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HOMEOWNERS ASSOCIATION, INC.  
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7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**

10 DE ANZA COVE HOMEOWNERS  
11 ASSOCIATION, INC., a California non-profit  
corporation,

12 Plaintiff,

13 v.

14 CITY OF SAN DIEGO, a California  
15 municipality;  
and DOES 1-100, inclusive,

16 Defendants.  
17

Case No. GIC 821191

[REPRESENTATIVE ACTION]

18 **PLAINTIFF'S SECOND AMENDED  
COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR:  
(1) VIOLATIONS OF THE  
MOBILEHOME RESIDENCY LAW;  
(2) VIOLATION OF THE MELLO ACT;  
(3) FAILURE TO DISCHARGE A  
MANDATORY DUTY; (4) INVERSE  
CONDEMNATION; (5) VIOLATION OF  
STATE RELOCATION ASSISTANCE  
REQUIREMENTS; (6) BREACH OF  
CONTRACT**

[REQUEST FOR JURY TRIAL]

19  
20 Pursuant to the Court's order, Plaintiff DE ANZA HOMEOWNERS ASSOCIATION, INC.  
21 alleges as follows in the Second Amended Complaint against the Defendants and each of them:

22  
23 **Representative Action Allegations**

24 1. Plaintiff DE ANZA COVE HOMEOWNERS ASSOCIATION, INC., a California  
25 non-profit corporation, is and at all relevant times was a corporation duly organized under the laws  
26 of the State of California, and conducting business and residing in the CITY of San Diego, County  
27 of San Diego, State of California.

28 2. Plaintiff DE ANZA COVE HOMEOWNERS ASSOCIATION, INC. ("HOA") was

1 formed in order to pursue and protect the legal rights of its members, as well as the legal rights of  
2 the approximately 1,100 mobilehome present and former owners, tenants, residents, and occupants  
3 of the approximately 509 lots within the De Anza Harbor Resort mobilehome park (“Park”),  
4 located at 2727 De Anza Road, San Diego, California.

5 3. The HOA has a common interest with its members and the present and former  
6 owners, tenants, residents, and occupants of the Park in enforcing the applicable state and local  
7 laws, and has a community of interest in the determination of the questions of law and fact, causes  
8 of action, and damages as further alleged in this Complaint. Plaintiff brings this action in its  
9 representative capacity as a Class Representative on behalf of these present and former owners,  
10 tenants, residents, and occupants of the Park both in the public interest and in the interests of  
11 necessity, convenience, and justice.

### 12 13 **Procedural Allegations**

14 4. Defendant CITY OF SAN DIEGO (“CITY”) is a California municipality chartered  
15 pursuant to the Constitution and laws of the State of California and located in the County of San  
16 Diego and was so at all relevant times herein.

17 5. Plaintiff does not know the true names or capacities of Defendants sued herein as  
18 DOES 1 through 100, inclusive, and therefore sues these Defendants as DOES until their identities  
19 and involvement can be determined. Plaintiff will amend this Complaint to allege their true names  
20 and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of  
21 the fictitiously named Defendants is in some manner responsible for the injury and damage to  
22 Plaintiff alleged herein.

23 6. Plaintiff is informed and believes and thereon alleges that at all relevant times  
24 Defendants CITY and DOES 1 through 100, and each of them, were acting in their capacity as  
25 agents, servants, independent contractors, joint venturers, partners, alter egos, assigns, successors in  
26 interest and/or employees of their co-defendants, and at all times relevant hereto were acting within  
27 the full course and scope of their authority as such agents, servants, assigns, independent  
28 contractors, joint venturers, partners, alter egos, successors in interest and/or employees with the

1 express, implied, and/or apparent consent, knowledge, permission and ratification of their co-  
2 defendants, and each of them, and are in some way liable to Plaintiff on the facts alleged herein,  
3 and proximately caused injuries and damages thereby as herein alleged.

4 7. This court has jurisdiction and is the proper venue because the Defendants'  
5 violations of state law, misconduct, and misrepresentations occurred here in the County of San  
6 Diego, the contracts at issue were to be performed and/or were breached in the City of San Diego,  
7 Defendants are believed to reside in the City of San Diego, the Park is located in the City of San  
8 Diego, County of San Diego, and the HOA and the representative class are domiciled within the  
9 County of San Diego. In addition, the HOA, on behalf of itself and in its representative capacity on  
10 behalf of all present and former owners, tenants, residents, and occupants of the Park, timely filed a  
11 claim against the City of San Diego in compliance with the government claims statutes, as might be  
12 applicable.

