can you remind me of the date?

**Staff attorney A. Seltzer** it's May 30th

**Chairperson** So we are going to adjourn this meeting until 7 pm on May 30 two thousand and twelve. just to be super clear

**voices** super clear

**Chairperson** ok., thank you everybody.

**EXHIBIT C**



## City of Santa Monica Survey of Potential Relocation Options For Village Trailer Park Residents

The purpose of this survey is for the City to generally understand how many Village Trailer Park residents are interested in each potential relocation option being considered.

**Please choose at least one option (☑) and mail back the completed survey in the provided envelope.**

**If you choose more than one option, please rank each option in order of preference (1, 2, 3 etc.) in the applicable box.**

**If you were to be displaced from Village Trailer Park, which of the following potential relocation options would be your preference?**

- Move to Mountain View Mobilehome Park**
- These will be rental units
  - All units will be 1-bedroom
  - Park rules do not allow any mobilehomes, other than manufactured homes that the City has contracted to purchase, to be moved into Mountain View
  - Current rents at Mountain View:

Affordability Level	# of Bedrooms	Current Rent	Utility Allowance	Net Rent
Extremely Low	0	\$54	\$48	\$288
Extremely Low	1	\$54	\$56	\$328
Very Low	0	\$560	\$48	\$512
Very Low	1	\$640	\$56	\$584
Low		\$672	\$48	\$624
Low		\$768	\$56	\$712

- Temporary relocation to other housing while construction of new project is occurring. Move back to future rent-controlled, affordable apartment project on VTP site**

- Move to Community Corporation of Santa Monica (CCSM) affordable apartment project**
- Must meet CCSM qualifying criteria (e.g. income, credit check)

- Move to another mobilehome park in a new mobilehome project. Project might not be in the Los Angeles area**

- Move to housing that is specifically for seniors (62+)**
- Examples include senior apartments, retirement communities, assisted living

- Take cash payment from developer and move to somewhere of your choice**
- Cash payment has not yet been determined

- My preference is not on this list. (Please describe your preference)**

**TENANT IMPACT REPORT OPTIONS AS PRESENTED TO RESIDENTS SECRETLY MODIFIED  
FOR PLANNING COMMISSION MEETING WITHOUT PRIOR NOTIFICATION:**

(i) In presenting the TIR to the Planning Commission Staff stated that a supplemental staff report was given to the commission earlier on the day of the meeting. (May 23, 2012) This was not provided to the public.

(ii) In addition the Relocation Plan options were changed as follows without giving any notice in advance. ( Staff Report pp. 161-164)

The relocation option "MOVE TO COMMUNITY CORPORATION OF SANTA MONICA (CCSM) AFFORDABLE APARTMENT " has been removed from the list of options that was presented to the residents in its survey of Potential Relocation Options mailed out to residents on March 29, 2012.

The relocation option "MOVE TO HOUSING THAT IS SPECIFICALLY FOR SENIORS ( 62+)" ( also included in the list of options that was presented to the residents. in its survey of Potential Relocation Options mailed out to residents on March 29, 2012) has been deleted.

"Move to Conventional Rental Housing" appears for the first time as an option (Staff Report p.163)

**EXHIBIT D**



Transcript of Santa Monica City Planning Commission. May 23, 2012 Meeting  
Q and A with Staff : Part 1

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**Commissioner Anderson:** Well I guess I would just like the City Attorney's thoughts on the question that commissioner Perry just had about what happens with the Park, and what the procedures are, what the rules are, whether they are state rules or city rules in terms of what the applicant's response was.

