

OCT 16 2006

By: B. TOM, Deputy

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

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

DE ANZA COVE HOMEOWNERS  
ASSOCIATION, INC., a California non-  
profit corporation; et al.,  
  
Plaintiffs,  
  
vs.  
  
CITY OF SAN DIEGO; DE ANZA  
HARBOR RESORT AND GOLF, LLC, a  
California limited liability company; et al.,  
  
Defendants.

Case No.: GIC 821191

ORDER ON MATTERS TAKEN UNDER  
SUBMISSION ON SEPTEMBER 11, 2006

The Court having read and considered the pleadings filed by the Parties and the arguments presented by Counsel, hereby rules on plaintiffs' motion for class certification as follows:

1. Defendant City of San Diego's evidentiary objections to Exhibits 1-7, 10 and 22-26 are overruled as are objections to the taking of Judicial Notice. Defendant's objections to the declaration of Mr. Tatro are sustained as argumentative. Defendant's objection to the declarations of Mr. Green and Mr. Kennedy are overruled.

1           2.           Plaintiffs' evidentiary objections to the declaration of attorneys  
2                    Borts and Rathbone are sustained as argumentative and hearsay  
3                    as are objections to the deposition summaries attached as  
4                    Appendix A to Defendant's Memorandum of Points and Authorities  
5                    in Opposition to Plaintiff's Motion for Class Certification.

6  
7           3.           The Court finds that: (1) the members of the Class, as defined, are  
8                    so numerous that joinder of all members is impracticable; (b) there  
9                    are questions of law or fact common to the Class; (c) the claims of  
10                   the individually named plaintiffs are typical of the claims of the  
11                   members of the Class; (d) the individually named plaintiffs will fairly  
12                   and adequately represent the interests of the Class, and have  
13                   retained competent counsel experienced in class action litigation;  
14                   (e) the questions of law or fact common to the members of the  
15                   Class predominate over any questions affecting only individual  
16                   members of the Class; and (f) a class action is superior to other  
17                   available methods for the fair and efficient adjudication of this  
18                   controversy. Accordingly, plaintiffs' motion for class certification is  
19                   granted.

20  
21  
22  
23           4.           The Court hereby defines the class as "All homeowners, tenants  
24                   and residents of the approximately 509 homes located within the  
25                   mobilehome park now known as Mission Bay Park and formerly  
26                   known as De Anza Harbor Resort, located at 2727 De Anza Road,  
27                   San Diego, California on October 22, 2003."  
28

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

The Court hereby sets a Status Conference in Department 66 on October 27, 2006 at 2:30 p.m. to discuss issues related to the refinement of the Class Definition. The Conference will be held in conjunction with the O.S.C. Why GIC 865536 Should Not Be Transferred to Dept. 66.

IT IS SO ORDERED.

CHARLES R. HAYES

Date: OCT 16 2006

---

HONORABLE CHARLES R. HAYES,  
Judge of the Superior Court

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> FAMILY COURT, 1555 6 <sup>TH</sup> AVE., SAN DIEGO, CA 92101-3296 <input type="checkbox"/> MADGE BRADLEY BLDG., 1409 4 <sup>TH</sup> AVE., SAN DIEGO, CA 92101-3105 <input type="checkbox"/> KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92083-8643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3 <sup>RD</sup> AVE., CHULA VISTA, CA 91910-5649 <input type="checkbox"/> JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792	<p style="text-align: center;"><b>F I L E D</b></p> <p style="text-align: center;">Clerk of the Superior Court</p> <p style="text-align: center;">OCT 16 2006</p> <p style="text-align: center;">By: B. TOM, Deputy</p>
PLAINTIFF(S)/PETITIONER(S) <b>DE ANZA COVE HOMEOWNERS ASSOCIATION, INC.</b>	
DEFENDANT(S)/RESPONDENT(S) <b>CITY OF SAN DIEGO</b>	Judge: <b>CHARLES R. HAYES</b> Dept.: <b>66</b>
<b>CLERK'S CERTIFICATE OF SERVICE BY MAIL (CCP 1013a(4))</b>	CASE NUMBER <b>GIC 821191</b> [L.A. SUPERIOR COURT CASE #BC 277067]

I, **MICHAEL RODDY**, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s):

**ORDER ON MATTERS TAKEN UNDER SUBMISSION ON SEPTEMBER 11, 2006**

on the parties shown below by placing a true copy in a separate envelope, addressed as shown below; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at:

San Diego     Vista     El Cajon     Chula Vista     Oceanside     Ramona,    California.

TIMOTHY J TATRO  
 TATRO & ZAMOYSKI, LLP  
 12264 EL CAMINO REAL, SUITE 400  
 SAN DIEGO, CA 92130

MILES D. SCULLY  
 GORDON & REES  
 101 W BROADWAY STE 2000  
 SAN DIEGO, CA 92101

VINCENT J. BARTOLOTTA JR.  
 THORSNES BARTOLOTTA MCGUIRE &  
 PADILLA  
 2550 FIFTH AVE 11TH FL  
 SAN DIEGO, CA 92103

ETHAN T BOYER  
 KIRBY NOONAN LANCE & HOGE LLP  
 600 WEST BROADWAY, STE 1100  
 SAN DIEGO, CA 92101-3302

MARIA C. SEVERSON  
 OFFICE OF THE CITY ATTORNEY  
 1200 THIRD AVE, STE 1100  
 SAN DIEGO, CA 92101-4100

PATRICK J. MENDES  
 TYSON & MENDES  
 5661 LA JOLLA BOULEVARD  
 LA JOLLA, CA 90237

P. GERHARDT ZACHER  
 GORDON & REES, LLP  
 101 WEST BROADWAY SUITE 1600  
 SAN DIEGO, CA 92101

**MICHAEL RODDY  
 CLERK OF THE SUPERIOR COURT**

Date:           OCT 16 2006          

By:                     , Deputy