### 13 14 **General Allegations**

15 8. The vast majority of Park residents are elderly, many are infirm, and most live on a  
16 limited, fixed income, such as Social Security disability benefits. Many have lived in the Park for  
17 decades, finding strength in a community that revolves around Sunday gatherings at the Park  
18 church. Since the CITY threatened them with eviction on October 22, 2003, however, the residents  
19 are terrified that they are going to lose their homes and their community.

20 9. The State legislature has passed extensive measures to protect mobilehome  
21 residents, recognizing that mobilehome parks are one of the last vestiges of affordable housing,  
22 particularly for the elderly.

23 10. For this reason, State law mandates that, prior to lease termination or park closure,  
24 the CITY must conduct a Tenant Impact Report ("Impact Report"), must hold open session  
25 hearings at the residents' request to discuss the findings of the Impact Report, must provide the  
26 Impact Report to the residents in advance of any such hearings, and must take affirmative steps to  
27 mitigate the harm resulting from park closure, taking into account the availability of alternate  
28 housing and relocation costs.

1           11.       Furthermore, because Park homes are located in a coastal zone, the CITY must  
2 comply with special low income housing initiatives that require additional feasibility studies to  
3 determine the availability of affordable replacement housing in the area.

4           12.       The vast majority of Park residents do not have the resources to even get on a  
5 waiting list at another mobilehome park, much less to have their homes retrofitted for safe transport  
6 or relocation. Moreover, most of the homes located at the Park, having been exposed to salt water  
7 for so long, are simply too old to move. In fact, most other mobilehome parks will not even accept  
8 homes more than five to ten years old. So, effectively, the CITY is attempting to force Park  
9 residents to abandon and demolish their homes without regard for the utter scarcity of alternate  
10 housing or the financial hardship that the CITY is attempting to impose on these residents.

11           13.       The Park was established by six land grants from the State to the CITY between  
12 1939 and 1963. In 1953, the CITY entered into a 50-year lease to develop a mobilehome park and  
13 passed Resolution No. 102320 that permitted **384 permanent** and 280 transient units at the Park.  
14 Mobilehomes were then moved into the Park. In 1962, the CITY dedicated lands within Mission  
15 Bay, including a portion of the Park property, to park use, notwithstanding the mobilehome Park's  
16 pre-existing, non-conforming use.

17           14.       Over time, mobilehomes became larger, more elaborate, and less mobile. However,  
18 the CITY continued to issue individual permits for permanent improvements and allowed the Park  
19 to balloon to 509 homes, making millions of dollars as a percentage of Park revenues and property  
20 taxes. The elderly flocked to the Park as an ideal retirement location. Out of this densely-packed  
21 collection of over 500 homes emerged a tightly-knit community that unites retirees, the disabled,  
22 American veterans, and single parent families, all clinging to one of the last locales of affordable  
23 housing.

24           15.       Several years of public hearings about the Park and the use of the land culminated in  
25 a legislative effort in 1981—Assembly Bill 447—which is known as the Kapiloff Bill. The  
26 Kapiloff Bill was enacted to protect the tenancy of Park residents through the balance of the  
27 CITY's 50-year lease.

28           16.       On January 29, 1982, in reaction to the Kapiloff Bill, the CITY entered into the

1 Tenth Amendment to its Master Lease of the Park, which substantially increased the amount of rent  
2 being paid to the CITY under the Lease.

3 17. Beginning in 1989, the CITY entered into another series of agreements with De  
4 Anza Harbor Resort & Golf, LLC (“DHRG”) to consider redeveloping the Park for other uses,  
5 including a hotel. About this time, DHRG also entered into a Long Term Rental Agreement  
6 (“LTRA”) with the majority of new and existing Park residents after several years of escalating  
7 rents. Among other things, the LTRA promised substantial relocation benefits if the CITY  
8 approved DHRG’s hotel development proposal.

