

IN THE CALIFORNIA COURT OF APPEAL

FIRST APPELLATE DISTRICT

DIVISION ONE

---

GENE HAZZARD

Plaintiff, Appellant

vs.

CITY OF OAKLAND

Defendant, Respondent

APPEAL FROM THE SUPERIOR COURT OF ALAMEDA  
CASE NO. RG12642082  
HON. JOHN TRUE, III

---

---

APPELLANT'S APPENDIX

*Volume 5 of 5*

---

---

GENE HAZZARD  
In Pro Per  
282 Adams Street, #  
Oakland, CA 94612  
(510) 418-0501

APPELLANT



# TABLE OF CONTENTS

## Chronological

Date	Document	Page
8/3/12	Complaint Under CCP 425.10; Declaratory Relief/Injunction Under CCP 1060; General Negligence; Prohibitory Injunctive Relief Under Civil Code 3368, 3420, 3422 and TRO CCP 527(A) (sic); Challenging the Validity of the Exclusive Negotiating Agreement and Lease Disposition Development Agreement (LDDA) Between the Master Developer and the City of Oakland for the Redevelopment of the Oakland Army Base	1-33
8/3/12	Exhibit List to Plaintiff's Complaint	34
8/3/12	Exhibit A: City Council Resolution 83930 C.M.S.	35-37
8/3/12	Exhibit B: Revised City Council Resolution No. 83565 C.M.S.	38-40
8/3/12	Exhibit C: Economic Development Conveyance Application (Oakland Army Base, April 2000)	41-124
8/3/12	Exhibit D: City of Oakland Resolution No. 83297 C.M.S.	125-128
8/3/12	Exhibit E: City of Oakland Resolution No. 83292 C.M.S.	129-132
8/3/12	Exhibit F: GDA Development Phasing and Life Cycle Flow Chart	133-135
8/3/12	Exhibit G: City of Oakland Agenda Report dated October 18, 2012	136-143
8/3/12	Exhibit H: Real Estate Term Sheet	144-145
8/3/12	Exhibit I: First Amendment to the Exclusive Negotiating Agreement (ENA) between the Community and Economic Development Agency (CEDAP) and AMB/CCG	146-148

Date	Document	Page
8/3/12	Exhibit J: Attachment D Term Sheet, Second Amendment to the ENA dated March 15, 2011	149-160
8/3/12	Exhibit K: Draft Property Management Agreement, Oakland Army Base Lease Disposition and Development Agreement (LDDA) dated July 12, 2012	161-191
8/3/12	Exhibit L: Government Code §§ 4527, 4529.5, and 5500.1	192-196
8/3/12	Exhibit M: Fox Theater Renovation Project Performance Audit dated October 4, 2011	197-232
8/3/12	Exhibit N: Attachment C, First Amendment to the Exclusive Negotiation Agreement (ENA) between the Community and Economic Development Agency (CEDA) and AMB/CCG including Exhibit D, Schedule of Performance	233-235
8/3/12	Exhibit O: Redevelopment Agency of the City of Oakland Supplemental Agenda Report dated December 15, 2009	236-261
8/3/12	Exhibit P: City of Oakland Request for Qualifications for the Oakland Army Base Redevelopment dated March 2008	262-265
8/3/12	Exhibit Q: City of Oakland Agenda Report dated March 31, 2012	266-317
9/4/12	Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	318-335
9/4/12	Request for Judicial Notice in Support of Defendants Phil Phil Tagami and Daniel Letter's Demurrer to Plaintiff's Complaint	336-360
9/4/12	Notice of Hearing on City Defendants' Demurrer and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	361-363



Date	Document	Page
9/4/12	City Defendants' Demurrer to Complaint and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	364-367
9/4/12	Memorandum of Points and Authorities in Support of City Defendants' Demurrer to Complaint	368-377
9/4/12	Joinder in Defendant Phil Tagami, et al.'s Demurrer	
9/4/12	[Proposed] Order Sustaining City Defendants' Demurrer	378-380
9/4/12	City Defendants' Request for Judicial Notice in Support of Demurrer to Complaint and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	381-406
10/4/12	Plaintiff's Opposition Requesting Court to Deny Defendants Phil Tagami and Daniel Letter's Request for Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	407-454
10/4/12	Memorandum in Support of Plaintiff's Opposition to City Defendants' Demurrer to Plaintiff's Complaint; Joinder in Defendant Phil Tagami, et al.'s Demurrer	455-479
10/4/12	Plaintiff's Opposition to Judicial Notice in Support of Defendant City of Oakland's Notice of Demurrer and Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	480-486
11/9/12	Defendant Phil Tagami's and Daniel Letter's Reply Brief in Support of Their Demurrer to Plaintiff's Complaint	487-502
	City Defendant's Reply in Support of Its Demurrer and Joinder in Phil Tagami', et al.'s Demurrer to Complaint	503-509
11/19/12	Order on Demurrer to Complaint (City of Oakland) Sustained	510-512
11/19/12	Order on Demurrer to Complaint (Tagami and Letter) Sustained	513-516

Date	Document	Page
11/21/12	Notice of Entry of Order on Demurrer to Complaint (Defendant Tagami, et al.)	517-522
	Notice of Entry of Order on Demurrer to Complaint (City of Oakland)	523-525
	Notice of Entry of Order regarding City Defendant's Joinder in Defendant's Tagami's Demurrer to Complaint	526-531
12/14/12	First Amended Complaint for (1) Declaratory and Injunctive Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes	532-633
12/14/12	Exhibit R to First Amended Complaint – Notice of Intent to Intercept California Tax Refund and Tax Receipts from the City of Oakland	569-571
12/14/132	Exhibit S to First Amended Complaint – Public Contract Code Section 20160-20175.2	572-578
12/14/12	Exhibit T – Redevelopment Agency of the City of Oakland (RDA) Resolution No. 2011-0035	579-584
12/14/12	Exhibit U to First Amended Complaint – News article “Transportation Tax Fails” dated November 17, 2012	585
12/14/12	Exhibit V to First Amended Complaint – Draft Agenda Reports dated April 22, 2009 and December 2, 2008	586-599
12/14/12	Exhibit X to First Amended Complaint – Letter from Gordon-Creed, Kelley, Holl & Sugerman dated December 5, 2012 to Gene Hazzard enclosing April 26, 2011 proposal from Industry Realty Group (IRG) to redevelop the Oakland Army Base	600-631
12/14/12	Exhibit Y to First Amended Complaint – Email from Donnell Choy, Deputy Port Attorney, to Gene Hazzard dated October 15, 2012 regarding inquiry on \$50,000 security deposit to the	632-633

Date	Document	Page
	Port of Oakland from Phil Tagami	
12/14/12	Declaration of Service re: Plaintiff's Request to Take Judicial Notice	634-636
1/3/13	Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's First Amended Complaint; Memorandum of Points and Authorities	637-675
1/3/13	Request for Judicial Notice in Support of Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's First Amended Complaint	676-697
1/4/13	Notice of Hearing on Demurrers to First Amended Complaint; Memorandum of Points and Authorizes in Support of City Defendants' Demurrers to First Amended Complaint; [Proposed] Order Granting City Defendants' Demurrers to First Amended Complaint	698-728
1/4/13	City Defendants' Request for Judicial Notice in Support of Demurrers to First Amended Complaint	729-755
2/8/13	Notice of Motion for Leave to File Second Amended Complaint; City Defendants' Demurrer to First Amended Complaint; Memorandum of Points and Authorities in Support of [Motion] for Leave to File a Second Amended Complaint	756-771
2/8/13	Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	772-817
2/8/13	Proposed Second Amended Complaint for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]	775-817
2/8/13	Proposed Order Granting Motion for Leave to File Second	818-819

Date	Document	Page
	Amended Complaint	
2/21/13	Memorandum of Points and Authorities in Opposition to City of Oakland's Demurrer to Plaintiff's First Amended Complaint	820-837
2/21/13	Memorandum of Points and Authorities in Opposition to the Demurrer of Defendants Phil Tagami and Daniel Letter to Plaintiff's First Amended Complaint	838-856
2/21/13	Declaration of Heather M. Ehmke in Support of Plaintiff Gene Hazzard's Oppositions to the Demurrers of the City of Oakland and Defendants Phil Tagami and Daniel Letter	859-862
2/21/12	Proposed Orders Denying Demurrers of Defendants Phil Tagami and Daniel Letter and Granting Plaintiff's First Amended Complaint; Proposed Order Denying Demurrers of City of Oakland and Granting Plaintiff's First Amended Complaint	863-867
2/21/13	Plaintiff's Request to Take Judicial Notice No. 25(Legislative history of CCP 526(a))	868-867
2/21/13	Plaintiff's Request to Take Judicial Notice No. 26 (Business & Professions Code §17200-17210)	868-871
2/21/13	Plaintiff's Request to Take Judicial Notice No. 27 (California Civil Code Section 3439.04)	877-881
2/21/13	Plaintiff's Request to Take Judicial Notice No. 28 (Stand Up for Our City flyer)	882-885
2/21/13	Plaintiff's Request to Take Judicial Notice No. 29 (Excerpts from Oakland Municipal Code: §2.02.021, §2.04.030, §2.04.140)	886-891
2/22/13	City Defendants' Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Leave to File Second	892-899

Date	Document	Page
	Amended Complaint	
2/22/13	Defendants Phil Tagami and Daniel Letter's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion For Leave to File Second Amended Complaint	900-918
2/28/13	City Defendants' Reply to Plaintiff's Memorandum of Points and Authorities in Opposition to Demurrers to First Amended Complaint	919-932
2/28/13	Defendants' Phil Tagami and Daniel Letter's Reply to Brief in Support of their Demurrer to Plaintiff's Complaint; Proof of Service	933-947
2/28/13	Plaintiff's Reply to Opposition of Defendants to Plaintiff's Motion for Leave to File a Second Amended Complaint	948-959
2/28/13	Supplemental Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	960-1041
2/28/13	[Second] Proposed Second Amended Complaint for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]; (6) Fraudulent Transfer - Violation of UFTA [Civil Code §3439-3439.12]	964-1041
2/28/13	Plaintiff's Request to Take Judicial Notice No. 29 (sic) attaching the Memorandum of Lease Disposition and Development Agreement (LDDA)	1042-1049
2/28/13	Plaintiff's Request to Take Judicial Notice No. 30 attaching Secretary of State Business Entity Detail verifying date that Prologis CCIG Oakland Global LLC was incorporated by the State of California	1050-1052
2/18/13	Plaintiff's Request to Take Judicial Notice No. 31 Civil Code §§ 3439-3439.12	1053-1059

Date	Document	Page
2/28/13	Plaintiff's Request to Take Judicial Notice No. 32 (Penal Code Title 7: Offenses Against Property; Chapter 32. Fraud)	1060-1067
3/7/13	Second Supplemental Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	1068-1128
3/7/13	[Third] Proposed Second Amended Complaint for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]; Violation of UFTA (Fraudulent Transfer); Conspiracy to Commit Fraud;	1071-1128
3/7/13	Demurrer on First Amended Complaint Dropped as to City of Oakland, et al.	1129-1130
3/7/13	Demurrer as to First Amended Complaint Dropped as to Defendants Phil Tagami and Daniel Letter	1131-1133
3/12/13	Notice of Entry of Order as to Order Dropping Defendant City of Oakland's Demurrer to First Amended Complaint	1134-1138
3/12/13	Notice of Entry of Order as to Order Dropping Defendant Phil Tagami and Daniel Letter's Demurrer to First Amended Complaint	1139-1143
3/13/13	Order on Motion to Amend Complaint Denied	1144
3/14/13	Request for Dismissal without prejudice	1145
3/14/13	Order	1147
3/18/13	Notice of Entry of Order Denying Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended Complaint	1148-1151
3/18/13	Notice of Entry of Order Sustaining Defendants' Demurrers to Plaintiff's First Amended Complaint	1152-1155

Date	Document	Page
3/27/13	Declaration of Heather M. Ehmke After Ruling on Plaintiff's Motion for Leave to File a Second Amended Complaint	1156-1229
4/4/13	Notice of Entry of Judgment on Judgment of Appeal	1230-1233
4/8/13	Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1234-1262
4/10/13	Notice to Attorney re: Notice of Appeal from Alameda Superior Court	1263
4/12/13	Appellant's Notice Designating Record on Appeal	1264-1293
4/12/13	First Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1294-1296
4/18/13	Respondent's Notice Designating Record on Appeal	1297-1300
5/13/13	Second Amended Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1301-13
5/13/13	Clerk's Notice re: Certification of Record on Appeal	1318*

**TABLE OF CONTENTS**  
**Alphabetical**

Date	Document	Page
4/12/13	Appellant's Notice Designating Record on Appeal	1264-1293
	City Defendant's Reply in Support of Its Demurrer and Joinder in Phil Tagami', et al.'s Demurrer to Complaint	503-509
9/4/12	City Defendants' Demurrer to Complaint and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	364-367
2/22/13	City Defendants' Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Leave to File Second Amended Complaint	892-899
2/28/13	City Defendants' Reply to Plaintiff's Memorandum of Points and Authorities in Opposition to Demurrers to First Amended Complaint	919-932
1/4/13	City Defendants' Request for Judicial Notice in Support of Demurrers to First Amended Complaint	729-755
9/4/12	City Defendants' Request for Judicial Notice in Support of Demurrer to Complaint and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	381-406
5/13/13	Clerk's Notice re: Certification of Record on Appeal	1318*
8/3/12	Complaint Under CCP 425.10; Declaratory Relief/Injunction Under CCP 1060; General Negligence; Prohibitory Injunctive Relief Under Civil Code 3368, 3420, 3422 and TRO CCP 527(A) (sic); Challenging the Validity of the Exclusive Negotiating Agreement and Lease Disposition Development Agreement (LDDA) Between the Master Developer and the City of Oakland for the Redevelopment of the Oakland Army Base	1-33



Date	Document	Page
2/8/13	Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	772-817
3/27/13	Declaration of Heather M. Ehmke After Ruling on Plaintiff's Motion for Leave to File a Second Amended Complaint	1156-1229
2/21/13	Declaration of Heather M. Ehmke in Support of Plaintiff Gene Hazzard's Oppositions to the Demurrers of the City of Oakland and Defendants Phil Tagami and Daniel Letter	859-862
12/14/12	Declaration of Service re: Plaintiff's Request to Take Judicial Notice	634-636
11/9/12	Defendant Phil Tagami's and Daniel Letter's Reply Brief in Support of Their Demurrer to Plaintiff's Complaint	487-502
2/22/13	Defendants Phil Tagami and Daniel Letter's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion For Leave to File Second Amended Complaint	900-918
1/3/13	Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's First Amended Complaint; Memorandum of Points and Authorities	637-675
9/4/12	Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	318-335
2/28/13	Defendants' Phil Tagami and Daniel Letter's Reply to Brief in Support of their Demurrer to Plaintiff's Complaint; Proof of Service	933-947
3/7/13	Demurrer as to First Amended Complaint Dropped as to Defendants Phil Tagami and Daniel Letter	1131-1133
3/7/13	Demurrer on First Amended Complaint Dropped as to City of Oakland, et al.	1129-1130