**Staff attorney A. Seltzer:** I think the applicant was stating that in the event a ummm entitlement that would allow him to close the park and convert it to another use was not forthcoming from the city he would attempt to close the park based on the existing notice that he gave years ago and that's tolled by the MOU and for the purpose of holding the land vacant. And I think at this point it's good to go through some background and give you the overarching state law that applies because we're in a situation that umm started in 2006 when the park owner first gave a notice of closure and the City uh was contacted by the Rent Control Board and said before he could close as a matter of local law he needed to get a Removal Permit from the Rent Control Board because the 109 units out there were rent controlled and under the city's rent control Charter Amendment before you can remove a rent control unit you need a removal permit under section 1803 (t) of the Charter Amendment that deals with Rent Control. So there was a dispute between the City, because the city agreed with the Rent Control Board, and the property owner who just wanted to close the Park for purposes of holding it vacant, that was the second notice. We identified the fact that, under **Key v Walters**, it's probably the most important state case, that you have to identify the purpose for which you're gonna put the park and so they gave an amended notice, but that didn't deal with the removal park permit, so he has, the state law does anticipate mobile home park closures under the Mobile Home Residency law solely to close the park and go out of the business. Alright, to close the Park, but and it requires 12 months notice of closure in such an event. But the state law says that in a situation where a local permit is required, first you obtain the local permit and then you give the 6 month notice, a separate notice to close the park. So we're in a dispute and the Memorandum Of Understanding that's been referred to throughout the night of which you have a copy, and it's eh with the Clerk of the Commission, was a result of deliberations between our City Council and the Park owner in which the dispute over the process for closing the Park which the dispute over the process for closing the park was put off and the developer agreed to apply for a development agreement and the council directed staff to process that agreement so long as the agreement made uh the property development qualify for a removal permit. And that test, there are three tests, under the Charter Amendment but the one selected was that the 109 rent controlled units had to be replaced with 15% affordable and you can see that concept has morphed over time and now you have, and planning staff will help me, I think there's a 148 rent controlled units, 38 of which, which is more than 15% are either extremely low or very low. So that component of the project qualifies for the removal permit which the Rent Control Board would consider before final action by the City Council and it would be conditioned, the RCB's removal permit would be conditioned on the approval of the Development Agreement.

So that's a lot of background information but I think you need that to get some context that we're all in a very difficult position, that the state law, and its in the staff report, basically says that if the park owner, a mobile home park owner follows the rules and procedures that the state has provided for closing or converting a mobile home park they can go out of business

and what we asserted as a city is that our local requirements require you to get a removal permit and the only way you can get a removal permit under our existing land use regime right now is through a development agreement. That's the only entitlement available at this point from my understanding and so, much of the discussion about upzoning etc. really is not applicable because a DA- Development Agreement-has to be consistent with the General Plan which is the Mixed Use Creative District not the zone district. So there's a lot of concern about the issue but the policy consistency is between the DA and the General Plan.

And while I'm here so we don't waste time there was a question about whether or not the report that was um...ah...sent to the residents on May 1st was an adequate report, and I appreciate Legal Aid, I did get at least a half a day's notice of their letter, so I could look at that, and basically the tenant, uh the section of the Govt. Code which provides the procedures for mobile home park closures, umm and that's 65863.7 of the Govt Code for people who really wanna know that, requires the preparation of a impact report , and the report doesn't include a relocation plan. The report basically is supposed to address the availability of adequate replacement housing in mobile home parks and relocation costs , in determining to assist the legislative body determine the impact of the conversion or cessation of use on displaced residents of the mobile home park to be converted. So that's the tenant impact report , not the relocation plan. And it's the Civil Code, the Mobilehome Residency law, a compe, a compa, , another law of the state that deals with the same subject matter that says that tenant impact report is required to be given to the residents 15 days before the hearing at which the Park owner will appear before a local government board, commission, or body to request permits for a change of use of the mobile home park.

Those are found in section 798.56 of the Civil Code, subsections (h) and (g).