9 18. In 1999, the CITY signed a Memorandum of Understanding (“MOU”) with DHRG  
10 in which the CITY agreed to negotiate exclusively with DHRG in the development of a large 600-  
11 room hotel resort. The proposal in the MOU would necessitate closing the Park and/or changing  
12 the use of the land. The CITY claimed that the MOU precluded the CITY from negotiating with  
13 Park residents from 1999 until May 2003, when the MOU expired. Despite requests from the Park  
14 residents and members of the HOA, the CITY refused to discuss the plans for the Park with  
15 residents throughout this period of time.

16 19. On May 7, 2003, DHRG notified the CITY and Park residents that it had abandoned  
17 its efforts to develop a hotel; the MOU then expired on May 23, 2003. With the expiration of the  
18 MOU, Park residents viewed this as a long-sought opportunity to finally speak with the CITY  
19 regarding the future of the Park and the CITY’s intentions. The CITY, however, continued to keep  
20 Park residents at bay after May 2003 by conducting City Council hearings in closed session and  
21 refusing to disclose the CITY’s plans.

22 20. The residents submitted various proposals to the CITY, which were designed to fund  
23 a relocation plan and provide the CITY with needed revenue, but the CITY rejected them.

24 21. Ultimately, with time running out, the CITY appeared at a resident meeting at the  
25 Park hall on or about October 22, 2003, to talk with Park residents about its long-awaited  
26 “Transition Plan” for the first time. Presenting the “plan” was the CITY’s Director of Real Estate  
27 Assets, who was flanked by four armed policemen. The message was clear: waive your statutory  
28 rights and sign the CITY’s take-it-or-leave-it agreement or the CITY will evict you starting on

1 November 24, 2003. The actual written documents were sent to residents in the following days.  
2 They were accompanied by a cover letter stating: “Please be advised that if you do not accept the  
3 offer, eviction proceedings will be commenced against you and all other occupants of your  
4 mobilehome beginning November 24, 2003.”

5 22. From October 22, 2003 through December 31, 2003, the CITY and its agents  
6 continued to use the threat of eviction and other threats, misinformation, half-truths, false legal  
7 information, confusion, and misrepresentations in order to coerce and improperly convince Park  
8 residents to either leave the Park or sign the CITY’s take-it-or-leave-it agreement.

9 23. When the CITY took exclusive possession of the premises on November 24, 2003—  
10 and although a temporary restraining order was in place—the CITY and its agents continued their  
11 take-it-or-leave-it efforts. The CITY retaliated against Park residents by, among other things,  
12 reducing Park services, limiting access to the Park’s common areas, towing the residents’ trailers,  
13 impounding their items from storage areas, unilaterally creating new “rules” for the Park without  
14 even disclosing those “rules” in writing to the residents, the HOA, or its representatives, prohibiting  
15 the mobilehome owners from renting their units, refusing to allow the HOA to replace the chairs  
16 and tables that the CITY had ordered DHRG to remove from the Park’s church and club house,  
17 failing to maintain the Park’s common areas, and otherwise making life at the Park as unpleasant as  
18 possible. The CITY’s latest tactic—as of the week of January 12, 2003—was to reduce the  
19 temperature of the Park’s swimming pool—which is used by elderly residents for exercise—from  
20 85 degrees to a chilly 70 degrees.

21 24. The HOA’s representatives have repeatedly requested, both orally and in writing, a  
22 meeting with the CITY’s representatives to discuss and rectify these and other issues, but the CITY  
23 has thus far refused to schedule any such meeting. The CITY’s stated mantra has been: “No one is  
24 going to tell us how to run this Park.”

25 25. As a result of the CITY’s coercive actions, some tenants and residents recently  
26 entered into settlement agreements with the CITY whereby they purportedly gave up their legal  
27 rights—including unwaivable statutory rights guaranteed under California’s Mobilehome  
28 Residency Law and other statutes and common law decisions.

1 **First Cause of Action**

2 **Violations of the Mobilehome Residency Law**

3 (Civ. Code §§ 798 *et seq.*, Gov't Code §§ 65863.7, 67863.8)

4 (Against CITY and DOES 1-100)

5 26. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
6 of this Complaint as though fully set forth herein.