Date	Document	Page
8/3/12	Exhibit A: City Council Resolution 83930 C.M.S.	35-37
8/3/12	Exhibit B: Revised City Council Resolution No. 83565 C.M.S.	38-40
8/3/12	Exhibit C: Economic Development Conveyance Application (Oakland Army Base, April 2000)	41-124
8/3/12	Exhibit D: City of Oakland Resolution No. 83297 C.M.S.	125-128
8/3/12	Exhibit E: City of Oakland Resolution No. 83292 C.M.S.	129-132
8/3/12	Exhibit F: GDA Development Phasing and Life Cycle Flow Chart	133-135
8/3/12	Exhibit G: City of Oakland Agenda Report dated October 18, 2012	136-143
8/3/12	Exhibit H: Real Estate Term Sheet	144-145
8/3/12	Exhibit I: First Amendment to the Exclusive Negotiating Agreement (ENA) between the Community and Economic Development Agency (CEDAP) and AMB/CCG	146-148
8/3/12	Exhibit J: Attachment D Term Sheet, Second Amendment to the ENA dated March 15, 2011	149-160
8/3/12	Exhibit K: Draft Property Management Agreement, Oakland Army Base Lease Disposition and Development Agreement (LDDA) dated July 12, 2012	161-191
8/3/12	Exhibit L: Government Code §§ 4527, 4529.5, and 5500.1	192-196
8/3/12	Exhibit List to Plaintiff's Complaint	34
8/3/12	Exhibit M: Fox Theater Renovation Project Performance Audit dated October 4, 2011	197-232

Date	Document	Page
8/3/12	Exhibit N: Attachment C, First Amendment to the Exclusive Negotiation Agreement (ENA) between the Community and Economic Development Agency (CEDA) and AMB/CCG including Exhibit D, Schedule of Performance	233-235
8/3/12	Exhibit O: Redevelopment Agency of the City of Oakland Supplemental Agenda Report dated December 15, 2009	236-261
8/3/12	Exhibit P: City of Oakland Request for Qualifications for the Oakland Army Base Redevelopment dated March 2008	262-265
8/3/12	Exhibit Q: City of Oakland Agenda Report dated March 31, 2012	266-317
12/14/12	Exhibit R to First Amended Complaint – Notice of Intent to Intercept California Tax Refund and Tax Receipts from the City of Oakland	569-571
12/14/132	Exhibit S to First Amended Complaint – Public Contract Code Section 20160-20175.2	572-578
12/14/12	Exhibit T – Redevelopment Agency of the City of Oakland (RDA) Resolution No. 2011-0035	579-584
12/14/12	Exhibit U to First Amended Complaint – News article “Transportation Tax Fails” dated November 17, 2012	585
12/14/12	Exhibit V to First Amended Complaint – Draft Agenda Reports dated April 22, 2009 and December 2, 2008	586-599
12/14/12	Exhibit X to First Amended Complaint – Letter from Gordon-Creed, Kelley, Holl & Sugerman dated December 5, 2012 to Gene Hazzard enclosing April 26, 2011 proposal from Industry Realty Group (IRG) to redevelop the Oakland Army Base	600-631

Date	Document	Page
12/14/12	Exhibit Y to First Amended Complaint – Email from Donnell Choy, Deputy Port Attorney, to Gene Hazzard dated October 15, 2012 regarding inquiry on \$50,000 security deposit to the Port of Oakland from Phil Tagami	632-633
12/14/12	First Amended Complaint for (1) Declaratory and Injunctive Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes	532-633
4/12/13	First Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1294-1296
9/4/12	Joinder in Defendant Phil Tagami, et al.'s Demurrer	
10/4/12	Memorandum in Support of Plaintiff's Opposition to City Defendants' Demurrer to Plaintiff's Complaint; Joinder in Defendant Phil Tagami, et al.'s Demurrer	455-479
2/21/13	Memorandum of Points and Authorities in Opposition to City of Oakland's Demurrer to Plaintiff's First Amended Complaint	820-837
2/21/13	Memorandum of Points and Authorities in Opposition to the Demurrer of Defendants Phil Tagami and Daniel Letter to Plaintiff's First Amended Complaint	838-856
9/4/12	Memorandum of Points and Authorities in Support of City Defendants' Demurrer to Complaint	368-377
4/8/13	Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1234-1262
4/4/13	Notice of Entry of Judgment on Judgment of Appeal	1230-1233
3/12/13	Notice of Entry of Order as to Order Dropping Defendant City of Oakland's Demurrer to First Amended Complaint	1134-1138

Date	Document	Page
3/12/13	Notice of Entry of Order as to Order Dropping Defendant Phil Tagami and Daniel Letter's Demurrer to First Amended Complaint	1139-1143
	Notice of Entry of Order on Demurrer to Complaint (City of Oakland)	523-525
11/21/12	Notice of Entry of Order on Demurrer to Complaint (Defendant Tagami, et al.)	517-522
	Notice of Entry of Order regarding City Defendant's Joinder in Defendant's Tagami's Demurrer to Complaint	526-531
3/18/13	Notice of Entry of Order Denying Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended Complaint	1148-1151
3/18/13	Notice of Entry of Order Sustaining Defendants' Demurrers to Plaintiff's First Amended Complaint	1152-1155
9/4/12	Notice of Hearing on City Defendants' Demurrer and Joinder in Defendant Phil Tagami, et al.'s Demurrer to Complaint	361-363
1/4/13	Notice of Hearing on Demurrers to First Amended Complaint; Memorandum of Points and Authorizes in Support of City Defendants' Demurrers to First Amended Complaint; [Proposed] Order Granting City Defendants' Demurrers to First Amended Complaint	698-728
2/8/13	Notice of Motion for Leave to File Second Amended Complaint; City Defendants' Demurrer to First Amended Complaint; Memorandum of Points and Authorities in Support of [Motion] for Leave to File a Second Amended Complaint	756-771
4/10/13	Notice to Attorney re: Notice of Appeal from Alameda Superior Court	1263

Date	Document	Page
3/14/13	Order	1147
11/19/12	Order on Demurrer to Complaint (City of Oakland) Sustained	510-512
11/19/12	Order on Demurrer to Complaint (Tagami and Letter) Sustained	513-516
3/13/13	Order on Motion to Amend Complaint Denied	1144
10/4/12	Plaintiff's Opposition Requesting Court to Deny Defendants Phil Tagami and Daniel Letter's Request for Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	407-454
10/4/12	Plaintiff's Opposition to Judicial Notice in Support of Defendant City of Oakland's Notice of Demurrer and Demurrer to Plaintiff's Complaint; Memorandum of Points and Authorities	480-486
2/28/13	Plaintiff's Reply to Opposition of Defendants to Plaintiff's Motion for Leave to File a Second Amended Complaint	948-959
2/21/13	Plaintiff's Request to Take Judicial Notice No. 25(Legislative history of CCP 526(a))	868-867
2/21/13	Plaintiff's Request to Take Judicial Notice No. 26 (Business & Professions Code §17200-17210)	868-871
2/21/13	Plaintiff's Request to Take Judicial Notice No. 27 (California Civil Code Section 3439.04)	877-881
2/21/13	Plaintiff's Request to Take Judicial Notice No. 28 (Stand Up for Our City flyer)	882-885
2/21/13	Plaintiff's Request to Take Judicial Notice No. 29 (Excerpts from Oakland Municipal Code: §2.02.021, §2.04.030, §2.04.140)	886-891

Date	Document	Page
2/28/13	Plaintiff's Request to Take Judicial Notice No. 29 (sic) attaching the Memorandum of Lease Disposition and Development Agreement (LDDA)	1042-1049
2/28/13	Plaintiff's Request to Take Judicial Notice No. 30 attaching Secretary of State Business Entity Detail verifying date that Prologis CCIG Oakland Global LLC was incorporated by the State of California	1050-1052
2/18/13	Plaintiff's Request to Take Judicial Notice No. 31 Civil Code §§ 3439-3439.12	1053-1059
2/28/13	Plaintiff's Request to Take Judicial Notice No. 32 (Penal Code Title 7: Offenses Against Property; Chapter 32. Fraud)	1060-1067
9/4/12	Proposed [Proposed] Order Sustaining City Defendants' Demurrer	378-380
2/8/13	Proposed Order Granting Motion for Leave to File Second Amended Complaint	818-819
2/21/12	Proposed Orders Denying Demurrers of Defendants Phil Tagami and Daniel Letter and Granting Plaintiff's First Amended Complaint; Proposed Order Denying Demurrers of City of Oakland and Granting Plaintiff's First Amended Complaint	863-867
2/8/13	Proposed Second Amended Complaint for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]	775-817
3/14/13	Request for Dismissal without prejudice	1145
9/4/12	Request for Judicial Notice in Support of Defendants Phil Phil Tagami and Daniel Letter's Demurrer to Plaintiff's Complaint	336-360

Date	Document	Page
1/3/13	Request for Judicial Notice in Support of Defendants Phil Tagami and Daniel Letter's Notice of Demurrer and Demurrer to Plaintiff's First Amended Complaint	676-697
4/18/13	Respondent's Notice Designating Record on Appeal	1297-1300
2/28/13	Second Amended Complaint [Second Proposed] for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]; (6) Fraudulent Transfer - Violation of UFTA [Civil Code §3439-3439.12]	964-1041
3/7/13	Second Amended Complaint [Third Proposed] for: (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Negligence; (4) Fraud; (5) Violation of Contract Codes; Unfair Competition [B&P §17200]; Violation of UFTA (Fraudulent Transfer); Conspiracy to Commit Fraud;	1071-1128
5/13/13	Second Amended Notice of Appeal; Election to Proceed Under Rule 8.124, California Rules of Court; Designation of Reporter's Transcripts with Substitution of Certified Transcript	1301-13
3/7/13	Second Supplemental Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	1068-1128
2/28/13	Supplemental Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint	960-1041





Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

FILED  
ALAMEDA COUNTY

2013 FEB 28 PM 12:58

CLERK OF THE SUPERIOR COURT

BY  DEPUTY

PLAINTIFF, IN PRO PER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100,

Defendants.

Case No. RG12642082

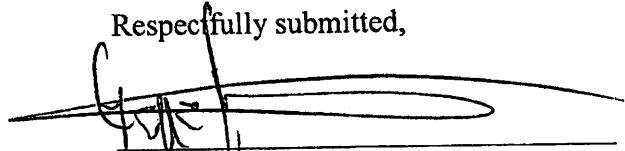
**PLAINTIFF'S REQUEST TO TAKE  
JUDICIAL NOTICE NO. 29**

1 PLEASE TAKE NOTICE THAT pursuant to California Evidence Code §§ 451 and 452,  
2 which provides that the Court may take judicial notice of any laws, regulations, or legislative acts  
3 of any public entity in the United States, plaintiff hereby request the Court to take judicial notice  
4 of the following document:

5 The Memorandum of Lease Disposition and Development Agreement (LDDA) executed  
6 by the City of Oakland and Prologis CCIG Oakland Global, LLC on October 23, 2012.

7  
8 Dated: February 28, 2013

Respectfully submitted,



9 GENE HAZZARD

10 Plaintiff *in propria persona*  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

NCS- 8612-CC

FREE RECORDING REQUESTED PURSUANT TO  
GOVERNMENT CODE SECTION 27383

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

The City of Oakland  
250 Frank H. Ogawa Plaza, 3<sup>rd</sup> Floor  
Attn: Real Estate Department  
Oakland, CA 94612

Mail Tax Statements to the Above Address



2012403243

12/04/2012 08:30 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
PATRICK O'CONNELL  
RECORDING FEE: 0.00



12 PGS

THIS SPACE ABOVE FOR RECORDER'S USE

### MEMORANDUM OF LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

This Memorandum of Lease Disposition and Development Agreement ("Memorandum of LDDA") is entered into by and between the CITY OF OAKLAND, an independent municipal corporation ("City of Oakland"), the Oakland Redevelopment Successor Agency ("ORSA") (together, for ease of reference in the body of this Agreement only, "City"), and PROLOGIS CCIG OAKLAND GLOBAL, LLC, a Delaware limited liability company (the "Developer"), with respect to that certain Lease Disposition and Development Agreement (the "LDDA") with respect to the real property described on Exhibit A hereto ("Lease Property"). The Effective Date of the LDDA, as that term is defined in the LDDA, is 12/04/12, 2012. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the LDDA.

The City hereby agrees to lease to the Developer and the Developer hereby agrees to lease from the City, the Lease Property, each pursuant and subject to the terms and conditions of the LDDA.

The term of the LDDA shall commence upon the Effective Date and expire upon June 30, 2014 (the "Outside Closing Date"), unless (a) unless earlier terminated by subsequent mutual written agreement of the parties or otherwise in accordance with the LDDA or (b) such Outside Closing Date is extended pursuant to the provisions of Section 6.6.2 of the LDDA. If the Outside Closing Date is so extended, the parties shall memorialize such extended Outside Closing Date pursuant to an amendment to this Memorandum of LDDA.

This Memorandum shall incorporate herein all of the terms and provisions of the LDDA as though fully set forth herein. This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the LDDA, of which this is a memorandum. In the event of any conflict between any provision of the LDDA and any provision of this Memorandum, the LDDA shall control.

This Memorandum shall extend to and be binding upon the parties to the LDDA and hereto and their legal representatives, heirs, successors, and assigns.

RECORDING REQUESTED  
FIRST AMERICAN TIT 30.

This Memorandum may be executed in counterparts, each of which is deemed to be an original and all such counterparts constitute one and the same instrument.

IN WITNESS WHEREOF, City of Oakland, ORSA, and Developer have executed this Memorandum of LDDA this 23 day of October, 2012.

[SIGNATURES FOLLOW ON NEXT PAGE]

"CITY"

THE CITY OF OAKLAND,  
a municipal corporation

By: Deana Jay Santana  
City Administrator  
Approved as to form and legality:

By: Barbara Jean Parker  
Deputy City Attorney BARBARA JEAN PARKER

"ORSA"

Oakland Redevelopment Successor Agency

By: Deana Jay Santana  
Name: Deana Jay Santana  
Title: City Administrator

By: Barbara Jean Parker  
Deputy City Attorney BARBARA JEAN PARKER

"DEVELOPER"

PROLOGIS CCIG OAKLAND GLOBAL, LLC,  
a Delaware limited liability company,

By: Mark Hansen  
Name: Mark Hansen  
Title: Sr. V.P.

