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10 OMAR AHMED, JR.; XIN GUO; and
11 CAROLYN SOARES

FILED
Superior Court Of California,
Sacramento
06/20/2017
mrubalcaba
By _____, Deputy
Case Number:
34-2017-80002518

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF SACRAMENTO

14 PATTY JOHNSON; JOE TEIXEIRA;
15 OMAR AHMED, JR.; XIN GUO;
16 and CAROLYN SOARES,

17 Petitioners and Plaintiffs,

18 v.

19 CITY OF ELK GROVE,

20 Respondent and Defendant.

Case No.

VERIFIED PETITION FOR PEREMPTORY
WRIT OF MANDATE AND WRIT OF
MANDATE ORDERING COMPLIANCE
WITH THE CALIFORNIA PUBLIC
RECORDS ACT AND THE RALPH M.
BROWN ACT AND REQUEST FOR
DECLARATORY RELIEF

[Govt. Code §§6250 *et seq.*; Govt. Code
§54960; Code Civ. Proc. §§1085 *et seq.*]

Related Case: 34-2016-80002493

21 INTRODUCTION

BY FAX

22 1. By this petition and complaint pursuant to the Code of Civil Procedure §§1085 *et*
23 *seq.* and Government Code §§6250 *et seq.*, Petitioners PATTY JOHNSON, JOE TEIXEIRA,
24 OMAR AHMED, JR., XIN GUO AND CAROLYN SOARES (“Petitioners”) seek relief to:
25 (1) enforce the California Public Records Act, Govt. Code §§6250 *et seq.* (“PRA”); and (2)
26 enforce the Ralph M. Brown Act, Govt. Code §54960 (“Brown Act”).

27 2. Between December, 2016 and late May, 2017, Petitioners, through their attorneys,
28 submitted requests to Respondent CITY OF ELK GROVE (“City”) for records generally
concerning actions taken by Respondent City regarding the proposed casino/hotel by the Wilton

1 Rancheria Tribe (“Tribe”), a federally recognized tribe, and its gaming partner, Boyd Gaming
2 (“Boyd”). Similar requests were also submitted to Sacramento Central Groundwater Authority,
3 Sacramento Area Sewer District, Sacramento County Water Agency, Elk Grove Water District,
4 City of Galt, and the Bureau of Indian Affairs (“BIA”), and these agencies have complied with
5 Petitioners’ requests. Initially, City refused to release documents, but has since released some
6 records requested by Petitioners. However, those releases do not include the full scope of records
7 requested by Petitioners; City has claimed certain documents are being withheld as exempt, but
8 refuses to identify what documents are being withheld, so that it is impossible to determine if
9 claimed exemptions apply. Petitioners has attempted to narrow the scope of their demands and
10 more fully explain the reason they believe that relevant public documents are being withheld, but
11 City still refuses to fully comply with its obligations under the PRA. City refuses to release
12 public records from former City Councilmembers and/or employees during the time they were
13 with the City, including records related to meetings held regarding the casino/hotel. City refuses
14 to turn over documents from consultants working on behalf of the City on the casino/hotel, and
15 refuses to turn over relevant text-messages, emails, and phone messages. By refusing to release
16 the public records requested, City has violated its legal duties. Petitioners therefore ask this
17 Court for writ of mandate to compel City to comply with the PRA.

18 3. Based on Petitioners’ investigation to date, and without receiving all requested
19 documents related to relevant City actions, Petitioners are informed and believe, and thereon
20 allege: (1) that City has held a series of private meetings with representatives of the Tribe,
21 Boyd, and Elk Grove Town Center, LP (“EGTC”) through its general partner, Howard Hughes
22 Corporation (“HHC”), and other advocates of the casino/hotel (collectively the “gaming
23 parties”) in order to facilitate the approval of the casino/hotel without public notice; and (2) that
24 City has worked with the gaming parties to predetermine a collective concurrence so as to
25 support approval of the casino/hotel, continuing even in the face of the Referendum filed
26 November 21, 2016, all in violation of the Brown Act, especially, Govt. Code §54952.2.

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PARTIES AND VENUE

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2 4. All of the Petitioners are residents and taxpayers of the City of Elk Grove, and are
3 directly impacted by the actions City has taken and continues to take with respect to the proposed
4 casino/hotel in Elk Grove. Petitioners here are those same Petitioners identified in Case No. 34-
5 2016-80002493, alleging causes of action against City and Real Parties in Interest EGTC and
6 HHC for breach of City Zoning Ordinance, Breach of the 2014 Development Agreement, Breach
7 of Public Resources Code, Breach of Due Process Rights, and Declaratory Relief, generally
8 stemming from a series of actions taken by City to fast track approval of the casino/hotel without
9 following proper substantive or procedural steps. In that case, Petitioners seek a writ compelling
10 the City and Real Parties to hold public hearings regarding the ability of Boyd/the Tribe to
11 adhere to the terms of shopping center development for the Phase 2 property as mandated by the
12 2014 Development Agreement; to hold hearings on general plan and specific plan
13 compliance/amendment; to approve or disapprove of re-zone of the property; determine
14 appropriate mitigations; and make findings regarding removal of the mandatory mitigation
15 measures, among other decisions. City took none of these mandated steps.

16 5. All the documents sought by Petitioners are relevant either to preparation of the
17 record as to the writ of mandate sought in Case No. 34-2016-80002493 or to the allegations of
18 the civil claims in that case. Petitioners have a clear and present right to and beneficial interest
19 in City's performance of its duties; they have the right as members of the public to records
20 pertaining to City's performance of its duties; and they are within the class of persons
21 beneficially interested in City's performance under the PRA and the Brown Act. Petitioners
22 have no other adequate remedy at law.

23 6. Respondent and Defendant City of Elk Grove is, on information and belief, a
24 general law city organized and existing under the laws of the State of California. The City is
25 obligated to comply with the PRA, and to only take actions on behalf of the City which comply
26 with the Brown Act.

27 7. Upon information and belief, City is in possession of records sought by this
28 Petition.

1 8. This Court has jurisdiction under Government Code §§6258 and 6259; Code of
2 Civil Procedure §§1060 and 1085; and Article VI, section 10 of the California Constitution.

3 9. Venue is proper in this Court: the records in question or some portion of them are
4 situated in Elk Grove, Sacramento County; City is located in Sacramento County; Petitioners
5 reside in Elk Grove, Sacramento County; and the acts complained of herein occurred in Elk
6 Grove, Sacramento County.

7 **BACKGROUND**

8 10. Based on the results of Petitioners’ investigations to date, Petitioners are informed
9 and believe, and based thereon allege that beginning in 2012 a series of actions, meetings, and
10 communications occurred between members of the City Council, its agents, and City staff to
11 support and assist ECTC, through its general partner HHC, and representatives of the Tribe and
12 its development partner, Boyd, with its plans to develop a portion of the Elk Grove Mall Site A
13 as a tribal casino and hotel. Site A is a part of the Lent Ranch Special Plan Area (“SPA”) and is
14 zoned shopping center exclusively, and the Mall properties were intended to provide a primary
15 source of retail services and family based entertainment for the City. The marketing name for Lot
16 A was the “Promenade Mall” until 2014, after which it was changed to the “Outlet Collection”.
17 The result of the actions which are summarized below is that the northern portion of the Mall
18 Site A, referred to as Phase 2, has been carved from the original parcel and transferred first to
19 Boyd and then the Tribe, and thereafter to the BIA, and that the obligations of the applicable
20 Development Agreement have not been followed, that zoning ordinances and environmental
21 mitigations have been ignored or removed, all without the City holding a hearing to consider the
22 impacts of such actions.

23 11. Sometime in 2012, Boyd and the Tribe entered into a private agreement for the
24 development of the casino. Also in 2012, the gaming parties made contributions to then City
25 Mayor Gary Davis, and the Tribe opened its business development office in Elk Grove.

26 12. On November 29, 2012, Supervisor Don Nottoli, Sacramento County Board of
27 Supervisors (through his Secretary), requested a combined County/City meeting with
28 representatives from both Galt and Elk Grove, as well as County officials, to meet with

1 representatives and legal counsel from the Miwok Tribe regarding the proposed Wilton
2 Rancheria plans, and requested that the meeting be held at Elk Grove City Hall.

3 13. On December 19, 2012, Becky Craig, Assistant City Manager, City of Elk Grove,
4 emailed Thomas Warden, HHC: "I participated in an interesting meeting earlier this week and I
5 heard a lead that would be beneficial for HHC to follow. A local indian tribe, Wilton Rancheria,
6 is interested in locating a casino in the southeast vicinity of the City of Elk Grove... As HHC
7 evaluates their development options with the Promenade Mall in Elk Grove, perhaps a call to
8 Boyd Gaming to discuss its project as part of something bigger/different could prove useful. We
9 would be willing to assist however we can." Warden responded: "That's an excellent idea,
10 which I will pursue quickly. I'm friendly with a number of Boyd execs so who knows. Thanks
11 for the thought. I'll be in touch."

12 14. On February 22, 2013, the Wilton Rancheria Tribe notified County of Sacramento
13 of its intent to apply to the BIA to take land into trust; and on February 25, 2013, the BIA wrote
14 to Sacramento County re NEPA cooperating agency invitation regarding fee-to-trust project.

15 15. In March 2013, HHC requested amendments to restructure the Development
16 Agreement then recorded against the Promenade Mall Site, Lot A.

17 16. On November 12, 2013, the Wilton Rancheria Tribe submitted a resolution to
18 initiate the NEPA process for a fee-to-trust and casino, comprising 282 acres, to be located in the
19 City of Galt. The resolution proposed a preferred site called the "Twin Cities Site" in the City of
20 Galt (between Highway 99 and the Union Pacific Railroad tracks). No other site was identified.

21 17. On December 9, 2013, BIA provided its original notices of Intent to prepare an
22 EIS, and the City requested information from BIA relative to the scoping meeting conducted by
23 the BIA. On January 24, 2014, Jennifer Alvez, the City Attorney for Elk Grove, wrote an e-mail
24 to John Rydzik, Department of the Interior, Bureau of Indian Affairs: "We are hearing rumors
25 that the Galt site may no longer be the preferred location of the casino."

26 18. In February 2014, the Department of the Interior released the Wilton Rancheria
27 Fee-to Trust EIS Scoping Report, indicating that the City of Galt was the preferred site, as were
28 two other project alternative sites, the Tribal Rancheria Site in Wilton (the "Historic Rancheria

1 Site”) and the City of Elk Grove, Regional Mall Site, referred to as Alternative F (the “Mall
2 Site”). The Twin Cities Site proposal was 282 acres and 376,500 square feet; the Historic
3 Rancheria proposal was 75 acres and 376,500 square feet; the Mall Site proposal was 28 acres
4 and 381,000 square feet.

5 19. Beginning February, 2014, email correspondence between engineering
6 consultants for the Tribe, the City of Elk Grove, and Sacramento Area Sewer District indicate
7 that the Tribe was seeking development of sewer services for a tribal casino/hotel located on the
8 Elk Grove Mall property, with concerns related to the connection and capacity needs of the
9 proposed project, which were estimated by Summit Engineering, Inc. to be 320,000 gallons per
10 day; and continued negotiations appear to have resulted in the request for a formal capacity
11 study, and the City confirmed that if the Mall Site was inevitably chosen, that traffic, water, and
12 sewer impacts would have to be evaluated. On October 16, 2014, a Water & Wastewater
13 Feasibility Study for the Wilton Rancheria was prepared by Summit Engineering, Inc. with a
14 maximum daily demand for Mall Site (F) as 364,000 gpd.

15 20. Beginning in March, 2014, City staff also began coordination on the Tribe’s
16 traffic study for impacts of the casino/hotel onto the roadways surrounding the Mall Site,
17 including conference calls between the City and the Tribe’s consultant, Kimley Horn.

18 21. On April 11, 2014, EGTC filed a formal application with the City of Elk Grove
19 requesting an amendment to the Development Agreement for Zone A, the Regional Mall
20 property. The stated purpose of this amendment was to convert Zone A from a traditional high-
21 end retail mall to an outlet mall concept, referred to as “The Outlet Collection at Elk Grove.”

22 22. On October 22, 2014, the City of Elk Grove adopted Ordinance 29-2014,
23 approving the 2014 Development Agreement (“2014 DA”) with EGTC. In its finding, the City
24 found that no further CEQA analysis was required for this change. As part of the 2014 DA
25 approval, Zone A was informally divided into two sections, referred to as “Phase 1” and “Phase
26 2”. Phase 1 was to be the Outlet Collection at Elk Grove. The findings as part of the Resolution
27 explicitly acknowledge that the 2014 DA relied upon the approvals contained in the 2001 EIR,
28 including the MMRPs. Although as alleged above, City staff was actively engaged in providing

1 data to the Tribe's consultants related to the Draft EIS which identified Phase 2 as an alternative
2 casino site, the City's Findings of Fact state that Phase 2 had not been proposed for development
3 as part of the project description, and the characteristics of Phase 2 are "undefined and subject to
4 speculation", and therefore the 2014 DA was exempt from review under CEQA. The 2014 DA
5 and the amendments to the Lent Ranch SPA encumbered both Phase 1 and Phase 2 of the
6 property.