7 27. Under the Mobilehome Residency Law, the Legislature has provided for special  
8 protections of mobilehome owners. “The Legislature finds and declares that, because of the high  
9 cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements  
10 relating to the installation of mobilehomes, and the costs of landscaping or lot preparation, it is  
11 necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the  
12 unique protection from actual or constructive eviction afforded by the provisions of this chapter.”  
13 Civ. Code § 798.55(a).

14 28. The Legislature has mandated that a mobilehome owner’s “[t]enancy may only be  
15 terminated for reasons contained in [Civil Code] Section 798.56.” If the reason for terminating the  
16 tenancy is not one of the eight authorized reasons permitted by the Legislature in section 798.56,  
17 the tenancy *cannot* be legally terminated.

18 29. Under State law, the Legislature requires that a mandatory Tenant Impact Report be  
19 completed and filed with the local legislative body or its appointed agency by the person or entity  
20 proposing closure of the park or a change in use of the park. “Change in use” is expressly defined  
21 by Civil Code section 798.10 as any “use of the park for a purpose other than the rental, or the  
22 holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for  
23 human habitation.” The mandatory Tenant Impact Report must “address the availability of  
24 adequate replacement housing in mobilehome parks and relocation costs.” Gov’t Code  
25 § 65863.7(a). A copy of the Tenant Impact Report must be provided to the resident of each  
26 mobilehome in the park at least 15 days before a hearing before the advisory agency or the  
27 legislative body, and, when a park closure is proposed, the Tenant Impact Report must be provided  
28 to a resident of each mobilehome “at the same time as the notice of the change is provided to the

1 residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.” Gov’t  
2 Code § 65863.7(b)-(c).

3 30. When a park closure—or cessation of use of the land as a mobilehome park—is  
4 even proposed, the provisions of the Mobilehome Residency Law are triggered. Park residents  
5 have the right to an open hearing before the legislative body on the sufficiency of the Tenant  
6 Impact Report. Gov’t Code § 65863.7(d). After reviewing the Impact Report and before any  
7 change of use or closure, the legislative body “may require, as a condition of the change, the person  
8 or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use  
9 on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome  
10 park.” Gov’t Code § 65863.7(e). If the closure or cessation of use of the park is the result of a  
11 decision by a local governmental entity or planning agency not to renew a conditional use permit or  
12 zoning variance under which the mobilehome park has operated—or as a result of any other zoning  
13 or planning decision, action, or inaction—the local governmental agency proposing the closure or  
14 cessation of use of the land as a mobilehome park “is required to take steps to mitigate the adverse  
15 impact of the change as may be required under subdivision (e).” Gov’t Code § 65863.7(i).

16 31. The mandates of these sections of the Mobilehome Residency Law found in  
17 Government Code section 65863.7 are specifically applicable to the CITY since the Legislature  
18 expressly made this section “applicable to charter cities.” Gov’t Code § 65863.7(h). The  
19 Legislature made the protections applicable to cities in 1988 “for the immediate preservation of the  
20 public peace, health, or safety within the meaning of Article IV of the Constitution.... It is  
21 anticipated that there will be many mobilehome park closures in charter cities in the near future and  
22 thousands of mobilehome owners may be displaced. This act will provide some remedy for the  
23 situation, and it is necessary that this act take effect immediately.” Statutes of 1986, ch. 190, p.  
24 1058, §4.

25 32. In addition to the protections afforded mobilehome owners and residents as  
26 described above, the Mobilehome Residency Law mandates the timing, content, form, and manner  
27 of service of notices to mobilehome owners before any lawful termination of the tenancy (or refusal  
28 to extend the tenancy) can occur or any eviction process can be instituted. (See, e.g., Civ. Code

1 § 798.56(g), Gov't Code §§ 65863.7, 65863.8.)

2 33. Moreover, the statutory protections mandated by the state Legislature cannot be  
3 waived by the Park's tenants and residents, by contract or otherwise. Gov't Code § 798.77.

