
Appendix B

Writ of Mandate

Fee Exempt Per Gov. Code § 6103

STRADLING YOCCA CARLSON & RAUTH
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Attorneys for Respondents,
CITY OF GARDEN GROVE; CITY OF GARDEN
GROVE AS SUCCESSOR AGENCY TO THE AGENCY
FOR COMMUNITY DEVELOPMENT; and
GARDEN GROVE HOUSING AUTHORITY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

MARLENE PEREZ; VIETRIS; MARIA
GUADALUPE ORTIZ; UNITE HERE
LOCAL 11,

Petitioners,

v.

CITY OF GARDEN GROVE; CITY OF
GARDEN GROVE AS SUCCESSOR AGENCY
TO THE AGENCY FOR COMMUNITY
DEVELOPMENT; GARDEN GROVE
HOUSING AUTHORITY; ALL PERSONS
INTERESTED IN THE MATTER OF THE
SEPTEMBER 13, 2022 APPROVALS OF
DISPOSITION OR SALE OF 12291 AND
12311 THACKERY DRIVE AND THE
DISPOSITION AND DEVELOPMENT
AGREEMENT FOR SALE OR
DEVELOPMENT OF 3.72 ACRES AND ALL
RELATED APPROVALS FOR THE SITE B2
PROJECT; DOES 1 through 4,

CASE NO.: 30-2022-01281816-CU-WM-
CXC

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE MELISSA R. MCCORMICK
DEPARTMENT: CX104

**NOTICE OF ENTRY OF ORDER
APPROVING WRIT OF MANDATE**

HEARING DATES PENDING:

Type: Trial
Date: March 25, 2024
Time: 9:00 a.m.
Dept. CX-104

DATE ACTION FILED: September 22, 2022
TRIAL DATE: March 25, 2024

WOODRUFF & SMART
ATTORNEYS AT LAW
COSTA MESA

Respondents.

NEWAGE GARDEN GROVE II, LLC;
KAM SANG COMPANY; DOES 5 through
10,

Real Parties in Interest,

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that on February 13, 2024, the Court approved the parties' stipulated Writ of Mandate in the above referenced matter. Attached hereto as Exhibit "A" is a copy of the Writ signed by the Court.

DATED: February 15, 2024

WOODRUFF & SMART, APC

By: 

RICIA R. HAGER
STRADLING, YOCCA, CARLSON & RAUTH
A Professional Corporation
Allison E. Burns
Gregory Maestri
Attorneys for Respondents,
CITY OF GARDEN GROVE; CITY OF
GARDEN GROVE AS SUCCESSOR AGENCY
TO THE AGENCY FOR COMMUNITY
DEVELOPMENT and GARDEN GROVE
HOUSING AUTHORITY

EXHIBIT A

Fee Exempt Per Gov. Code § 6103

STRADLING YOCCA CARLSON & RAUTH
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Attorneys For Respondents,
CITY OF GARDEN GROVE; CITY OF GARDEN
GROVE AS SUCCESSOR AGENCY TO THE AGENCY
FOR COMMUNITY DEVELOPMENT; and
GARDEN GROVE HOUSING AUTHORITY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

MARLENE PEREZ; VIETRIS; MARIA
GUADALUPE ORTIZ; UNITE HERE
LOCAL 11,

Petitioners,

v.

CITY OF GARDEN GROVE; CITY OF
GARDEN GROVE AS SUCCESSOR AGENCY
TO THE AGENCY FOR COMMUNITY
DEVELOPMENT; GARDEN GROVE
HOUSING AUTHORITY; ALL PERSONS
INTERESTED IN THE MATTER OF THE
SEPTEMBER 13, 2022 APPROVALS OF
DISPOSITION OR SALE OF 12291 AND
12311 THACKERY DRIVE AND THE
DISPOSITION AND DEVELOPMENT
AGREEMENT FOR SALE OR
DEVELOPMENT OF 3.72 ACRES AND ALL

CASE NO.: 30-2022-01281816-CU-WM-
CXC

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE MELISSA R. MCCORMICK
DEPARTMENT: CX104

**STIPULATION AND WRIT OF
MANDATE**

DATE ACTION FILED: September 22, 2022

1 RELATED APPROVALS FOR THE SITE B2
2 PROJECT; DOES 1 through 4,

3 Respondents.

4 NEWAGE GARDEN GROVE II, LLC; KAM
5 SANG COMPANY; DOES 5 through 10,

6 Real Parties in Interest,

7
8 RESPONDENTS CITY OF GARDEN GROVE et al. (“City” or “Respondents”), NEWAGE
9 GARDEN GROVE II, LLC AND KAM SANG COMPANY (collectively, “RPI”) and
10 PETITIONERS MARLENE PEREZ; VIETRISE, MARIA GUADALUPE ORTIZ; UNITE HERE
11 LOCAL 11 (collectively, “Petitioners”), by and through their respective attorneys, hereby agree and
12 stipulate as follows:

