

**COPY**

**RECEIVED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

SEP 03 2011

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

KAMALA D. HARRIS  
Attorney General of California  
SALLY MAGNANI  
Senior Assistant Attorney General  
BRIAN HEMBACHER  
Supervising Deputy Attorney General  
SARAH E. MORRISON  
Deputy Attorney General  
State Bar No. 143459  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Telephone: [REDACTED]  
Fax: [REDACTED]  
E-mail: [REDACTED]

*Attorneys for Intervenor People of the State of California*

Exempt from Filing Fees pursuant to Government Code section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE

**CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE, a not-for-profit corporation,**

**Petitioner,**

**v.**

**COUNTY OF RIVERSIDE; CITY OF JURUPA VALLEY; and DOES 1 through 10, inclusive,**

**Respondents**

Case No. RIC 1112063

**PEOPLE'S COMPLAINT IN INTERVENTION AND PETITION FOR WRIT OF MANDATE**

[Code Civ. Proc., § 387 and Gov. Code, § 12606 (Intervention); Code Civ. Proc., §§ 526 and 1094.5; Pub. Resources Code, § 21167; Gov. Code, § 66474]

**INVESTMENT BUILDING GROUP, a corporation; OBAYASHI CORPORATION, a corporation; DENNIS ROY ARCHITECT, INC. doing business as RGA OFFICE OF ARCHITECTURAL DESIGN, a corporation; OC REAL ESTATE MANAGEMENT, LLC, a limited liability corporation; SP4 DULLES LP, a limited partnership; and DOES 11 through 20, inclusive,**

**Real Parties in Interest.**

**Judge: Honorable Sharon Waters  
Dept: 10**

**Action Filed: July 19, 2011**

1 **PEOPLE OF THE STATE OF**  
2 **CALIFORNIA, ex rel. Kamala D. Harris,**  
3 **Attorney General,**  
4 **Intervenor/Petitioner.**

5  
6 The People of the State of California, ex rel. Kamala D. Harris, Attorney General  
7 (“People”) intervene in this action as of right pursuant to Government Code section 12606. The  
8 People join petitioner, Center for Community Action and Environmental Justice (“CCA EJ”), in  
9 challenging the decisions of the County of Riverside (“County”) approving the Mira Loma  
10 Commerce Center Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, and 18879 (collectively  
11 “the Project”), and certifying the environmental impact report for the Project in violation of the  
12 California Environmental Quality Act (“CEQA”) Public Resources Code, § 21100 *et seq.*, and  
13 other state laws, as follows:

14 **ALLEGATIONS RE: INTERVENTION**

15 1. Petitioner CCA EJ filed this action on or about July 19, 2011, alleging that the  
16 County violated CEQA and other state laws by approving the Project. Accordingly, CCA EJ gave  
17 the California Attorney General notice of filing of its petition in compliance with Public  
18 Resources Code section 21167.7 and Code of Civil Procedure section 388.

19 2. The standard for intervention as a matter of right is contained in Code of Civil  
20 Procedure section 387, subdivision (b): “If any provision of law confers an unconditional right to  
21 intervene . . . , the court, shall, upon timely application, permit that person to intervene.”

22 3. The Attorney General has an unconditional right pursuant to Government Code  
23 section 12606 to “intervene in any judicial or administrative proceeding in which facts are alleged  
24 concerning pollution or adverse environmental effects which could affect the public generally.”

25 4. The Attorney General is exempt from the provision in CEQA that requires  
26 presentation of grounds of noncompliance and objections before the public agency. (Pub.  
27 Resources Code, § 21177.)

28 5. Intervention is timely. The administrative record has not yet been prepared and is

1 not due until September 23, 2011. A status hearing on this matter is scheduled for September 23,  
2 2011.

3 **COMPLAINT IN INTERVENTION**

4 **INTRODUCTION**

5 6. Through this Complaint in Intervention, the People join Petitioner CCAEJ in  
6 requesting that the Court require the Respondent County to set aside the County's approvals  
7 relating to the Project, including the adoption of Resolution Nos. 2011-170 and 2011-171; the  
8 certification of Environmental Impact Report ("EIR") No. 450; the adoption of the Mitigation  
9 Monitoring and Reporting Plan specified in the EIR; and all Plot Plan approvals and associated  
10 approvals made for the Project.

