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COUNTY OF SONOMA

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

9
10 Sequoia Park Associates, a California
limited partnership,

11 Petitioner and Plaintiff,

12 v.

13 County of Sonoma; Does 1 through 10,
14 inclusive,

15 Respondents and Defendants.
16 _____/

Case No. SCV-240003

ANSWER OF COUNTY OF SONOMA
TO AMENDED VERIFIED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF AND
INVERSE CONDEMNATION

Unlimited Civil Case
Honorable Allan D. Hardcastle

Petition/Complaint Filed: 1/10/07

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18 Respondent/Defendant County of Sonoma (hereinafter "County,") hereby
19 answers the Amended Verified Petition for Writ of Mandate and Complaint for
20 Declaratory Relief, Injunctive Relief and Inverse Condemnation (hereinafter
21 "Petition") by admitting, denying and alleging as follows:

22 1. In response to Paragraph 1 of the Petition, County is informed and
23 believes, and based upon that information and belief, admits that Petitioner/Plaintiff
24 Sequoia Park Associates (hereinafter "Sequoia") is a California limited partnership,
25 duly authorized and existing under and by virtue of the laws of the State of
26 California.

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1 2. In response to Paragraph 2 of the Petition, County admits that it is a
2 political subdivision of the State of California.

3 3. In response to Paragraph 3 of the Petition, County lacks sufficient
4 information or belief to respond to the allegations set forth in Paragraph 3 of the
5 Petition, and based upon that lack of information and belief, denies each and every
6 allegation contained therein.

7 4. County denies each and every allegation contained in Paragraph 4 of
8 the Petition.

9 5. In response to Paragraph 5 of the Petition, County admits that the Court
10 has personal jurisdiction over it, as a political subdivision of the State of California.

11 6. In response to Paragraph 6 of the Petition, County admits that the
12 County of Sonoma is a proper venue for this action. Except as so expressly
13 admitted, County denies each and every allegation contained in Paragraph 6 of the
14 Petition.

15 7. In response to Paragraph 7 of the Petition, County admits that, on or
16 about December 19, 2006, Sequoia purported to file a claim with County pursuant to
17 Government Code sections 810 et seq., known as the California Torts Claim Act, in
18 connection with County's adoption and extension of a temporary moratorium on the
19 conversion of mobile home parks to resident ownership (Ordinance Nos. 5689 and
20 5696). County further admits that, by letter dated January 24, 2007, County rejected
21 Sequoia's claim. Except as so expressly admitted, County denies each and every
22 allegation contained in Paragraph 7 of the Petition.

23 8. In response to Paragraph 8 of the Petition, County admits that, on or
24 about May 21, 2007, Sequoia purported to filed a claim with County pursuant to
25 Government Code sections 810 et seq., in connection with County's adoption of
26 Ordinance No. 5725. Except as so expressly admitted, County denies each and
27 every allegation contained in Paragraph 8 of the Petition.

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1 9. In response to Paragraph 9 of the Petition, County admits that, under
2 appropriate circumstances, a writ of mandate may issue pursuant to California Code
3 of Civil Procedure sections 1085 and 1086 against a local legislative body that acts
4 without power or refuses to obey the plain mandate of the law with respect to a
5 legislative or ministerial action. County further admits that, under appropriate
6 circumstances, a petition for writ of mandate may be combined with a complaint
7 alleging other causes of action, including, but not limited to, actions for declaratory
8 relief, injunctive relief and damages. Except as so expressly admitted, County
9 denies each and every allegation contained in Paragraph 9 of the Petition.

10 10. In response to Paragraph 10 of the Petition, County is informed and
11 believes, and based upon such information and belief, admits that Sequoia is the
12 owner of Sequoia Gardens Mobile Home Park (“the Park”), a mobile home park
13 located in the unincorporated area of the County of Sonoma. County further admits
14 that Sequoia has filed an incomplete application with the County of Sonoma to
15 convert the Park to resident ownership pursuant to California Government Code
16 section 66427.5. County further admits that such conversion would convert the
17 Park from a rental facility owned in whole by Sequoia, to a condominium-style
18 ownership, with a potential for separate ownership of each lot. County further
19 admits that when a mobile home park is converted to resident ownership pursuant to
20 Government Code section 66427.5, each lot in the mobile home park becomes
21 separately transferable and may be made subject to covenants, conditions and
22 restrictions. County further admits that Government Code section 66427.5 provides
23 for state rent control that supercedes local rent control in the event of a conversion
24 to resident ownership. Except as so expressly admitted, County denies each and
25 every allegation contained in Paragraph 10 of the Petition.