13 1. On September 22, 2022, Petitioners filed a Verified Petition for Writ of Mandate,
14 Complaint for Invalidation, Injunctive and Declaratory Relief. On November 15, 2022, Petitioners
15 filed a Verified First Amended Petition for Writ of Mandate, Complaint for Invalidation, Injunctive
16 and Declaratory Relief (the “Petition”).

17 2. The Petition challenges on various grounds, including, without limitation, California
18 Environmental Quality Act (“CEQA”) and City codes and plans, Respondents approval of a
19 Mitigated Negative Declaration and various other actions taken by the City Council with respect to
20 the sale of the property and development of the project described in the Petition (the “Project”). The
21 Project includes rezoning through land use entitlements including a Planned Unit Development
22 amendment (PUD-141-01(A)) (“PUD”), Site Plan review (SP-107-2022) (“SP”), Street Vacation of
23 a street and public alley (SV-002-2002) (“SV”) (collectively “Entitlements”), as well as a
24 Disposition and Development Agreement for sale of City-owned land (“DDA”) (collectively
25 “Approvals”).

26 3. On November 23, 2023, the Court issued an Order establishing the briefing schedule
27 and hearing date for this case in response to the parties’ joint stipulation. Under that Order, the writ
28 hearing is scheduled for March 25, 2024.

1 4. Prior to and since issuance of that Order, the parties have been engaged in settlement
2 discussions.

3 5. The parties are entering into this Stipulation and [Proposed] Writ to reflect the
4 settlement reached by the parties with respect to the resolution of this case in a manner whereby the
5 Court retains jurisdiction with respect to subsequent actions on the Approvals including analysis of
6 the Project's Vehicle Miles Travelled ("VMT") and Greenhouse Gas ("GHG") impacts under
7 CEQA, as set forth in Proposed Writ paragraph 2 below. All other claims and arguments regarding
8 the Project, compliance with CEQA with respect to the Project, or the Approvals, that were raised in
9 the Petition or that could have been raised, are waived, released and dismissed with prejudice.

10 6. Specifically, the parties stipulate and agree to the terms set forth in the [Proposed]
11 Writ below.

12 7. The parties understand and stipulate that the settlement reflected in this Stipulation
13 and [Proposed] Writ is a compromise and that no party's actions under or pursuant to this Stipulation
14 or otherwise shall be construed as an admission of liability with respect to the Petition.

15 8. Except as agreed to by the parties outside the confines of this Stipulation, the parties
16 stipulate and agree that each party shall bear its own costs, fees and expenses of all kinds incurred up
17 to the date the Writ is signed, including, without limitation, attorneys' fees, arising out of or related
18 to the Project or the Petition (collectively, "Costs") and that no party will seek to recover from the
19 other party to the Petition any Costs.

20 9. This Stipulation may be signed in counterparts and signatures delivered electronically
21 shall be treated as originals.

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1 DATED: February 12 , 2024

2 By: /s/ Ricia R. Hager

3 Ricia R. Hager

4 WOODRUFF & SMART, APC

5 Allison E. Burns

6 Gregory Maestri

7 STRADLING YOCCA CARLSON & RAUTH LLP

8 Attorneys for Defendants,

9 CITY OF GARDEN GROVE; CITY OF GARDEN

10 GROVE AS SUCCESSOR AGENCY TO THE

11 AGENCY FOR COMMUNITY DEVELOPMENT and

12 GARDEN GROVE HOUSING AUTHORITY

13 DATED: February 12, 2024

14 BUCHALTER,

15 A Professional Corporation

16 By: /s/ Brian Fish

17 Brian Fish

18 Chandra A. Roam

19 Attorneys for Real Parties-in-Interest, NEWAGE

20 GARDEN GROVE II, LLC; and KAM SANG

21 COMPANY, INC.

22 DATED: February 9, 2024

23 LAW OFFICE OF GIDEON KRACOV

24 By: /s/ Gideon Kracov

25 Gideon Kracov

26 Jordan R. Sisson

27 Attorneys for Petitioners,

28 MARLENE PEREZ, VIETRISSE, MARIA

GUADALUPE ORTIZ, and UNITE HERE LOCAL 11

WRIT

The parties having entered into the above written stipulation and good cause appearing therefore, IT IS HEREBY ORDERED that:

1. If Respondents and Real Party in Interest decide to proceed with the Project, including any modified version of the Project, Respondents shall (a) prepare a focused review under CEQA of the Project's or modified Project's potentially significant Vehicle Miles Travelled (VMT) and Greenhouse Gas (GHG) impacts; (b) assess whether modifications are needed to the Approvals, including any mitigation measures and conditions of approval, in light of that focused CEQA analysis; and (c) approve, approve with modifications, or deny the PUD in open session during a publicly agendized meeting of the City Council pursuant to Municipal Code section 9.32.030.