11 7. The Project involves a proposal to develop an additional 1.4 million square feet of  
12 warehouse facilities and business park uses on six parcels totaling at least 60 acres of vacant land  
13 located near the intersection of the Route 60 freeway and Etiwanda Avenue in the City of Jurupa  
14 Valley ("City"), which incorporated on or about July 1, 2011.

15 8. The Project is adjacent to residential neighborhoods, including Mira Loma Village,  
16 a residential development built in the 1930s that today is home to primarily low-income, Hispanic  
17 residents.

18 9. Over the last 20 years, the County has approved numerous warehouse and  
19 industrial developments in the vicinity of Mira Loma Village, which is adjacent to the Project  
20 site. As a result, every day, thousands of diesel trucks travel and idle on the roads near Mira  
21 Loma Village to access the nearby warehouses and industrial buildings.

22 10. The diesel exhaust from the trucks accessing the warehouses poses a serious risk  
23 of cancer, respiratory illnesses, and other adverse health effects to the people who reside, work  
24 and attend school in the communities surrounding the warehouse and industrial buildings in the  
25 vicinity of Mira Loma Village.

26 11. The EIR finds that the Project will have significant and unavoidable impacts to the  
27 environment in the areas of direct and cumulative air quality (including significant health risks as  
28 a result of the toxic air contaminant diesel particulate matter (diesel PM)), cumulative noise, and

1 cumulative transportation/traffic. The Project approvals, if allowed to stand, would thus  
2 significantly affect the environment and, in particular, the area in and around Mira Loma Village.

3 12. In approving the Project, the County violated the provisions of CEQA and the  
4 CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), in that the Environmental Impact  
5 Report (“EIR”) failed to adequately analyze project impacts, including the disproportionate  
6 impacts on the people living in Mira Loma Village and other communities near the Project area,  
7 who already suffer from substantial exposure to toxic air contaminants. The County failed to  
8 adopt all feasible mitigation to reduce or avoid the impacts of the Project. The EIR also failed to  
9 consider an adequate range of alternatives. The EIR failed to approve the environmentally  
10 superior alternative and erroneously found that the environmentally superior alternative, the  
11 Reduced Project Scope alternative, was infeasible without substantial evidence in the record.  
12 Lastly, the County adopted a Statement of Overriding Considerations which was not based on  
13 substantial evidence in the record.

14 13. The County’s approval of the Project conflicts with the goals and policies of the  
15 Riverside County General Plan, in violation of Government Code section 66474 and Riverside  
16 County Ordinance No. 348, section 2.2, which require that the Project must be consistent with the  
17 adopted General Plan.

18 14. Upon incorporation, the City succeeded to all rights and duties of the County with  
19 respect to the County’s approval of the Project. The City’s future actions with respect to the  
20 Project would rely on the County’s unlawful approvals, and therefore, the City is a proper party to  
21 this action, and the City’s prospective actions implementing the County’s approvals of the Project  
22 should be enjoined.

23 **PARTIES**

24 15. Allegations relating to Petitioner CCAEJ are set forth in its petition and complaint.  
25 These allegations are incorporated by reference.

26 16. The Attorney General intervenes in this action in her independent capacity as the  
27 representative of the People of the State of California. The Attorney General is constitutionally  
28 designated as the chief law officer of the State, has the constitutional duty to ensure that state law

1 is adequately enforced (Cal. Const., art. V, § 13), and has a unique and important role in the  
2 enforcement of CEQA, as recognized by statute (Pub. Resources Code, §§ 21167.7, 21177, subd.  
3 (d).) In addition, the Legislature has given the Attorney General a primary role in protecting the  
4 State's natural resources for the People. (Gov. Code, §§ 12600-12612.)

5 17. Respondent County is a political subdivision of the State of California organized  
6 and existing under the laws of the State of California. The County regulates and controls land use  
7 within its boundaries and must comply with all laws related to these functions, including, but not  
8 limited to CEQA. The County was the lead agency for the Project as designated in Public  
9 Resources Code section 21067 for purposes of CEQA compliance. The County issued the final  
10 decisions that are the subject of this action.