Its: Authorized signatory

EXHIBIT "A"

LEGAL DESCRIPTION

EXHIBIT A

The land referred to in this policy is described as follows:

Real property in the City of Oakland, County of Alameda, State of California, described as follows:

**CENTRAL GATEWAY PARCELS (PARCEL 2, PARCEL MAP NO. 10074 AND PARCEL C-2):**

PARCEL 2, PARCEL MAP NO. 10074, FILED DECEMBER 15, 2011, PARCEL MAP BOOK 318, PAGES 74-76, INCLUSIVE, ALAMEDA COUNTY RECORDS

APN: 018-0507-011

**PARCEL C-2**

A PORTION OF THE LANDS DESCRIBED IN THAT CERTAIN ACT OF THE LEGISLATURE OF THE STATE OF CALIFORNIA ENTITLED "AN ACT GRANTING CERTAIN TIDE LANDS AND SUBMERGED LANDS OF THE STATE OF CALIFORNIA TO THE CITY OF OAKLAND AND REGULATING THE MANAGEMENT, USE AND CONTROL THEREOF," APPROVED MAY 1, 1911 AS CHAPTER 657 OF STATUTES OF 1911, AND AMENDATORY ACTS (HEREINAFTER REFERRED TO AS STAT. 1911, CH. 657), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT CITY OF OAKLAND MONUMENT NO. 75E13, SAID MONUMENT BEING A PIN SET IN CONCRETE, IN A MONUMENT WELL MARKING THE INTERSECTION OF THE CENTERLINES OF MARITIME STREET AND 10TH STREET, AS SAID STREETS ARE SHOWN ON THAT UNRECORDED MAP ENTITLED "OAKLAND ARMY TERMINAL BOUNDARY MAP" PREPARED BY WILSEY & HAM ENGINEERS IN 1958 FOR THE U.S. ARMY CORPS OF ENGINEERS, FILE NO. 45-I-286 (HEREINAFTER REFERRED TO AS THE ARMY MAP), SAID MONUMENT IS FURTHER DESCRIBED AS BEING PORT OF OAKLAND MONUMENT ID H006 AS SHOWN UPON RECORD OF SURVEY 990, FILED FOR RECORD IN BOOK 18 OF RECORDS OF SURVEYS, AT PAGES 50-60, OFFICIAL RECORDS OF THE SAID COUNTY OF ALAMEDA;

THENCE SOUTH 38°00'05" WEST, 989.35 FEET TO THE EASTERN MOST CORNER OF PARCEL SEVEN AS DESCRIBED IN THAT CERTAIN QUITCLAIM DEED, RECORDED ON JUNE 15, 1999 AS DOC. NO. 99222447 OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF THE SAID COUNTY OF ALAMEDA (HEREINAFTER REFERRED TO AS DOC. 99222447), BEING A POINT ON THE LINE OF ORDINARY LOW TIDE IN THE BAY OF SAN FRANCISCO AS IT EXISTED ON THE 4TH DAY OF MAY IN THE YEAR 1852 (HEREINAFTER REFERRED TO AS THE AGREED LOW TIDE LINE OF 1852) AS DESCRIBED AND AGREED UPON IN CITY OF OAKLAND ORDINANCE NO. 3099, A CERTIFIED COPY OF WHICH WAS RECORDED ON OCTOBER 10, 1910 IN BOOK 1837 OF DEEDS, PAGE 84, IN THE OFFICE OF THE RECORDER OF THE SAID COUNTY OF ALAMEDA (HEREINAFTER REFERRED TO AS 1837 DEEDS 84), SAID POINT BEING MARKED BY A PIN SET IN CONCRETE IN A MONUMENT WELL, AS SHOWN ON SAID ARMY MAP;

THENCE NORTHEASTERLY ALONG SAID AGREED UPON LOCATION OF THE "AGREED LOW TIDE LINE OF 1852" (1837 DEEDS 84) NORTH 41°00'50" EAST, 3829.19 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";

THENCE DEPARTING FROM THE SAID AGREED UPON LOCATION OF THE "AGREED LOW TIDE LINE OF 1852" (1837 DEEDS 84), NORTH 48°48'07" WEST, 839.34 FEET TO A POINT ON THE GENERALLY SOUTHERLY LINE OF PARCEL 1, TRACT 14 AS DESCRIBED IN SAID FINAL JUDGMENT AS TO INTERESTS OF DEFENDANT CITY OF OAKLAND, A MUNICIPAL CORPORATION, UNITED STATES OF AMERICA VS. CITY OF OAKLAND, ET AL., CASE NO. 21758-L, CASE NO. 21930-L, CASE NO. 22084-L RECORDED FEBRUARY 24, 1960, REEL 032, IMAGE 660 OF OFFICIAL RECORDS IN THE OFFICE OF THE RECORDER OF SAID ALAMEDA COUNTY

(HEREINAFTER REFERRED TO AS REEL: 32, IMAGE:660), BEING THE POINT OF BEGINNING OF THE SAID PORTION OF LANDS (STAT. 1911, CH. 657) HEREIN DESCRIBED;  
THENCE DEPARTING THE GENERALLY SOUTHERLY LINE OF SAID PARCEL 1, TRACT 14 (REEL: 32, IMAGE: 660), NORTH 48°48'07" WEST, 275.79 FEET TO A POINT ON A LINE THAT IS 100.00 FEET NORTHEASTERLY OF AND PARALLEL WITH THE LINE OF MEAN HIGH TIDE IN THE OAKLAND OUTER HARBOR, WHICH FOR THE PURPOSES OF THIS LEGAL DESCRIPTION IS BASED UPON A SURVEY, BY THE PORT OF OAKLAND IN SEPTEMBER 2001, OF THE LOCATION OF MEAN HIGH WATER FOR THE SAID OAKLAND OUTER HARBOR AS DEFINED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION/NATIONAL OCEAN SERVICE;  
THENCE NORTHERLY ALONG SAID PARALLEL LINE, THE FOLLOWING TWO COURSES:

- 1) NORTH 11°00'07" EAST 181.49 FEET;
  - 2) NORTH 41°18'35" WEST 11.96 FEET TO A POINT ON THE SAID GENERALLY SOUTHERLY LINE OF PARCEL 1, TRACT 14 (REEL: 32, IMAGE: 660);
- THENCE DEPARTING FROM SAID PARALLEL LINE, EASTERLY AND SOUTHERLY ALONG THE SAID GENERALLY SOUTHERLY LINE OF PARCEL 1, TRACT 14 (REEL: 32, IMAGE: 660) THE FOLLOWING TWO COURSES:

- 1) NORTH 86°48'30" EAST 235.16 FEET;
  - 2) SOUTH 08°03'07" WEST, 385.68 FEET TO THE POINT OF BEGINNING, CONTAINING 65,473 SQUARE FEET (1.503 ACRES), MORE OR LESS, MEASURED IN GROUND DISTANCES.
- BEARINGS AND DISTANCES CALLED FOR HEREIN ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE III, NORTH AMERICAN DATUM OF 1983 (1986 VALUES) AS SHOWN UPON THAT CERTAIN MAP ENTITLED RECORD OF SURVEY 990, FILED IN BOOK 18 OF RECORD OF SURVEYS, PAGES 50-60, OFFICIAL RECORDS OF THE SAID COUNTY OF ALAMEDA. TO OBTAIN GROUND LEVEL DISTANCES, MULTIPLY DISTANCES CALLED FOR HEREIN BY 1.0000705.

APN: 018-0507-007

**EAST GATEWAY PARCEL (PARCEL 1, PARCEL MAP NO. 10074)**

PARCEL 1, PARCEL MAP NO. 10074, FILED DECEMBER 15, 2011, PARCEL MAP BOOK 318, PAGES 74-76, INCLUSIVE, ALAMEDA COUNTY RECORDS

APN: 018-0507-010

**WEST GATEWAY PARCELS (PARCEL B-3 AND PUBLIC TRUST PARCEL E):**

PARCEL B-3

A PORTION OF PARCEL 1 AS DESCRIBED IN THAT CERTAIN QUITCLAIM DEED FOR NO-COST ECONOMIC DEVELOPMENT CONVEYANCE PARCEL, COUNTY OF ALAMEDA, CALIFORNIA, RECORDED AUGUST 8, 2003 AS DOC. NO. 2003466370 IN THE OFFICE OF THE RECORDER OF THE SAID COUNTY OF ALAMEDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;  
COMMENCING AT CITY OF OAKLAND MONUMENT NO. 7SE13, SAID MONUMENT BEING A PIN SET IN CONCRETE, IN A MONUMENT WELL MARKING THE INTERSECTION OF THE CENTERLINES OF MARITIME STREET AND 10TH STREET, AS SAID STREETS ARE SHOWN ON THAT UNRECORDED MAP ENTITLED "OAKLAND ARMY TERMINAL BOUNDARY MAP" PREPARED BY WILSEY & HAM ENGINEERS IN 1958 FOR THE U.S. ARMY CORPS OF ENGINEERS, FILE NO. 45-I-286 (HEREINAFTER REFERRED TO AS THE ARMY MAP), SAID MONUMENT IS FURTHER DESCRIBED AS BEING PORT OF OAKLAND MONUMENT ID H006 AS SHOWN UPON RECORD OF SURVEY 990, FILED FOR RECORD IN BOOK 18 OF RECORDS OF SURVEYS, AT PAGES 50-60, ALAMEDA COUNTY OFFICIAL RECORDS;  
THENCE SOUTH 38°00'05" WEST, 989.35 FEET TO THE EASTERN MOST CORNER OF PARCEL SEVEN AS DESCRIBED IN THAT CERTAIN QUITCLAIM DEED, RECORDED JUNE 15, 1999 AS DOC. NO. 99-222447 OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF THE SAID COUNTY OF ALAMEDA (HEREINAFTER REFERRED TO AS DOC. 99222447), BEING A POINT ON THE LINE OF ORDINARY LOW TIDE IN THE BAY OF SAN FRANCISCO AS IT EXISTED ON THE



Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

FILED  
ALAMEDA COUNTY  
2013 FEB 28 PM 12:58  
CLERK OF THE SUPERIOR COURT  
BY [Signature] DEPUTY

PLAINTIFF, IN PRO PER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100,

Defendants.

Case No. RG12642082

PLAINTIFF'S REQUEST TO TAKE  
JUDICIAL NOTICE NO. 30

1 PLEASE TAKE NOTICE THAT pursuant to California Evidence Code §§ 451 and 452,  
2 which provides that the Court may take judicial notice of any laws, regulations, or legislative acts  
3 of any public entity in the United States, plaintiff hereby request the Court to take judicial notice  
4 of the following document:

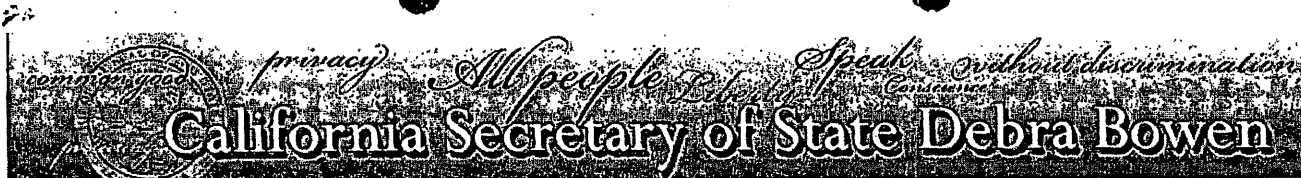
5 California Secretary of State reflecting that the entity Prologis CCIG Oakland Global LLC  
6 was incorporated on September 17, 2012 – after the filing of the initial complaint.

7  
8 Dated: February 28, 2013

Respectfully submitted,

9   
10 GENE HAZZARD

11 Plaintiff *in propria persona*  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26



Secretary of State

Administration Elections Business Programs Political Reform Archives Registries

## Business Entities (BE)

## Online Services

- E-File Statements of Information for Corporations
- Business Search
- Processing Times
- Disclosure Search

## Main Page

## Service Options

## Name Availability

## Forms, Samples &amp; Fees

Statements of Information  
(annual/biennial reports)

## Filing Tips

Information Requests  
(certificates, copies & status reports)

## Service of Process

## FAQs

## Contact Information

## Resources

- Business Resources
- Tax Information
- Starting A Business

## Customer Alerts

- Business Identity Theft
- Misleading Business Solicitations

## Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Tuesday, February 26, 2013. Please refer to Processing Times for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	PROLOGIS CCIG OAKLAND GLOBAL, LLC
Entity Number:	201226210016
Date Filed:	09/17/2012
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	PIER ONE BAY ONE
Entity City, State, Zip:	SAN FRANCISCO CA 94111
Agent for Service of Process:	CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA
Agent Address:	AS CSC - LAWYERS INCORPORATING SERVICE, (C1592199)
Agent City, State, Zip:	*

\* Indicates the information is not contained in the California Secretary of State's database.

\* **Note:** If the agent for service of process is a corporation, the address of the agent may be requested by ordering a status report.

- For information on checking or reserving a name, refer to Name Availability.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to Information Requests.
- For help with searching an entity name, refer to Search Tips.
- For descriptions of the various fields and status types, refer to Field Descriptions and Status Definitions.

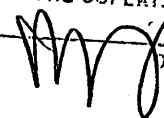
[Modify Search](#) [New Search](#) [Printer Friendly](#) [Back to Search Results](#)

[Privacy Statement](#) | [Free Document Readers](#)

Copyright © 2013 California Secretary of State



Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

FILED  
ALAMEDA COUNTY  
2013 FEB 28 PM 12:59  
CLERK OF THE SUPERIOR COURT  
BY  DEPUTY

PLAINTIFF, IN PRO PER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Case No. RG12642082

PLAINTIFF'S REQUEST TO TAKE  
JUDICIAL NOTICE NO. 31

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100,

Defendants.

1 PLEASE TAKE NOTICE THAT pursuant to California Evidence Code §§ 451 and 452,  
2 which provides that the Court may take judicial notice of any laws, regulations, or legislative acts  
3 of any public entity in the United States, plaintiff hereby request the Court to take judicial notice  
4 of the following document:

5 California Civil Code §§ 3439-3439.12.

6  
7 Dated: February 28, 2013

Respectfully submitted,

8   
9 GENE HAZZARD

Plaintiff *in propria persona*

## CIVIL CODE

### SECTION 3439-3439.12

3439. This chapter may be cited as the Uniform Fraudulent Transfer Act.

3439.01. As used in this chapter the following definitions are applicable:

(a) "Asset" means property of a debtor, but the term does not include, the following:

(1) Property to the extent it is encumbered by a valid lien.

(2) Property to the extent it is generally exempt under nonbankruptcy law.

(3) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(b) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(c) "Creditor" means a person who has a claim, and includes an assignee of a general assignment for the benefit of creditors, as defined in Section 493.010 of the Code of Civil Procedure, of a debtor.

(d) "Debt" means liability on a claim.

(e) "Debtor" means a person who is liable on a claim.

(f) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(g) "Person" means an individual, partnership, corporation, limited liability company, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(h) "Property" means anything that may be the subject of ownership.

(i) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

(j) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

3439.02. (a) A debtor is insolvent if, at fair valuations, the sum of the debtor's debts is greater than all of the debtor's assets.

(b) A debtor which is a partnership is insolvent if, at fair valuations, the sum of the partnership's debts is greater than the aggregate of all of the partnership's assets and the sum of the

excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(c) A debtor who is generally not paying his or her debts as they become due is presumed to be insolvent.

(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.

(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

3439.03. Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

3439.04. (a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation as follows:

(1) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor either:

(A) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(B) Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

(b) In determining actual intent under paragraph (1) of subdivision (a), consideration may be given, among other factors, to any or all of the following:

(1) Whether the transfer or obligation was to an insider.

(2) Whether the debtor retained possession or control of the property transferred after the transfer.

(3) Whether the transfer or obligation was disclosed or concealed.

(4) Whether before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.

(5) Whether the transfer was of substantially all the debtor's assets.

(6) Whether the debtor absconded.

(7) Whether the debtor removed or concealed assets.

(8) Whether the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

(9) Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

(10) Whether the transfer occurred shortly before or shortly after a substantial debt was incurred.

(11) Whether the debtor transferred the essential assets of the business to a lienholder who transferred the assets to an insider of the debtor.

(c) The amendment to this section made during the 2004 portion of the 2003-04 Regular Session of the Legislature, set forth in subdivision (b), does not constitute a change in, but is declaratory of, existing law, and is not intended to affect any judicial decisions that have interpreted this chapter.

3439.05. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

3439.06. For the purposes of this chapter:

(a) A transfer is made:

(1) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(2) With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee.

(b) If applicable law permits the transfer to be perfected as provided in subdivision (a) and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed made immediately before the commencement of the action.

(c) If applicable law does not permit the transfer to be perfected as provided in subdivision (a), the transfer is made when it becomes effective between the debtor and the transferee.

(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

(e) An obligation is incurred:

(1) If oral, when it becomes effective between the parties; or

(2) If evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

3439.07. (a) In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in Section 3439.08, may obtain:

(1) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim.

(2) An attachment or other provisional remedy against the asset



transferred or its proceeds in accordance with the procedures described in Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure.

(3) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure, the following:

(A) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or its proceeds.

(B) Appointment of a receiver to take charge of the asset transferred or its proceeds.

(C) Any other relief the circumstances may require.

(b) If a creditor has commenced an action on a claim against the debtor, the creditor may attach the asset transferred or its proceeds if the remedy of attachment is available in the action under applicable law and the property is subject to attachment in the hands of the transferee under applicable law.

(c) If a creditor has obtained a judgment on a claim against the debtor, the creditor may levy execution on the asset transferred or its proceeds.

(d) A creditor who is an assignee of a general assignment for the benefit of creditors, as defined in Section 493.010 of the Code of Civil Procedure, may exercise any and all of the rights and remedies specified in this section if they are available to any one or more creditors of the assignor who are beneficiaries of the assignment, and, in that event (1) only to the extent the rights or remedies are so available and (2) only for the benefit of those creditors whose rights are asserted by the assignee.