7 23. On February 18, 2016, the City of Elk Grove submitted its Comment Letter on the
8 Draft EIS/Tribal Project Environmental Document for Wilton Rancheria Fee-to-Trust and Casino
9 Project related to the Elk Grove Mall Site. City raised concerns regarding police services, tax
10 revenues, and public facilities, including roadway, water, and sewer capacity, and followed up
11 with letters indicating that the DEIS did not meet the requirements for the Tribal Environmental
12 Impact Report (TEIR) and Tribal Project Environmental Document (TPED).

13 24. Beginning in March 2016, the Tribal Chairman requested meetings with the City
14 of Elk Grove and Sacramento County to review design issues for the Lent Ranch SPA as the
15 location for the casino/hotel, instead of Galt, which meetings were scheduled in late March.
16 Also in late March, Sacramento Area Sewer District responded to detailed requests from the
17 Tribe's consultants designing sewer lines at the Elk Grove Mall.

18 25. On March 23, 2016, the Tribal Chairman informed Sacramento County in an
19 email that the Elk Grove site had the least environmental effects, and requested updated
20 negotiations regarding water services.

21 26. Beginning shortly thereafter, but at least by April 18, 2016, the City and HHC
22 began bi-weekly development coordination meetings for the casino/hotel development.
23 According to the email recipients, the attendees of these meetings included the following City
24 staff members: Darrel Doan, Economic Development Director; Laura Gill, City Manager; Jason
25 Behrmann, Assistant City Manager; Shane Diller, Assistant Development Services Director;
26 Darren Wilson, Planning Director; Mark Bulman, (title unknown); Andrew Keys, (title
27 unknown); and Christopher Jordan, Planning Manager; and there may be others.

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1 27. In May, 2016, the City asked the Tribe to set up meetings between the City
2 Manager, City Economic Development Director, and then Mayor Davis with Boyd in Las Vegas,
3 and multiple casino outreach meetings between the City Manager’s office and City Council
4 members Detrick, Davis, and Hume were arranged. Multiple meetings between City staff and
5 the Tribe also occurred. The Tribal Chairman and Boyd representatives also conversed by cell
6 phone with Mayor Davis during May.

7 28. On May 31, 2016, EGTC, Boyd, and the Tribe entered into an option agreement
8 to sell Phase 2 to the Wilton Rancheria.

9 29. On June 9, 2016, the Tribe announced to the press its decision to terminate its
10 evaluation of the Galt Site and that it had chosen the Elk Grove Mall Site as the preferred
11 location for its proposed tribal gaming casino and entertainment center. This was a sudden shift,
12 as all prior public notices and environmental documents prepared for the casino as part of the
13 DEIS (which commenced in 2013) emphasized the casino being developed in the City of Galt,
14 and all public meetings and hearings regarding the Tribe’s plans for its casino had been held in
15 Galt.

16 30. Meetings between Tribal representatives and the City Manager’s office, the City
17 Economic Development Director, and the Director of Development Services continued and
18 included representatives of the HHC organization. One of the topics included plans to address
19 the subdivision of Phase 2 from the balance of Lot A. On June 30, 2016, the Tribe filed the land
20 into trust application with the Department of the Interior regarding the Phase 2 property, for 28
21 acres. Communications between the HHC organization and the Assistant City Attorney
22 described efforts to avoid publicity on the City’s website by the Economic Development
23 Department regarding the conveyance, because no environmental review of the casino by the
24 City was planned.

25 31. Continued negotiations – focused on revision of fee credits between the parcel to
26 be transferred to the Tribe and retained by HHC – continued with the Assistant City Attorney
27 and members of the City Manager’s offices. Sometime in late July or early August, 2016, HHC
28 requested amendments to the 2014 Development Agreement and Parking Fee License

1 Agreement to remove all restrictions applying to the Phase 2 property.

2 32. By August 26, 2016, the City Manager's office has agreed that the Assistant City
3 Attorney would prepare amendments to the 2014 Development and License Agreements.

4 33. On September 14, 2016, representatives of the City Economic Development
5 Department coordinated with the HHC organization in City's responses to the press to reduce
6 "the sensitivities and complexities" involving the upcoming Planning Commission hearing
7 related to the proposed amendments to the 2014 Development Agreement and License
8 Agreement as requested by HHC, and follow-up calls between David Kautz (HHC) and the
9 City's Economic Development Director were scheduled regarding the Planning Commission
10 hearing to discuss the "HHC matter" on the Planning Commission Agenda for September 15.

11 34. On September 14, 2016 a City Council regular meeting was held, and there was
12 no reference at all included regarding the coordination between the gaming parties and the City
13 on plans to amend the development plan, license agreements, or discussions of any City review
14 of Tribal casino/hotel plans for the Phase 2 property, or anything else related to the casino/hotel.

15 35. On September 15, 2016, the Elk Grove City Planning Commission reviewed the
16 2014 DA Amendment and Mall Agreement, and supported release of the Phase 2 property from
17 the 2014 DA. The staff report acknowledged that the requested Amendment was necessary for
18 BIA approval of the site for a casino/hotel. Since no public notice of the City's negotiations to
19 enter into an MOU with the Tribe had been identified, including nothing on a closed session
20 agenda, staff's recommendation of the approval appears to have been orchestrated to allow City
21 Council approval of the Amendment as soon as possible after approval of the MOU.

22 36. On September 16, 2016, Jennifer Alves, Assistant City Attorney, advised the
23 attorney for HHC that they were delinquent \$186,786.64 for building department inspection fees
24 related to the Mall, and that the delayed payment needed to be resolved before the planned City
25 Council hearing on October 22, 2016 to approve the First Amendment to the 2014 Development
26 Agreement.

27 37. Conference calls between the Economic Development Director and HHC were
28 held September 20, 2016, and coordinated team calls continued thereafter.

1 38. On September 28, 2016, the City Council passed Resolution No. 2016-183,
2 approving a Memorandum of Understanding (the “MOU”) with the Wilton Rancheria, and
3 claiming it was CEQA exempt. Petitioners have been unable to find any public advice of City’s
4 negotiations shown on any agenda, or in any published minutes, or in notices of closed session
5 hearings, or its minutes, prior to this date. The MOU provided for various cash payments as
6 mitigation, including traffic and tax loss, without mitigation related to water or sewer impacts.
7 No public meetings or input were solicited by City related to the MOU until September 28, 2016.
8 Petitioners can only find this one meeting regarding the MOU, and no closed session was held on
9 this date. The staff report emphasized that the MOU was not to approve the casino/hotel.

10 39. This casino/hotel facility is an unprecedented and drastic change from the
11 regional outlet mall, which was to include 775,000 total square feet of outlet mall building, with
12 689,000 square feet being gross leasable area with a maximum height of 100 feet, as stated in the
13 2014 DA and the Lent Ranch SPA. The shopping mall designation in the amended 2014 SPA
14 has no provision for gaming, tribal or otherwise, or hotel development. At the time of the
15 adoption of the MOU, the casino/hotel property had not been placed into Trust. The staff report
16 contained no public economic analysis associated with the approved payments, and no testimony
17 was given as to how payments were related to the actual expenses and costs of the casino/hotel to
18 the City. There was also no analysis of what the additional traffic impacts would be related to
19 expanded use of the Mall Site over shopping center by the proposed casino/hotel, and whether
20 planned mitigation payments adequately addressed such impacts. There was no explanation of
21 the Tribe’s compliance with water supply and distribution, or sewer supply or distribution, or air
22 quality management plans.

23 40. Bi-weekly Development Team coordination involving the Economic
24 Development Department, HHC, City Managers, and Community Development Departments
25 continued prior to the City Council hearing on October 26, 2016, and continued after the hearing.

26 41. On October 26, 2016, City passed Ordinance 23-2016, the First Amendment to
27 the 2014 DA, at the purported request of EGTC/HHC, to release the 2014 DA as an
28 encumbrance to the Phase 2 property, the casino/hotel property. The only stated purpose for this

1 was to allow the Department of the Interior to take the property into Trust to allow for the
2 casino/hotel to be built. The Ordinance was to become official 30 days after passage.

3 42. On November 9, 2016, the First Amendment to the 2014 DA was recorded, prior
4 to the passage of 30 days as required by statute. On November 10, 2016, the City Economic
5 Development Director advised the HHC organization of the collecting of signatures for a
6 referendum to force rescission of the First Amendment to the 2014 DA as part of the bi-weekly
7 meetings, and asked for special coordination to respond. The effect of the Referendum was to
8 suspend the First Amendment to the 2014 DA, meaning that the 2014 DA was still in full force
9 and effect against all of Zone A, including Phase 2, the proposed casino/hotel property.

10 43. In mid-November 2016, while the Referendum to ensure that the 1st Amendment
11 to the 2-14 DA was pending, City Director of Development Services coordinated the recording
12 of maps under City auspices to separate the Phase 2 section of Lot A with the HHC organization.

13 44. On November 10, 2016, Darrell Doan, Economic Development Director, City of
14 Elk Grove, emailed David Kautz, Senior V.P., Development, HHC regarding message from
15 unknown sender – phone number 916-663-3207: “Hi Dave. Please listen to the attached voice
16 message. Apparently Standup California is now initiating a referendum process to force the
17 overturn of the Council’s vote on the Development Agreement amendment. There were in fact
18 people gathering signatures in town at polling places on Tuesday. Not sure where this is going,
19 but we wanted to let HHC to be aware if you weren’t.” Kautz responded: “Can you give me a
20 call to discuss?” No voicemail transcript is provided. No notes of the call from Mr. Doan have
21 been produced.

22 45. On November 17, 2016 – also prior to the 30-day effective date for the First
23 Amendment to the 2014 DA – the BIA issued a Notice of Land Application to take Casino site
24 into trust for benefit of the Wilton Rancheria.

25 46. On November 21, 2016, the referendum petition, containing over 14,000
26 signatures, was filed with the City Clerk.

27 47. On December 6, 2016, David Kautz, Senior V.P. Development, HHC,
28 coordinated a direct phone call with Darrell Doan, Economic Development Director, City of Elk

1 Grove. The multi-party City-HHC development team conference calls on December 12, 2016
2 and January 9, 2017 were cancelled, and instead calls between the Economic Development
3 Director, Darrel Doan, and HHC were scheduled. No notes of the content of the December 12,
4 2016 call or other calls have been made available by City.

5 48. On December 16, 2016, Notice of Final EIS for Casino identifying the Elk Grove
6 Regional Mall Site was filed in the Federal Register-BIA Notice 81 Fed. Reg. 90379; EPA
7 Notice 81 Fed. Reg. 91169.

8 48. On December 23, 2016, City apparently authorized recording a series of lot line
9 adjustments, the apparent effect of which was to define Phase 2 as a specific lot or lots in
10 preparation for transfer to Boyd and the Tribe. This action was authorized by City without
11 public notice or hearing.

12 49. Based on a January 9, 2017 email from Darrel Doan, the City Economic
13 Development Director, to four other Elk Grove staff members, the January 9, 2017 call with
14 Dave Kautz, V.P. of Land Development at HHC was cancelled, but the following actions had
15 been completed or were planned based on the update from Mr. Kautz:

- 16 • Map is recorded.
- 17 • Huge effort on-going by Boyd and HHC to close by the 20th.
- 18 • Will come down to the wire.
- 19 • Docs have been amended and prepared for signatures to be in a position to close.
- 20 • Working on 404 permit.
- 21 • All issues with M&H resolved.
- 22 • Come to agreement on MMRD document. Jon moving to get it recorded.
- 23 • Boyd has officially exercised its option as precondition of closing.
- 24 • Council hearing Wed will certify petition.
- 25 • Expect it to be rescinded at the following Council meeting.

26 50. On January 9, 2017, the City recorded a Notice of Conditional Partial Release of
27 Recorded Mitigation Monitoring and Reporting Program for the Lent Ranch Marketplace. The
28 effect of this release was to remove the Mandatory Mitigation Measures approved as part of the
2001 SPA EIR from the Phase 2 casino/hotel property. Again, this action was taken by City
without a hearing and without any public notice. Petitioners contend that at all times prior to
February 10, 2017, Phase 2 remained property subject to the jurisdiction of the City and County,

1 subject to the 2001 SPA EIR and its Mandatory Mitigation Measures restrictions, the 2014
2 Amendments to the Lent Ranch SPA, and the 2014 DA. There was no hearing or statement of
3 findings that all conditions of the Mandatory Mitigation Measures had ever been complied with,
4 or that casino/hotel development instead of shopping center development was consistent with the
5 prior zoning and development plans for Lot A.