In an excess of caution and prudence the staff sent the Tenant Impact Report to the residents in advance of this commission's uh hearing because you are a government board, commission or body at which the developer is appearing to request the permit for the change of use which is the Development Agreement. And that, so, the tenant impact report informs the ultimate relocation plan. It's the City Council that, under the state law, is supposed to review the report, and may require as a condition of the change, and here's the ah, ah, critical language "the park owner to take steps to mitigate any adverse impacts of the conversion on the ability of displaced mobilehome park residents to find adequate housing in a mobile home park and the state's standard is that the steps required to be taken to mitigate shall not exceed the reasonable cost of relocation." That's our standard . That's an action that the council ultimate takes but because you are the recommending advisory body this is all before you because the relocation plan is in the DA but that, the fact that the development agreement with its attachment was provided appropriately under the Brown Act to you and the public doesn't me...after the 15 days, doesn't mean that the TIR, the tenant impact report, wasn't properly given 15 days before that. I hope I didn't confuse , confuse you by that long dis.

**Commissioner Winterer:** Just to follow up on a couple of things you said. You said early on that the notice of closure ahm couldn't be given until the issuance of a permit.

**Staff attorney A. Seltzer :** Under the particular circumstances of local law the city took the position, and that's how the MOU was entered, that before the Notice of Closure could be issued there was a permit that the city required an entity related to the city and that's the Rent Control Board

**Commissioner Winterer** ok so it's the removal permit

**Staff attorney A. Seltzer** it's the removal permit, and if there was no removal permit required in the city of Santa Monica or these units were not rent controlled then the Park owner arguably could have given a twelve month notice of closure and the only issue that we would have had to deal with was the adequacy of the tenant impact report and the decision to impose conditions on, to mitigate the impact of, uh uh on displaced residents to find alternative housing in another mobilehome park. At the time we didn't have a mobilehome park closure ordinance and because this was a development agreement it was decided back in 2007 when the MOU was entered that we could negotiate through the DA the type of relocation plan that would be made part of the park closure and the Development Agreement. So the city did not adopt a separate Mobilehome Park Closure ordinance which Carson, Hawthorne, and a number of, Laguna Beach, Huntington Beach, other cities have, because we realize we have one mobile home park in the city that is privately owned and we would address those issues through the Development Agreement process.

**Commissioner Winterer:** All right, well that leads me to my next question. It says on your staff report on page 27 " as discussed earlier in this report State law provides that the mitigation measures should not exceed the reasonable costs of relocation to another mobile park. Don't we because we are operating under a development agreement have broader discretion about what we ask for those relocation measures?.

**Staff attorney A. Seltzer:** And that's some of the difficulties you face, you're not in your usual position because the state mobilehome park closure law applies to charter cities and even your entitlement uh processes uh that you've acquired in order to uh ..uh.. provide for this park owner to go out business. so uh uh, because of the law and because ultimately the park owner can assert that if, in this case I'll use he, uh satisfies the requirements of state law in terms of closing the park eh eh ..that at some point some project, if we're gonna require removal permit ..I think the bottom line is that at some point, some project should emerge that is capable of being accomplished ..ahum..so that he can indeed comply, the city can comply with the requirements of the closure laws because if you,..there are risks not allowing closure to occur, because the case law indicates that a mobilehome park owner, if they follow the rules, and seek the permits, and you have an adequate relocation plan that addresses the reasonable costs of relocation , we can talk about that over time, ahum...as you ask questions, then, you're eh , the city is at risk at that point if you require him to stay in the business. .