4 34. CITY OF SAN DIEGO and all Defendants violated the Mobilehome Residency Law  
5 and related sections by, among other things:

- 6 • failing to provide an authorized reason under Civil Code section 798.56 for the termination  
7 of the Park residents' tenancy;
- 8 • failing to timely and properly serve written notices as required by the Mobilehome  
9 Residency Law that provide an authorized reason under Civil Code section 798.56 for the  
10 termination of the Park residents' tenancy;
- 11 • failing and refusing to prepare a mandatory Tenant Impact Report that would have, among  
12 other things, addressed the availability and paucity of adequate replacement housing in  
13 other mobilehome parks and relocation costs;
- 14 • failing and refusing to file the required Tenant Impact Report with the local legislative body  
15 or its advisory agency;
- 16 • failing and refusing to provide—at any time—a copy of the Tenant Impact Report to any  
17 resident, let alone to the resident of each mobilehome in the Park;
- 18 • failing and refusing to provide a copy of the Tenant Impact Report at the time of service, if  
19 any, of a notice that complies with Civil Code section 798.56(f)(2) to any resident, let alone  
20 to the resident of each mobilehome in the Park;
- 21 • failing and refusing to provide a public hearing before the legislative body on the  
22 sufficiency of the Tenant Impact Report;
- 23 • failing and refusing to take adequate steps to mitigate any adverse impact of the closure or  
24 cessation of use on the ability of displaced mobilehome park residents to find adequate  
25 housing in another mobilehome park or elsewhere;
- 26 • failing to serve notices that comply with the timing, content, form, and/or manner of service  
27 required by the Mobilehome Residency Law and other statutes;
- 28 • failing to serve notices on the legal owners and junior lienholders of all Park mobilehomes

1 that comply with the timing, content, form, and/or manner of service required by the  
2 Mobilehome Residency Law and other statutes;

3 • failing and refusing to meet with the HOA and its representatives—as they had repeatedly  
4 requested—and continuing to fail and refuse to meet within 30 days of written request in  
5 violation of Civil Code section 798.53;

6 • creating a public nuisance by failing and refusing to properly maintain and service the  
7 Park’s common areas;

8 • failing to meet and consult with the Park’s residents and their representatives before the  
9 CITY unilaterally created new “rules” for the Park, failing to give 10 days’ written notice of  
10 the proposed change of the Park’s rules, failing to provide all residents the proposed rule  
11 changes in the required notice, failing to hold such a meeting, failing to disclose up to the  
12 present time the purported “rules” in writing to the residents, the HOA, or its  
13 representatives, all of which is in violation of Civil Code section 798.25. Furthermore, all  
14 such “rules” unilaterally adopted by the CITY without the consent of the Park’s  
15 homeowners are void and unenforceable under Civil Code section 798.25.5;

16 • creating a take-it-or-leave-it agreement in October 2003 that purportedly waived the  
17 provisions of the Mobilehome Residency Law and other statutorily protected rights and  
18 convinced some Park residents to enter into that agreement with the CITY;

19 • failing and refusing to allow mobilehome owners to sell their mobilehomes in violation of  
20 Article 7 of the Mobilehome Residency Law;

21 • failing and refusing to allow mobilehome owners from renting their mobilehomes in  
22 violation of, among other things, Article 3 of the Mobilehome Residency Law;

23 • retaliating against Park residents after the CITY took possession of the Park on November  
24 24, 2003 by, among other things, reducing Park services, limiting access to the Park’s  
25 common areas, towing the residents’ trailers and vehicles, impounding their items from  
26 storage areas, unilaterally creating new “rules” for the Park without even disclosing those  
27 “rules” in writing to the residents, the HOA, or its representatives, prohibiting the  
28 mobilehome owners from renting their units, refusing to allow the HOA to replace the

1 chairs and tables that the CITY had ordered DHRG to remove from the Park's church and  
2 club house, failing to maintain the Park's common areas, and—as of the week of January  
3 12, 2003—reducing the temperature of the Park's swimming pool—which is used by  
4 elderly residents for exercise—from 85 degrees to a chilly 70 degrees. These retaliatory  
5 acts also violate Civil Code section 1942.5 and common law anti-retaliatory act doctrines.