6 51. On January 9, 2017, a grant deed from EGTC to themselves was filed, apparently
7 to consummate the lot line adjustments recorded on December 23, 2016; and on January 9, 2017,
8 a Covenant/Agreement Access-Parking Agreement between EGTC and the City of Elk Grove
9 was filed, indicating that all fees for parking will be paid from the Phase 1 property, the Outlet
10 Mall, instead of all portions of Zone A, effecting a release of the Phase 2 property from the
11 payment of parking fees to the City. No hearing or public notice of the City's decision to release
12 all fees for parking to be collected against the Phase 2 property was held.

13 52. On January 11, 2017, a First Amendment to the Parking License Agreement was
14 recorded, removing the casino/hotel property from the Parking License Agreement recorded in
15 2003 and amended in 2014. No hearing or public notice of the City's decision to release the
16 Parking License Agreement from the Phase 2 property was held, and no public discussion of the
17 financial implications of removing the financial requirements on the Phase 2 property was held.

18 53. On January 11, 2017, a Referendum to repeal Ordinance 23-2016, the First
19 Amendment to the 2014 DA, was certified by the City Council upon recommendation of the City
20 Clerk, who had determined that at least 12,800 valid signatures had been received. The City
21 Council determined to hold the vote upon the recommendations of the Clerk to either rescind the
22 Ordinance or hold a special election on the next hearing date, January 25, 2017, but no vote was
23 taken by the City Council until February 22, 2017.

24 54. As per notations to the Record of Decision, on January 18, 2017, Mayor Ly
25 phoned the BIA, Principal Deputy Assistant Secretary-Indian Affairs Lawrence Roberts,
26 sometime prior to January 18, 2017 and indicated on a voice mail that the City Council was
27 "completely behind" the trust application and had unanimous support. Mayor Ly also
28 highlighted the beneficial MOU between the City and the Tribe. Petitioners can find no record

1 of any vote of approval of the trust application, or the casino, unanimous or otherwise.

2 55. On January 19, 2017, the Record of Decision (“ROD”) was signed by Principal
3 Deputy Assistant Secretary – Bureau of Indian Affairs, approving taking the land described as
4 Phase 2 into Trust. This approval was not published in the Federal Register, and was released
5 after hours in Washington D.C.

6 56. On January 19, 2017, EGTC conveyed the Phase 2 property to Boyd Gaming
7 Corporation and the Wilton Rancheria.

8 57. Petitioners have obtained screen shots of a text dated January 25, 2017, 7:17 a.m.,
9 from Raymond (Tribal Chairman) to an unidentified person: “We r trying t get DC t take the
10 land into trust and they r acting slow because of obvious reasons. We need them t act today
11 before 2 pm our time. Otherwise Stand Up will cause more problems than they already have.
12 Here is the acting AS of BIA Mike Black. 202-208-7163. Ask him why the land hasn’t been
13 taken into trust for the tribe? This project will greatly benefit our city and this outside group,
14 Stand Up for CA is trying to kill our proposed outlet mall, economic driver, and thousands of
15 jobs for our city. Don’t leave voice message of this though. I feel like today is the finish line or
16 we will be screwed.” [sic] Unknown person responds: “OK.”

17 58. On January 25, 2017, the City held a Special Meeting of the Elk Grove City
18 Council. Closed Session Agenda item 2.A. Conference with legal counsel – existing litigation.
19 Stand Up California! et al. v. City of Elk Grove. No minutes of this meeting, or any Closed
20 Session meeting, have been produced. The Special Meeting is followed by a Regular Meeting of
21 the Elk Grove City Council, at which time the Council was to consider and vote on whether to
22 repeal Ordinance No. 23-2016 or call an election based on the certified referendum petition. The
23 City Council instead determined to postpone any action on the noticed item to February 5, 2017.

24 59. On January 26, 2017, 12:17 a.m. a text from an unknown person [screenshot
25 received only] to Raymond (Tribal Chairman): “You have two weeks to get this into [sic]
26 trust.”

27 60. On January 26, 2017, 6:59 a.m. another text from an unknown person to
28 Raymond (Tribal Chairman): “Don’t think we can delay anymore. Get it done.” Raymond

1 (Tribal Chairman) responds: "I don't want u t have to. I am on it as we speak! Regardless of
2 what happens in the next two weeks. Kill it. This extra time is a godsend. Great work last night."

3 61. Between January 26 and 30, 2017, Matthew Baur, 6th grade teacher at Carroll
4 Elementary School in Elk Grove and a teacher for Mayor Ly's son, and Steve Ly exchanged
5 emails discussing the casino, and Baur's efforts to get a donor to pay \$750 for classroom chrome
6 book network connections. Ly responds: "Please share our conversation with everyone. My
7 position is no secret. Regarding funding for chrome book. No worries, let's get a donation from
8 the Rancheria. Can you do a letter to me describing your situation and the need for \$750?"

9 62. The Bi-Weekly development team conference call was cancelled based on a
10 notice from HHC to the Economic Development Director on February 6, 2017.

11 63. On February 7, 2017, 3:16 p.m. there is a text from an unknown person to Josh
12 Wood [who Plaintiffs are informed and belief is a lobbyist for a builders' trade group]: "Got
13 beaten up with my call to BIA.: Wood responds: "By who." Unknown person responds: "Elk
14 Grove news net and Darren Suen." Wood responds: "OK. But are you still good?"

15 64. On February 7, 2017, 5:54 p.m. there is a text from an unknown person to Josh
16 Wood: "youtube.com video"

17 65. On February 8, 2017, at the Regular Elk Grove City Council Meeting, the repeal
18 of Ordinance No. 23-2016 (repealing the First Amendment to the DA) is approved by a vote of
19 4/0 on the first reading. Repeal of the ordinance confirmed the ongoing validity of the
20 restrictions contained in the DA to the Mall property, including that conveyed to the BIA for the
21 benefit of the Tribe.

22 66. On February 10, 2017, the Department of Interior accepted the conveyance of the
23 Phase 2 property from Boyd Gaming and the Wilton Rancheria, placing the property in Trust.
24 The acceptance of this conveyance has been appealed, which appeal is pending as of the filing of
25 this Petition, and Petitioners allege that this decision is not a final agency decision.

26 67. Although City's formal position remains that it has taken no formal action to
27 approve the proposed use and development of the Phase 2 property, City Mayor Ly's February
28 14, 2017 statement congratulated the Tribe and was coordinated with the Tribe.

1 68. On February 22, 2017, during the Regular Meeting of the Elk Grove City Council,
2 the City formally repealed Ordinance No. 23-2016 on the Consent Agenda.

3 69. On March 6, 2017, David Kautz, Senior V.P. Development, HHC, requested and
4 received agreement to cancel the bi-weekly Development Team call; however, the City sought to
5 reset the call. City has not released any memoranda on the calls' contents.

6 70. Petitioners are informed and believe that City, by and through its senior staff,
7 including the Mayor, was aware of the Tribe's intention to build a casino/hotel in Elk Grove
8 prior to June 9, 2016, and had been meeting with the Tribe and its gaming partner regarding the
9 casino/hotel since prior to this date and at least April 18, 2016, when City scheduled its bi-
10 weekly meetings between the casino parties and City representatives.

11 71. Petitioners are informed and believe that the City is in possession of public
12 records regarding City Council members and City representatives' interactions with HHC, with
13 the Tribe, and its gaming partner, that it has withheld from Petitioners. The basis for Petitioners'
14 assertions is the number of meetings and telephone, email, and text communications Petitioners
15 have confirmed between development representatives of the HHC organization and Senior City
16 management employees or City Council members, and the failure of City, except as described in
17 paragraphs 49, 54, and partially in paragraphs 57 through 64, to produce records of such
18 communications, notes of meetings, or any Records Retention Policy which would explain why
19 such records have not been retained by City. Petitioners and all residents of Elk Grove have a
20 right, as members of the public, to know about the actions that City has taken with respect to the
21 casino/hotel and all interactions it has had with the Tribe, its gaming partners, and those
22 otherwise associated with the proposed casino/hotel; and Petitioners have issued seven Public
23 Records Act Requests to City regarding these issues, as more particularly described below.

24 **First Public Records Act Request - December 7, 2016 (PRAR 1)**

25 72. PRAR 1 dated December 7, 2016, sought documents from City related to the
26 development plans for the casino/hotel, including agreements and amendments between EGTC
27 and/or HHC and/or BIA; any documents related to the Tribal/City MOU and involving
28 environmental determinations related to the MOU, or the lack thereof; documents related to the

1 Option Agreement between HHC/EGTC and the Tribe; and documents related to meetings for
2 the Amendments to the Development Agreement, including meetings with the Tribe and HHC or
3 EGTC and the City; as more particularly described in PRAR 1, a true and correct copy of which
4 is attached hereto and incorporated herein as **Exhibit A**.

5 73. On December 13, 2016, City responded by email indicating that it had received
6 PRAR 1 and requesting a 14-day extension to respond.

7 74. On December 20, 2016, City provided another email response indicating that it
8 was gathering records responsive to PRAR 1, but provided no timeframe for such production.

9 **Second Public Records Act Request - December 29, 2016 (PRAR 2)**

10 75. As of December 29, 2016, no documents had been produced nor a timeframe
11 provided for a production. Petitioners sent PRAR 2 to City on December 29, 2016 to follow-up
12 on PRAR 1, requested a date/time for compliance, and offered to review the documents at the
13 City if such production was voluminous, as more particularly described therein. A true and
14 correct copy of PRAR 2 is attached hereto and incorporated herein as **Exhibit B**.

15 76. On January 20, 2016, the City emailed Petitioners indicating that: it had
16 identified documents responsive to PRAR 1 and provided a drop-box link to documents; that
17 City was “not disclosing exempt documents, such as privileged documents”; that minutes were
18 not ready for public meetings held on September 28, 2016, October 12, 2016, and October 26,
19 2016; and provided a link (wilton.eis) for environmental documents.

20 **Third Public Records Act Request - January 17, 2017 (PRAR 3)**

21 77. On January 17, 2017, Petitioners sent PRAR 3 in response to City’s limited
22 production on January 20, 2017, writing that, “Many of the produced documents were public
23 meeting minutes, resolutions, and other similar public documents that are right on your City
24 website. This limited production by the City of readily available documents within City’s
25 possession, is both disingenuous and, more importantly, a direct violation of the Public Records
26 Act, Government Code section 6250 et seq. (the “Act”).” Petitioners requested once again that
27 the City comply with the law by providing a complete and thorough production in response to
28 PRAR 1, including, but not limited to, “every kind of record, including communications,

1 correspondence and e-correspondence, that may be involved in any governmental process, and
2 any form of record-keeping instrument, including e-mails, not just the staff reports, minutes and
3 resolutions related to the public approvals”, and as more particularly described therein. A true
4 and correct copy of PRAR 3 is attached hereto and incorporated herein as **Exhibit C**.

5 78. On January 20, 2017, City responded by letter indicating that it had provided the
6 responsive documents, but provided no explanation as to the absence of emails, texts, phone
7 messages, or other internal documents as requested.

8 79. Petitioners are informed and believe that City’s production of only documents that
9 are readily available to the public on its web-site (for example, copies of ordinances and staff
10 reports) was and is a deliberate effort by City to hide its conduct and actions relative to its
11 interactions with the Tribe and the Tribe’s gaming partner, Boyd Gaming.

12 **Fourth Public Records Act Request - January 30, 2017 (PRAR 4)**

13 80. On January 30, 2017, Petitioners sent PRAR 4 to City, requesting the same
14 documents as PRAR 1, but this time for the time period of December 7, 2016 to January 30,
15 2017, as more particularly described therein. A true and correct copy of PRAR 4 is attached
16 hereto and incorporated herein as **Exhibit D**.

17 81. On February 13, 2017, City responded by email indicating that it had received
18 PRAR 4, and indicating that it had identified records which it would produce on February 22,
19 2017.

20 82. On February 24, 2017, City responded by email providing a drop-box link for
21 documents responsive to PRAR 4. City indicated that there were exempt records it was
22 withholding and that no log was required. At no time in its responses to PRAR 1 through 4 did
23 City identify the types of documents it was withholding or the privileges it was asserting.

24 **Fifth Public Records Act Request - March 6, 2017 (PRAR 5)**

25 83. On March 6, 2017, Petitioners sent PRAR 5 to City with two requests, as more
26 particularly described therein: (1) Petitioners repeated their request for documents responsive to
27 PRAR 1, including email communications from both City and personal devices: “The City has
28 not produced any email communications, even though relevant, responsive City emails are

1 known to exist. In addition, City's responsive emails are to include emails sent, received or
2 stored on City Staff's personal email systems, in compliance with the recently decided California
3 Supreme Court case of City of San Jose v. Superior Court (No. S218066) [texts and e-mails on
4 personal devices may be considered public records]". In addition, Petitioners renewed the
5 request made in PRAR 4 from the date of that request (January 30, 2017) to the date of PRAR 5.
6 A true and correct copy of PRAR 5 is attached hereto and incorporated herein as **Exhibit E**.

7 84. Through independent investigations, Petitioners are informed and believe, and
8 thereon allege that City had established a prior unwritten policy to encourage its employees,
9 especially elected officials, to communicate on personal devices to evade the PRA.

