

F I L E D
Clerk of the Superior Court

APR 22 2015 *V30W*

By L. Urie, Deputy

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NO FEE - GOV'T CODE §6103

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Attorneys for Defendant CITY OF SAN DIEGO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DE ANZA COVE HOMEOWNERS
ASSOCIATION, INC., et al.,

Case No. GIC 821191

Plaintiffs,

CLASS ACTION

v.

**STIPULATION RE: POST-JUDGMENT
INTEREST; ORDER THEREON**

CITY OF SAN DIEGO, et al.,

VIA FAX

Defendants.

IT IS HEREBY STIPULATED by and between Plaintiff DE ANZA COVE
HOMEOWNERS ASSOCIATION, INC., and the Plaintiff CLASS REPRESENTATIVES
(collectively "Plaintiffs"), by and through their attorneys of record; and Defendant CITY OF SAN
DIEGO ("Defendant" or "City"), by and through its attorneys of record, as follows:

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Stipulation

1. On or about October 16, 2014, the Court entered its Amended Judgment in this matter, ordering the City of San Diego to serve a 12-Month Notice of Park Closure and Final Relocation Impact Report no later than January 14, 2015, and to thereafter begin paying relocation benefits to Class members.

2. The City served its Notice of Park Closure and Relocation Impact Report on January 14, 2015 and the City began paying relocation benefits to Class members, but has not included post-judgment interest on relocation benefits to Class members who had not vacated the Park prior to January 14, 2015. Although it was agreed and understood that those Class members who had already vacated the Park were entitled to post-judgment interest, whether post-judgment interest was owed on relocation benefits to current residents of the Park was a point of disagreement between the parties. Plaintiffs recently filed a motion for interpretation of the Amended Judgment as to whether the City is required to pay post-judgment interest to all Class Members, regardless of whether they had vacated the Park. Plaintiffs' motion was to be heard by the Court on April 17, 2015.

3. In furtherance of the desire to bring certainty and finality with respect to post-judgment interest issues in this matter, the parties stipulate and agree that the City will pay post-judgment interest at the rate of 7% per annum to Class members who had not yet vacated the Park as of January 14, 2015 (i.e., resident class homeowners and renters). For resident Class members, post-judgment interest will begin to accrue on January 14, 2015—the date the City served its Notice of Park Closure and Relocation Impact Report—and will continue to accrue up through and including the date the Class member is paid in full. Should a Class member request a 50% advance payment of relocation benefits prior to vacating the Park, post-judgment interest will be paid on the first 50% of relocation benefits, accruing up to and including the date on which the first 50% payment is made. Thereafter, post-judgment interest will continue to accrue solely on unpaid relocation benefits, up to and including the date on which the final relocation benefit payment is made. Similarly, if a Class Member fully vacates the Park without first seeking a 50% advance payment, said Class Member will be paid in one lump sum with interest accruing on the entire amount

1 through the date of payment.

2 4. The parties further stipulate and agree that the City will pay \$8,477.98 in interest on
3 Plaintiffs' costs award on or before April 24, 2015; and the City agrees to waive its right to recover
4 any costs awarded to the City on remittitur from the appeal in this matter, which the City estimated
5 to be \$5,669.41 through April 17, 2015 (see Remittitur, interlineated and entered by the clerk of the
6 Court of Appeal, Fourth Appellate District, Division One, on or about December 18, 2009, and
7 entered by the Superior Court on or about December 21, 2009). Plaintiffs and their counsel agree
8 to waive their rights to any post-judgment interest owed to date (which Plaintiffs' estimated to be
9 \$137,709.78 through April 17, 2015) on the attorneys' fees awarded in this case.

10 5. Finally, the parties stipulate and agree that this Stipulation and Order does not constitute a
11 substantial change to or modification of the Amended Judgment which would trigger or otherwise
12 affect rights to appeal, but in any event the parties stipulate and agree to waive any rights to appeal
13 with respect to this Stipulation and Order.

14 **IT IS SO STIPULATED:**

15 DATE: April 20, 2015

TATRO & ZAMOYSKI, LLP

16
17 By: 

Timothy J. Tatro, Esq.
Peter A. Zamoyski, Esq.
Plaintiffs' Class Counsel

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19
20 DATE: April 21, 2015

GORDON & REES LLP

21
22 By: 

William M. Rathbone, Esq.
Timothy K. Branson, Esq.
Attorneys for Defendant
CITY OF SAN DIEGO

23
24
25 DATE: April 21, 2015

OFFICE OF THE CITY ATTORNEY
JAN GOLDSMITH, CITY ATTORNEY

26
27 By: 

John E. Riley, Esq., Deputy City Attorney
Attorneys for Defendant
CITY OF SAN DIEGO