26 11. In response to Paragraph 11 of the Petition, County admits that
27 California has adopted several statutes concerning the conversion of mobile home

1 parks to resident ownership. County further admits that, under California law, cities
2 and counties have authority and responsibility for reviewing applications for tentative
3 maps filed for approval pursuant to the Subdivision Map Act, Government Code
4 section 66410, et seq., including, but not limited to tentative maps filed for approval
5 pursuant to Government Code section 66427.5. County further admits that a parcel
6 map or final map recorded pursuant to Government Code section 66427.5 may have
7 the effect of subdividing a single parcel into separately transferable real estate units,
8 as well as one or more undivided common areas. Except as so expressly admitted,
9 County denies each and every allegation contained in Paragraph 11 of the Petition.

10 12. In response to Paragraph 12 of the Petition, County admits that a local
11 agency's consideration of an application for conversion of a mobile home park to
12 resident ownership pursuant to Government Code section 66427.5 is governed, in
13 part, by the provisions of that section. County further admits that the California
14 Department of Real Estate plays a role in regulating the marketing and sale of the
15 individual lots in a mobile home park after local government approval of a conversion
16 to resident ownership. Except as so expressly admitted, County denies each and
17 every allegation contained in Paragraph 12 of the Petition.

18 13. In response to Paragraph 13 of the Petition, County admits that Sequoia
19 has filed an application with the County of Sonoma pursuant to Government Code
20 section 66427.5 for approval of a tentative tract map to subdivide the Park for
21 condominium purposes, which application remains incomplete at this time. County
22 further admits that that incomplete application does not propose any new building or
23 development on the site. Except as so expressly admitted, County denies each and
24 every allegation contained in Paragraph 13 of the Petition.

25 14. In response to Paragraph 14 of the Petition, County admits that on or
26 about October 24, 2006, the Board of Supervisors of the County of Sonoma ("the
27 Board of Supervisors") enacted Ordinance No. 5689, imposing a temporary forty-five

1 (45) day moratorium on the issuance of any permit or approval for the conversion of
2 mobile home parks to resident ownership within the unincorporated area of the
3 County of Sonoma. County further admits that a true and correct copy of Ordinance
4 No. 5689 is attached as Exhibit A to the Petition. Except as so expressly admitted,
5 County denies each and every allegation contained in Paragraph 14 of the Petition.

6 15. In response to Paragraph 15 of the Petition, County admits that on or
7 about December 5, 2006, the Board of Supervisors enacted Ordinance No. 5696,
8 extending, for 180 days, the temporary moratorium on the issuance of any permit or
9 approval for the conversion of mobile home parks to resident ownership. County
10 further admits that Ordinance No. 5696 was adopted pursuant to Government Code
11 sections 65958 and 25123. County further admits that a true and correct copy of
12 Ordinance No. 5696 is attached as Exhibit B to the Petition. Except as so expressly
13 admitted, County denies each and every allegation contained in Paragraph 15 of the
14 Petition.

15 16. In response to Paragraph 16 of the Petition, County admits that during
16 the proceedings leading to the enactment of Ordinances Nos. 5689 and 5696,
17 representatives of Sequoia submitted letters and testimony objecting, on a number
18 of grounds, to the adoption and extension of the moratorium on the issuance of any
19 permit or approval for the conversion of mobile home parks to resident ownership.
20 Except as so expressly admitted, County denies each and every allegation
21 contained in Paragraph 16 of the Petition.

22 17. In response to Paragraph 17 of the Petition, County admits that on or
23 about January 10, 2007, Sequoia filed a Verified Petition for Writ of Mandate and
24 Complaint for Declaratory Relief, Injunctive Relief and Inverse Condemnation
25 against County, seeking to set aside the moratorium and to obtain declaratory relief,
26 injunctive relief and damages. County further admits that upon the adoption of
27 Ordinance No. 5725 by the Board of Supervisors on or about May 15, 2007, the

1 temporary moratorium on the issuance of any permit or approval for the conversion
2 of mobile home parks to resident ownership was repealed. County further alleges
3 that the temporary moratorium is not now causing, and has never caused any harm
4 to Sequoia or any other person or entity. Except as so expressly admitted, County
5 denies each and every allegation contained in Paragraph 17 of the Petition.