3439.08. (a) A transfer or an obligation is not voidable under paragraph (1) of subdivision (a) of Section 3439.04, against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under paragraph (1) of subdivision (a) of Section 3439.07, the creditor may recover judgment for the value of the asset transferred, as adjusted under subdivision (c), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against the following:

(1) The first transferee of the asset or the person for whose benefit the transfer was made.

(2) Any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

(c) If the judgment under subdivision (b) is based upon the value of the asset transferred, the judgment shall be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under this chapter, a good faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to the following:

(1) A lien on or a right to retain any interest in the asset transferred.

(2) Enforcement of any obligation incurred.

(3) A reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under paragraph (2) of subdivision

(a) of Section 3439.04 or Section 3439.05 if the transfer results from the following:

(1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law.

(2) Enforcement of a lien in a noncollusive manner and in compliance with applicable law, including Division 9 (commencing with Section 9101) of the Commercial Code, other than a retention of collateral under Sections 9620 and 9621 of the Commercial Code and other than a voluntary transfer of the collateral by the debtor to the lienor in satisfaction of all or part of the secured obligation.

3439.09. A cause of action with respect to a fraudulent transfer or obligation under this chapter is extinguished unless action is brought pursuant to subdivision (a) of Section 3439.07 or levy made as provided in subdivision (b) or (c) of Section 3439.07:

(a) Under paragraph (1) of subdivision (a) of Section 3439.04, within four years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant.

(b) Under paragraph (2) of subdivision (a) of Section 3439.04 or Section 3439.05, within four years after the transfer was made or the obligation was incurred.

(c) Notwithstanding any other provision of law, a cause of action with respect to a fraudulent transfer or obligation is extinguished if no action is brought or levy made within seven years after the transfer was made or the obligation was incurred.

3439.10. Unless displaced by the provisions of this chapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

3439.11. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

3439.12. This chapter, and the other changes in the law made by Chapter 383 of the Statutes of 1986, apply only to transfers made or obligations incurred on or after January 1, 1987; and, as to transfers made or obligations incurred prior to that date, the law in effect at the time the transfer was made or the obligation was incurred shall apply. The provisions of this chapter, insofar as they are substantially the same as the provisions of Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4, which was repealed by Chapter 383 of the Statutes of 1986, shall be construed as restatements and continuations, and not as new enactments.



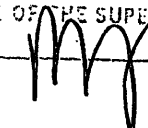
11190341\*

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

FILED  
ALAMEDA COUNTY

2013 FEB 28 PM 12:59

CLERK OF THE SUPERIOR COURT

BY  DEPUTY

PLAINTIFF, IN PRO PER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100,

Defendants.

Case No. RG12642082

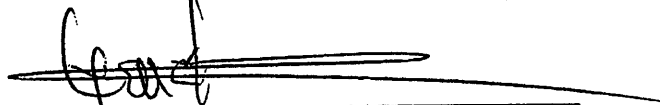
PLAINTIFF'S REQUEST TO TAKE  
JUDICIAL NOTICE NO. 32

1 PLEASE TAKE NOTICE THAT pursuant to California Evidence Code §§ 451 and 452,  
2 which provides that the Court may take judicial notice of any laws, regulations, or legislative acts  
3 of any public entity in the United States, plaintiff hereby request the Court to take judicial notice  
4 of the following document:

5 Relevant excerpts from Penal Code Chapter 32 "Fraud" -- §§ 32.01, 32.33, and 32.46.

6  
7 Dated: February 28, 2013

Respectfully submitted,

8 

9 GENE HAZZARD

10 Plaintiff *in propria persona*  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

PENAL CODE

TITLE 7. OFFENSES AGAINST PROPERTY

CHAPTER 32. FRAUD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 32.01. DEFINITIONS. In this chapter:

(1) "Financial institution" means a bank, trust company, insurance company, credit union, building and loan association, savings and loan association, investment trust, investment company, or any other organization held out to the public as a place for deposit of funds or medium of savings or collective investment.

(2) "Property" means:

(A) real property;

(B) tangible or intangible personal property including anything severed from land; or

(C) a document, including money, that represents or embodies anything of value.

(3) "Service" includes:

(A) labor and professional service;

(B) telecommunication, public utility, and transportation service;

(C) lodging, restaurant service, and entertainment; and

(D) the supply of a motor vehicle or other property for use.

(4) "Steal" means to acquire property or service by theft.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

\* \* \* \* \*

Sec. 32.33. HINDERING SECURED CREDITORS. (a) For purposes of this section:

(1) "Remove" means transport, without the effective consent of the secured party, from the state in which the property was located when the security interest or lien attached.

(2) "Security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation.

(b) A person who has signed a security agreement creating a security interest in property or a mortgage or deed of trust creating a lien on property commits an offense if, with intent to hinder enforcement of that interest or lien, he destroys, removes, conceals, encumbers, or otherwise harms or reduces the value of the property.

(c) For purposes of this section, a person is presumed to have intended to hinder enforcement of the security interest or lien if, when any part of the debt secured by the security interest or lien was due, he failed:

(1) to pay the part then due; and

(2) if the secured party had made demand, to deliver possession of the secured property to the secured party.

(d) An offense under Subsection (b) is a:

(1) Class C misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is less than \$20;

(2) Class B misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$20 or more but less than \$500;

(3) Class A misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$500 or more but less than \$1,500;

(4) state jail felony if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$1,500 or more but less than \$20,000;

(5) felony of the third degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$20,000 or more but less than \$100,000;

(6) felony of the second degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$100,000 or more but less than \$200,000; or

(7) felony of the first degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$200,000 or more.

(e) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate (as defined in Chapter 31) the proceeds or value of the secured property. A person is presumed to have intended to appropriate proceeds if the person does not deliver the proceeds to the secured party or account to the secured party for the proceeds before the 11th day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

(1) a Class C misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of less than \$20;

(2) a Class B misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$20 or more but less than \$500;

(3) a Class A misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$500 or more but less than \$1,500;

(4) a state jail felony if the proceeds obtained from the sale or other disposition are money or goods having a value of \$1,500 or more but less than \$20,000;

(5) a felony of the third degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$20,000 or more but less than \$100,000;

(6) a felony of the second degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$200,000 or more.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 501, ch. 232, Sec. 1, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

\* \* \* \* \*

Sec. 32.46. SECURING EXECUTION OF DOCUMENT BY DECEPTION.

(a) A person commits an offense if, with intent to defraud or harm any person, he, by deception:

(1) causes another to sign or execute any document affecting property or service or the pecuniary interest of any person; or

(2) causes or induces a public servant to file or record any purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court that is not expressly created or established under the constitution or the laws of this state or of the United States;



(B) a purported judicial entity that is not expressly created or established under the constitution or laws of this state or of the United States; or

(C) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A) or (B).

(b) An offense under Subsection (a)(1) is a:

(1) Class C misdemeanor if the value of the property, service, or pecuniary interest is less than \$20;

(2) Class B misdemeanor if the value of the property, service, or pecuniary interest is \$20 or more but less than \$500;

(3) Class A misdemeanor if the value of the property, service, or pecuniary interest is \$500 or more but less than \$1,500;

(4) state jail felony if the value of the property, service, or pecuniary interest is \$1,500 or more but less than \$20,000;

(5) felony of the third degree if the value of the property, service, or pecuniary interest is \$20,000 or more but less than \$100,000;

(6) felony of the second degree if the value of the property, service, or pecuniary interest is \$100,000 or more but less than \$200,000; or

(7) felony of the first degree if the value of the property, service, or pecuniary interest is \$200,000 or more.

(c) An offense under Subsection (a)(2) is a state jail felony.

(c-1) An offense described for purposes of punishment by Subsections (b)(1)-(6) and (c) is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04 or involves the state Medicaid program.

(d) In this section:

(1) "Deception" has the meaning assigned by Section 31.01.

(2) "Document" includes electronically stored data or other information that is retrievable in a readable, perceivable form.

(e) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 189, Sec. 2, eff. May 21, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.138, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 257, Sec. 15, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 432, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 127, Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 620, Sec. 6, eff. September 1, 2011.

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 07 2013

CLERK OF THE SUPERIOR COURT  
By Kmel Dhillon Deputy

PLAINTIFF, IN PROPRIA PERSONA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100.

Defendants.

Case No. RG12642082

**SECOND SUPPLEMENTAL  
DECLARATION OF GENE HAZZARD IN  
SUPPORT OF MOTION FOR LEAVE TO  
FILE A SECOND AMENDED  
COMPLAINT**

Date: March 7, 2013  
Time: 3:00 p.m.  
Dept: 23

Reservation No.: R-1360643  
Action Filed: August 3, 2012  
Trial Date: Not Set

1 I, Gene Hazzard, declare:

2 1. I am the plaintiff in the within action and the following statements are true and  
3 correct and are based on my personal knowledge and belief.

4 2. This declaration, as well as the initial declaration and the supplemental declaration  
5 is brought pursuant to Rule 3.1324(b) of the California Rules of Court.

6 3. All of the amendments are proposed will not prejudice the defendants in any way in  
7 that there is no trial date set in this case, and the parties are engaged in the early stages of this case.  
8 It is not my intent to increase the burden of defendants, but rather to sufficiently state the facts  
9 sufficient to establish proper standing and causes of action in order to bring the allegations  
10 contained in the complaint to a judicial determination on behalf of the citizens of Oakland  
11 concerning fraud, waste and budgetary decisions of the City of Oakland in its selection of the  
12 Master Developer of the former Oakland Army Base (OAB).

13 4. Neither the City of Oakland nor Phil Tagami and Daniel Letter have demonstrated  
14 how this motion to amend has prejudiced them in any way. There is no trial date set in this case,  
15 and discovery has only recently commenced. No depositions have been taken. No discovery has  
16 been propounded by the defendants. The filing of a Second Amended Complaint will pose no  
17 undue hardship or cause a delay in in the proceedings of this matter.

18 5. The "housekeeping amendments" I propose to make in my Second Amended  
19 Complaint make no substantive changes to the nature of the legal theories set forth in the First  
20 Amended Complaint and should be permitted. Additional facts are included as have been  
21 discovered by plaintiff through public records requests. The causes of action for "Violation of  
22 Business & Professions Code §17200," "Violation of Civil Code §3439 – Fraudulent Conveyance,  
23 and "Conspiracy to Commit Fraud," are based on the same set of circumstances as alleged in the  
24 First Amended Complaint – namely, the unlawful execution of the LDDA.

25 6. Attached hereto as Exhibit A is a draft of plaintiff's proposed Second Amended  
26 Complaint which incorporate the changes discussed in plaintiff's moving papers, the reply to the  
defendants' opposition, and additional changes that plaintiff has seen fit to demonstrate that I have  
cognizable claims as a citizen taxpayer to allege against the defendants.

1           7. Since the submission of the Second Amended Complaint attached to the Supplemental  
2 Declaration filed on February 28, 2013, I have made some "housekeeping changes" to the  
3 introductory language of the complaint. In addition I have added a Cause of Action for  
4 Conspiracy to Commit Fraud based on obtaining the executed LDDA which shows a different  
5 entity signing the LDDA than the City approved in the September 28, 2011 Resolution 83565. A  
6 public records request received after February 28, 2012 reflects that no other resolutions were  
7 brought to allow additional changes to the signatories to the LDDA, which reveals to me that a  
8 conspiracy to commit fraud has taken place. Thus, I have added a cause of action for Conspiracy  
9 to Commit Fraud and am removing the cause of action for Negligence. I am requesting these  
10 changes be made to the complaint, in addition to those changes described in the prior two  
11 declarations in order to comply with the court's order to state causes of action for breach of  
12 mandatory duty.

13           8. The cause of action for Conspiracy to Commit Fraud adds factual allegations to the  
14 complaint which are necessary to provide the court with a proper timeline of the events. When  
15 filing the Second Amended Complaint for filing, I intend to move the factual portions of that  
16 cause of action into the Factual Background of the complaint. For the purposes of this motion,  
17 and to keep the paragraph numbers consistent, I have not yet moved the additional facts into the  
18 Factual Background portion of the complaint but plan to do that by the time this Second Amended  
19 Complaint is filed.

20           I declare under penalty of perjury under the laws of the state of California that the  
21 foregoing is true and correct and that this declaration was executed by me on this 7<sup>th</sup> day of March,  
22 2013, in Oakland, California.

23             
24           \_\_\_\_\_  
25           GENE HAZZARD  
26

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

**DRAFT**

**PLAINTIFF, IN PRO PER**

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ALAMEDA**

GENE HAZZARD, citizen and taxpayer of the  
City of Oakland; QUEEN E. THURSTON,  
citizen and taxpayer of the City of Oakland; and  
all other similarly situated citizen residents and  
taxpayers of the City of Oakland,

Plaintiffs,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (GGIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC; MARK HANSEN, ,  
PROLOGIS, INC., and Does 1-100,

Defendants.

Case No. RG12642082

**DRAFT**

**SECOND AMENDED COMPLAINT FOR:  
(1) DECLARATORY AND INJUNCTIVE  
RELIEF; (2) BREACH OF MANDATORY  
AND FIDUCIARY DUTY; (3) FRAUD;-(4)  
VIOLATION OF PUBLIC CONTRACT  
CODES; (5) UNFAIR COMPETITION [B&P  
§17200]; (6) VIOLATION OF UFTA [CIVIL  
CODE §3439-3439.12] – FRAUDULENT  
CONVEYANCE; (7) CONSPIRACY TO  
COMMIT FRAUD**

**EXHIBIT A**

1 Plaintiffs, GENE HAZZARD and QUEEN E. THURSTON, herein allege:

2 1. This Second Amended Complaint is brought pursuant to California Code of Civil  
3 Procedure §§425.10, 526(a), 527(a), 1085, 1094 and California Civil Code §§3368, 3420, 3422,  
4 3439-3439.12, and Business & Professions Code §17200 by plaintiffs Gene Hazzard and Queen E.  
5 Thurston in virtual representation based on a real controversy regarding the planned  
6 redevelopment of the former U.S. Oakland Army Base. Plaintiffs, Oakland residents and  
7 taxpayers, allege that the defendants breached their mandatory and fiduciary duty to the citizens  
8 and taxpayers of Oakland by fraudulently failing to use reasonable discretion with regard to public  
9 expenditures, bidding selection, contract award, contract negotiation, contract administration, and  
10 execution of contracts giving full authority of the disposition of the OAB to defendant Phil  
11 Tagami.

12 2. Plaintiffs allege that defendants acted fraudulently at every step of the negotiating  
13 process between the City of Oakland (City) and Phil Tagami (Master Developer) and conspired  
14 with one another in violating federal and state contract codes, city ordinances, and their own  
15 Exclusive Negotiating Agreements (ENAs) as described below, in addition to ignoring the City  
16 Auditor's authority. Plaintiffs allege that the Lease Disposition and Development Agreement  
17 (LDDA) (Exhibit Z) executed by the City of Oakland and the Master Developer on October 23,  
18 2012 constituted a fraudulent conveyance in violation of the Uniform Fraudulent Transfer Act  
19 ("UFTA") and that all of the actions were performed with intent to arrive a predetermined result  
20 contrary to the spirit and purpose of the law and put the citizens of Oakland at risk of complete  
21 depletion of the City's limited financial resources.