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ORDER

Pursuant to the foregoing stipulation of the parties, and for good cause shown, **IT IS HEREBY ORDERED** as follows:

1. The Defendant City of San Diego shall pay post-judgment interest at the rate of 7% per annum to Class Members who had not yet vacated the Park as of January 14, 2015 (i.e., resident class homeowners and renters). For resident class members, post-judgment interest shall begin to accrue on January 14, 2015—the date the City served its Notice of Park Closure and Relocation Impact Report—and shall continue to accrue up through and including the date the Class member is paid in full. Should a Class member request a 50% advance payment of relocation benefits prior to vacating the Park, post-judgment interest shall be paid on the first 50% of relocation benefits, accruing up to and including the date on which the first 50% payment is made. Thereafter, post-judgment interest shall continue to accrue solely on unpaid relocation benefits, up to and including the date on which the final relocation benefit payment is made.

2. It is further ordered that the Defendant City of San Diego shall pay the amount of **\$8,477.98** on or before April 24, 2015, as interest owed on Plaintiffs' costs.

3. In accordance with the parties' stipulation, the Court hereby orders that the City has irrevocably waived its right to recover any costs previously awarded to the City on remittitur from the appeal in this matter (see Remittitur, interlineated and entered by the clerk of the Court of Appeal, Fourth Appellate District, Division One, on or about December 18, 2009, and entered by the Superior Court on or about December 21, 2009); and that Plaintiffs and their counsel have irrevocably waived any rights to post-judgment interest owed to date on the attorneys fees awarded in this case.

IT IS SO ORDERED.

Dated: 4/22/15



THE HONORABLE JOEL M. PRESSMAN
JUDGE OF THE SUPERIOR COURT

SAN DIEGO COUNTY SUPERIOR COURT		COURT USE ONLY
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Telephone No. M.D. Scully (SBN: 135853) Tel: (619) 696-6700 William M. Rathbone (SBN: 95864) Fax: (619) 696-7124 Timothy K. Branson (SBN: 187242) GORDON & REES LLP 101 W. Broadway, Suite 2000 San Diego, CA 92101		F I L E D Clerk of the Superior Court APR 22 2015 By: L. Urie, Deputy
SHORT CASE TITLE DE ANZA COVE HOA v. CITY OF SAN DIEGO		ICJ: Hon. Joel M. Pressman DEPT: 66
ATTORNEYS FOR DEFENDANT Defendant CITY OF SAN DIEGO		LASC Case No. GIC 821191

PROOF OF SERVICE

VIA FAX

I, the undersigned, say: I am over 18 years of age, employed in the County of San Diego, California, in which the within-mentioned service occurred; and that I am not a party to the subject cause. My business address is 101 West Broadway, Suite 2000, San Diego, California 92101.

On April 21, 2015, I served the following document(s):

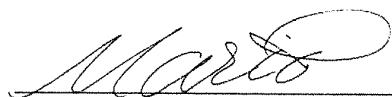
- 1. STIPULATION RE: POST-JUDGMENT INTEREST; ORDER THEREON**

SEE ATTACHED SERVICE LIST

- BY PERSONAL SERVICE BY CAUSE:** I caused to be personally delivered the document(s) listed above to the addressee(s) set forth below pursuant to Code of Civil Procedure § 1011.
- BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at San Diego, addressed as set forth below. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure § 1013a.
- BY ELECTRONIC MAIL:** per the agreement of parties, by transmitting via electronic mail the document(s) listed above to the addressee(s) listed below on this date before 5:00 pm pursuant to Code of Civil Procedure § 1010.6

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 21, 2015.



Maria G. Cerezo

APR 21 2015 9:48

SERVICE LIST

<p><u>Counsel for Plaintiffs:</u> Timothy J. Tatro tim@tatrozamoyski.com Peter A. Zamoyski peter@tatrozamoyski.com Julie Lopez Julie@tatrozamoyski.com TATRO & ZAMOYSKI, LLP 12760 High Bluff Drive, Suite 210 San Diego, CA 92130 (858) 244-5032 / Fax (858) 847-0032</p> <p>Vincent J. Bartolotta, Jr. Bartolotta@tbmlawyers.com Karen Frostrom, frostrom@tbmlawyers.com THORSNES, BARTOLOTTA & MCGUIRE 2550 Fifth Avenue, 11th Floor San Diego, CA 92103 (619) 236-9363 / Fax (619) 236-9653</p> <p>Cc: Esther Powers powers@tbmlawyers.com Pamela Mazzarella mazzarella@tbmlawyers.com</p>	<p><u>Courtesy Copy:</u> John Riley Assistant City Attorney jriley@sandiego.gov OFFICE OF THE CITY ATTORNEY 1200 Third Avenue, Suite 1620 San Diego, CA 92101</p>
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