6 18. In response to Paragraph 18 of the Petition, County admits that in or
7 about April, 2007, County staff informed counsel for Sequoia that staff intended to
8 bring to the Board of Supervisors a proposed ordinance to establish, pursuant to
9 state law, procedures and requirements for the conversion of mobile home parks to
10 resident ownership, and invited Sequoia's counsel's comments on the proposed
11 ordinance. County further admits that on or about April 27, 2007, representatives of
12 Sequoia submitted a letter to the Board of Supervisors on behalf of Sequoia,
13 challenging the legality of the proposed ordinance on a number of grounds. Except
14 as so expressly admitted, County denies each and every allegation contained in
15 Paragraph 18 of the Petition.

16 19. In response to Paragraph 19 of the Petition, County admits that on or
17 about May 1, 2007, the Board of Supervisors held a duly noticed public hearing to
18 consider the adoption of a proposed ordinance to establish procedures and
19 requirements for the conversion of mobile home parks to resident ownership.
20 County further admits that representatives of Sequoia were present and spoke at
21 that public hearing, objecting to the adoption of the proposed ordinance on a number
22 of grounds. County further admits that on or about May 1, 2007, the Board of
23 Supervisors took a straw vote to adopt the proposed ordinance with certain specified
24 modifications and directed staff to return with a final ordinance for adoption. Except
25 as so expressly admitted, County denies each and every allegation contained in
26 Paragraph 19 of the Petition.

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1 20. In response to Paragraph 20 of the Petition, County admits that on or
2 about May 15, 2007, the Board of Supervisors enacted Ordinance No. 5725. County
3 further admits that Ordinance No. 5725, established, pursuant to state law, certain
4 procedures and requirements for the conversion of mobile home parks to resident
5 ownership. County further admits that Ordinance No. 5725 sets forth required
6 application materials, which include, but are not limited to, a tenant impact report
7 prepared pursuant to Government Code section 66427.5 and a maintenance
8 inspection report prepared pursuant to Title 25 of the California Code of Regulations.
9 County further admits that Ordinance No. 5725 sets forth criteria for approval of a
10 conversion application, which include, but are not limited to, whether the conversion
11 is a bona-fide resident conversion as required by state law, and whether there are
12 unaddressed conditions in the mobile home park that are detrimental to the public
13 health and safety. County further admits that Ordinance No. 5725 repealed the
14 temporary moratorium on the issuance of any permit or approval for the conversion
15 of mobile home parks to resident ownership. County further admits that a true and
16 correct copy of Ordinance No. 5725 is attached as Exhibit C to the Petition. Except as so
17 expressly admitted, County denies each and every allegation contained in Paragraph
18 20 of the Petition.

19 21. County denies each and every allegation contained in Paragraph 21 of the
20 Petition.

21 22. In response to Paragraph 22 of the Petition, County incorporates its responses
22 to Paragraphs 1 through 21 of the Petition, inclusive, as if fully set forth herein.

23 23. In response to Paragraph 23 of the Petition, County admits that Sequoia has a
24 beneficial interest in the outcome of this action. Except as so expressly admitted, County
25 denies each and every allegation contained in Paragraph 23 of the Petition.

26 24. County denies each and every allegation contained in Paragraph 24 of the
27 Petition.

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1 25. County denies each and every allegation contained in Paragraph 25 of the
2 Petition.

3 26. County denies each and every allegation contained in Paragraph 26 of the
4 Petition.

5 27. In response to Paragraph 27 of the Petition, County incorporates its responses
6 to Paragraphs 1 through 26 of the Petition, inclusive, as if fully set forth herein.

7 28. In response to Paragraph 28 of the Petition, County admits that an actual
8 controversy has arisen and now exists between Sequoia and County regarding their
9 respective rights, duties, and obligations under Government Code section 66427.5, California
10 law, and Ordinance No. 5725, in that Sequoia contends that County acted illegally in
11 enacting the Ordinance and County disputes that contention. Except as so expressly
12 admitted, County denies each and every allegation contained in Paragraph 28 of the Petition.

13 29. In response to Paragraph 29 of the Petition, County admits that Sequoia desires
14 a judicial determination of the respective rights and duties of it and County with respect to
15 Government Code section 66427.5, California law and Ordinance No. 5725 and that Sequoia
16 would prefer a declaration that Government Code section 66427.5 and California law render
17 the Ordinance invalid. Except as so expressly admitted, County denies each and every
18 allegation contained in Paragraph 29 of the Petition.