22 3. Plaintiffs allege that all of the transactions between the Oakland City Council and  
23 the Master Developer were done in an, arbitrary, capricious and fraudulent manner, inconsistent  
24 with due process and without regard to public benefit. Plaintiffs allege that the agreements were  
25 executed without reasonable discretion and are detrimental to plaintiff and similarly situated  
26 resident citizens and taxpayers of the City of Oakland, in that they have led, and will continue to  
lead, to wasteful expenditure of public funds and reduced public services, including, but not  
limited to, inability to support police services. Plaintiffs therefore seek damages against Master

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

PLAINTIFF, IN PRO PER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

GENE HAZZARD, citizen and taxpayer of the  
City of Oakland; QUEEN E. THURSTON,  
citizen and taxpayer of the City of Oakland; and  
all other similarly situated citizen residents and  
taxpayers of the City of Oakland,

Plaintiffs,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (GGIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC; MARK HANSEN,  
PROLOGIS, INC., and Does 1-100,

Defendants.

Case No. RG12642082

**DRAFT**

**SECOND AMENDED COMPLAINT FOR:  
(1) DECLARATORY AND INJUNCTIVE  
RELIEF; (2) BREACH OF MANDATORY  
AND FIDUCIARY DUTY; (3) FRAUD;-(4)  
VIOLATION OF PUBLIC CONTRACT  
CODES; (5) UNFAIR COMPETITION [B&P  
§17200]; (6) VIOLATION OF UFTA [CIVIL  
CODE §3439-3439.12] – FRAUDULENT  
CONVEYANCE; (7) CONSPIRACY TO  
COMMIT FRAUD**



1 Plaintiffs, GENE HAZZARD and QUEEN E. THURSTON, herein allege:

2 1. This Second Amended Complaint is brought pursuant to California Code of Civil  
3 Procedure §§425.10, 526(a), 527(a), 1085, 1094 and California Civil Code §§3368, 3420, 3422,  
4 3439-3439.12, and Business & Professions Code §17200 by plaintiffs Gene Hazzard and Queen E.  
5 Thurston in virtual representation based on a real controversy regarding the planned  
6 redevelopment of the former U.S. Oakland Army Base. Plaintiffs, Oakland residents and  
7 taxpayers, allege that the defendants breached their mandatory and fiduciary duty to the citizens  
8 and taxpayers of Oakland by fraudulently failing to use reasonable discretion with regard to public  
9 expenditures, bidding selection, contract award, contract negotiation, contract administration, and  
10 execution of contracts giving full authority of the disposition of the OAB to defendant Phil  
11 Tagami.

12 2. Plaintiffs allege that defendants acted fraudulently at every step of the negotiating  
13 process between the City of Oakland (City) and Phil Tagami (Master Developer) and conspired  
14 with one another in violating federal and state contract codes, city ordinances, and their own  
15 Exclusive Negotiating Agreements (ENAs) as described below, in addition to ignoring the City  
16 Auditor's authority. Plaintiffs allege that the Lease Disposition and Development Agreement  
17 (LDDA) (Exhibit Z) executed by the City of Oakland and the Master Developer on October 23,  
18 2012 constituted a fraudulent conveyance in violation of the Uniform Fraudulent Transfer Act  
19 ("UFTA") and that all of the actions were performed with intent to arrive a predetermined result  
20 contrary to the spirit and purpose of the law and put the citizens of Oakland at risk of complete  
21 depletion of the City's limited financial resources.

22 3. Plaintiffs allege that all of the transactions between the Oakland City Council and  
23 the Master Developer were done in an, arbitrary, capricious and fraudulent manner, inconsistent  
24 with due process and without regard to public benefit. Plaintiffs allege that the agreements were  
25 executed without reasonable discretion and are detrimental to plaintiff and similarly situated  
26 resident citizens and taxpayers of the City of Oakland, in that they have led, and will continue to  
lead, to wasteful expenditure of public funds and reduced public services, including, but not  
limited to, inability to support police services. Plaintiffs therefore seek damages against Master

1 Developer, as well as declaratory and injunctive relief against the City of Oakland, as hereinafter  
2 set forth.

3 STANDING

4 4. This Second Amended Complaint is legally sufficient in that it sets forth facts  
5 showing the existence of actual controversy relating to the legal rights and duties of the respective  
6 parties under written instruments and requests that these rights and duties be adjudged by the  
7 Court.

8 5. The "citizen action" is a long-established exception to the personal beneficial  
9 interest required to pursue an action in mandamus. The exception applies where the question is  
10 one of public right, where plaintiff is interested as a citizen in having the laws executed, and the  
11 object of the action is to enforce a public duty. This exception promotes a policy of guaranteeing  
12 citizens an opportunity to ensure that the purpose of legislation establishing a public right is not  
13 impaired or defeated by a governmental agency. (See 4 *Witkin Summary of Cal. Law*, 9<sup>th</sup> Ed.  
(1987) Real Property §§ 66, 68, 75.)

14 6. California Code of Civil Procedure permits a resident citizen to bring an action,  
15 that otherwise would go unchallenged because of the standing requirement, and allows a citizen  
16 who is assessed for and is liable to pay, or within one year before the commencement of the action  
17 has paid a tax, to obtain a judgment, restraining and preventing any illegal expenditure or waste of  
18 funds or other property. (Code Civ. Proc. § 526a.) Under this section, plaintiff qualifies as a real  
19 party in interest to this action.

20 7. California case law further supports plaintiff's standing. As held in *Sundance v.*  
21 *Municipal* (1986) 42 Cal. 3d. 1101, 1138-1139, the taxpayer action must involve an actual or  
22 *threatened* expenditure of public funds (emphasis added). Here, plaintiff alleges that both actual  
and a threatened expenditure of public funds has occurred.

23 8. In *Ceres v. City of Modesto* (1969) 275 Cal. App. 2d. 545, where the real question  
24 was whether the proposed plans by the City of Modesto constituted an unconscionable waste of  
25 city funds entitling the taxpayer plaintiff to injunctive relief under Code Civ. Proc. §526a, the  
26 court stated:

1 According to this section, a citizen resident of any city may bring "[a]n action to  
2 obtain a judgment, restraining and preventing any illegal expenditure of waste or  
3 injury to, the estate, funds or other property...of the city." *Ibid.*, 555.

4 9. In *Wine v. Council of Los Angeles* (1960) 177 Cal. App. 2d. 157, the court held that  
5 a taxpayer may sue in cases involving "...a *failure* on the part of the governmental body to  
6 perform a duty specifically enjoined" (emphasis added). Here, plaintiff alleges the City of  
7 Oakland failed to use reasonable discretion. Further, a reviewing court must proceed in ordinary  
8 mandamus (Code Civ. Proc. §1085) and "is limited to an examination of the proceedings before  
9 the agency to determine whether its action has been arbitrary or capricious or entirely lacking in  
10 evidentiary support, or whether it has failed to follow the procedure and give the notices required  
11 by law." (See *Court House Plaza Co. v. City of Palo Alto* (1981) 117 Cal. App. 871.) Plaintiff  
12 alleges that the actions of defendants were arbitrary and capricious in that they failed to give  
13 required notice of RFQ/RFPs in order to select the lowest responsible bid.

14 10. Standing is also proper when the use of discretion by a public entity is involved "as  
15 a consequence, the steps to be undertaken, the method selected, and the decision reached in the  
16 course thereof in the absence of fraudulent or arbitrary action." *Joint Council of Interns &*  
17 *Residents v. Board of Supervisors* (1989) 210 Cal.App. 3d. 1202. This is applicable to the instant  
18 case in that execution of contracts by a governmental entity necessarily requires an exercise of  
19 discretion guided by considerations of the public welfare. Defendants failed to use discretion in  
20 selecting a developer who has already cost the City of Oakland millions of dollars in the recent  
21 past. Utilization of the waiver was not "discretionary" in that it was not invoked with the "best  
22 interests of the city" given the prior excess public expenditures with this particular developer.

23 11. In *Kappadahl v. Alcan Pacific Co.* (1963) 222 Cal. App. 2d 626, the court held that  
24 "[a] private individual may apply for mandamus only when he has some private or particular  
25 interest to be subserved, or some particular right to be preserved or protected, independent of that  
26 which he holds with the public at large." Here, the taxpayer requirement is construed broadly in  
that where "the enforcement of the action is to procure enforcement of a public duty, this rule has  
been modified to permit property owners *and others* to sue in mandamus, since they have an  
interest in such in seeing that the public duties are enforced" (emphasis added). *Ibid.* Under

1 *Kappendahl*, whether plaintiff is a taxpayer is inconsequential; rather, standing involves a public  
2 right to question public waste, and plaintiff herein, as a private individual residing in the City of  
3 Oakland, has this right.

4 12. Lastly, a taxpayer may sue a governmental body in a representative capacity in case  
5 involving fraud, collusion, ultra vires, or failure on the part of the governmental body to perform a  
6 duty specifically enjoined. *Nickerson v. County of San Bernardino* 179 Cal. 518,522; *Dunn v.*  
7 *Long Beach L. & W. Co.* 114 Cal. 605, 609, *Schaefer v. Berinstein*, 140 Cal. App. 2d 278, 289.

8 13. In summary, the law recognizes that when a question is one of public right and the  
9 object of the mandamus is to procure the enforcement of a public duty, it is not necessary to show  
10 that plaintiff has any legal or special interest in the result, since it is sufficient that he be interested  
11 as a *citizen* in having the laws executed and the duty in question enforced (emphasis added). 35  
12 *American Jurisprudence* 73, §320.

#### 13 THE PARTIES

14 14. The true names, involvement and capacities, whether individual, corporate,  
15 governmental or associate, of the defendants named herein as Does 1 through 100 are unknown to  
16 plaintiff who therefore sues said defendants by such fictitious names. Plaintiff is informed and  
17 believes, and thereon alleges, that each of the fictitiously named defendants are negligently or  
18 fraudulently liable or otherwise responsible in some manner for the occurrences alleged pursuant  
19 to each cause of action asserted herein, either through its own conduct, or vicariously through the  
20 conduct of others. All further references in this complaint to any of the named defendants, or to  
21 the defendants generally, shall include such Doe defendants.

22 15. At all times mentioned herein plaintiff Gene Hazzard is a citizen of the City of  
23 Oakland in that he has resided in the City of Oakland, County of Alameda, and State of California,  
24 since 1969. Plaintiff was assessed taxes by the City of Oakland in the year prior to the  
25 commencement of this action and as a citizen brings this cause of action herein on behalf of  
26 himself and other citizens and taxpayers of the City of Oakland. (See Exhibit R, "Notice of Intent  
to Intercept California Tax Refund" dated November 8, 2012 and two "Acknowledgement of  
Payment Received" receipts from the City of Oakland reflecting that Gene Hazzard paid taxes in

1 the year 2012.) Plaintiff Queen E. Thurston has paid taxes to the City of Oakland within the year  
2 prior to the filing of the initial complaint. Attached as Exhibit Y to the Second Amended  
3 Complaint is a letter from Ms. Thurston expressing her desire to join Gene Hazzard in this action.  
4 From hereon out, plaintiffs are referred to in the text of this Complaint in the singular, masculine  
5 tense.

6 16. Defendant City of Oakland is a charter city as constituted under provisions of the  
7 laws of the State of California, and is located within the County of Alameda.

8 17. Defendants All Members of the Oakland City Council: Council President Larry  
9 Reid, Nancy Nadel, Jane Brunner, Rebecca Kaplan, Pat Kernighan, Libby Schaaf, Ignacio De La  
10 Fuente, Desley Brooks; Mayor Jean Quan; Deanna Santana, City Administrator; Fred Blackwell,  
11 Assistant City Administrator; Former Community and Economic Development Directors Dan  
12 Lindheim and Walter Cohen; Former OBRA Director Aliza Gallo, OAB Project Manager Pat  
13 Cashman; Redevelopment Director Gregory Hunter; OAB Project Manager Al Auletta, and Does  
14 1 through 50, (hereinafter "the City of Oakland"), and each of them, are now, and at all times  
15 herein mentioned in this Complaint were, public employees authorized to conduct business under  
16 the laws of the State of California and under the ordinances and municipal codes of the County of  
17 Alameda and the City of Oakland.

18 18. At all times herein mentioned, the City of Oakland defendants, Does 1 through 50,  
19 and each of them, were at all times herein mentioned public employees, legislators, and agents that  
20 governed the City of Oakland and had a fiduciary and mandatory duty to the citizens and  
21 taxpayers of the City of Oakland to oversee the budget and expenditures of the City of Oakland, to  
22 guard against wasteful expenditures, to prevent fraud, and to act in the best interests of the citizens  
23 of Oakland.

24 19. At all times herein mentioned, defendants Phil Tagami was and is the General  
25 Partner of California Capital & Investment Group (CCIG), a California corporation, formerly  
26 known as California Capital Group (CCG), an unknown real estate-related organization, which has  
conducted business in the City of Oakland, County of Alameda, State of California. Defendant

1 Phil Tagami is presently a Managing Member of Prologis CCIG Oakland Global, LLC, a  
2 California corporation incorporated on or about September 17, 2012.

3 20. At all times herein mentioned Daniel Letter was and is the Vice President of  
4 Prologis, LP, a limited partnership, formerly known as AMB Property Corporation (AMB), an  
5 unknown organization. Defendant Mark Hansen is presently a Managing Member of Prologis  
6 CCIG Oakland Global, LLC, a California corporation incorporated on or about September 17,  
7 2012. Prologis, Inc. is an unknown entity believed to have merged with AMB Properties at some  
8 time in 2011. Plaintiff prays leave to amend his complaint, adding the true names and nature of  
9 said business entities, when their names have been ascertained.

10 21. At all times herein mentioned, CCIG/CCG, Prologis LP/AMB, Prologis CCIG  
11 Oakland Global, LLC, and Does 51 through 100, and each of them (hereinafter the "Master  
12 Developer" defendants), were companies, joint ventures, partnerships, organizations, corporations,  
13 or other business organizations, the exact form and nature of which are unknown to plaintiff at this  
14 time, but licensed to and doing business in the State of California, County of Alameda. At all  
15 times herein mentioned, the Master Developer defendants are, and at all times herein mentioned  
16 were, acting as agents and employees of the City of Oakland through contracts and legal  
17 instruments executed by the defendants, and each of them, as hereinafter as described herein.

18 22. At all times mentioned, each defendant was an agent, servant, employee, partner,  
19 co-conspirator, and joint venturer of each and every other defendant and in doing the things herein  
20 alleged were acting within the course and scope of said agency, employment or conspiracy. The  
21 conduct of each defendant was authorized and ratified by each and every other defendant,  
22 including the ENAs, the LDDA and the Property Management Agreement (PMA).

### 23 VENUE

24 23. This court has the subject matter jurisdiction pursuant to the California Constitution  
25 Article XI, section 11 and personal jurisdiction over defendants, and each of them, in accordance  
26 with the Code of Civil Procedure §410.10 on the grounds that a substantial portion of the actions  
and events giving rise to this complaint are occurring and have occurred in Alameda County.  
Defendants are members, employees and agents of a municipal corporation organized and existing

1 under the Constitution and laws of the State of California. The venue is proper insofar as (1) all or  
2 most of the defendants are believed to reside in Alameda County; (2) a substantial part of the  
3 actions giving rise to claims alleged herein occurred in the City of Oakland, County of Alameda,  
4 State of California; (3) the ENAs, LDDA and PMA presented for judicial consideration were all  
5 executed in the City of Oakland; and (4) the fraud, conspiracy to commit fraud, the fraudulent  
6 conveyance, and wasteful expenditure of public funds, as alleged herein, occurred in Oakland,  
7 California.

#### 8 ACTUAL CONTROVERSY

9 24. A complaint for declaratory relief is legally sufficient if it sets forth facts showing  
10 the existence of actual controversy relating to the legal rights and duties of the respective parties  
11 under a written instrument and requests that these rights and duties be adjudged by the court. An  
12 actual controversy exists between plaintiff and defendants in that the City has a mandatory duty to  
13 act in the best interests of the City, including, but not limited to, balancing the city budget  
14 pursuant to the City's charter, to ensure that "no expenditure of City funds shall be disbursed  
15 unless obligations are properly supported by accounting evidence of sufficient money in the city  
16 treasury," to guard against waste of public funds. Any cause of action of a taxpayer or resident is  
17 worthy of wide interpretation of legal theory when it involves fraud and the waste of public funds.  
18 In this Complaint, both fraud and waste of public funds are alleged.