11 18. Respondent City is a political subdivision of the State of California organized and  
12 existing under the laws of the State of California and located in the County of Riverside. The  
13 City was incorporated on or about July 1, 2011. Upon incorporation, the City succeeded to all  
14 rights and duties of the County with respect to the territory within its boundaries, including the  
15 Project site. The City regulates and controls land use within its boundaries and must comply with  
16 all laws related to these functions, including, but not limited to CEQA.

17 19. The People do not know the true names and capacities of Respondents Does 1  
18 through 10, and therefore sue these Respondents as "Does." The People allege, on information  
19 and belief, that each Doe Respondent was responsible in some way for the violations alleged in  
20 this complaint. The People will promptly amend their complaint to reflect the names and  
21 capacities of Doe Respondents as soon as they are discovered.

22 20. The People are informed and believe and thereupon allege that Real Party in  
23 Interest Investment Building Group ("IBG") is a California corporation doing business in the  
24 State of California. The People are informed and believe, and thereupon allege, that IBG is an  
25 applicant for the Project and /or has an interest in the Project that is the subject of this lawsuit.

26 21. The People are informed and believe and thereupon allege that Real Party in  
27 Interest Obayashi Corporation ("Obayashi") is a Japanese corporation registered to do business in  
28 California. The People are informed and believe, and thereupon allege, that Obayashi is an

1 applicant for the Project and /or has an interest in the Project that is the subject of this lawsuit.

2 22. The People are informed and believe and thereupon allege that Real Party in  
3 Interest OC Real Estate Management, LLC (“OCREM”) is a Delaware limited liability  
4 corporation registered to do business in the state of California. The People are informed and  
5 believe, and thereupon allege, that OCREM is an applicant for the Project and /or has an interest  
6 in the Project that is the subject of this lawsuit.

7 23. The People are informed and believe and thereupon allege that Real Party in  
8 Interest Dennis Roy Architect, Inc., doing business as RGA Office of Architectural Design  
9 (“RGA”), is a California corporation doing business in California. The People are informed and  
10 believe, and thereupon allege, that RGA is an applicant for the Project and /or has an interest in  
11 the Project that is the subject of this lawsuit.

12 24. The People are informed and believe, and thereupon allege, that Real Party in  
13 Interest SP4 Dulles LP (“Dulles”) is a Delaware limited partnership registered to do business in  
14 California. The People are informed and believe, and thereupon allege, that Dulles is an applicant  
15 for the Project and /or has an interest in the Project that is the subject of this lawsuit.

16 25. The People do not know the true names and capacities of Real Parties in Interest  
17 Does 11 through 20 and therefore include these Real Parties in Interest as “Does.” The People  
18 will promptly amend their complaint to reflect the names and capacities of Doe Real Parties in  
19 Interest as soon as they are discovered.

20 **JURISDICTION AND VENUE**

21 26. Pursuant to California Code of Civil Procedure section 1094.5 and Public  
22 Resources Code sections 21168 and 21168.9, this Court has jurisdiction to set aside the County's  
23 decision to approve the Project without complying with CEQA.

24 27. Venue lies in this Court because the Project is located in, and the relevant events  
25 occurred in, Riverside County, and because the City is located in Riverside County. (Code of  
26 Civ. Proc., §§ 392, 394.)

27 ///

28 ///

1 STATUTORY BACKGROUND

2 28. Government Code section 1094.5, subdivision (b) provides that a reviewing  
3 court's scope of inquiry into the validity of any final administrative order or decision made as a  
4 result of a proceeding in which by law a hearing is required to be given shall extend to: whether  
5 the agency proceeded without or in excess of its jurisdiction; or whether there was any prejudicial  
6 abuse of discretion. Abuse of discretion is established if respondent has not proceeded in the  
7 manner required by law, the order or decision is not supported by the findings, or the findings are  
8 not supported by the evidence. (Gov. Code, § 1094.5, subd. (b).)