19 30. County denies each and every allegation contained in Paragraph 30 of the
20 Petition.

21 31. In response to Paragraph 31 of the Petition, County incorporates its responses
22 to Paragraphs 1 through 30 of the Petition, inclusive, as if fully set forth herein.

23 32. In response to Paragraph 32 of the Petition, County admits that, by this action,
24 Sequoia seeks a preliminary and permanent injunction to enjoin County from enforcing the
25 Ordinance, but denies that there are any grounds upon which such preliminary or permanent
26 injunction might issue.

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SECOND AFFIRMATIVE DEFENSE

(Failure to State Conditions for Issuance of Writ)

44. As a second separate and distinct affirmative defense, County alleges that Sequoia has failed to state facts sufficient to establish any basis for the issuance of a writ of mandate.

THIRD AFFIRMATIVE DEFENSE

(Failure to State Conditions for Issuance of Declaratory Relief)

45. As a third separate and distinct affirmative defense, County alleges that Sequoia has failed to state facts sufficient to establish any basis for the issuance of the requested declaratory relief.

FOURTH AFFIRMATIVE DEFENSE

(Failure to State Conditions for Issuance of Injunctive Relief)

46. As a fourth separate and distinct affirmative defense, County alleges that Sequoia has failed to state facts sufficient to establish any basis for the issuance of the requested injunctive relief.

FIFTH AFFIRMATIVE DEFENSE

(Failure to State a Claim for Damages)

47. As a fifth separate and distinct affirmative defense, County alleges that Sequoia has failed to state facts sufficient to support a claim for damages against County.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

48. As a sixth separate and distinct affirmative defense, County alleges that each and every cause of action is barred by Sequoia's failure to exhaust administrative remedies.

SEVENTH AFFIRMATIVE DEFENSE

(Ripeness)

49. As a seventh separate and distinct affirmative defense, County alleges that, as to each and every cause of action, Sequoia's claims for relief are not ripe for judicial review.

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EIGHTH AFFIRMATIVE DEFENSE

(Mootness)

50. As an eighth separate and distinct affirmative defense, County alleges that, to the extent that this action arises out of or in connection with the County’s adoption of Ordinances Nos. 5689 and/or 5696, each and every cause of action is moot.

NINTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel)

51. As a ninth separate and distinct affirmative defense, County alleges that each and every cause of action is barred by the doctrines of waiver and estoppel.

TENTH AFFIRMATIVE DEFENSE

(Lawful Legislative Decision)

52. As a tenth separate and distinct affirmative defense, County alleges that it acted properly, reasonably, and in full accordance with all applicable laws in enacting Ordinances Nos. 5689, 5696 and 5725.

ELEVENTH AFFIRMATIVE DEFENSE

(Contrary to Law and Public Policy)

53. As an eleventh separate and distinct affirmative defense, County alleges that no writ of mandate should issue because such a writ would be contrary to law, public policy and the interests of the general public.

WHEREFORE, Respondent/Defendant County of Sonoma prays as follows:

- 1. That the Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief, Injunctive Relief, and Inverse Condemnation be denied in its entirety with prejudice;
- 2. That judgment be entered in favor of County on all causes of action;
- 3. That Petitioner take nothing by this action;
- 4. That County be awarded all reasonable costs incurred in defending this action;

1 5. For such other and further relief as the Court may deem just and proper.

2 Dated: July 16, 2007

STEVEN M. WOODSIDE, County Counsel

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By:

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SUE A. GALLAGHER
Deputy County Counsel

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PROOF OF SERVICE

I am a citizen of the United States. My business address is 575 Administration Drive, Room 105A, Santa Rosa, California 95403-2881. I am employed in the County of Sonoma where this service occurs. I am over the age of 18 years and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On July 16, 2007, following ordinary business practice, I served a true copy of the **ANSWER OF COUNTY OF SONOMA TO AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF AND INVERSE CONDEMNATION**, as follows:

___ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Santa Rosa, California, addressed to the persons listed below:
Richard Close, Esq.
Gilchrist & Rutter
Wilshire Palisades Building
1299 Ocean Avenue, Suite 900
Santa Monica, CA 90401-1000
Attorney for Petitioner/Plaintiff

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 16, 2007, at Santa Rosa, California.