**EXHIBIT E**

City Council Meeting: December 13, 2011

Santa Monica, California

**ORDINANCE NUMBER 2383 (CCS)**

(City Council Series)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA AMENDING CHAPTERS 4.36 AND 4.56 OF THE SANTA MONICA  
MUNICIPAL CODE TO INCREASE PERMANENT RELOCATION BENEFITS;  
CHANGE ELIGIBILITY REQUIREMENTS FOR RELOCATION ENHANCEMENTS;  
EXTEND TENANT HARASSMENT PROTECTIONS TO ALL TENANTS COVERED BY  
JUST CAUSE EVICTION RULES; AND CORRECT CERTAIN CODE SECTION  
REFERENCES**

WHEREAS, Santa Monica has not increased its permanent relocation benefit amounts (other than for cost of living increases) since 2007, during which time rent levels in the City have increased and vacancies have decreased; and

WHEREAS, Council wishes to extend additional permanent relocation benefits to households with seniors, disabled, and children tenants regardless of their date of occupancy because these households are particularly vulnerable; and

WHEREAS, certain code section references in the permanent relocation ordinance are outdated and inaccurate; and

WHEREAS, Measure RR has extended just cause eviction protections to most residential tenants in the City regardless of rent control status; and

WHEREAS, certain non-rent controlled tenants are therefore newly subject to potential unlawful harassment for the purpose of forcing them to vacate their units; and

WHEREAS, Council wishes to extend tenant harassment protections to all tenants in the City who have just cause eviction protections, regardless of their rent control status.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Municipal Code Section 4.36.020 is amended to read as follows:

**4.36.020 When relocation fee required.**

(a) A relocation fee shall be paid in accordance with the provisions of this Chapter by any landlord who terminates or causes the termination of a tenancy for any of the following reasons:

(1) The landlord seeks to withdraw all rental housing units from the rental housing market as provided in Government Code Sections 7060 et seq.

(2) The landlord seeks to recover possession of a rental housing unit pursuant to Sections 1806(a)(8), 1806(a)(9), 2304(a)(8), or 2304(a)(9) of the City Charter.

(3) The landlord seeks to recover possession to demolish or otherwise withdraw a rental housing unit from residential rental housing use, including units that were illegally converted to residential use, after having obtained all proper permits from the City, if any such permits are required.

(b) A relocation fee shall be paid in accordance with the provisions of this Chapter to a displaced tenant who serves a landlord with a notice to

terminate tenancy after having received written notice from either the landlord or the Santa Monica Rent Control Board that the landlord has filed a Notice of Intent to Withdraw Residential Rental Units pursuant to Government Code Section 7060.4 and Santa Monica Rent Control Board Regulation 16002(a) or an Application for Removal Permit pursuant to Santa Monica Charter Section 1803(t).

(c) The fee required by this Chapter shall be due and payable to a displaced tenant whether or not the landlord actually utilizes the rental housing unit for the purposes stated in the notice of eviction.

SECTION 2. Municipal Code Section 4.36.040 is amended to read as follows:

**4.36.040 Amount of relocation fee.**

The amount of the permanent relocation fee payable pursuant to the provisions of this Chapter shall be established in accordance with the following formula: 2011 relocation fee adjusted for inflation by the percentage change in the rent of primary residence component of the CPI-W Index for the Los Angeles/Riverside/Orange County area, as published by the United States Department of Labor, Bureau of Labor Statistics, between November 2011 and the July 1st preceding the date of vacancy rounded to the nearest fifty dollars. This amount shall be updated annually commencing on July 1, 2012 and on July 1st of each year thereafter.

(a) The 2011 relocation fee established pursuant to Ordinance 2383CCS and determined according to the size of the rental housing unit, was as follows:

<u>Apartment size</u>	<u>2011 relocation amount</u>	<u>2011 augmented amount</u>
Single or studio	\$7,800	\$8,900
One bedroom	\$12,050	\$13,850
Two or more bedrooms	\$16,300	\$18,750

(b) If a tenant is evicted from more than one rental housing unit on a property, the tenant shall not be entitled to receive separate relocation fees for each rental housing unit. The tenant shall receive a single relocation fee based on the combined total number of bedrooms in the rental housing units from which the tenant is being evicted. If one of the rental housing units is a bachelor or single unit, it shall be counted as a one bedroom unit for purposes of determining the amount of the relocation fee (e.g., a tenant who is evicted from a bachelor rental housing unit and a one bedroom rental housing unit would receive relocation benefits for a two bedroom unit).