9 29. In proceedings brought under Government Code section 1094.5, the court may  
10 stay the operation of the administrative order or decision pending the judgment of the court. (Gov.  
11 Code, § 1094.5, subd. (g).)

12 30. Under CEQA, actions to void a determination, finding or decision of a public  
13 agency, made as a result of a proceeding in which by law a hearing is required to be given, based  
14 on CEQA violations, shall be in accordance with Code of Civil Procedure section 1094.5, and the  
15 court shall determine whether the act or decision is supported by substantial evidence in light of  
16 the whole record. (Pub. Resources Code, § 21168.)

17 31. Public Resources Code section 21168.9, subdivision (a), states that if a court finds  
18 that any determination, finding, or decision of a public agency has been made without compliance  
19 with CEQA, the court shall enter an order that includes one or more of the following:

20 (1) A mandate that the determination, finding, or decision be voided by the public  
21 agency, in whole or in part.

22 (2) If the court finds that a specific project activity or activities will prejudice the  
23 consideration or implementation of particular mitigation measures or alternatives  
24 to the project, a mandate that the public agency and any real parties in interest  
25 suspend any or all specific project activity or activities, pursuant to the  
26 determination, finding, or decision, that could result in an adverse change or  
alteration to the physical environment, until the public agency has taken any  
actions that may be necessary to bring the determination, finding, or decision into  
compliance with [CEQA].

27 (3) A mandate that the public agency take specific action as may be necessary to  
28 bring the determination, finding or decision into compliance with [CEQA].

1 32. Code of Civil Procedure section 526, subdivision (a) provides that an injunction  
2 may be granted when it appears from the complaint that: (1) the plaintiff is entitled to relief  
3 demanded, and the relief demanded, or any part thereof, consists of restraining the commission or  
4 continuance of the act complained of; (2) the commission or continuance of some act during the  
5 litigation would produce great or irreparable injury to a party to the action; (3) a party to the  
6 action is doing, or threatens to do some act in violation of the rights of another party, tending to  
7 render the judgment ineffectual; or (4) where pecuniary compensation would not afford adequate  
8 relief.

9 **FACTUAL BACKGROUND**

10 33. The Project site is located in the newly incorporated City of Jurupa Valley in  
11 Riverside County. The site is located in what was an unincorporated part of Western Riverside  
12 County, and included the communities of Mira Loma and Glen Avon of the Jurupa Area Plan.  
13 The Project site is north of State Route 60, south of Philadelphia Avenue, east of Etiwanda  
14 Avenue, and west of the San Sevaïne Flood Control Channel.

15 34. The site currently consists of vacant land spanning Assessor's Parcel Numbers  
16 156-360-014, -015, -020, -021, -027, -028, -031, -032 and -041.

17 35. The Project consists of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, and  
18 18879.

19 36. The Project consists of parcels 1, 8, 9, 10, 35, 37, 38, 39, 40, and 41 of Parcel  
20 Map 26365, of parcel map book 172, pages 36 through 41, of the Records of Riverside County.

21 37. The Project would develop twenty-four (24) industrial/warehouse buildings on  
22 65.05 gross (60.37 net) acres for a total building area of 1,134,268 square feet.

23 38. The Project is located adjacent to single-family residences to the west, and  
24 single-family residences and apartment residences to the east.

25 39. The Project site abuts the residential communities of Mira Loma Village  
26 (adjacent to Plot Plans 18876 and 18877) and the retirement community of Country Village  
27 (located directly east of Plot plan 16979). The Project site is also located near to other  
28 residential communities.



1           40.     Several schools are located in the vicinity of the Project site. Mission Bell  
2 Elementary School is located approximately ¾ mile southeast of the Project site, Granite Hill  
3 Elementary approximately 1 ¼ mile east of the Project site, and Jurupa Valley High School  
4 approximately 1 ¼ mile south of the Project site.

5           41.     The EIR finds that Project impacts will be significant and unavoidable after  
6 mitigation with regard to air quality, including significant health risks as a result of the toxic air  
7 contaminant diesel particulate matter; noise; and transportation/traffic. The EIR concludes that  
8 all other potentially significant impacts are mitigated to a level below significance through the  
9 incorporation of mitigation measures.