10 85. On March 20, 2017, City responded with an email indicating that it would
11 produce documents responsive to PRAR 5 by March 31, 2017. City indicated that some records
12 were disclosable and that some may be privileged.

13 **Sixth Public Records Act Request - March 9, 2017 (PRAR 6)**

14 86. On March 9, 2017, Petitioners sent PRAR 6 requesting, in part, and as more
15 particularly described therein, emails and documents as requested in PRAR 5, plus agreements,
16 entitlements, conveyances between City of Elk Grove, Elk Grove Town Center, Outlook
17 Collection, Howard Hughes, Boyd Gaming, and Wilton Rancheria for the period January 2011 to
18 March 6, 2017. Petitioners also requested emails from former City Council members Jim
19 Cooper and Gary Davis, as they were on the City Council or was the Mayor (Mr. Davis) during
20 the applicable time period, and identified the known email addresses and phone numbers for
21 these two individuals. A true and correct copy of PRAR 6 is attached hereto and incorporated
22 herein as **Exhibit F**.

23 87. On March 10, 2017, City responded with an email acknowledging that it had
24 received PRAR 6.

25 88. On March 20, 2017, City responded with a follow-up email indicating that it
26 would produce documents responsive to PRAR 6 by April 7, 2017. City indicated that some
27 records were disclosable and that some may be privileged.

28 ///

1 89. On April 14, 2017, City responded by email, indicating that it had identified
2 documents in response to PRAR 5 and 6 and provided a dropbox link to the documents. City
3 indicated that no log was required.

4 90. Attached to the above email was a letter from City also dated April 14, 2017,
5 indicating that City continued to find documents; this will be a rolling production; City was not
6 required to produce records from former members; City disagreed that the PRA applied to
7 former employees; and that City would not be soliciting texts, emails, etc. from former
8 councilmember/mayor Mr. Cooper and Mr. Davis.

9 91. On April 18, 2017, City sent an email indicating that it continues to review and
10 identify documents; new documents were provided via a dropbox link; provided links to
11 documents that had been previously produced to another interested party, Cheryl Schmit of Stand
12 Up! For California, on August 19, 2016, in response to her July 6, 2016 Freedom of Information
13 Act request; and that this will be a continuing rolling production.

14 92. Petitioners' counsel sent an email to City on April 28, 2017 requesting documents
15 related to the statement written by City Staff to the Planning Commission on September 15, 2016
16 that, "...the requested changes to the Agreements reflect the fact that the Bureau of Indian
17 Affairs will not allow the Phase 2 property to be moved from fee to trust status unless the
18 encumbrances such as the Development Agreement are removed from title. (Agenda Item 5.2
19 page 1.)"

20 93. City sent an email on May 1, 2017 that the City would provide documents in
21 response to Petitioner's April 28, 2017 email, on May 12, 2017.

22 94. On May 15, 2017, City responded by email wherein City produced additional
23 documents in response to PRAR 5 and 6 via a dropbox link, except those subject to exemption
24 under Government Code §6254 or §6255. City indicated that there were hard copies of
25 additional documents relating to the Amended Development Agreement for the Lent Ranch
26 project, Design Review for the Outlet Collection, and tentative maps for certain lots within the
27 development available for review at the Office of the City Clerk. City did make the design
28 review documents available, and they have been reviewed.

1 **Seventh Public Records Act Request - March 18, 2017 (PRAR 7)**

2 95. On May 18, 2017, Petitioners issued PRAR 7 requesting, as more particularly
3 described therein, videos of hearings; regulations, policies and procedures for paper and
4 electronic record retention and storage; as well as the same documents as prior request PRAR 6,
5 but limited to any responsive documents from March 6, 2017 to the present. A true and correct
6 copy of PRAR 7 is attached hereto and incorporated herein as **Exhibit G**.

7 **Summary of City's Production to Date in Response to PRARs 1-7**

8 96. In response to Petitioners' PRARs 1-7, City has produced some of what is
9 commonly understood as public records – hearing transcripts, copies of ordinances, staff reports
10 – and limited documents or emails going to members of the City Council, and from them. City
11 has also partially produced records of communications involving citizens and members of the
12 City Council, and in a few cases, involving its staff and representatives of the Tribe, or HHC or
13 EGTC, using unofficial email addresses.

14 97. Petitioners' review indicates that City has now produced, for a period of six years:
15 (1) twelve communications of any kind involving former mayor Gary Davis, most of which are
16 forwards of citizen emails to other staffers, not Davis' statements; (2) seven communications of
17 any kind involving Councilmember Darren Suen, only three of which contain any response from
18 him; (3) ten communications of any kind involving Councilmember Steven M. Detrick, only
19 three of which contain any response or forward; (4) twelve communications involving
20 Councilmember Steve Ly, only seven of which contain any response from him; and (5) only six
21 communications involving Councilmember Pat Hume, with only one response.

22 98. With the exception of one screen-shot of a disjointed text in January 2017
23 involving Raymond Hitchcock (Tribal Chairman), Josh Wood, and possibly Mayor Ly as
24 described in Paragraphs 57-64 above, and limited emails with certain other councilmembers,
25 City has not produced records of communications between staff members and any members of
26 the City Council related to these categories, at any time covered by the successive PRARs 1-7.

27 99. Petitioners issued a meet and confer letter to City on May 29, 2017, and then
28 again on June 12, 2017 in advance of filing this Writ. In the May 29, 2017 letter, and as

1 incorporated in the June 12, 2017 letter, Petitioners described specific meetings for which they
2 sought documents, possible attendees, and generally described the documents sought by date,
3 party, and even mode of transmission where possible. Despite Petitioners' efforts to more
4 narrowly identify categories of documents, City continues to withhold relevant documents, and
5 City did not produce additional documents in response to these two meet and confer letters.

6 100. City has produced only one set of notes from meetings/phone conversations
7 between staff, councilmembers, and the project representatives, even though there are many
8 relevant meetings and calls referenced in the City's PRA document production and the
9 production from other agencies. For example, no notes from meetings or phone conversations
10 have been produced related to any of the following meetings or telephone conferences:

- 11 • 12-14-09 City/County meeting with Wilton Rancheria to discuss support of Tribe
12 achieving formal recognition, but concerns over land uses.
- 13 • 4-7-11 and/or 4-21-11 Chappabitty/Mayor Detrick meeting to discuss Wilton
14 Rancheria.
- 15 • Early 2011 meetings/calls between Wilton Rancheria Attorney and City Attorney
16 re settlement agreement negotiations over impacts of Tribal development.
- 17 • January 2012 discussions between HHC and City re items that would be of
18 assistance to the project (believe this is casino project).
- 19 • April 2012 discussions between HHC and City Planning Director re modifying
20 agreement to all non-retail commercial development to commence.
- 21 • June 2012 Conversation between Chris (HHC) and Mayor Davis.
- 22 • December 2012 City/County/Galt/Tribe meetings with Don Notolli, County
23 Supervisor re Wilton Rancheria's plans.
- 24 • [No notations of meetings or conference calls in 2013.]
- 25 • 3-4-14 Conference call between EIS traffic consultant and City to discuss traffic
26 study memorandum of assumptions.
- 27 • 3-18-14 Conference call between EIS consultants and City regarding casino
28 traffic study memorandum of assumptions.
- [No notations of meetings or conference calls in 2015.]

- 1 • 3-24-16 Meeting scheduled by Hitchcock and Behrmann from City.
- 2 • 3-3-16 Meeting with City/Tribe/County.
- 3 • 4-18-16 Calendar entry showing Elk Grove and HHC Bi-weekly Coordination
- 4 meetings, including meetings via conference call, effective April 18, 2016.
- 5 • 4-18-16 Meeting with Alvez (City Attorney) and Kemper (HHC Attorney) re
- 6 HHC owing the City money; possibly holding up DA work.
- 7 • May 2016 Council and staff outreach meetings with Tribe re casino.
- 8 • May 22-24, 2016 Vegas City Mayor/Councilmember and staff meetings
- 9 coordinated by Boyd Gaming and the Tribe.
- 10 • Late June 2016 Meeting between Hitchcock and Behrmann (Assistant City
- 11 Manager).
- 12 • 8-9-16 Meeting with City staff (Alvez, et al.) and Kevin Kemper (HHC Attorney),
- 13 HHC engineer, and Jim Gillum re mapping issues.
- 14 • 8-10-16 Meeting between Doan (City Economic Development Director) and
- 15 O'Toole (HHC).
- 16 • 8-11-16 Call between Jim Gillum and Behrmann (City) referenced in email with
- 17 cc to Kautz (HHC VP) and Kemper (HHC Attorney) re Fee credits.
- 18 • 8-12-16 Conference call between Jim Gillum, Kautz (HHC VP), Kemper (HHC
- 19 Attorney), and Behrmann/Jordan (City) re Fee credits.
- 20 • 9-14-16 Conference call between Kautz (HHC VP) and Doan (City Economic
- 21 Development Director) re 9-15-16 hearing.
- 22 • 9-19-16 Conference call between Kautz (HHC VP) and Doan (City Economic
- 23 Development Director) et al. "our regular call".
- 24 • 9-20-16 Elk Grove & HHC Bi-Weekly Coordination Meeting via phone.
- 25 • 10-17-16 Elk Grove & HHC Bi-Weekly Coordination Meeting via phone.
- 26 • 10-31-16 Elk Grove & HHC Bi-Weekly Coordination Meeting via phone.
- 27 • 11-10-16 Call between Kautz (HHC VP) and Doan (City Economic Development
- 28 Director).
- 12-6-16 Call between Kautz (HHC VP) and Doan (City Economic Development
- Director).

- 1 • 1-9-17 Call between Kautz (HHC VP) and Doan (City Economic Development Director).
- 2
- 3 • 1-11-17 Call between Josh Wood, Region Business, Mayor Gary Davis, and Steve
- 4 Ly re casino.

5 101. City's production is also deficient because no recordings of any meetings between
6 staff, Councilmembers, and/or project representatives have been produced, nor transcriptions of
7 voicemail messages, nor the actual tapes of the voice mails. For example, on October 19, 2016,
8 Christopher Jordan, Assistant to City Manager, City of Elk Grove, emailed Jim Gillum re M&H
9 sites: "I got your VM and am still working on this issue." No voicemail transcript is provided
10 nor any notes of what was being worked on.

11 102. One or more of Petitioners attended all the meetings beginning in September 2016
12 regarding the casino/hotel to the present. During these meetings, City Councilmembers were
13 often texting when they were not speaking. They were even called out on this point on February
14 8, 2017 during the hearing. No texts of the Councilmembers during these hearings have been
15 produced.

16 103. Additionally, in all the meetings between December 14, 2009 and February 22,
17 2017, only the text string from January 25-26, 2017 between the Mayor, Mr. Hitchcock, and Mr.
18 Wood, and what appears to be a responding text, again from the Mayor, dated February 7, 2017,
19 have been released [Paras. 57-64, *infra*].

20 104. Petitioners have not received the meeting minutes from the September 28,
21 October 12, and October 26, 2016 City Council meetings, which have been requested and are
22 public records that should have been readily produced.

23 105. It is impossible for Petitioners to determine if the documents that have been
24 produced are intended to complete a given category because: (1) City refuses to advise
25 Petitioners what documents are being withheld on any grounds; (2) City refuses to advise
26 Petitioners as to the basis – in other words, if a document or documents have been withheld what
27 the basis of that withholding is; and (3) City refuses to identify any type of records retention
28 policy which would explain City's failure to make such records available.

1 106. City has so far not identified categories of the records it refuses to produce, and
2 this lack of identification makes it difficult to determine whether or not private cell phone
3 records and texts are being withheld by City, and whether private phones or computers are
4 treated as property of the City or not, even if used for City business. City has not yet advised
5 Petitioners whether it maintains a Records Retention Policy, and what that policy is.

6 107. Petitioners are informed and believe, and thereon allege that the following
7 documents are further examples of missing information which should readily be in City's
8 possession and control:

- 9 a) Raymond Hitchcock texted to Mayor Ly on January 25, 2017, immediately before
10 hearings related to repeal of the First Amendment to the 2014 Development
11 Agreement, seeking postponements. It defies credulity that there are no other
12 communications regarding the postponement with any other members of the City
13 Council and Mr. Hitchcock or staff, and/or the lobbyist for the trades [Wood] at
14 any time since the plans for use and/or development of the property as a
15 casino/hotel was considered. It also defies credulity that the communication of
16 any City official and Mr. Hitchcock related to the proposed casino/hotel are
17 limited to one screen-shot of a text.
- 18 b) At least beginning in April 2016, City staff participated in biweekly
19 meetings/phone conferences with HHC's representatives related to aspects of the
20 casino/hotel development at the Mall Site. No records of staff briefing City
21 Councilmembers have been produced, whether notes, emails, texts, etc.
22 Additionally, since these regular meetings had been established either by the City
23 or HHC, one would think staff minutes would have been shared with interested
24 Councilmembers.
- 25 c) Texts made by the current and former City Councilmembers and staff related to
26 the casino/hotel.
- 27 d) Emails from public or private email addresses by the current and former City
28 Councilmembers and staff related to the casino/hotel.