19 25. Actual controversy further exists in that the City, as alleged in this complaint,  
20 conspired with Master Developer to violate federal, state, and city codes and ordinances and  
21 agreements, including the City's ENAs, in that Tagami does not possess the capital and credentials  
22 required to act as Project Construction Manager to the OAB. Therefore, a controversy and dispute  
23 arises as to the Master Developer defendants, including Phil Tagami and his authority to oversee  
24 this public project.

25 26. Plaintiff is informed and believes and thereon alleges that the use of waivers in  
26 selecting the Master Developer was performed in a conspiratorial manner with fraudulent intent in  
order to arrive at a result contrary to the spirit and purpose of the law in that all other proposals for  
development of the OAB were rejected out of hand by the City without proper consideration or

1 evaluation. Therefore, actual controversy exists in that the actions of defendants are detrimental to  
2 plaintiff and similarly situated resident citizens and taxpayers of the City of Oakland in that the  
3 waiver process allowed in the Oakland Municipal Code clearly states that such utilization can only  
4 be allowed "in the best economic interest of the City." The economic implications of the  
5 defendants' actions have caused, and continue to cause, an unnecessarily depletion of the City's  
6 general funds, including the reduction of enforcement financial resources. Therefore, a  
7 controversy and dispute arises as to what is considered the "best economic interest of the City"  
8 given the reckless and fraudulent manner in which the City has handled public funds with regard  
9 to its dealings with the Master Developer selected to oversee and manage the OAB.

10 27. Lastly, an actual controversy exists in that the present contracts and agreements  
11 under which defendants are performing -- specifically, the LDDA -- were, as alleged herein,  
12 executed in a reckless, negligent, arbitrary and fraudulent manner, inconsistent with due process,  
13 and without regard to benefit to the plaintiff and similarly situated resident citizens and taxpayers  
14 of the City of Oakland ("the Public"). Therefore, plaintiff requests a judicial determination as to  
15 all of the matters described in this complaint.

#### 16 RIPENESS

17 28. This lawsuit is ripe for adjudication in that plaintiff and other concerned citizens of  
18 Oakland have exhausted all other remedies, including the appearance at public hearings and  
19 voicing opposition to these agreements and transactions as described herein ever since the  
20 announcement that the City of Oakland intended to contract with the Master Developer defendants  
21 and proceed with the OAB redevelopment plans with defendant Phil Tagami as the construction  
22 manager.

23 29. A statutory government claim was served by certified mail on the City of Oakland  
24 and the Master Developer defendants, in their agency capacity, on December 11, 2012, claiming  
25 that the City of Oakland is endangering public funds and establishing actual controversy between  
26 plaintiff and defendants in this matter.

//

//



1 **FACTUAL BACKGROUND**

2 **Oakland Army Base Redevelopment**

3 30. The Oakland Army Base located in West Oakland, served as a U.S. Army facility  
4 until it closed in 1999. Pursuant to the Economic Development Conveyance (EDC) application of  
5 April 2000 (Exhibit C), the US Army conveyed the OAB to the Oakland Base Reuse Authority  
6 (OBRA) at no cost to the City. In accordance with the OARB Draft Final Reuse Plan, approved  
7 by the OBRA in July 1998, it was the intent of the OBRA and the Oakland Redevelopment  
8 Agency (ORA) to redevelop approximately 200 acres of the OAB for a business and technology  
9 park (Oakland Business and Technology Park) to dedicate 185 acres located on the west to  
10 expansion of maritime activities for the Port of Oakland. It was understood that, given the  
11 importance of the shipping industry in Oakland, that the Port of Oakland would take a leadership  
12 role in selecting the master developer for the infrastructure.

13 31. In 2000, the Oakland City Council designated the base and surrounding properties  
14 as a Redevelopment Area. The property in dispute in this action is the called the "Gateway  
15 Development Area of the Former Oakland Army Base" and is comprised of parcel numbers APN  
16 #018-0507-001-11 (now 018-507-10 and 018-507-11), APN #00-0507-001-10, APN #000-0507-  
17 007, APN #000-0507-005, and APN #000-0507-001-07. This area is hereinafter referred to in this  
18 Complaint as the OAB.<sup>1</sup>

19 32. On August 7, 2003, the US Army transferred approximately 364 acres of the OAB  
20 to the OBRA. On July 8, 2003, a Memorandum of Agreement (MOA) was executed among the  
21 City of Oakland, OBRA, Oakland Redevelopment Agency (ORA), and the Port of Oakland, which  
22 established, among other matters, the terms of the conveyance of the former OAB property among  
23 the parties.

24 <sup>1</sup> On August 21, 2012 a Notice of Lis Pendens was filed and recorded with the Alameda County  
25 Recorder's Office as to these parcel numbers since this property is the subject of this public waste  
26 lawsuit brought by plaintiff as a member of the public pertaining to this real estate which is public  
property. Defendants moved to expunge the lis pendens which was granted.

1           33.     It was recognized by the City of Oakland that the OAB would require major  
2 investment in infrastructure improvements before any private investment in vertical construction  
3 would be feasible. The Economic Development Conveyance (EDC) application of April 2000  
4 acknowledged that the financial requirements of the project would far exceed the City's financial  
5 resources given its commitments to existing projects intended to assure revitalization in other parts  
6 of the City. The cash flow analysis contained in the EDC called for a means to implement the  
7 Project Reuse Plan without impacting the City of Oakland's public financial resources. (Exhibit  
8 C, Section B, page II-11.)

9           34.     The EDC identified the need for investment of both private and public capital to  
10 make the desired reuse project feasible. For that reason, the City through the EDC adopted a  
11 multi-faceted redevelopment approach that involved selection of a "Master Developer" who would  
12 provide private funding for a portion of the base conversion activities.

13           35.     The EDC stated that prior to the signing of the Disposition Development  
14 Agreement (DDA), the Master Developer would need to advance funds to the redevelopment  
15 agency (City of Oakland) to cover a portion of the predevelopment expenses, including  
16 entitlement, planning, and administrative costs. Further, the Master Developer would need to  
17 assume some of the risk associated with the advance of funds required to launch the development  
18 program. Thus, implementation of the Reuse Plan for the OAB was only feasible if the Master  
19 Developer was willing to assume substantial investment risks in the early years because a blend of  
20 public and private resources was needed, including developer equity. (Exhibit C, Section B, page  
21 II-12/II-13.)

22           36.     The Port of Oakland acquired a portion of the Oakland Army Base in 2006 and  
23 began leasing the site to various warehousing, trucking, and other transportation users on month-  
24 to-month agreements. Due to the Port's limited capital budget, it began seeking private  
25 development partners to improve the property without Port financing. As the Port anticipated that  
26 the property would be redeveloped to support and enhance marine terminal activity at the Port of  
Oakland, the Port of Oakland essentially took the lead on any redevelopment activity.

1           37. It was understood that, given the importance of the shipping industry in Oakland,  
2 that the Port of Oakland would take a leadership role in the selection process of the Master  
3 Developer for the redevelopment of the OAB. On August 7, 2006, portions of the OAB were  
4 conveyed from OBRA to the Port and City per the terms of the MOA and the Oakland and the  
5 Oakland Army Base Title Settlement and Exchange Agreement. Since the transfer of portions of  
6 the OAB properties in August of 2006, both the City and Port have been performing various  
7 predevelopment activities on the properties and positioning the property to achieve future  
8 development objectives while allowing some continuation of interim uses on the site. (Exhibit V.)

9           38. The redevelopment of the former OAB was intended to have a significant and  
10 enduring impact on the success and viability of the Port of Oakland. Thus, the State agreed to  
11 fund up the \$285 million to the proposed OHIT and 7<sup>th</sup> Street, while the Port was required to  
12 provide 50% matching funds. Thus, it was mandatory that the Master Developer selected by the  
13 Port of Oakland provide proof of financial viability.

14           39. Since August of 2006, the Port has received several unsolicited inquiries from  
15 potential investors interested in developing the former OAB. One such proposal was submitted by  
16 Industrial Realty Group (IRG), a privately held investment firm specializing in the acquisition,  
17 management, development and adaptive re-use of industrial and commercial real estate,  
18 particularly decommissioned military bases and facilities. (See Exhibit X, proposal from IRG  
19 attached to December 5, 2012 letter from Gordon-Creed to Gene Hazzard.) While an eminently  
20 qualified firm, in that it had just completed the renovation of the former McClellan Airforce Base,  
21 in the McClellan Business Park, the Port of Oakland did not accept IRG's proposal. Instead, the  
22 Agency selected Phil Tagami and CCG/CCIG. While the Port used a selection process, there is no  
23 evidence that the selection of Phil Tagami and CCG/CCIG was the lowest responsible bid as  
24 required by the EDC and California Public Contract Code, which the Oakland City Charter cannot  
25 usurp with its "special exception" otherwise known as a "waiver." The intent of the charter's  
26 exception was legislated to streamline contract negotiations when – and only when – said waiver  
of the bidding processes is deemed to be in the "best interests of the city." Meanwhile, the City of

1 Oakland initiated the Request for Qualifications/Request for Proposal process for the City-owned  
2 portion of the OAB.

3 40. The RFQs by the City of Oakland identified several key performance requirements  
4 for the private sector developers to achieve in order to proceed with the OAB development. These  
5 requirements included private investment in predevelopment activities of the OAB development,  
6 including obtaining all necessary financing, demonstrating a successful track record of developing  
7 complex, large-scale developments (including former military sites), proof of financial capacity;  
8 and (3) providing guaranty and serving as guarantor to project completion. (Exhibit P).

9 41. Despite evidence that other developers (i.e., Centerpoint, IRG) were eminently  
10 more qualified to manage and oversee the redevelopment of the OAB, and absent evidence that  
11 defendant Phil Tagami provided the City of Oakland with the "lowest responsible bid," the Port of  
12 Oakland entered into an Exclusive Negotiating Agreement with defendant Phil Tagami. The City  
13 of Oakland, which also was under an obligation to select the lowest responsible bid utilized  
14 "waivers" provided for in the Oakland Municipal Code and selected Phil Tagami of CCG/CCIG  
15 and Daniel Letter of AMB/Prologis.

16 42. The Exclusive Negotiating Agreement (ENA) between the City of Oakland and the  
17 Master Developer was executed on October 6, 2010. In the ENA defendants stipulated that the  
18 Master Developer must secure committed private funds to match public funds, as noted more  
19 specifically in the Real Estate Term Sheet for the ENA attached as Exhibit H, p.12). The Master  
20 Developer was required under the ENA to provide a Guarantor "with significant assets to  
21 guarantee LDDA project completion" for the OAB project (Item 2A) and shall match the City's  
22 investment of \$27,000,000 to date with a "minimum equity participation amount of \$27,000,000"  
23 (Item 31) prior to any request for Agency funding.

24 43. The City of Oakland's financial feasibility analysis performed during the ENA  
25 period determined that the Prologis/CCIG joint venture structure did not support the financing  
26 needs of the project because CCIG's balance sheet did not demonstrate sufficient financial  
capacity for the OAB development. The analysis concluded that "it is unclear whether the lack of  
equity funds today (from the Master Developer) indicates a lack of future capacity to raise equity

1 or debt.” (Exhibit N). Still, the City continued with its negotiation process with the  
2 Prologis/CCIG joint venture.

3 44. Incidentally in the October 18, 2011 Agenda Report the Port questioned the  
4 financial feasibility of defendant Tagami and recommended the termination of the Exclusive  
5 Negotiating Agreement. “The Port must answer to the public and be responsible as guardians of  
6 the public resources. The Port takes very seriously its obligation to proceed with the  
7 redevelopment plans in the most prudent and strategic manner. Therefore, Port staff recommends  
8 terminating exclusive negotiations as the responsible course of action.” (See Exhibit G, Port of  
9 Oakland Agenda Report.) Further, defendant Tagami misled the public and never issued a  
10 \$50,000 refundable security deposit in exchange for the ENA with the Port of Oakland. (See  
11 Exhibit W, copy of e-mail from D. Choy on behalf of Daniel Connolly to Gene Hazzard.) The  
12 Port of Oakland Agenda Report recommended that the “Contractual Pre-development Agreement  
13 Milestones with Prologis, Inc. and California Capital and Investment Group” be terminated in that  
14 the exclusive negotiations did not yield mutually agreeable lease terms. The Pre-development  
15 Agreement included a schedule of performance that the parties committed to achieve by July 31,  
16 2011. These included a detailed term sheet to allow for the drafting of the final transaction  
17 documents, failure to finalize a Master Development Plan, and failure to provide a detailed  
18 financing plan. The Agenda Report concluded by adopting “a Resolution Acknowledging that  
19 Contractual Pre-development Agreement Milestones with Prologis, Inc. and California Capital  
20 Investment Group Have Not Been Achieved, and Terminate the Agreement with These Respective  
21 Parties.” *Ibid*, p.12 of 68. The termination date was effective January 6, 2012.

22 45. Despite the termination of the ENA between the Port of Oakland and the Master  
23 Developer defendants, and the failed financial resources, the City of Oakland continued to  
24 negotiate with the CCIG/Prologis (now Prologis CCIG Oakland Global LLC), even though the  
25 City’s own analysis had determined that the Prologis/CCIG joint venture structure did not support  
26 the financing needs of the project because CCIG’s balance sheet did not demonstrate sufficient  
financial capacity for the OAB development. Further, throughout this process, the parties  
effectively changed the OAB project from a private-public venture to an entirely public-funded

1 project with the City assuming all the risk. This is evidenced in City Council Resolution No.  
2 83297 which FURTHER RESOLVED that the City ENA would reimburse CCG's third-party  
3 consultant costs, despite a WHEREAS contained in the same resolution that the Request for  
4 Proposals issued clearly articulated the expectation that the master developer would be responsible  
5 for all aspects of the development. (Exhibit D). In plain terms, the City allowed the project to  
6 shift from a private-public blend to a solely-publicly funded project, despite the EDC which  
7 expressly stated that the Master Developer would be responsible for all development costs. These  
8 costs, which were meant to be incurred by the private sector partner, were cloaked in official-  
9 looking language in City Resolutions that shifted the responsibility of all development costs from  
10 the Master Developer to the City of Oakland in direct conflict with the EDC which expressly  
11 stated that all up-front costs would be paid for by the Master Developer, thereby reducing the  
12 financial risk to the City. Thus, despite the concern of the Master Developer's financial viability,  
13 the City deliberately enacted resolutions providing that all pre-development costs would be  
14 advanced by the City of Oakland and later reimbursed from the Master Developer at some  
15 unspecified date in the future. To date, there is no evidence that the Master Developer has  
16 reimbursed anything towards their obligation for this massive project.

16 46. To date, \$14,000,000 has been advanced by the City of Oakland in relation to the  
17 OAB, including the cost of the CEQA Environmental Review (See Exhibit T); this amount  
18 included \$1,600,000 from the federal government that was earmarked as an OBRA federal and  
19 state fund grant. On May 31, 2012 the Oakland resolved to commit an additional \$22.5 million in  
20 city funds to match the TCIF grant to come from land sales and Fund Balances (Exhibit E,  
21 Resolution No. 83932). An additional source of funding was proposed through the passage of  
22 Alameda County Measure B1 where funding of approximately \$175,000,000 would have been  
23 used to match TCIF funds; however, Measure B1 was defeated in the November 2012 election.  
24 (See Exhibit U.) This list is not exhaustive; it merely cites specific examples where the City is  
25 relying on public funds to finance the OAB project. To date, no funds have been expended by the  
26 Master Developer defendants for this project. In fact, there is no evidence that Phil Tagami ever

1 paid the Port of Oakland a \$50,000 "refundable security deposit" which was offered in exchange  
2 for the Port's selection of CCIG/Prologis in the initial Exclusive Negotiating Agreement (ENA).