(c) If the rental housing unit from which the tenant is being evicted is furnished, two hundred fifty dollars shall be deducted from the amount set forth in subsection (a) of this Section. For purposes of this subsection, a rental housing unit shall be considered to be furnished if the landlord has provided substantial furnishings in each occupied room of the rental housing unit.

(d) If one or more of the displaced tenants is a senior citizen or disabled person, or is a tenant with whom a minor child resides, an augmented amount shall be paid as set forth in subsection (a) of this Section. The amount added pursuant to this subsection shall be adjusted



annually pursuant to the formula specified above commencing on July 1, 2012, and each July 1st thereafter.

(e) Any tenant still in possession of a rental unit after the relocation amounts have been updated pursuant to this Section, shall be entitled to the updated relocation amounts even if the landlord commenced the termination of the tenancy prior to the update. In the event that a landlord has already complied with the provisions of Section 4.36.060 based on the relocation amounts previously in effect, but has not yet received a written request from a tenant for distribution of the fee pursuant to Section 4.36.070, the landlord shall place in escrow the additional amount of relocation fee required by this Section within five working days of the effective date of the updated amount.

SECTION 3. Municipal Code Section 4.56.010 is amended to read as follows:

**4.56.010 Definitions.**

(a) **Fraud.** Intentional misrepresentation, deceit or concealment of a material fact.

(b) **Housing Service.** Housing services include, but are not limited to, hot and cold water, heat, electricity, gas, refrigeration, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, telephone, parking, effective waterproofing and weather protection, painting, and any other benefit, privilege or facility that has been provided by the landlord to the tenant with use or occupancy of any rental housing unit. Services to a

rental housing unit shall include a proportionate part of services provided to common facilities of the building in which the rental housing unit is contained.

(c) Landlord. An owner, lessor, sublessor, or any other person entitled to receive rent for the use and occupancy of any rental housing unit, or an agent, representative or successor of any of the foregoing.

(d) Malice. An intent to vex, annoy, harass or injure another person.

(e) Rental Housing Agreement. An agreement, oral or written or implied, between a landlord and tenant for use or occupancy of a rental housing unit and for housing services.

(f) Rental Housing Unit. A housing unit in the City that constitutes either a controlled rental unit pursuant to City Charter Section 1800 et seq. (including a room in a single-family home, hotel or motel, rooming house or apartment, single-family home, mobile home or mobile home space, trailer or trailer space); or a rental unit pursuant to City Charter Section 2300 et seq.

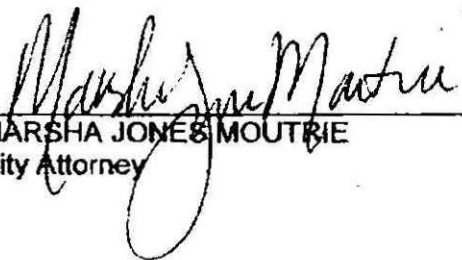
(g) Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a rental housing agreement to the use or occupancy of any rental housing unit.

SECTION 4. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

  
MARSHA JONES MOUTRIE  
City Attorney

Approved and adopted this 13<sup>th</sup> day of December, 2011.



Richard Bloom, Mayor

State of California )  
County of Los Angeles ) ss.  
City of Santa Monica )

I, Denise Anderson-Warren, Acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2383 (CCS) had its introduction on December 6, 2011, and was adopted at the Santa Monica City Council meeting held on December 13, 2011, by the following vote:

Ayes: Council members: Holbrook, McKeown, O'Connor, Shriver  
Mayor Pro Tem Davis, Mayor Bloom

Noes: Council members: None

Absent: Council members: O'Day

A summary of Ordinance No. 2383 (CCS) was duly published pursuant to California Government Code Section 40806.

ATTEST:

  
Denise Anderson-Warren, Acting City Clerk