1 e) Meeting minutes related to City Council meetings dated September 28, October
2 12, and October 26, 2016 have not been produced.

3 **FIRST CAUSE OF ACTION**

4 **For Violation of the California Public Records Act &**
5 **Article I, §3 of the California Constitution**
6 **(All Petitioners Against Respondent/Defendant City)**

7 108. Petitioners and Plaintiffs re-state and re-plead all allegations set forth above, as
8 though fully set forth herein.

9 109. Under the California Public Records Act, Government Code §§6250 et seq.
10 (“PRA”), all records that are prepared, owned, used, or retained by any public agency, and that
11 are not subject to the PRA’s statutory exemptions to disclosure, must be made publicly available
12 for inspection and copying upon request. Govt. Code §6253.

13 110. In enacting the PRA, the Legislature recognized that a requester, having no access
14 to agency files, may be unable to precisely identify the documents sought. Thus, writings may
15 be described by their content. The agency must then determine whether it has such writings
16 under its control and the applicability of any exemption. An agency is thus obliged to search for
17 records based on criteria set forth in the search requests. *California First Amendment Coalition*
18 *v. Superior Court*, 67 Cal. App. 4th 159, 165-66 (1998); see Govt. Code §6253(b).

19 111. The PRA also requires the government to “assist the member of the public make a
20 focused and effective request that reasonably describes an identifiable record or records” by
21 taking steps to “[a]ssist the member of the public to identify records and information that are
22 responsive to the request or to the purpose of the request, if stated.” Id. Govt. Code §6253.1(a).
23 An agency that receives a request must also “[p]rovide suggestions for overcoming any practical
24 basis for denying access to the records or information sought.” Id

25 112. Whenever it is made to appear by verified petition to the superior court of the
26 county where the records or some part thereof are situated that certain public records are being
27 improperly withheld from a member of the public, the court shall order the officer or person
28 charged with withholding the records to disclose the public record or show cause why he or she

1 should not do so. The court shall decide the case after examining the record in camera (if
2 permitted by the Evidence Code), papers filed by the parties and any oral argument and
3 additional evidence as the court may allow. Id. Govt. Code §6259(a).

4 If the court finds that the failure to disclose is not justified, it shall order the public official to
5 make the record public. Id. §6259(b).

6 113. To ensure that access to the public’s information is not delayed or obstructed, the
7 PRA requires that “[t]he times for responsive pleadings and for hearings in these proceedings
8 shall be set by the judge of the court with the object of securing a decision as to these matters at
9 the earliest possible time”. Govt. Code §6258.

10 114. The California Constitution provides an additional, independent right of access to
11 government records: “The people have the right of access to information concerning the conduct
12 of the people’s business, and, therefore, the meetings of public bodies and the writings of public
13 officials and agencies shall be open to public scrutiny.” Cal. Const., Art. 1 §3(b)(1). This
14 provision was adopted by the voters in 2004 because, as the ballot argument supporting the
15 measure put it, when Californians asked questions of their government they increasingly found
16 out “that answers are hard to get.” The constitutional provision is intended to reverse that trend.

17 115. City’s refusal to release records and inadequate search for records, as evidenced
18 by the inconsistent record productions, violate the PRA and Article I, §3 of the California
19 Constitution.

20 116. Petitioners have issued seven separate public records requests to City and sent
21 City multiple meet and confer letters regarding the substance of this Petition on May 29, 2017
22 and on June 12, 2017, all without an adequate response from City. Petitioners have no adequate
23 remedy short of a writ of mandate to compel City to identify the location of its records, its
24 manner of retention, to obtain the needed clarification, and to obtain all the public records
25 regarding the casino/hotel in the City’s possession.

26 ///
27 ///
28 ///

1 **SECOND CAUSE OF ACTION**

2 **Violations of Open Meeting Act, Government Code §54950**
3 **(All Petitioners Against Respondent/Defendant City)**

4 117. Petitioners and Plaintiffs re-state and re-plead all allegations set forth above, as
5 though fully set forth herein, and in particular, paragraphs 29-68.

6 118. As described in paragraphs 38, 41, 58, 65, and 68 above, the only public hearings
7 related to revisions to Lot A the Mall property, or the Tribal casino, were the one hearing to
8 adopt the MOU on September 28, 2016 [Para. 38]; the October 26, 2016 hearing to adopt the
9 First Amendment to the 2014 Development Agreement [Para. 41]; the January 11, 2017 hearing
10 at which the City Council voted to accept the City Clerk's recommendations to certify the
11 Referendum [Para. 54]; the Special Hearing dated January 25, 2017 to vote on whether to rescind
12 the First Amendment to the 2014 DA, Ordinance No. 23-2016, or to allow a special election to
13 decide the matter, at which a public decision was deferred [Para. 58]; the First Hearing on the
14 Repeal of the Ordinance No. 23-2016 [Para. 65]; and the Second/Final Hearing to Repeal
15 Ordinance No. 23-2016 on February 22, 2017 [Para. 68]. At all times the City Council insisted
16 their hearings had nothing to do with approving the casino/hotel.¹

17 119. Petitioners can find no record of Closed Sessions or Executive Sessions as
18 permitted by the Brown Act, related to decisions of the City Council:

- 19 (a) to approve the Tribe-City MOU;
- 20 (b) to assist HHC and the Tribe in evading the shopping center only parking and
21 environmental restrictions and obligations to pay parking fees to the City, as included
22 in the Lent Ranch SPA, the 2014 Development Agreement, and the Parking License
23 Agreement, and MMRPs; and
- 24 (c) to delay voting on the proposed Ordinance 23-2016 to repeal the First Amendment to
25 the 2014 Development Agreement.
- 26
- 27

28 ¹ Except Mayor Ly's voice mail to BIA [Para. 54]; contradicted by Councilman Suen [Para. 63].

1 120. Except for the Special Hearing Notices December 14, 2016, January 11 and 25,
2 2017, February 8, 2017, and Feb. 22, 2017, which identified the Stand Up California case, all
3 conferences with Legal Counsel – Anticipated Litigation, only state the number of matters the
4 City Council is considering, not even a generalized description of the matter. City cannot under
5 law consider matters not involved in the identified litigation in closed session. Govt_ Code
6 §54954.2 . Sufficient detail on the Agendas is provided related to real property negotiations, but
7 there has never been notification between 2015-2017 of ongoing negotiations with HHC to
8 remove the restrictions contained in the Lent Ranch SPA, or the 2014 DA, or the Tribe/Boyd
9 request regarding parcelization of Phase 2, sale of Phase to Tribe/Boyd Gaming, or removal of
10 the MMRs.

11 121. Because the Closed Session identifications do not identify any of the actions
12 included in Para. 120, and because no public hearings were held except those identified in Paras.
13 38, 41, 58, 65, 68, Petitioners assert that the actions taken by City senior staff where coordinated
14 at the direction of a majority of City Councilmembers, and that the actions of City senior staff
15 were taken on their behalf, and that at all times they acted as intermediaries for City
16 Councilmembers.

17 122. Petitioners are informed and believe, and thereon alleged that these serial meetings
18 occurred through the “hub-and-spoke” sequence. The hub-and-spoke process involves a staff
19 member (the hub) communicating with members of a legislative body (the spokes) one-by-one
20 for a decision on a proposed action or staff member briefing a majority of city council prior to a
21 formal meeting and, in the process, information about the members’ respective views is revealed.
22 Here, the limited documentation obtained by Petitioners shows extensive meetings (bi-weekly
23 scheduled meetings) with staff and with the gaming interests and then outcomes that occurred
24 without public notice for the benefit of the gaming interests and, at times, exactly as predicted by
25 the gaming interests. Based thereon, Petitioners believe that serial meetings occurred through
26 the “hub and spoke” sequence. A legislative body member has the right, if not the duty, to meet
27 with constituents and hold public meetings relative to important issues affecting the community.

28 ///

1 123. Petitioners allege that City violated the Brown Act, especially Govt. Code
2 §§54952.2 and 54953, in failing to take public actions on each of these actions, every one of
3 which require public hearings to review and if appropriate approve the aforesaid actions.

4 124. City further violated the Brown Act directly when:

5 (a) it authorized Mayor Steve Ly to advise the BIA of the City Council's unanimous
6 support of the Tribe/Boyd's plans to place the casino/hotel in Lot A, zoned as
7 shopping mall [Para. 54] without a public hearing;

8 (b) it authorized the City Economic Director and City Manager to coordinate with HHC
9 to assure approval of the certification of the Referendum days ahead of that vote, and
10 the vote rescinding Ordinance No. 23-2016 weeks ahead of that vote, as described in
11 Para. 49; and

12 (c) it authorized Mayor Steve Ly on January 25, 2017 to assure Tribal Chairman
13 Hitchcock that the Council as a whole would vote to postpone its vote to rescind
14 Ordinance No. 23-2016 [Paras. 59-60].

15 125. These assurances show that for all the actions related to approval of the
16 casino/hotel, contrary to the public statements by individual Councilmembers and the Council as
17 a whole, the Council worked actively behind the public prevue to ensure approval of the
18 casino/hotel project.

19 126. These facts demonstrate that members of the City Council, in certain cases
20 directly and more generally, individually, especially then Mayor Davis, and Councilmen Dietrich
21 and Ly, Hume and Suen, and later Mayor Ly and then Councilmen Dietrich, Hume, and Suen,
22 especially through the City Manager's office and City Economic Development office, as their
23 personal intermediaries, have violated the Brown Act: (1) by ensuring ongoing coordination of
24 and support for HHC, Boyd, and the Tribe' efforts to sever Parcel A and convey same to the
25 Tribe, without holding any public hearings as required to amend the zoning use of the parcels,
26 remove and modify the License Agreements, and remove all environmental restrictions on the
27 Phase 2 parcel; (2) by advising the BIA of unanimous City Council support for the Tribe's
28 efforts without holding any hearings to consider the use of the property as a casino/hotel, in

1 support of Tribal intentions to use the parcel as a casino/hotel in violation of the SPA; and (3) by
2 evading public notice of all these combined actions taken to evade public knowledge of City's
3 participation.

4 127. These actions amount in certain cases to impermissible serial approvals, as for
5 example then Mayor Davis' trip with his City Manager and City Economic Development
6 Director to meet with Boyd Gaming in Las Vegas in May 2016, especially when one considers
7 the Bi-weekly Development Meetings and conference calls between HHC representatives with
8 all City Managers beginning in at least April 2016. Govt. Code §54952.2(b).

9 128. Petitioners have exhausted their administrative remedies and have made multiple
10 demands, and appeared at the limited hearings held beginning on October 26, 2016 and related to
11 the referendum, including its filing of Case No. 2016-34-2016-80002493 to set aside such
12 actions. Because City's improper actions evaded holding any public hearing on these matters,
13 Petitioners could not object to a "formal approval" and seek remediation of the violations, as the
14 facts regarding City's actions were not known and not discoverable due to City's own subterfuge
15 of the Brown Act in taking actions without the public's knowledge, and City continues to
16 withhold documents as set forth in the PRA claims above. City has publicly claimed that it has
17 taken no position regarding support of the casino/hotel to placate the public, but that public
18 position contradicts the statements made by Mayor Ly to the BIA granting the City's unanimous
19 support of the casino/hotel. BIA relied upon this representation in approving the record of
20 decision. Further, because of the cat-and-mouse game related to release of records, the full
21 picture of City's below-the-radar coordination with HHC, the Tribe, and Boyd is unknown at this
22 time, and cannot be fully alleged. Therefore, Petitioners seek leave to add additional causes of
23 action, as that information becomes available.

24 129. These actions have caused great and irreparable injury and will continue to do so,
25 because unless City is commanded to hold hearings necessary to review the actions it has already
26 taken, Petitioners and all the public are denied the opportunity to require the City Council to take
27 formal actions and vote on the matters they have publicly claimed were approved without
28

1 hearings. Petitioners were repeatedly advised at the hearings related to the referendum that the
2 City Council was not taking any action related to the casino/hotel.

3 130. Petitioners have no other plain, speedy or adequate remedy in the ordinary course
4 of law for the injuries caused to it by City's adoption of these challenged actions.

5 131. Petitioners are entitled to a writ of mandate commanding City to notify Bureau of
6 Indian Affairs/Department of Interior that no approval of the Tribe's plans has ever been voted
7 upon; to hold formal hearings related to assignment of the obligations of the 2014 DA to the
8 Tribe/Boyd as required by the DA 10.2-10.4; and if a determination is made that the intended
9 gaming hotel use is not permitted under the 2014 DA or the Lent Ranch SPA, hold such further
10 hearings as are commensurate with law to deny approval of assignment under the 2014 DA, or
11 amend the zoning of the Lent Ranch SPA. Petitioners also seek to enjoin further actions by City,
12 which continues to allow for refusal to provide minutes of closed sessions, refuses to identify
13 items discussed in closed session, or authorize material revisions of land use and planning
14 instruments without notice as required by the Government Code.