10          42.     The EIR concludes that the cancer risk from diesel PM of the Project with  
11 mitigation will exceed the threshold of significance, resulting in cancer risk increases for area  
12 sensitive receptors. The EIR also concludes that the cancer risk caused by diesel particulate  
13 matter emissions from the Project plus cumulative projects will well exceed the threshold of  
14 significance, resulting in a cumulative cancer risk increase for area sensitive receptors.

15          43.     The Jurupa Area Plan, incorporated into the County's General Plan, states with  
16 regards to Mira Loma, "The proximity of the warehousing uses to the residential areas has  
17 generated considerable concern in the community relating to air pollution impacts from the  
18 many diesel-powered vehicles and heavy trucks associated with the warehousing and  
19 distribution uses."

20          44.     The Riverside County General Plan Air Quality Element states that in "the Mira  
21 Loma community . . . particulate pollutant levels are among the worst in the nation. In such an  
22 area, strong measures must be taken immediately to protect the health and welfare of residents,  
23 especially children, the elderly and those with respiratory illnesses."

24          45.     The population of the Project area – which includes the areas of Glen Avon  
25 census-designated place (CDP), Mira Loma CDP, and surrounding areas – is approximately 67-  
26 69% Hispanic/Latino according to 2010 U.S. Census data. The population of Riverside County  
27 as a whole is approximately 45% Hispanic/Latino according to the 2010 U.S. Census data.  
28

1           46.     CCA EJ and others commented, during the public comment period on the draft  
2 EIR, that the Project would have a discriminatory impact based on race.

3           47.     CCA EJ and others commented that Project approval would result in significant  
4 health risks from toxic air contaminants and other environmental impacts in a predominantly  
5 Hispanic/ Latino area known to experience excessive toxic air contaminant exposures and  
6 associated health risks.

7           48.     The Riverside County General Plan specifically acknowledges that the Mira  
8 Loma community has particulate pollutant levels among the worst in the nation.

9           49.     The Riverside County General Plan states that in Mira Loma, particularly strong  
10 measures must be taken immediately to protect the health and welfare of residents, especially  
11 children, the elderly and those with respiratory illnesses.

12           50.     The County nonetheless approved the Project without requiring all feasible  
13 mitigation or requiring that the environmentally superior alternative be approved.

14           51.     The County failed to clearly acknowledge, consider or evaluate any potentially  
15 discriminatory impacts of the Project.

16           52.     On or about June 14, 2011, the County approved the Mira Loma Commerce  
17 Center Project by adopting Resolution Nos. 2011-170 and 2011-171, approving Plot Plan Nos.  
18 16979, 17788, 18875, 18876, 18877, and 18879, and certifying EIR No. 450 for the Project.

19           53.     The Notice of Determination approving the Project was filed with the County  
20 Clerk on or about June 21, 2011.

21           54.     On or about July 19, 2011, CCA EJ timely filed suit against the County in  
22 Riverside County Superior Court, alleging, among other things, that County violated CEQA by  
23 failing to evaluate the potential environmental impacts of the Project before approving the  
24 Project.

25     ///

26     ///

27     ///

28     ///

1 **FIRST CAUSE OF ACTION**  
2 **(Violation of CEQA – Failure to Adequately Analyze Impacts**  
3 **(Pub. Resources Code, § 21000 et seq.; Gov Code, § 1094.5)**  
4 **(Against County)**

5 55. The allegations in paragraphs 1 through 54 are realleged and incorporated by  
6 reference herein as though set forth in full.

7 56. An adequate EIR must evaluate all potentially significant environmental impacts  
8 of a proposed project, including all phases of the project, and both direct and indirect impacts.  
(Cal. Code Regs., tit. 14, §§ 15126, 15126.2.)

9 57. An EIR must evaluate local as well as regional impacts. (Cal. Code Regs., tit.  
10 14, §§ 15125, 15126.2.)

11 58. The EIR failed to adequately evaluate Project impacts to air quality and health,  
12 greenhouse gas emissions, traffic, noise, and land use, among others.

13 59. The EIR failed to adequately evaluate Project land use, air quality, and other  
14 impacts resulting from the disproportionately high amount of distribution warehousing and  
15 associated zoning in the Project area.