3 47. The Lease Disposition Development Agreement (LDDA) was approved by  
4 members of the Oakland City Council on June 19, 2012, and was scheduled to be signed with  
5 material effect on or about August 3, 2012, but was not executed until October 23, 2012 -- after  
6 the filing of this Complaint. (See Exhibit Z.) The execution of the LDDA was done without  
7 satisfying the qualifications set out in the RFQ process as outlined in Exhibit J (Second  
8 Amendment to the ENA for the OAB (see p. 7 of the Schedule of Performance). Further, the City  
9 of Oakland has not required the Master Developer to satisfy certain threshold requirements of the  
10 private sector developer identified in the RFAs (Exhibit P, pp. 15-16), the City's ENA (Exhibits  
11 D and H), and (c) the EDC Agreement with the US Army (Exhibit C, pp. II-4-II-13.) No such  
12 private investment by the Master Developer defendants has been identified, secured, or committed  
13 for the infrastructure portion of the OAB development, as evidenced in the Port of Oakland's staff  
14 report terminating its negotiation with defendant Phil Tagami and CCIG in October of 2011  
15 (Exhibit G, p. 8). Lastly, the Summary of Master Developer Proposal Technical Analyses stated  
16 that "the joint venture structure of AMB/CCG does not support the significant projected equity  
17 and debt needs of this project. " (See Exhibit N, Attachment C to First Amendment to Exclusive  
18 Negotiating Agreement between the Oakland Redevelopment Agency and AMB/CCG).

19 48. Government Code §§ 4527, 4529.5, 5500.1 prohibit supervision of a federal  
20 renovation project by a non-licensed individual (Exhibit L). Further, it provides that any  
21 individual or firm proposing to provide construction project management services shall provide  
22 evidence that the individual or firm and its personnel carrying out onsite responsibility have  
23 expertise and experience in construction project design review and evaluation, construction  
24 mobilization and supervision, bid evaluation, project scheduling, among other qualifications.  
25 Despite Government Code and the terms set out in Exhibit N, defendants Phil Tagami and  
26 CCG/CCIG (and now Prologis CCIG Oakland Global LLC) have not produced evidence that they  
hold the appropriate licenses to supervise and manage a project of such magnitude as the Oakland  
Army Base renovation. Further, there is no indication that the selection of Phil Tagami by the Port

1 of Oakland was the lowest responsible bid as required by state and federal code. As a result,  
2 defendants have violated Business & Professions Code section 17200 governing Unfair  
3 Competition.

4 49. Despite the threshold requirements in the EDC and term sheets, and regardless of  
5 Government Code sections 4527, 4529.8, 5500.1, the City approved Resolution 83565 C.M.S.  
6 (Exhibit B) which states that, "CCIG will oversee and coordinate their activities to complete the  
7 planning and design work required for the construction of the infrastructure, public utilities and  
8 public streets on the former OAB. The Master Infrastructure Planning work and CCIG wishes to  
9 assume all of CCG's rights, title, interest and obligations under the ENA, including the contracting  
10 and oversight of consultants and contractors for the infrastructures planning and design work."

11 50. The OAB is a federally funded project, which by law requires a competitive  
12 bidding process. Further, California Public Contract Code section 20160 (Exhibit S) requires that  
13 construction contracts for public projects be awarded through a competitive bidding process. The  
14 City of Oakland's Municipal Code 2.04.050 and 2.04.005001 requires that construction contracts  
15 for public projects be awarded through a competitive bidding process except in "special  
16 circumstances." Waivers pursuant to "special circumstances" are only allowed "in the best  
17 economic interest of the City." (Exhibit (Agency Report dated May 29, 2011). Lastly, the EDC  
18 of April 2000 intended that all contracts concerning the redevelopment of the Oakland Army Base  
19 be awarded through competitive bidding. There is no evidence that the selection of Phil Tagami  
20 was arrived at through a competitive bidding process. Rather, defendant Phil Tagami promised to  
21 provide the Port of Oakland with a refundable \$50,000 security deposit in order to secure the  
22 Exclusive Negotiating Agreement (ENA) with the Port. Not only is this refundable security  
23 deposit an improper method to secure a contract, there is no evidence that Tagami ever paid the  
24 deposit. (See Exhibit W.) Lastly, the City of Oakland agreed to enter into an ENA with the City  
25 of Oakland without a competitive bidding process and thereafter signed a Project Management  
26 Agreement and LDDA on October 23, 2012, ten months after the Port of Oakland had terminated  
its ENA with defendant Tagami. To date, Phil Tagami has not provide the financial proof and



1 licenses to qualify as Master Developer of the OAB project, against the EDC and the City of  
2 Oakland's own terms.

3 51. The bidding process was a critical requirement of the plan for reuse of the Oakland  
4 Army Base. Despite the City of Oakland's claim that it had "reviewed proposals and conducted  
5 interviews," the City of Oakland waived the advertising and Request for Proposals (RFP/RFQ)  
6 competitive bidding process and awarded to Phil Tagami (CCG/CCIG) and Daniel Letter  
7 (AMB/Prologis) the planning and design of the OAB infrastructure improvements for the Port-  
8 oriented rail yard and 7<sup>th</sup> Street overpass for work in an amount not to exceed \$3,850,212.  
9 (Exhibit T, Resolution 2011-0035). On January 10, 2010, the Agency Board entered into an  
10 Exclusive Negotiating Agreement with AMB Property/California Capital Group.

11 **Historical Background of Agreements with the City of Oakland and**  
12 **Master Developer Defendants: The Fox Theater Renovation Project**

13 52. In 1996, the City of Oakland's Redevelopment Agency purchased the Fox Theater  
14 to renovate this historical performing arts center and to "return downtown Oakland to a bustling,  
15 entertainment and shopping district." In December of 2004, the City Council approved the "basic  
16 renovation" of the Fox Theater, scaled to be a 500 to 600-seat cabaret-style venue within the shell  
17 of the existing structure. The project evolved into a "full Broadway show," including a balcony  
18 level, a rear theater bar, restoration of phantasmal figures, and other changes to the original  
19 renovation, all of which have been acclaimed as a successful restoration to this Depression-era  
20 theater that had been closed for 39 years. Phil Tagami and CCG/CCIG served as the City's Fee  
21 Developer for the renovation. While the project was hailed as a construction and architectural  
22 success, it was a "money pit" for the City of Oakland.

23 53. The Performance Audit prepared by City Auditor, Courtney A. Ruby, CPA, CFE  
24 (Thompson, Cogg, Bazillo & Associates) in October of 2011 further recommended that "for future  
25 capital projects, the project scope should be reevaluated only when funding sources are guaranteed  
26 and secured. If funding sources are not guaranteed, a contingency plan should be in place to  
reduce the project scope when those funds are not received." (Exhibit M, p. 11.) The audit also

1 recommended that the City of Oakland develop policies and procedures to guard against financial  
2 risk for future redevelopment projects.

3 54. Under Tagami's supervision and management, the scope of the Fox Theatre project  
4 was amended several times, and 524 change orders were approved by Tagami, as the contracts that  
5 allowed Tagami to authorize change orders of up to \$50,000 without consulting City staff.  
6 Further, defendant Tagami was paid a fee of 4% of the total project costs as project manager of the  
7 Fox Theater, raising the overall cost of the project substantially increased Tagami's fee.  
8 Defendant Tagami's fee did, in fact, increase accordingly. In short, the City of Oakland's subsidy  
9 to the Fox Theatre Renovation Project swelled from a \$13 million budget at inception of the  
10 project to \$52 million at completion.

11 55. Pursuant to the agreements executed by the City of Oakland and Phil Tagami and  
12 CCG/CCIG, Tagami was given authority to approve change orders on the project. As a result, the  
13 City Council and City staff was ignorant as to how much money had been obligated to the Fox  
14 Theater until after work orders had been issued. The Fox Theater Performance Audit following  
15 the completion of the Fox Theatre project concluded that project went far beyond the budget  
16 allocation as additional funds were needed to compensate unpaid contractors for work performed.  
17 The Performance Audit stated, in part: "A significant expansion of the project's scope, failure to  
18 conduct a comprehensive financial feasibility study, a project management structure that lacked  
19 independence, insufficient legislative oversight, and poor contract administration led to a final  
20 renovation project cost totaling almost \$91 million, or a 172 percent increase from the initial  
21 project cost estimate of \$33 million." (Exhibit M)

22 56. Despite the massive overruns associated with the Fox Theatre Project and the  
23 cautionary recommendations of the Performance Audit, the City of Oakland began negotiating  
24 further agreements with Phil Tagami and the CCG/CCIG in connection with the reuse and  
25 redevelopment of the former Oakland Army Base (OAB). These negotiations included the  
26 execution of the Exclusive Negotiating Agreement (ENA) and the Lease Disposition Development  
Agreement (LDDA) approved by members of the Oakland City Council on June 19, 2012, which

1 was scheduled to be signed with material effect on or about August 3, 2012 but were not executed  
2 until October 23, 2012, after the commencement of this case.

3 **Present Agreements between the City of Oakland and Master Developer**  
4 **Defendants: The Oakland Army Base Renovation Project**

5 57. It is the fiduciary duty and obligation of the City Council and City staff to use  
6 reasonable discretion and ensure that private developers in partnership with the City meet the  
7 financial requirements as set forth in the EDC, RFQ and ENA before a binding LDDA is signed.  
8 Further, the Master Developer is required to prove financial capacity, secure private matching  
9 funding to co-invest with the City and State, and provide performance guarantees to mitigate risk  
10 to the City.

11 58. Regardless of the failure of the Master Developer defendants to provide financial  
12 viability, the City of Oakland is proceeding with binding agreements and commitments of public  
13 funds with these private entities without certainty of their qualifications and sources of additional  
14 required financing.

15 59. As presently structured in the City's proposed LDDA with the Master Developer,  
16 the City is required to pay for all of environmental remediation, design, project approvals, site  
17 infrastructure, and utility installation costs of the project while the documents (i.e., RFQ, ENA and  
18 EDC) had stipulated that the selected Master Developer would pay for predevelopment such as  
19 design, engineering and infrastructure planning. The City of Oakland's Second Amendment to the  
20 ENA, states that no City funds will be used to pay defendants Tagami and Letter's "developer  
21 fees, markups, administrative or personnel costs" (Exhibit J, p. 3). However, the City of Oakland  
22 paid Tagami \$76,237 from the City to cover "eligible reimbursable expenses" an action that is  
23 explicitly prohibited by the City's contractual agreement with Tagami and CCG/CCIG (Exhibit  
24 V). Also, the Second Amendment to the ENA provides for reimbursement to CCIG of up to  
25 \$14,000,000 for third-party consultant costs for planning and design (Exhibit V).  
26

60. The Property Management Agreement was executed on October 23, 2012 (a draft  
of which is attached Exhibit K). Throughout this agreement, defendant Phil Tagami (CCIG) is  
acknowledged and identified as acting as the Owner's (City's) Project Manager. Thus, as  
provided by the LDDA, the City is allowing defendant Tagami to simultaneously act as the Master

1 Developer; the City's hired Property Manager; the City's hired Project Manager/Representative  
2 overseeing the design, engineering and infrastructure planning of the OAB project using the \$14.5  
3 million of City funds; the City's hired Construction Project Manager overseeing construction of  
4 new infrastructure project using city, state and federal funds; a voting member of the Community  
5 Services District (CSD) to be formed; and the Rail Operator for the existing and proposed new rail  
6 lines that course through the City's OAB property.

7 61. Further, the agreements executed by the defendant City of Oakland and the Master  
8 Developer defendants allow exclusive authority to the Master Developer, just as they did with the  
9 Fox Theatre project, whereby the City staff delegated to Phil Tagami and CCG/CCIG the power to  
10 oversee and coordinate their activities to complete the planning and design work and to make  
11 change orders "without returning to Council." Given that the Fox Theatre Project ended up  
12 costing the City an additional \$39 million, this decision of City Council to once again grant the  
13 same Master Developer this exclusive power is clearly a risk and will likely cost the City of  
14 Oakland hundreds of millions of dollars. Using the percentage of performance audit, anticipated  
15 overruns in connection with the OAB could run as high as \$960 million by project completion. In  
16 other words, it is not a far reach to estimate the cost to the City by the end of the OAB upwards of  
17 \$1 billion dollars if Tagami is allowed to manage and oversee this project with the same lack of  
18 checks and balances that have been absent in prior capital projects awarded to this well-known and  
19 well-connected developer who has consistently cost the City of Oakland overruns in every project  
20 he has handled.

21 62. For the infrastructure planning on the OAB, a similar project management structure  
22 is being utilized as that provided for in the Fox Theatre Renovation project where Tagami was  
23 paid 4% of project costs for serving as the City's hired project manager. Defendant Tagami has  
24 again been given the authority to approve change orders, in this instance, up to \$24,999 for his  
25 pre-selected contractors and subcontractors without review and approval by City staff. This  
26 arrangement is structured so that other qualified firms are excluded from participation in this city-  
funded activity. Thus, the City defendants are embarking upon another major capital project with  
defendant Tagami prior to having all the funds needed to complete the project in place (Exhibit

1 M). Further, the City has misrepresented this fact in its application for federal Tiger III grant from  
2 the US Department of Transportation. Lastly, the LDDA was executed with an actual intent to  
3 defraud the citizens of Oakland and was agreed to by the City of Oakland for less than full  
4 consideration, knowing that the City does not have the financial resources to cover the exorbitant  
5 costs of the project, thereby breaching its mandatory duty to the citizens of Oakland to safeguard  
6 public funds.

7 63. To date, the funds expended for the design and engineering of the OAB in the  
8 amount of \$14 million have been incurred by the City of Oakland, including federal funds. The  
9 City also paid the cost of the CEQA Environmental Review, which should have been the  
10 responsibility of the Master Developer as documented by Exhibit Q, p. 15. Defendants Tagami  
11 (CCG/CCIG), Letter (AMB/Prologis) and Prologis CCIG Oakland Global, LLC have, during this  
12 four-year exclusive negotiation period, failed to produce matching private funds or to prove  
13 financial capacity to complete the OAB project.

14 64. The City proposed through the LDDA to have CCIG oversee and undertake the  
15 OAB infrastructure project without the contractual involvement of Prologis, as noted on page 2 of  
16 Exhibit Q, the May 31, 2012 Agency Staff Report on the Oakland Army Base. This lack of  
17 oversight is a problem. Given the limited financial resources of the City, the track record of  
18 Tagami and CCG/CCIG, safeguards are essential for a project of this enormity to prevent financial  
19 ruin; without such safeguards in place for a project estimated to cost between \$500,000,000 and  
20 \$700,000,000 the OAB project could cost the city hundreds of millions of dollars, if Phil Tagami,  
21 (CCG/CCIG), Daniel Letter (AMB/ Prologis), and Prologis CCIG Oakland Global LLC are given  
22 such exclusive authority to supervise and oversee the OAB project. In fact, there is no evidence  
23 that the "strong financial partner" (Daniel Letter/AMB/Prologis) is a party to the LDDA (Exhibit  
24 Z) because the only signature on the LDDA is that of defendant Mark Hansen, Senior Vice  
25 President of Prologis CCIG Oakland Global, LLC, a limited liability to which Phil Tagami  
26 (CCG/CCIG) ("the weak partner") assigned all rights titles, interests, and obligations as set forth  
in Oakland City Council Resolution No. 83565 (Exhibit B). Further, there is no resolution  
subsequent to September 28, 2011 which authorized the changing of the ENA entities from

1 Prologis Property, L.P./Prologis CCIG Oakland Global LLC to solely Prologis CCIG Oakland  
2 Global LLC, which constitutes of fraudulent conveyance under the UFTA.