15 **THIRD CAUSE OF ACTION – DECLARATORY RELIEF**

16 **Declaratory Relief**

17 **(All Petitioners Against All Respondents/Defendants)**

18 132. Petitioners re-state and re-plead all allegations set forth above as though fully set
19 forth herein.

20 133. An actual controversy has arisen and now exists among the parties, in that
21 Petitioners make the contentions alleged above and are informed and believe, and on that basis
22 allege that City denies these contentions.

23 134. Petitioners allege that City is in possession of documents relevant to PRARs 1-7,
24 particularly, but not limited to, emails, meeting notes, and text messages by and between City
25 staff, City elected officials, the gaming parties, consultants, and others, that it has not produced.
26 Petitioners have made efforts to describe the documents with particularity, including identifying
27 meetings by dates, topic, and attendees where possible, but City refuses and continues to refuse
28 to produce the requested documents, and has never provided Petitioners with its record retention

1 policy, or specify if one exists. City alleges that it has complied with the PRA, and Petitioners
2 disagree. A judicial declaration is necessary and appropriate at this time, under the
3 circumstances, to clarify and ascertain the rights of the parties and avoid a multiplicity of actions.

4 135. Petitioners allege that City has engaged in serial meetings with the gaming parties
5 and staff as their intermediaries and, through those meetings, made decisions that should have
6 been made as part of public hearings, and that certain decisions at public hearings were pre-
7 determined as a result of these meetings, all in violation of the Brown Act. City alleges that it
8 has complied with the Brown Act and Petitioners disagree. A judicial declaration is necessary
9 and appropriate at this time, under the circumstances, to clarify and ascertain the rights of the
10 parties and avoid a multiplicity of actions.

11 136. Petitioners have no adequate remedy other than declaratory action in this matter.
12 Petitioners have exhausted all administrative remedies that they have. Petitioners have issued 7
13 PRARs and two meet and confer letters to City regarding these matters in advance of filing this
14 Petition, all without an adequate response from City. Because no public notices of the decisions
15 described above has been made, any requirement that Petitioners obtain a correction of City's
16 actions were not possible under these facts, as the failures to hold the requisite hearings were an
17 evasion of City's duties.

18 137. The actions taken by City as described above were in violation of City's
19 obligations under the PRA and the Brown Act.

20 138. Petitioners have been harmed and will continue to be irreparably harmed if the
21 relief sought is not granted. Petitioners are all concerned citizens, residents, and tax-payers in
22 the City of Elk Grove. They have a right to see that City complies with the PRA and the Brown
23 Act. Here, the entire process for the casino/hotel has been fast-tracked within the City of Elk
24 Grove with little to no notice, such that Petitioners have no assurances that the casino/ hotel
25 project has adequate mitigations to protect the residents from the impacts of a project of this
26 magnitude. Petitioners have been irreparably harmed, as they have been denied the opportunity
27 to participate in hearings regarding the casino/hotel, as City made a series of pre-determined
28 decisions through staff with the gaming parties in advance of public hearings. Petitioners have

1 been irreparably harmed in that City is withholding relevant public documents in its possession
2 regarding the casino/hotel, and until such communications are released, Petitioners cannot fully
3 evaluate the actions by City. Petitioners will continue to be irreparably harmed if City continues
4 to make decisions through serial meetings with staff, thereby by-passing the public hearings
5 process, and if City continues to refuse to produce relevant documents in its possession.

6 139. If City continues to evade its responsibilities under the PRA and the Brown Act,
7 Petitioners allege that the irreparable injury may include, but is not limited to, the following:
8 inadequate water and sewer services to the project such that the casino/hotel will draw from
9 services needed by City residents; lack of casino related parking, creating a nuisance to the
10 community; harm to the environment – air, land, water, human, and animals – as a result of the
11 casino/hotel impacts; increased social problems and crime as a result of siting a casino/hotel
12 within City limits; undue burden on existing City services, such as the police department and
13 first-responders; and traffic problems at or near the casino/hotel site.

14 **PRAYER**

15 WHEREFORE, Petitioners and Plaintiffs demand judgment against Respondent City as
16 follows:

17 1. That the Court issue a peremptory writ of mandate directing Respondent/
18 Defendant City to provide Petitioners and Plaintiffs with all requested records except those
19 records that the Court determines may lawfully be withheld;

20 2. That the Court issue a peremptory writ of mandate directing Respondent/
21 Defendant City to conduct hearings related to defacto rezoning of Phase 2, removal of the
22 License Agreement, and all environmental mitigations on Phase 2;

23 3. That the Court issue all necessary injunctive relief requiring Respondent/
24 Defendant City to provide identified notice prior to closed sessions, and to provide minutes of
25 such sessions;

26 4. For a judicial declaration stating the rights and remedies of the parties;

27 ///

28 ///

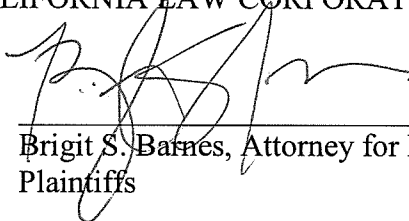
- 1 5. That Petitioners and Plaintiffs be awarded attorney's fees and costs; and
2 6. For such other and further relief as the Court deems proper and just.
3

4 Dated: June 19, 2017

Respectfully submitted,

5 BRIGIT S. BARNES & ASSOCIATES, INC.,
6 A CALIFORNIA LAW CORPORATION

7
8 By:



Brigit S. Barnes, Attorney for Petitioners and
9 Plaintiffs

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VERIFICATION

I, PATTY JOHNSON, declare:

I am a Petitioner and Plaintiff in the above-entitled action. I have read the foregoing VERIFIED PETITION FOR PREMPTORY WRIT OF MANDATE AND WRIT OF MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT REQUEST and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information or belief, and as to those matters, I believe them to be true.

Executed on June 18, 2017, at Eek Grove, California.


Patty Johnson
PATTY JOHNSON

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I, JOE TEIXEIRA, declare:

I am a Petitioner and Plaintiff in the above-entitled action. I have read the foregoing VERIFIED PETITION FOR PREMPTORY WRIT OF MANDATE AND WRIT OF MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT REQUEST and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information or belief, and as to those matters, I believe them to be true.

Executed on June 19, 2017, at Elk Grove, California.



JOE TEIXEIRA

1 VERIFICATION

2
3 I, OMAR AHMED, JR., declare:

4 I am a Petitioner and Plaintiff in the above-entitled action. I have read the foregoing
5 VERIFIED PETITION FOR PREMPTORY WRIT OF MANDATE AND WRIT OF
6 MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS
7 ACT REQUEST and know the contents thereof. The same is true of my own knowledge, except
8 as to those matters which are therein alleged on information or belief, and as to those matters, I
9 believe them to be true.

10 Executed on June 19, 2017, at Elk Grove, California.

11
12 Om ahmed J
13 OMAR AHMED, JR.

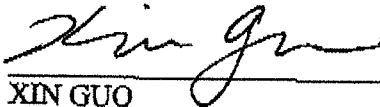
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VERIFICATION

I, XIN GUO, declare:

I am a Petitioner and Plaintiff in the above-entitled action. I have read the foregoing VERIFIED PETITION FOR PREMPTORY WRIT OF MANDATE AND WRIT OF MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT REQUEST and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information or belief, and as to those matters, I believe them to be true.

Executed on June 18, 2017, at Elk Grove, California.


XIN GUO

1 VERIFICATION

2
3 I, CAROLYN SOARES, declare:

4 I am a Petitioner and Plaintiff in the above-entitled action. I have read the foregoing
5 VERIFIED PETITION FOR PREMPTORY WRIT OF MANDATE AND WRIT OF
6 MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS
7 ACT REQUEST and know the contents thereof. The same is true of my own knowledge, except
8 as to those matters which are therein alleged on information or belief, and as to those matters, I
9 believe them to be true.

10 Executed on June 19, 2017, at Seak Grove, California.

11
12 
13 CAROLYN SOARES

EXHIBIT "A"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenaly Killian

Legal Assistant
Noreen Patrignani

3262 Penryn Road
Suite 200
Loomis, CA 95650
tel: 916.660.9555
fax 916.660.9554
www.landlawbybarnes.com

December 7, 2016

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attention: Jon Hobbs, City Attorney

Re: Public Records Act Request – Documents related to Agreements between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation and the Wilton Rancheria

Dear Mr. Lindgren and Mr. Hobbs:

This office represents Stand Up California!, Joe Teixeira and Patty Johnson, all of whom are the Petitioners in Case No. 34-2016-80002493. Pursuant to Government Code section 6250 et seq., we hereby request that you provide us with copies of any and all documents in the care, custody and control of City of Elk Grove (“Agency”) relating to, or evidencing, in any way, the following subjects. List all documents with as much general information as you have.

This request includes any and all documents related to approvals and amendments to prior approvals, related to:

- Wilton Rancheria’s plans for development of a casino and hotel to be located in the northern portion of the Regional Mall, including agreements and amendments of all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation in support of that casino and hotel project,
- Wilton Rancheria’s plans for development of a casino and hotel as originally planned for Galt, California, involving all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation and/or Bureau of Indian Affairs in support of that casino and hotel project in Galt,
- the Tribe’s MOU with City of Elk Grove, including any environmental determinations related to casino and hotel development,

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- The City's determination of that such casino and hotel development has no environmental impact as indicated by the Notice of Determination filed by the City of Elk Grove.
- The Option Agreement for the sale of the Casino Property in the northern portion of the Regional Mall Property, apparently signed in May 2016.
- Meetings held, whether open or closed, internal or public, regarding the Amendments to the Agreement Regarding the Regional Mall between the City and Elk Grove Town Center, LP on or about November 2016;
- Development Agreement Amendment regarding the Regional Mall, intending to remove the northernmost property from the Regional Mall and approved on or about November 9, 2016, including, without limitation, any meetings held with representatives of the Wilton Rancheria; Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation in support of the casino and hotel project;

For all such meetings and hearings, please identify the persons attending, and what entity their represented, and include, without limitation, any agendas, staff reports, file notes and minutes, and/or recordings of said meetings;

Please include all communications made to or by any of City's staff and agents (including, without limitation, its counsel) with representatives of any representative of Bureau of Indian Affairs, or any Agency of the State of California, representatives of the Tribe, representatives of Elk Grove Town Center, L.P., or representatives of the Howard Hughes Corporation, concerning environmental impacts of such Casino and Hotel Development, including, without limitation, any documents related to any traffic and air quality impacts, including without limitation, any file notes, research and memoranda related to such communications or decisions;

Please identify all individuals involved in such communications;

Please include all analysis and/or analyses (including all traffic and/or air quality modeling and/or technical analysis or analyses) that have been completed for the approvals described above.

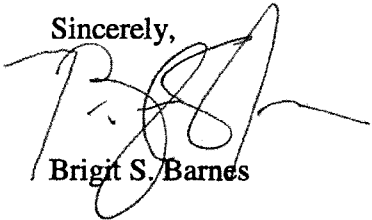
The documents and files requested are public records within the meaning of Government Code Section 6252(e), defined as any writing containing information relating to the conduct of the agency's business prepared, owned, used or retained by the agency regardless of physical form or characteristic. Writings include any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Government Code Section 6252(g). The plural includes the singular, and vice versa, meaning a request for

“all” documents includes a request for a single document (if only one is responsive), and a request for “any” documents includes a request for all documents (if more than one is responsive).

Finally, to the extent that you produce documents to this office that contain redactions, or specific pages are removed from certain communications, we ask that Agency identify all parties who were copied on, or received, any such redacted documents to justify its claim of privilege. If the attorney-client privilege is not the basis for the redaction, then we ask you to identify what it is. To the extent that the reason for the redaction is because of an asserted privilege, Agency should identify the document by date, the sender and recipient, and any person who received a copy, and the basis of the claimed privilege, on a per document basis, so that our clients and their attorneys can determine whether the privilege properly applies.

Please respond in writing to this Public Records Act Request within ten (10) days in accordance with Government Code Section 6253(c). We understand that there will be a fee for copying the documents responsive to this request, which is required to be paid prior to our receiving said documents. Thank you.

Sincerely,



Brigit S. Barnes

cc: Clients

EXHIBIT "B"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenalyn Killian

Legal Assistant
Noreen Patrignani

3262 Penryn Road
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December 29, 2016

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attention: Jon Hobbs, City Attorney

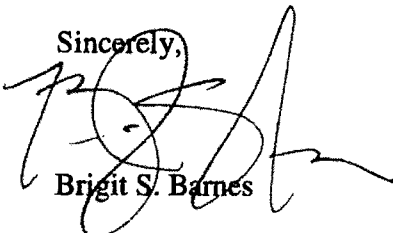
Re: Public Records Act Request – Documents related to Agreements between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation and the Wilton Rancheria

Dear Mr. Lindgren and Mr. Hobbs:

This letter is to follow up on my firm's public record act request dated December 7, 2016. On December 13, 2016 the City Records Manager sent an e-mail indicating that the City received the request on December 8, 2016 and then sent a second e-mail on December 20, 2016 indicating that the City is in the process of gathering responsive records. However, no estimated time and date for production was indicated in compliance with Government Code section 6253(c). Please provide a date and time in compliance with the Act as well as an estimated cost for production. If the documents are voluminous, my firm can review the documents at the City's office and tab only those documents that require reproduction; or, in the alternative, the documents can also be downloaded to a USB drive for easy transfer. Once the responsive documents have been located, please contact my office to coordinate efficient reproduction and delivery of same.