6 35. To prevent the CITY OF SAN DIEGO and the other Defendants from committing  
7 further violations of the various provisions of the Mobilehome Residency Law (Civ. Code §§ 798  
8 *et seq.*, Gov't Code § 65863.7), Plaintiff has and will seek an injunction ordering Defendants to:

- 9 • stop any attempt to institute any Unlawful Detainer or other eviction proceeding or process  
10 against the homeowners and residents of the Park, located at 2727 De Anza Road, San  
11 Diego, California, until the time that the factual and legal issues alleged herein reach a final  
12 judicial determination;
- 13 • stop any attempt to cease, discontinue, or decrease the level of any services, maintenance,  
14 common area access, and security provided to homeowners and residents of the Park; and
- 15 • comply in full with the Mobilehome Residency Laws, including but not limited to  
16 preparation of a Tenant Impact Report and all other aspects of the Mobilehome Residency  
17 Law and Government Code § 65863.7.

18 36. As a further result of CITY OF SAN DIEGO and the other Defendants' violations of  
19 the various provisions of the Mobilehome Residency Law (Civ. Code §§ 798 *et seq.*, Gov't Code  
20 § 65863.7), Plaintiff and the Park's current and former owners, tenants, residents, and occupants  
21 have directly and proximately suffered damages according to proof. Moreover, due to Defendants'  
22 willful violations alleged above, Plaintiff seeks statutory penalties under Civil Code section 798.86  
23 of \$2,000 for *each* separate violation committed by Defendants as to *each* of the up to 509 units in  
24 the Park. Plaintiff also seeks to recover its attorneys' fees and costs pursuant to Civil Code section  
25 798.85 and as otherwise allowed by law.

26 ////

27 ////

28 ////

1 **Second Cause of Action**

2 **Violation of the Mello Act**

3 (Gov't Code §§ 65590 et seq.)

4 (Against CITY and DOES 1-100)

5 37. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
6 of this Complaint as though fully set forth herein.

7 38. The Mello Act prohibits the conversion or demolition of dwelling units occupied by  
8 persons and families of low or moderate income within a coastal zone *unless* local government has  
9 provided replacement dwelling units within the coastal zone of the same city or county as the  
10 converted or demolished dwelling units. “‘Conversion’ means a change of a residential dwelling,  
11 including a mobilehome...or a mobilehome lot in a mobilehome park...to a nonresidential use.”  
12 Gov’t Code § 65590(g)(1). “‘Demolition’ means the demolition of a residential dwelling,  
13 including a mobilehome...or a mobilehome lot in a mobilehome park.” Gov’t Code § 65590(g)(2).  
14 If replacement housing is not feasible within the coastal zone of the same city or county, then the  
15 local government must provide replacement dwelling units within three miles of the coastal zone.  
16 Gov’t Code § 65590(b).

17 39. The Mello Act requires that all local governments comply with its requirements.  
18 Gov’t Code § 65590(a).

19 40. Here, before the CITY can evict the Park’s residents, convert the Park to another use  
20 such as parkland or a hotel development, or otherwise effectuate the closure of the Park, the CITY  
21 must, among other things, evaluate the feasibility of replacement housing, taking into account  
22 “economic, environmental, social, and technical factors” to determine whether adequate  
23 replacement housing can be “accomplished in a successful manner within a reasonable period of  
24 time.” Gov’t Code § 65590(g)(3).

25 41. In its resolution dated November 18, 2003, the CITY asserted—in a self-serving,  
26 unsubstantiated, and conclusory fashion—“That the discontinuance of the use of the Property as a  
27 permanent residential mobile home park is not a conversion or demolition by the City of San Diego  
28 or the Lessee within the meaning of Government Code section 65590 or any other provision of

1 law.”

2 42. Plaintiff alleges that, among other things, CITY and DOES 1-100:

- 3 • failed to make a threshold determination whether the residential units to be converted or
- 4 demolished have been occupied by low or moderate-income persons;
- 5 • failed to make factual findings to determine whether the proposed new use for the Park is
- 6 “coastal dependent” or “coastal related”;
- 7 • failed to complete a feasibility analysis as required by the Mello Act;
- 8 • failed to identify and/or provide replacement dwelling units within the coastal zone in the
- 9 City of San Diego or County of San Diego;
- 10 • failed to provide replacement dwelling units within three miles of the coastal zone in the
- 11 City of San Diego or County of San Diego;
- 12 • failed to provide a fee payment procedure in lieu of providing replacement dwellings; and
- 13 • failed to reconcile the displacement of over 1,100 residents with the State of Emergency
- 14 recently declared by the San Diego Housing Commission regarding the critical shortage of
- 15 low-income housing.