16 60. The County's actions in failing to adequately evaluate Project's environmental  
17 impacts are arbitrary and capricious, a prejudicial abuse of discretion, and/or not in accordance  
18 with law. Accordingly, the County's approvals of the Project must be set aside under Code of  
19 Civil Procedure section 1094.5

20 **SECOND CAUSE OF ACTION**  
21 **(Violation of CEQA – Failure to Adopt all Feasible Mitigation Measures)**  
22 **(Pub. Resources Code, § 21000 et seq.; Gov Code, § 1094.5)**  
23 **(Against County)**

24 61. The allegations in paragraphs 1 through 60 are realleged and incorporated by  
25 reference herein as though set forth in full.

26 62. CEQA establishes a duty on the part of the lead agency to mitigate all significant  
27 environmental impacts. (Pub. Resources Code, §§ 21002, 21002.1, Cal. Code Regs., tit. 14, §  
28 15021, subd. (a).)

1 63. A lead agency may not approve a project for which there are significant  
2 environmental impacts unless the agency finds that: (a) mitigation measures have been required  
3 of the project which avoid or substantially lessen the significant environmental effects, or (b)  
4 mitigation measures are found to be infeasible based on substantial evidence. (Cal. Code Regs.,  
5 tit. 14, § 15091.)

6 64. CCAEJ and other commenters proposed additional feasible mitigation measures  
7 to lessen the Project's environmental impacts, including, but not limited to, mitigation measures  
8 relative to air quality, greenhouse gas emissions, noise, and traffic impacts.

9 65. The County failed to adopt all feasible mitigation measures in violation of  
10 CEQA and failed to make findings, supported by substantial evidence, that identified mitigation  
11 measures were infeasible.

12 66. The County's actions in failing to adopt all feasible mitigation measures are  
13 arbitrary and capricious, a prejudicial abuse of discretion, and/or not in accordance with law.  
14 Accordingly, the County's approvals of the Project must be set aside under Code of Civil  
15 Procedure section 1094.5.

16 **THIRD CAUSE OF ACTION**  
17 **(Violation of CEQA – Alternatives)**  
18 **(Pub. Resources Code, § 21000 et seq.; Gov Code, § 1094.5)**  
19 **(Against County)**

20 67. The allegations in paragraphs 1 through 66 are realleged and incorporated by  
21 reference herein as though set forth in full.

22 68. An adequate EIR must consider a reasonable range of alternatives to the  
23 proposed project. The alternatives must be designed to meet basic project objectives and lessen  
24 or avoid significant environmental impacts. (Cal. Code Regs., tit. 14, § 15126.6(a).)

25 69. A lead agency may not approve a project for which there are significant  
26 environmental effects unless it makes findings supported by substantial evidence that  
27 alternatives are infeasible. (Cal. Code Regs., tit. 14, § 15091, subd. (a)(3).)

28 70. The County failed to evaluate a reasonable range of project alternatives that were  
designed to meet basic project objectives and lessen the significant impacts of the Project.

1           71. The County failed to make findings supported by substantial evidence that  
2 Project alternatives, including the environmentally superior alternative, were infeasible within  
3 the meaning of Cal. Code Regs., tit. 14, § 15091, subd. (a)(3).

4           72. The County failed to approve the environmentally superior alternative where the  
5 alternative was feasible and would substantially lessen the significant environmental effects of  
6 the Project. (Pub. Resources Code, § 21002, Cal. Code Regs., tit. 14, § 15021.)

7           73. The County's actions in failing to consider a reasonable range of alternatives for  
8 the Project, failing to approve the environmentally superior alternative, and not making findings  
9 regarding infeasibility of alternatives based on substantial evidence are arbitrary and capricious,  
10 a prejudicial abuse of discretion, and/or not in accordance with law. Accordingly, the County's  
11 approvals of the Project must be set aside under Code of Civil Procedure section 1094.5 and  
12 Public Resources Code section 21168.9.