2. Unless the parties subsequently agree to a dismissal of the Writ proceedings with prejudice and the Court enters that dismissal, the Court retains jurisdiction consistent with Public Resources Code section 21168.9(b) with respect to any challenge (i) to the actions taken by Respondents pursuant to Paragraph 1 of this Writ or (ii) to Respondents' failure to comply with Paragraph 1. All other claims and arguments relating to the Project, compliance with CEQA with respect to the Project, or the Approvals, that were or could have been raised in the Petition, including without limitation any claims or arguments in the Petition's First Cause of Action other than VMT and GHG and all claims and arguments in the Petition's Second and Third Causes of Action, are hereby waived, released and dismissed with prejudice.

3. To the extent that Respondents take further action to proceed with the Project or a modified version of the Project, Respondents are directed to make and file a return to this Writ summarizing any actions taken by Respondents to comply with Paragraph 1 of this Writ no later than the date that is ninety (90) days after taking those actions.

4. Objections, if any, to the return to the Writ shall be filed with the Court and served on Respondents and Real Parties in Interest no later than thirty (30) days after service of the

1 applicable return to the Writ. Any reply to those objections shall be filed with the Court and served
2 on the objecting party no later than thirty (30) days after service of the objections.

3 5. Pursuant to Public Resources Code section 21168.9(c), the Court does not direct
4 Respondents to exercise their lawful discretion in any particular way.

5 6. Respondents and Real Parties in Interest may not make any physical changes to the
6 environment as it relates to the property proposed for development under the Project pending
7 discharge of this Writ in accordance with the terms of this Writ or, alternatively, the parties
8 subsequently agreeing to dismissal of these proceedings with prejudice and the Court entering that
9 dismissal.

10 7. Except as provided for in the parties' Stipulation above, each party shall bear its own
11 costs, fees and expenses of all kinds incurred up to the date this Writ is signed, including, without
12 limitation, attorneys' fees, arising out of or related to the Project or the Petition (collectively,
13 "Costs") and no party shall seek to recover from the other parties to the Petition any Costs.

14
15 Let the foregoing peremptory writ of administrative mandate issue.

16
17 DATED: February 13, 2024



18
19 _____
20 MELISSA R. MCCORMICK
21 JUDGE OF THE SUPERIOR COURT
22
23
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am over the age of 18 and not a party to the within action; I am employed by WOODRUFF & SMART in the County of Orange at 555 Anton Boulevard, Suite 1200, Costa Mesa, CA 92626-7670.

On February 15, 2024, I served the foregoing document(s) described as: **NOTICE OF ENTRY OF ORDER APPROVING STIPULATION AND WRIT OF MANDATE**

- ☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;
- ☐ **(BY MAIL)** I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of WOODRUFF & SMART, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of WOODRUFF & SMART for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.
- ☒ **(BY ELECTRONIC SERVICE - STATE)** by causing the foregoing document(s) to be electronically served on the individual(s) listed on the attached service list by submitting an electronic version of the document to One Legal, LLC through the user interface at www.onelegal.com.
- ☐ **(BY OVERNIGHT DELIVERY)** I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of WOODRUFF & SMART, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by GSO/GLS and/or FedEx to receive said documents, with delivery fees provided for. I am readily familiar with the practices of WOODRUFF & SMART for collection and processing of documents for overnight delivery and said envelope(s) will be deposited for receipt by GSO/GLS and/or FedEx on said date in the ordinary course of business.
- ☐ **(BY PERSONAL SERVICE)** I delivered such envelope(s) by hand to the offices of the addressee(s).
- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 15, 2024, at Costa Mesa, California.

/s/ Katie E. Kane
Katie E. Kane

MARLENE PEREZ et al. v. CITY OF GARDEN GROVE et al.
CASE NO. 30-2022-01281816-CU-WM-CXC

SERVICE LIST

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***Attorneys for Real Parties-in-Interest,*
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