16 43. As these determinations are a mandatory condition precedent to allowing the

17 destruction and/or removal of low to moderate income housing in a coastal zone, Plaintiff seeks

18 injunctive relief to:

- 19 • stop any attempt to institute any Unlawful Detainer, eviction proceeding, or other legal
- 20 action or procedure against the current or former owners or residents of the Park, located at
- 21 2727 De Anza Road, San Diego, California, until the time that the factual and legal issues
- 22 alleged herein reach a final judicial determination;
- 23 • stop any attempt to cease, discontinue, or decrease the level of any services, maintenance,
- 24 common area access, and security provided to owners and residents of the Park; and
- 25 • comply in full with the provisions of the Mello Act pursuant to Government Code § 65590.

26 44. In addition, Defendants’ breach of these mandatory duties proximately caused

27 Plaintiff and the Park’s current and former owners, tenants, residents, and occupants’ injuries and

28 damages, which include, but are not limited to special damages, general damages, attorneys’ fees

1 and costs, as well as all other forms of relief allowed by law. Plaintiff further prays for a writ of  
2 mandate compelling the CITY to comply with the provisions of the Mello Act.

3  
4 **Third Cause of Action**

5 **Public Entity Liability: Failure to Discharge a Mandatory Duty**

6 (Violation of Gov't Code § 815.6 et al)

7 (Against CITY and DOES 1-100)

8 45. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
9 of this Complaint as though fully set forth herein.

10 46. CITY OF SAN DIEGO and DOES 1-100 were under a mandatory duty to comply  
11 with the Mobilehome Residency Laws and the Mello Act, specifically, Civ. Code §§ 798 *et seq.*,  
12 Gov't Code §§ 65590 *et seq.*, 65863.7, and 65863.8. The language of these enactments explicitly  
13 require that particular action be taken or not taken.

14 47. The injuries and damages claimed by Plaintiff are among the consequences that the  
15 Legislature sought to prevent by imposing the mandatory duties.

16 48. Defendants' breach of the mandatory duties proximately caused Plaintiff's injuries  
17 and damages, which include, but are not limited to special damages, general damages, attorneys'  
18 fees and costs, as well as all forms of relief provided for in Government Code section 810.8.

19  
20 **Fourth Cause of Action**

21 **Inverse Condemnation**

22 (Against CITY and DOES 1-100)

23 49. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
24 of this Complaint as though fully set forth herein.

25 50. Plaintiff and the Park's owners own property located at 2727 De Anza Road,  
26 including but not limited to their mobilehomes, appurtenances, improvements, and landscaping.

27 51. CITY and DOES 1-100 have, through their actions, inactions, concealment and  
28 misrepresentations, caused a taking without just compensation of Plaintiff and the Park's owners'

1 property, including but not limited to their mobilehomes, appurtenances, improvements, and  
2 landscaping. Plaintiff has been deprived of essentially all economically viable use of its property  
3 and essentially all market value of that property. Plaintiff has received no compensation for the  
4 damage and/or destruction of its property. As a proximate result, Plaintiff has suffered damages in  
5 an amount subject to proof.

6 52. Plaintiff has incurred and will incur attorneys' fees, mobilehome and real estate  
7 appraisal fees, engineering fees, and other types of investigative and expert consulting fees because  
8 of this proceeding and which are recoverable under Code of Civil Procedure section 1036.

9  
10 **Fifth Cause of Action**

11 **Violation of State Relocation Assistance Requirements**

12 (Violation of Gov't Code §§ 7260 *et seq.*)

13 (Against CITY and DOES 1-100)

14 53. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
15 of this Complaint as though fully set forth herein.

16 54. Government Code section 7262 provides: "Whenever a program or project to be  
17 undertaken by a public entity will result in the displacement of any person, the displaced person is  
18 entitled to payment for actual moving and related expenses...." Government Code section 7263  
19 provides: "In addition to the payments required by Section 7262, the public entity, as part of the  
20 cost of acquisition, shall make a payment to the owner of real property acquired for public use  
21 which is improved with a dwelling actually owned and occupied by the owner...."