13  
14                                   **FOURTH CAUSE OF ACTION**  
15                   **(Violation of CEQA – Overriding Considerations not Supported by Substantial Evidence**  
16                   **(Pub. Resources Code, § 21000 et seq.; Gov Code, § 1094.5)**  
17                   **(Against County)**

18           74. The allegations in paragraphs 1 through 73 are realleged and incorporated by  
19 reference herein as though set forth in full.

20           75. Under CEQA, the purpose of a statement of overriding considerations is to  
21 balance the economic, legal, social, technological, or other benefits of a proposed project  
22 against its unavoidable environmental harms. A statement of overriding considerations must be  
23 supported by substantial evidence in the record. (Cal. Code Regs., tit. 14 § 15093.)

24           76. Additionally, a lead agency may not adopt a statement of overriding  
25 considerations for significant project impacts unless all feasible mitigation has been required of  
26 the project, or the agency makes findings, supported by substantial evidence, of the infeasibility  
27 of the mitigation measures. (Cal. Code Regs., tit. 14, § 15091.)

28           77. The County adopted a statement of overriding considerations at the time of  
Project approval relative to significant air quality, noise, and traffic impacts.

1           78.     The County's statement of overriding considerations is improper and  
2 unsupported by substantial evidence in the record.

3           79.     The County improperly adopted a statement of overriding considerations without  
4 adequately analyzing the significant environmental impacts of the Project.

5           80.     The County improperly adopted a statement of overriding considerations when  
6 feasible mitigation and alternatives existed to lessen Project impacts. (Cal. Code Regs., tit. 14, §  
7 15092.)

8           81.     The statement of overriding considerations does not explain, on the basis of  
9 substantial evidence, why the specific significant effects of the Project are outweighed by the  
10 purported policy benefits of the Project. The statement of overriding considerations is not  
11 supported by substantial evidence in the record.

12           82.     By approving the Project when the statement of overriding considerations was  
13 not supported by substantial evidence in the record, the County committed a prejudicial abuse  
14 of discretion for which the Project approvals must be set aside. (Pub. Resources Code, §  
15 21168.5.)

16           83.     The County's actions in approving a statement of overriding considerations not  
17 supported by substantial evidence are arbitrary and capricious, a prejudicial abuse of discretion,  
18 and/or not in accordance with law. Accordingly, the County's approvals of the Project must be  
19 set aside under Code of Civil Procedure section 1094.5 and Public Resources Code section  
20 21168.9.

21  
22                           **FIFTH CAUSE OF ACTION**  
23                           **(General Plan Inconsistency – Gov. Code, §§ 66474 and 1094.5)**  
24                           **(Against County)**

25           84.     The allegations in paragraphs 1 through 83 are realleged and incorporated by  
26 reference herein as though set forth in full.

27           85.     Government Code section 66474 requires that all parcel maps must be consistent  
28 with the adopted general plan of the County.

1           86.     Riverside County Ordinance No. 348, Article II, section 2.2 requires that no  
2 discretionary permit shall be approved unless it is determined that the permit is consistent with  
3 the General Plan.

4           87.     The Riverside County General Plan includes, among others, the following  
5 policies:

6           a.     HC 14.2. When feasible, avoid locating new sources of air  
7 pollution near homes and other sensitive receptors.

8           b.     LU 6.4. Retain and enhance the integrity of existing residential,  
9 employment, agricultural, and open space areas by protecting them from  
10 encroachment of land uses that would result in impacts from noise, noxious fumes,  
11 glare, shadowing, and traffic.

12          c.     LU 10.2. Ensure adequate separation between pollution producing  
13 activities and sensitive emission receptors, such as hospitals, residences, and  
14 schools.

15          d.     LU 24.6. Control the development of industrial uses that use, store,  
16 produce, or transport toxins, generate unacceptable levels of noise or air pollution,  
17 or result in other impacts.

18          e.     AQ 2.1. The County land use planning efforts shall assure that  
19 sensitive receptors are separated and protected from polluting point sources to the  
20 greatest extent possible.

21          f.     AQ 2.2. Require site plan designs to protect people and land uses  
22 sensitive to air pollution through the use of barriers and/or distance from emissions  
23 sources when possible.

24          g.     C 3.8. Restrict heavy duty truck through-traffic in residential and  
25 community center areas and plan land uses so that trucks do not need to traverse  
26 these areas.