Thank you for your continued attention to this matter.

Sincerely,


Brigit S. Barnes

cc: Clients

Wilton Rancheria\CEG-PRA.L02

Asset Preservation
General Business

Commercial Real Estate
Real Estate Financing

Environmental
Litigation

EXHIBIT "C"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenalyn Killian

Legal Assistant
Noreen Patrignani

3262 Penryn Road
Suite 200
Loomis, CA 95650
tel: 916.660.9555
fax 916.660.9554
www.landlawbybarnes.com

January 17, 2017

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attention: Jon Hobbs, City Attorney

Re: Public Records Act Request – Documents Related to Agreements Between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation and the Wilton Rancheria - FOLLOW UP DUE TO NON-RESPONSIVE AND INCOMPLETE PRODUCTION BY CITY ON JANUARY 11, 2017

Dear Mr. Lindgren and Mr. Hobbs:

On Behalf of Stand Up for California!, Joe Teixeira and Patty Johnson, all of whom are the Petitioners in Case No. 34-2016-80002493, this office first submitted a Public Records Act Request to your attention on December 7, 2016, with a follow up letter on December 29, 2016. In response, the City submitted limited responsive documents on or about January 11, 2017. Many of the produced documents were public meeting minutes, resolutions, and other similar public documents that are right on your City website. This limited production by the City of readily available documents within City's possession, is both disingenuous and, more importantly, a direct violation of the Public Records Act, Government Code section 6250 et seq. (the "Act").

This letter is to provide the City with another opportunity to comply with the law by providing a complete and thorough response to my clients' requests no later than this Friday, January 20, 2017. After reviewing the documents provided by your office, it almost appears as though the City Clerk is confused by Petitioners request. The Public Records Act is much broader that documents which may be determined to be part of the administrative record related to our Petition referenced above. The purpose of the Public Records Act is, "... to give the public access to information in possession of public agencies in furtherance of the notion that government should be accountable for its actions and, in order to verify accountability, individuals must have access to government files." (*BRV, Inc. v. Superior Court* (2006) 143 Cal. App. 4th 742, 750.) In conformance with the Act, Petitioners are entitled to every kind of record, including communications, correspondence and e-correspondence, that may be involved in any governmental process, and any form of record-keeping instrument, including e-mails, not just the staff reports, minutes and resolutions related to the public approvals challenged by Petition.

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Real Estate Financing

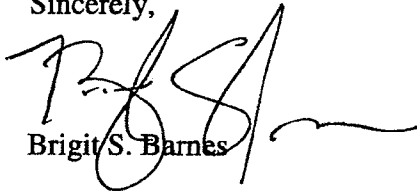
Environmental
Litigation

My clients know that the City has substantial documentation responsive to our request which was not produced, including e-mails in its possession that it has withheld, as some of these relevant e-mails have already been produced to my clients through a Freedom of Information Act request. However, a prior production does not excuse the City from producing all documents related to the December 7, 2016 request, including previously produced formal documents, these e-mails and all other responsive e-mails in its possession. The deadline for production has already passed.

I am enclosing for reference the original PRA request and the follow up request dated December 7 and December 16, 2016, respectively.

If my firm does not receive a full response by this date, my clients will immediately commence with litigation to compel the City to comply with its obligations to provide a full and transparent disclosure of the governmental process as required by law, including a request for attorneys' fees and other damages as appropriate. (See Government Code section 6359(c).) Attorney's fees are justified when litigation compelled the public agency to comply with the Act. (See *Galbiso v. Orosi Public Utility Dist.* (2008) 167 Cal. App. 4th 1063, 1085.)

Sincerely,



Brigit S. Barnes

Enclosures

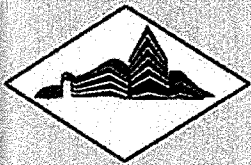
cc: Clients (via e-mail)

EXHIBIT "D"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenelyn Killian

Legal Assistant
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www.landlawbybarnes.com

January 30, 2017

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attention: Jon Hobbs, City Attorney

Re: Public Records Act Request – Documents related to Agreements between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation and the Wilton Rancheria

Dear Mr. Lindgren and Mr. Hobbs:

This office represents Stand Up California!, Joe Teixeira and Patty Johnson, all of whom are the Petitioners in Case No. 34-2016-80002493. Pursuant to Government Code section 6250 et seq., we hereby request that you provide us with copies of any and all documents in the care, custody and control of City of Elk Grove (“Agency”) relating to, or evidencing, in any way, the following subjects **from the time period December 7, 2016 (the date of our first request) through January 30, 2017.**

This request includes any and all documents related to approvals and amendments to prior approvals, related to:

- Wilton Rancheria’s plans for development of a casino and hotel to be located in the northern portion of the Regional Mall, including agreements and amendments of all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation in support of that casino and hotel project,
- Wilton Rancheria’s plans for development of a casino and hotel as originally planned for Galt, California, involving all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation and/or Bureau of Indian Affairs in support of that casino and hotel project in Galt,
- the Tribe’s MOU with City of Elk Grove, including any environmental determinations related to casino and hotel development,

Asset Preservation
General Business

Commercial Real Estate
Real Estate Financing

Environmental
Litigation

- The City's determination of that such casino and hotel development has no environmental impact as indicated by the Notice of Determination filed by the City of Elk Grove.
- The Option Agreement for the sale of the Casino Property in the northern portion of the Regional Mall Property, apparently signed in May 2016.
- Meetings held, whether open or closed, internal or public, regarding the Amendments to the Agreement Regarding the Regional Mall between the City and Elk Grove Town Center, LP on or about November 2016;
- Development Agreement Amendment regarding the Regional Mall, intending to remove the northernmost property from the Regional Mall and approved on or about November 9, 2016, including, without limitation, any meetings held with representatives of the Wilton Rancheria; Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation in support of the casino and hotel project;

For all such meetings and hearings, please identify the persons attending, and what entity their represented, and include, without limitation, any agendas, staff reports, file notes and minutes, and/or recordings of said meetings;

Please include all communications made to or by any of City's staff and agents (including, without limitation, its counsel) with representatives of any representative of Bureau of Indian Affairs, or any Agency of the State of California, representatives of the Tribe, representatives of Elk Grove Town Center, L.P., or representatives of the Howard Hughes Corporation, concerning environmental impacts of such Casino and Hotel Development, including, without limitation, any documents related to any traffic and air quality impacts, including without limitation, any file notes, research and memoranda related to such communications or decisions;

Please identify all individuals involved in such communications;

Please include all analysis and/or analyses (including all traffic and/or air quality modeling and/or technical analysis or analyses) that have been completed for the approvals described above.

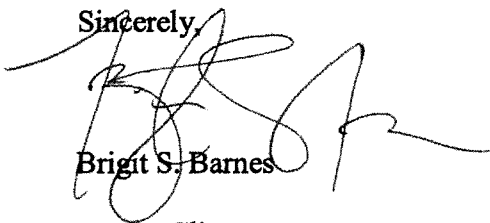
The documents and files requested are public records within the meaning of Government Code Section 6252(e), defined as any writing containing information relating to the conduct of the agency's business prepared, owned, used or retained by the agency regardless of physical form or characteristic. Writings include any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Government Code Section 6252(g). The plural includes the singular, and vice versa, meaning a request for

“all” documents includes a request for a single document (if only one is responsive), and a request for “any” documents includes a request for all documents (if more than one is responsive).

Finally, to the extent that you produce documents to this office that contain redactions, or specific pages are removed from certain communications, we ask that Agency identify all parties who were copied on, or received, any such redacted documents to justify its claim of privilege. If the attorney-client privilege is not the basis for the redaction, then we ask you to identify what it is. To the extent that the reason for the redaction is because of an asserted privilege, Agency should identify the document by date, the sender and recipient, and any person who received a copy, and the basis of the claimed privilege, on a per document basis, so that our clients and their attorneys can determine whether the privilege properly applies.

Please respond in writing to this Public Records Act Request within ten (10) days in accordance with Government Code Section 6253(c). We understand that there will be a fee for copying the documents responsive to this request, which is required to be paid prior to our receiving said documents. Thank you.

Sincerely,



Brigit S. Barnes

cc: Clients

EXHIBIT "E"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenelyn Killian

Legal Assistant
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www.landlawbybarnes.com

March 6, 2017

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attn: Jon Hobbs, City Attorney

Re: Public Records Act ("PRA") Request – Documents related to Agreements Between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation and the Wilton Rancheria

Dear Mr. Lindgren and Mr. Hobbs:

This office represents the Petitioners in Case No. 34-2016-80002493, as well as other residents in Elk Grove. Pursuant to Government Code section 6250 et seq., we hereby request that you provide us with copies of any and all documents in the care, custody, and control of the City of Elk Grove ("Agency") relating to, or evidencing, in any way, to the following:

1. Repeat Request for Documents Responsive to Original Request. Any and all documents relating to, or evidencing, in any way, the subjects listed in this PRA (see below) that were improperly withheld from City's production on January 11, 2017. Such documents include, but are not limited to, communications in the form of emails. As set forth in our January 17, 2017 letter addressing your non-responsive and incomplete production of documents on January 11, 2017, the City has not produced any email communications, even though relevant, responsive City emails are known to exist. In addition, City's responsive emails are to include emails sent, received or stored on City Staff's personal email systems, in compliance with the recently decided California Supreme Court case of *City of San Jose v. Superior Court* (No. S218066) [texts and e-mails on personal devices may be considered public records].

Please be advised that I represent several citizens who have personal knowledge of the City's prior unwritten policy to encourage its employees, especially members of the City Council and Planning Commission, to communicate on personal cell phones and emails, so as to evade City responsibilities to make such communications available to the public pursuant to the Public Records Act.

If my firm does not receive a full response to our PRA request, my clients will immediately commence with litigation to compel the City to comply with its obligations to provide a full

Asset Preservation	•	Commercial Real Estate	•	Environmental
General Business	•	Real Estate Financing	•	Litigation

and transparent disclosure of the governmental process as required by law, including a request for attorneys' fees and other damages as appropriate. (See Government Code section 6359(c).) Attorney's fees are justified when litigation compelled the public agency to comply with the Act. (See *Galbiso v. Orosi Public Utility Dist.* (2008) 167 Cal. App. 4th 1063, 1085.)

2. New Request for Documents as of Date of Last Request. Any and all documents from January 30, 2017 (the date of our last request) to the present relating to, or evidencing, in any way, the subjects listed in this PRA, to include communications in the form of emails as discussed above:

Subjects of this PRA:

- Wilton Rancheria's plans for development of a casino and hotel to be located in the northern portion of the Regional Mall, including agreements and amendments of all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation in support of that casino and hotel project.
- Wilton Rancheria's plans for development of a casino and hotel as originally planned for Galt, California, involving all agreements with Elk Grove Town Center, L.P. and/or the Howard Hughes Corporation and/or Bureau of Indian Affairs in support of that casino and hotel project in Galt.
- The Tribe's MOU with the City of Elk Grove, including any environmental determinations related to casino and hotel development.
- The City's determination that such casino and hotel development has no environmental impact as indicated by the Notice of Determination filed by the City of Elk Grove.
- The Option Agreement for the sale of the Casino Property in the northern portion of the Regional Mall Property, apparently signed in May 2016.
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- Development Agreement Amendment regarding the Regional Mall, intending to remove the northernmost property from the Regional Mall and approved on or about November 9, 2016, including, without limitation, any meetings held with representatives of the Wilton Rancheria, Elk Grove Town Center, L.P., and/or the Howard Hughes Corporation in support of the casino and hotel project.

- City staff revisions to obligations of Lent Ranch SPA for the benefit of Wilton Rancheria, Elk Grove Town Center, L.P., and/or the Howard Hughes Corporation in support of the casino and hotel project.
- City staff revisions or releases to obligations of Lent Ranch SPA 2001/2004 EIR for the benefit of Wilton Rancheria, Elk Grove Town Center, L.P., and/or the Howard Hughes Corporation in support of the casino and hotel project.

For all such meetings and hearings, please identify the persons attending, and what entity they represented, and include, without limitation, any agendas, staff reports, file notes, and minutes, and/or recordings of said meetings.