22 55. The CITY has failed to comply with the requirements of Government Code sections  
23 7260 *et seq.* Despite threatening to evict Park residents and thereby displace those residents, and  
24 turn the Park into a different use, the CITY has not provided the residents with the payments  
25 required by Government Code Section 7260 *et seq.*

26 56. As a result, Plaintiff has directly and proximately suffered damages in an amount  
27 subject to proof. Based on information and belief, the CITY OF SAN DIEGO calculated in 1993  
28 that damages to Park residents were in excess of \$67 million.

1 **Sixth Cause of Action**

2 **Breach of Contract**

3 **Third Party Beneficiary Theory**

4 (Against CITY and DOES 1-100)

5 57. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs  
6 of this Complaint as though fully set forth herein.

7 58. The CITY and DHRG entered into various agreements between them, including the  
8 Master Lease (attached as Exhibit 1 and incorporated herein by reference), the Memorandum of  
9 Understanding (attached as Exhibit 2 and incorporated herein by reference), and various lease  
10 amendments and options. See also paragraph 17 of this Complaint regarding the LTRA (attached  
11 as Exhibit 3, and incorporated herein by reference). Plaintiff and past and present Park residents  
12 are the intended beneficiaries of these agreements. Under these agreements, present and former  
13 owners, tenants, residents, and occupants of the Park should receive relocation and compensation  
14 benefits and/or an extension of the master lease beyond November 23, 2003.

15 59. Based on information and belief, CITY breached these agreements, breached the  
16 implied covenant of good faith and fair dealing, interfered with the LTRA contracts between Park  
17 homeowners and DHRG, and, in so doing, denied Plaintiff and the Park residents from the intended  
18 benefits of such agreements by failing and refusing to provide any lease extensions, relocation  
19 benefits, or other lawful and adequate compensation.

20 60. Plaintiff and Park residents have suffered consequential, general, special, and  
21 incidental damages, according to proof at trial. Moreover, Plaintiff seeks its attorneys' fees and  
22 costs, prejudgment interest, and any other relief that the court deems proper as allowed by law.

23  
24 **Prayer**

25 Plaintiff prays for judgment against Defendants, and each of them, as follows:

26 61. For an injunction ordering the CITY and DOES 1-100 to:

- 27 • stop any attempt to institute any Unlawful Detainer or other eviction proceeding or process  
28 against the owners or residents of the Park, located at 2727 De Anza Road, San Diego,

1 California, until the time that the factual and legal issues alleged herein reach a final judicial  
2 determination;

- 3 • stop any attempt to cease, discontinue, or decrease the level of any services, maintenance,  
4 common areas or their access, and security provided to owners and residents of the Park and  
5 return any such discontinues or decreased services or common areas and the like to their  
6 prior levels;
- 7 • comply in full with the provisions of the Mello Act pursuant to Government Code § 65590  
8 and the Mobilehome Residency Law, including but not limited to preparation of a Tenant  
9 Impact Report and all other aspects of Government Code § 65863.7;
- 10 • extend the tenancy for the mobilehome owners and residents at the Park at least until the  
11 year 2017—the year that the CITY’s lease on the neighboring “Campland” property  
12 expires—or, alternatively, not less than 5 years from the date of this filing; and/or
- 13 • specifically provide Plaintiff the relocation benefits set forth under the provisions of the  
14 LTRA, including but not limited to articles 19 and 20, at Plaintiff’s election.

15 62. For statutory penalties under Civil Code section 798.86 of \$2,000 for *each* separate  
16 violation of the Mobilehome Residency Law committed by Defendants for *each* of the up to 509  
17 mobilehome lots in the Park.

18 63. For declaratory relief that the provisions of the Mobilehome Residency Law cannot  
19 be waived by contract and that any such purported waiver language contained in any agreement  
20 with residents is null and voidable by individual residents as against public policy.

21 64. For a writ of mandate so that Defendants must comply with the provisions of the  
22 Mello Act, including but not limited to: providing replacement dwelling units within the coastal  
23 zone in the City of San Diego or County of San Diego, or within three miles of the coastal zone in  
24 the City of San Diego or County of San Diego, or providing a fee payment procedure in lieu of  
25 providing replacement dwellings.

26 65. For declaratory relief that the CITY’s October 2003 settlement agreement—in  
27 whole—is voidable at the sole election of any resident and/or homeowner who signed the  
28 agreement at any time between October 2003 and January 2004.