27     ///

28     ///

1           88.     The Project is inconsistent with the policies, goals and implementation measures  
2 of the County's General Plan including, but not limited to, those of Land Use, Air Quality,  
3 Healthy Communities, and Circulation.

4           89.     By approving a project which is inconsistent with the County's General Plan, the  
5 County committed a prejudicial abuse of discretion and the Project approvals must be set aside.

6           90.     The County's actions in approving a project which is inconsistent with the  
7 County's General Plan are arbitrary and capricious, a prejudicial abuse of discretion, and/or not  
8 in accordance with law. Accordingly, the County's approvals of the Project must be set aside  
9 under Code of Civil Procedure section 1094.5 and Public Resources Code section 21168.9.

10  
11                                   **SIXTH CAUSE OF ACTION**  
12                                   **(Injunctive Relief for Violations of State Law - Gov. Code, § 526)**  
13                                   **(Against All Parties)**

14           91.     The allegations in paragraphs 1 through 90 are realleged and incorporated by  
15 reference herein as though set forth in full.

16           92.     The implementation of the County's approval of the Project in violation of  
17 California law, including CEQA and Government Code section 66474, will cause the People to  
18 suffer great and irreparable harm. The People have no plain, adequate and speedy remedy at  
19 law.

20           93.     The City, upon incorporation, succeeded to all rights and duties of the County  
21 with respect to the territory within its boundaries, including land use decisionmaking as to the  
22 Project site. The City will have certain obligations with respect to the Project as a result of the  
23 County's approval of the Project, the implementation of which will violate California law.

24           94.     To prevent such harm, the County, the City and the real parties in interest, and  
25 their agents, employees, contractors, consultants and all persons acting in concert with them,  
26 must be enjoined pursuant to Government Code section 526, from taking action to implement  
27 the Project in any way until the County and the City have complied with California law,  
28 including CEQA.



**PRAYER FOR RELIEF**

The People pray for judgment as follows:

1. For peremptory or alternative writs of mandate under Government Code section 1094.5 and Public Resources Code section 21168.9:

a. Directing the County to void every determination, finding and/or decision related to the Project approval, including, but not limited to, Resolution Nos. 2011-170 and 2011-171; the decision certifying the EIR for the Project, the approval of the Project (Plot Plan Nos. 16979, 17788, 18875, 18876, 18878, and 18879); the approval of the Mitigation Reporting or Monitoring Plan for the Project; the approval of the Statement of Overriding Considerations for the Project; and the Notice of Determination for the Project;

b. Directing the County, City, and all real parties in interest to suspend any and all activities pursuant to, or in furtherance of, the County's determination, finding and/or decision related to the Project approval, until the County and/or City have taken all actions necessary to bring the determination, finding and/or decision into compliance with CEQA; and

c. Directing the County and/or City to fully comply with the requirements of CEQA and the CEQA Guidelines with respect to the Project, and take any other specific action that may be necessary to bring the County's determination, finding and/or decision into compliance with CEQA.

2. For a temporary stay, temporary restraining order, and preliminary and permanent injunctions pursuant to Government Code sections 526 and 1094.5, restraining the County, City and real parties in interest, their agents, employees, officers, representatives, contractors, consultants and other persons acting in concert with them or on their behalf, from taking any action pursuant to or in furtherance of the County's approval of the Project, without full compliance with California law, including CEQA and the CEQA Guidelines;

3. For costs of this suit;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

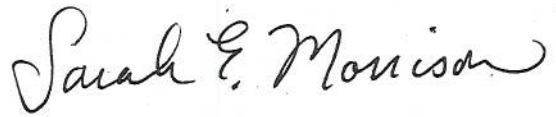
4. For attorney's fees as authorized in Code of Civil Procedure section 1021.5 and other provisions of law; and

5. For such other relief as the Court deems just and proper.

Dated: September 6, 2011

Respectfully Submitted,

KAMALA D. HARRIS  
Attorney General of California



SARAH E. MORRISON  
Deputy Attorney General

*Attorneys for Intervenor People of the State  
of California*

LA2010900007