Please include all communications made to or by any of City's staff and agents (including, without limitation, its counsel) with representatives of any representative of Bureau of Indian Affairs, or any Agency of the State of California, representatives of the Tribe, representatives of Elk Grove Town Center, L.P., or representatives of the Howard Hughes Corporation, concerning environmental impacts of such Casino and Hotel Development, including, without limitation, any documents related to any traffic and air quality impacts, including without limitation, any file notes, research, and memoranda related to such communications or decisions.

Please also include any and all communications concerning the proposed Wilton Rancheria Casino and Hotel Development, including, but not limited to, communications regarding environmental impacts.

Please identify all individuals involved in such communications, and ensure that "communications" include those conducted on any personal devices, as required by *City of San Jose v. Superior Court*.

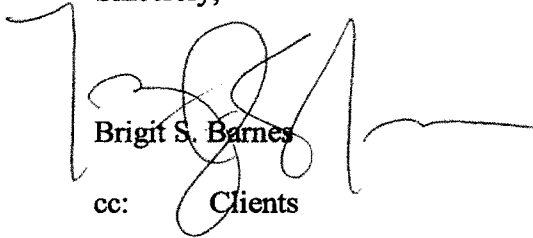
Please include all analysis and/or analyses (including all traffic and/or air quality modeling and/or technical analysis or analyses) that have been completed for the approvals described above.

The documents and files requested are public records within the meaning of Government Code Section 6252(e), defined as any writing containing information relating to the conduct of the agency's business prepared, owned, used or retained by the agency regardless of physical form or characteristic. Writings include any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Government Code Section 6252(g). The plural includes the singular, and vice versa, meaning a request for "all" documents includes a request for a single document (if only one is responsive), and a request for "any" documents includes a request for all documents (if more than one is responsive).

To the extent that you produce documents to this office that contain redactions, or specific pages are removed from certain communications, we ask that Agency identify all parties who were copied on, or received, any such redacted documents to justify its claim of privilege. If the attorney-client privilege is not the basis for the redaction, then we ask you to identify what it is. To the extent that the reason for the redaction is because of an asserted privilege, Agency should identify the document by date, the sender and recipient, and any person who received a copy, and the basis of the claimed privilege, on a per document basis, so that our clients and their attorneys can determine whether the privilege properly applies.

Please respond in writing to this Public Records Act Request within ten (10) days in accordance with Government Code Section 6253(c). We understand that there will be a fee for copying the documents responsive to this request, which is required to be paid prior to our receiving said documents. Thank you.

Sincerely,



Brigit S. Barnes

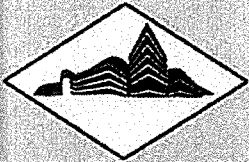
cc: Clients

EXHIBIT "F"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenalyn Killian

Legal Assistant
Noreen Patrignani

3262 Penryn Road
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tel: 916.660.9555
fax 916.660.9554
www.landlawbybarnes.com

March 9, 2017

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attn: Jonathan Hobbs, City Attorney

Re: **Public Records Act ("PRA") Request – Documents related to Agreements Between City of Elk Grove and Elk Grove Town Center, LP, Outlet Collection at Elk Grove (File No. EG-14-012); Howard Hughes Corporation, Boyd Gaming and the Wilton Rancheria**

Dear Mr. Lindgren and Mr. Hobbs:

This letter maintains my Public Records Act request of March 6, 2017. All requests identified in that letter remain in place.

In addition to the documents previously requested, please also provide all records related to any and all Agreements, entitlements, or conveyances between and among the City of Elk Grove, Elk Grove Town Center, LP, the Outlet Collection at Elk Grove, Howard Hughes Corporation, Boyd Gaming, and/or the Wilton Rancheria between January, 2011 and March 6, 2017, which the City has not provided to date.

All references to records involving the City of Elk Grove also apply to any and all records of communications of the City Economic Development Director, and any and all members of the City Council related to the Agreements or the entities identified above, including any records any representative of the City has on its private email accounts or cell phones, not just those electronic messages maintained at "elkgrovecity.org". City's responsive emails are to include emails sent, received, or stored on City Staff's personal email systems, in compliance with the recently decided California Supreme Court case of *City of San Jose v. Superior Court* (No. S218066) [texts and e-mails on personal devices may be considered public records].

Since Gary Davis and Jim Cooper were either members of the City Council and/or Mr. Davis was Mayor during much of the applicable period, you must request Mr. Cooper's and Mr. Davis's records in that regard, for the relevant time period and make such pertinent records available. To assist you in your requests, I have identified the following email addresses for Mr. Davis:

Asset Preservation	•	Commercial Real Estate	•	Environmental
General Business	•	Real Estate Financing	•	Litigation

Gary@mayorgarydavis.com;
gdavis@edvoice.org;
gdavis@calcharters.org;
elkgrove2020@gmail.com.

I do not believe that the foregoing email addresses are the only addresses Mr. Davis used during the relevant time period, and provide them only to assist you in your search.

I have identified text or cell accounts for Mr. Davis at (916) 705-9538; 686-8721; and a cell account for Gary Dietrich at (916) 715-8065.

Subjects of this PRA:

- Wilton Rancheria's plans for development of a casino and hotel to be located in the northern portion of the Regional Mall, including agreements and amendments of all agreements with Elk Grove Town Center, LP and/or the Howard Hughes Corporation, and/or Boyd Gaming in support of that casino and hotel project.
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- Development Agreement Amendment regarding the Regional Mall, intending to remove the northernmost property from the Regional Mall and approved on or about November 9, 2016, including, without limitation, any meetings held with representatives of Boyd Gaming, the Wilton Rancheria, Elk Grove Town Center, LP, and/or the Howard Hughes Corporation in support of the casino and hotel project.

- City staff revisions to obligations of Lent Ranch SPA for the benefit of Boyd Gaming, Wilton Rancheria, Elk Grove Town Center, LP, and/or the Howard Hughes Corporation in support of the casino and hotel project.
- City staff revisions or releases to obligations of Lent Ranch SPA 2001/2004 EIR for the benefit of Boyd Gaming, Wilton Rancheria, Elk Grove Town Center, LP, and/or the Howard Hughes Corporation in support of the casino and hotel project.

For all such meetings and hearings, please identify the persons attending, and what entity they represented, and include, without limitation, any agendas, staff reports, file notes, and minutes, and/or recordings of said meetings.

Please include all communications made to or by any of City's staff and agents (including, without limitation, its counsel) with representatives of any representative of Bureau of Indian Affairs, or any Agency of the State of California, representatives of the Tribe, representatives of Boyd Gaming, representatives of Elk Grove Town Center, LP, or representatives of the Howard Hughes Corporation, concerning environmental impacts of such Casino and Hotel Development, including, without limitation, any documents related to any traffic and air quality impacts, including without limitation, any file notes, research, and memoranda related to such communications or decisions.

Please also include any and all communications concerning the proposed Wilton Rancheria Casino and Hotel Development, including, but not limited to, communications regarding environmental impacts.

Please identify all individuals involved in such communications, and ensure that "communications" include those conducted on any personal devices, as required by *City of San Jose v. Superior Court*.

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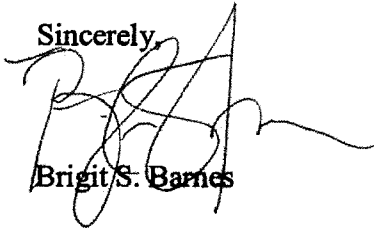
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request for a single document (if only one is responsive), and a request for "any" documents includes a request for all documents (if more than one is responsive).

To the extent that you produce documents to this office that contain redactions, or specific pages are removed from certain communications, we ask that Agency identify all parties who were copied on, or received, any such redacted documents to justify its claim of privilege. If the attorney-client privilege is not the basis for the redaction, then we ask you to identify what it is. To the extent that the reason for the redaction is because of an asserted privilege, Agency should identify the document by date, the sender and recipient, and any person who received a copy, and the basis of the claimed privilege, on a per document basis, so that our clients and their attorneys can determine whether the privilege properly applies.

Please respond in writing to this Public Records Act Request within ten (10) days in accordance with Government Code Section 6253(c). We understand that there will be a fee for copying the documents responsive to this request, which is required to be paid prior to our receiving said documents. Thank you.

Sincerely,



Brigit S. Barnes

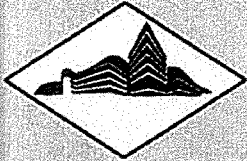
cc: Clients

EXHIBIT "G"

**BRIGIT S.
BARNES &
ASSOCIATES,
INC.**

A LAW CORPORATION

Brigit S. Barnes, Esq.
Annie R. Embree, Esq.
Of Counsel



Asset Preservation,
Land Use and
Environmental
Paralegal
Jaenelyn Killian

Legal Assistant
Noreen Patrignani

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Suite 200
Loomis, CA 95650
tel: 916.660.9555
fax 916.660.9554
www.landlawbybarnes.com

May 18, 2017

Via Facsimile, and Regular Mail
(916) 627-4400
(916) 627-4100

City of Elk Grove
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Jason Lindgren, City Clerk
Attn: Jonathan Hobbs, City Attorney

Re: PRA-7
Public Records Act ("PRA") Request – Documents related to Agreements
Between City of Elk Grove and Elk Grove Town Center, LP, Outlet
Collection at Elk Grove (File No. EG-14-012); Howard Hughes
Corporation, Boyd Gaming, and the Wilton Rancheria

Dear Mr. Lindgren and Mr. Hobbs:

This letter maintains my Public Records Act requests of March 6 and 9, 2017. All requests identified in that letter remain in place. This request seeks to clarify our prior requests, and make clear what the types of public records are, and also records that fall under the categories of our last requests, but updated through today's date.

1. Request for Additional Records – Videos. I note that minutes of the September 28, 2016, October 12, 2016 and October 26, 2016 have never been posted. If the City is not preparing these minutes, please advise. I note that the City has downloads of City Council hearings online. However, I will need copies of all videos of City Council hearings, regardless of camera orientation, that capture the City Council meetings, and City Council member behavior during the meetings, conducted on September 28, 2016, October 12, 2016, October 26, 2016, November 9, 2016, December 14, 2016, January 11, 2017, January 25, 2017, February 8, 2017, and February 22, 2017. I note that the City's website identifies videography by a third party. I would be happy to coordinate with you so that all the tapes are identified and then the City Clerk verifies those tapes.
2. Request for Additional Records – Regulations, Policies & Procedures. All documents relating to, or evidencing, in any way, City regulations, policies, and procedures describing the City's processes and requirements for retention and storage of records and electronic records, including emails, texts, voicemail messages, and other phone records, calendars, email accounts, and computer files, including archives and computer back-up systems.

Asset Preservation
General Business

Commercial Real Estate
Real Estate Financing

Environmental
Litigation

3. Request for Documents as of Date of Last Request. Any and documents from March 6, 2017 to the present relating to, or evidencing, in any way, the subjects listed in this PRA, to include communications in the form of emails. City's responsive emails are to include emails sent, received, or stored on City Staff's personal email systems, in compliance with the recently decided California Supreme Court case of *City of San Jose v. Superior Court* (No. S218066) [texts and e-mails on personal devices may be considered public records].

Subjects of this PRA:

- Wilton Rancheria's plans for development of a casino and hotel to be located in the northern portion of the Regional Mall, including agreements and amendments of all agreements with Elk Grove Town Center, LP and/or the Howard Hughes Corporation, and/or Boyd Gaming in support of that casino and hotel project.
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- All records related to any and all Agreements, entitlements, or conveyances between and among the City of Elk Grove, Elk Grove Town Center, LP, the Outlet Collection at Elk Grove, Howard Hughes Corporation, Boyd Gaming, and/or the Wilton Rancheria

For any and all such meetings and hearings, please identify the persons attending and what entity(s) they represented, and include, without limitation, any agendas, staff reports, file notes, and minutes, and/or recordings of said meetings.

Please include all communications made to or by any of City's staff and agents (including, without limitation, its counsel) with representatives of any representative of Bureau of Indian Affairs, or any Agency of the State of California, representatives of the Tribe, representatives of Boyd Gaming, representatives of Elk Grove Town Center, LP, or representatives of the Howard Hughes Corporation, concerning environmental impacts of such Casino and Hotel Development, including, without limitation, any documents related to any traffic and air quality impacts, including without limitation, any file notes, research, and memoranda related to such communications or decisions.

Please also include any and all communications concerning the proposed Wilton Rancheria Casino and Hotel Development, including, but not limited to, communications regarding environmental impacts.

Please identify all individuals involved in such communications, and ensure that "communications" include those conducted on any personal devices, as required by *City of San Jose v. Superior Court*.

Please include all analysis and/or analyses (including all water, sewer, traffic and/or air quality modeling and/or technical analysis or analyses) that have been completed for the approvals described above.

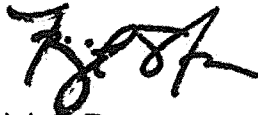
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Please respond in writing to this Public Records Act Request within ten (10) days in accordance with Government Code Section 6253(c). We understand that there will be a fee for copying the documents responsive to this request, which is required to be paid prior to our receiving said documents. Thank you.

Sincerely,



Brigit S. Barnes

cc: Clients [via email]