3 65. These and similar issues described above were addressed by plaintiff during City  
4 Council meetings. The absence of checks and balances contained within the agreements between  
5 the City of Oakland and Phil Tagami and CCG/CCIG were further pointed out by the independent  
6 Performance Audit conducted after the Fox Theater Renovation project cost the City of Oakland  
7 \$39 million in excess public expenditures. Thus, the City of Oakland is and has been on notice of  
8 the events surrounding the massive public waste in its deficient agreements with defendant Phil  
9 Tagami and CCG/CCIG. Yet the City of Oakland again negotiated agreements containing  
10 identical terms with Phil Tagami, CCG/CCIG, and/or Prologis CCIG Oakland Global LLC in  
11 overseeing, supervising and granting exclusive authority over the renovation projects of the  
12 Oakland Army Base. Plaintiff therefore seeks equitable relief whether by injunction, mandamus,  
13 or declaratory relief.

14 **FIRST CAUSE OF ACTION**  
15 **DECLARATORY AND INJUNCTIVE RELIEF**  
16 **(City of Oakland Defendants and**  
17 **Master Developer Defendants)**

18 66. Plaintiff incorporates by reference paragraphs 1 through 65 of this Complaint as  
19 though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set  
20 forth each and every allegation contained in the First Cause of Action.

21 67. Plaintiff is informed and believes and thereon alleges that Court's intervention in  
22 the form of declaratory and injunctive relief as to the Master Developer defendants is proper due  
23 to defendants' lack sufficient private investment capital to support the Oakland Army Base  
24 Redevelopment Project, which is estimated to cost between \$500,000,000 and \$700,000,000.  
25 Plaintiff further alleges that the Master Developer defendants lack the required qualifications  
26 within which to perform the intended activities.

68. Plaintiff is informed and believes and thereon alleges that the Court's intervention  
in the form of injunctive relief against Master Developer and Project Construction Manager Phil  
Tagami (CCG/CCIG) with regard to Resolution 83565 C.M.S. (Exhibit B) is proper in that the

1 Master Developer defendants have a conflict of interest in their capacity in serving as the Master  
2 Developer and the City's Fee Developer at the same time.

3 69. Plaintiff is informed and believes and thereon alleges that the Court's intervention  
4 in the form of declaratory and injunctive relief as to the Exclusive Negotiating Agreement (ENA)  
5 and the Lease Disposition Development Agreement (LDDA) is proper, inasmuch as the acts and  
6 omissions by defendant City of Oakland were performed with reckless, negligent, capricious, and  
7 fraudulent intent, and constitute a failure of the City Council employees to act with reasonable  
8 discretion in executing agreements without due process, despite protest of plaintiff to the City  
9 Council, failure of the City Council to investigate the assertions of plaintiff, and failure of the City  
10 of Oakland to heed to the cautionary recommendations of the City Auditor's Performance Audit.  
11 Said acts and omissions by defendants, and each of them, are illegal, lack of benefit, and constitute  
12 an unreasonable determination of City Council all of which point to abuse of discretion, the  
equitable basis for injunctive relief.

13 70. Plaintiff is informed and believes and thereon alleges that Court's intervention in  
14 the form of declaratory and injunctive relief as to the Exclusive Negotiating Agreement (ENA)  
15 and the Lease Disposition Development Agreement (LDDA) is proper, inasmuch as these  
16 instruments lack "checks and balances" which in the past resulted in excessive waste of public  
17 funds. Inasmuch as the contracts and agreements executed in connection with the renovation of  
18 the Oakland Army Base are identical to those executed in connection with the Fox Theater  
19 Renovation Project, in that the same rights and responsibilities are granted to the Master  
20 Developer defendants in overseeing, managing, supervising and authorizing change orders,  
21 plaintiff alleges that the present agreements constitute a viable threat of excess public waste.

22 71. Plaintiff is informed and believes and thereon alleges that these agreements were  
23 entered into in an arbitrary, capricious and fraudulent manner, inconsistent with due process and  
24 without regard to benefit. Even if the required procedural steps were lawfully followed, these  
25 steps were not fairly and honestly followed, all of which point to fraudulent intent in order to  
26 arrive at a predetermined result contrary to the spirit and purpose of the law. Said arbitrary,  
capricious, and fraudulent acts and omissions are detrimental to plaintiff and other similarly

1 situated citizen residents and taxpayers of the City of Oakland in that they constitute a threat of  
2 wasteful public expenditures.

3 72. Plaintiff alleges that the Project Management Agreement (PMA) and the LDDA  
4 were executed with fraudulent intent in order to arrive at a predetermined result contrary to the  
5 spirit and purpose of the law. (See *Maxwell v. City of Santa Rosa* (1959) 53 Cal. 2d 274.)  
6 Plaintiff further alleges that execution of the LDDA and PMA on October 23, 2013 represents a  
7 fraudulent conveyance in violation of the UFTA. All of the acts and omissions described in this  
8 complaint cumulatively violate the City's mandatory duty to the citizens and taxpayers of the City  
9 of Oakland in in that they constitute a threat of wasteful public expenditures.

10 WHEREFORE, plaintiff prays for declaratory and injunctive relief against defendants, and  
11 each of them, as hereinafter set forth.

12 **SECOND CAUSE OF ACTION:**  
13 **BREACH OF MANDATORY AND FIDUCIARY**  
14 **(City of Oakland Defendants and**  
15 **Master Developer Defendants)**

16 73. Plaintiff incorporates herein by reference paragraphs 1 through 72 as though fully  
17 set forth herein. Plaintiff further realleges and incorporates by reference as though set forth each  
18 and every allegation contained in the First Cause of Action.

19 74. While this cause of action sets forth specific allegations against the City of  
20 Oakland, because the Master Developer defendants are acting in the scope and agency of its  
21 agreements with the City of Oakland, this Cause of Action for Breach of Fiduciary Duty and Duty  
22 of Care Cause of Action extends by agency to the Master Developer defendants.

23 75. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
24 defendants failed to protect the public good and the City's financial resources, by failing to use  
25 reasonable discretion. Further defendants mismanaged and endangered the City budget in regard  
26 to the economic development projects it has undertook and is presently undertaking with Phil  
Tagami, CCG, CCIG, and Prologis CCIG Oakland Global, LLC, including the proposed Oakland  
Army Base development, the Fox Theatre Redevelopment, the Rotunda Building and the Rotunda  
Garage. Since the Oakland City Charter requires that "no expenditure of City funds shall be



1 disbursed unless obligations are properly supported by accounting evidence of sufficient money in  
2 the city treasury” defendants, and each of them, breached its fiduciary duty to its citizens and  
3 taxpayers by allowing these projects to proceed while abdicating its authority to oversee the excess  
4 expenditures and overruns caused by defendant Phil Tagami and CCG/CCIG, all to the harm of  
5 plaintiff and similarly situated residents and taxpayers of the City of Oakland in that wasteful  
6 expenditures have occurred and will continue to occur by virtue of the lack of “checks and  
7 balances” contained in the contracts between defendants, and each of them.

8 76. Plaintiff is informed and believes and thereon alleges that the defendants, and each  
9 of them, breach its fiduciary duty and duty of care by failing to use reasonable discretion and in  
10 disregarding the requirements of the EDC that private investments and performance guarantees in  
11 such projects as the OAB in order to safeguard the public good.

12 77. Plaintiff further alleges that the City of Oakland has routinely waived the City’s  
13 stated competitive bidding requirements on projects contracted with the Master Developer  
14 defendants, such as the Fox Theater Renovation Project, the Rotunda Building, and the Rotunda  
15 Garage with intent that is contrary to public good. Plaintiff alleges that these acts and omissions  
16 have and will lead to waste of public funds, all to the harm of plaintiff and similarly situated  
17 residents and taxpayers of the City of Oakland.

18 78. As a result of the City of Oakland’s negligence and failure to use reasonable  
19 discretion by allowing Tagami and CCG/CCIG to oversee, supervise, and manage the Fox Theater  
20 Renovation Project, the City Council and City staff, and each of them, was left unawares of the  
21 amount of money that had been obligated until after work orders had been issued. The result was  
22 that \$52 million of City funds were obligated to the project beyond the budget allocation, and  
23 additional funds were needed to compensate unpaid contractors for work performed. (See Exhibit  
24 G.) These acts and omissions by defendants, and each of them, breached the fiduciary duty and  
25 duty of care to plaintiff and similarly situated resident citizens and taxpayers of the City of  
26 Oakland.

79. Plaintiff is informed and believes and thereon alleges that the cost overruns on the  
Fox Theater Renovation Project increased the City of Oakland’s contribution of \$52 million which

1 constitutes a breach of the City of Oakland's fiduciary duty to the citizens and taxpayers of  
2 Oakland to use reasonable discretion. The Fox Theatre Renovation Project at the outset was  
3 approved at a cost of \$13 million; however, under the exclusive direction and supervision of Phil  
4 Tagami and AMB/CCG, the costs increased by 300% at the time the project were completed. This  
5 excess demonstrates that the City of Oakland breached its fiduciary duty to Oakland citizens and  
6 taxpayers by allowing Phil Tagami and AMB/CCG to capriciously use the City of Oakland's  
7 waiver to invoke over 500 "change orders," all of which cost the City of Oakland \$39 million, all  
8 to the detriment of plaintiff and similarly situated citizens and taxpayers of Oakland.

9 80. Plaintiff is informed and believes and thereon alleges that despite the massive  
10 overruns and funding perpetuated by the Fox Theater Renovation Project and the cautionary  
11 recommendations of the Performance Audit, the City of Oakland breached its fiduciary duty by  
12 failing to develop policies and procedures to minimize the City's financial risk. The City further  
13 failed to amend the City's Municipal Code to guard against future excess public expenditures,  
14 such as the Fox Theatre Renovation Project, all to the financial harm to plaintiff and other  
15 similarly situated residents and citizens of Oakland.

16 81. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
17 defendants have breached their fiduciary duty and duty of care by failing to comply with the  
18 cautionary recommendations of the Performance Audit prepared by Thompson, Cogg, Bazillo &  
19 Associates, which pointed out the inherent conflicts of interest in allowing full authority to the  
20 Master Developer in that said authority resulted in wasteful public expenditures, all to the  
21 financial harm to plaintiff and other similarly situated resident citizens and taxpayers of Oakland.

22 82. Plaintiff is informed and believes and thereon alleges that similarly the waiver of  
23 advertising and the RFP/RFQ competitive bidding process and award of the planning and design  
24 of infrastructure improvements for the Port-oriented rail yard and 7<sup>th</sup> Street overpass work,  
25 breached the fiduciary duty and were executed in bad faith in that defendants did not select the  
26 Master Developer pursuant to the EDC criteria which mandated the City to accept lowest  
27 responsible bid; to the contrary, defendants put the City budget in danger by selecting the same  
28 developer that already showed a track record of excessive overruns. Thus, the City's waiver of

1 advertising the RFQ and RFP process put plaintiff and other similarly situated resident citizens  
2 and taxpayers of the City of Oakland at risk of additional public waste, given the past excessive  
3 expenditures caused by the same developer operating under the same contract terms.

4 83. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
5 defendants have breached their fiduciary duty to the residents and taxpayers of the City of  
6 Oakland and have shown bad faith by continuing to engage in the negotiations and execution of  
7 further "exclusive negotiation agreements" with the Master Developer defendants with regard to  
8 the Oakland Army Base (OAB) project. These "exclusive negotiation agreements," which are  
9 identical to those executed in connection with the Fox Theatre Renovation Project, the Rotunda  
10 Building, and the Rotunda Garage, include, but are not limited to, the execution of the Exclusive  
11 Negotiating Agreement (ENA) and the Lease Disposition Development Agreement (LDDA), both  
12 of which were approved by defendant members of the Oakland City Council on June 19, 2012,  
13 and were scheduled to be signed with material effect on or about August 3, 2012 and were, in fact,  
14 executed on October 23, 2012, after the filing of plaintiff's complaint. The execution of these  
15 instruments constitutes a fraudulent conveyance and breach of mandatory duty and duty of care to  
16 plaintiff and other similarly situated resident citizens and taxpayers of Oakland in that they were  
17 executed in bad faith, with full knowledge that the City of Oakland had a duty to the public to  
18 guard against wasteful expenditures, and that Phil Tagami had previously cost the City of Oakland  
19 millions of dollars in past overruns and loan forgiveness.

20 84. Plaintiff is informed and believes and thereon alleges that the approval of the afore-  
21 described documents by City Council of the LDDA for the Oakland Army Base with defendant  
22 Phil Tagami and CCG/CCIG was delegated to City staff to negotiate and execute the agreement  
23 "without returning to Council," constituting a breach of fiduciary duty and duty of care in that  
24 abdication of this power by the City of Oakland allowed defendants Phil Tagami and the  
25 CCG/CCIG to again approve an unlimited number of change orders above and beyond the original  
26 agreement, all of which have and will continue to create financial harm to plaintiff and similarly  
situated resident citizens and taxpayers of the City of Oakland.

1           85. Plaintiff is informed and believe and thereon alleged that the City defendants, and  
2 each of them, breached its fiduciary duty to use reasonable discretion to investigate the financial  
3 worthiness of the Master Developer (CCIG and Prologis) to be able to determine how much  
4 private investment capital they intend to pay up front for the redevelopment of the Oakland Army  
5 Base prior to signing binding agreements related to the disposition of property. This breach by  
6 defendants, and each of them, have caused, and will continue to cause, financial harm to the  
7 citizens and taxpayers of the City of Oakland.

8           86. Plaintiff is informed and believes and thereon alleges that the City of Oakland and  
9 the Master Developers proceeded with the signing of the LDDA without satisfying the  
10 qualifications set out in the RFQ process which identified several key performance requirements  
11 for the private sector developers to achieve in order to proceed with the OAB development.  
12 Further, these instruments were executed when defendants knew that the assets of the Master  
13 Developer were unreasonably small in relation to the costs expected to develop the OAB,  
14 breaching the City of Oakland's mandatory duty to the citizens of Oakland. These acts and  
15 omissions constitute a failure to use reasonable discretion and constitute a breach of fiduciary duty  
16 and bad faith in that proceeding with an unqualified or under-qualified private sector partner on a  
17 project of this magnitude (\$500,000,000-\$700,000,000) puts the City of Oakland at risk of  
18 financial jeopardy – and possibly bankruptcy.

19           87. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
20 abused its discretion with the repeated use of the waiver on all of the projects involving defendant  
21 Phil Tagami and CCG/CCIG, including, but not limited to, the Fox Theatre Renovation Project,  
22 the Rotunda Building the Rotunda Garage, and various projects related the Oakland Army Base  
23 project, constitutes bad faith and is a breach of its fiduciary duty to plaintiff and similarly situated  
24 resident citizens and taxpayers of Oakland. Plaintiff alleges that this waiver was used on at least  
25 four occasions with regarding to the OAB project, despite OMB Circular A-102, Federal  
26 Regulations 24 CFR 85 which governs contracts in which federal property and/or federal funds are  
used and clearly states that the competitive bidding process cannot be waived in these  
circumstances. This failure to allow competitive bidding in a federal project is a breach of

1 defendants' fiduciary duty and duty of care to plaintiff and similarly situated resident citizens and  
2 taxpayers of the City of Oakland.

3 88. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
4 negligently and carelessly failed to comply with the recommendations of the independent  
5 Performance Audit conducted at the completion of the Fox Theater Renovation project which  
6 stated, in part: "A significant expansion of the project's scope, failure to conduct a comprehensive  
7 financial feasibility study, a project management structure that lacked independence, insufficient  
8 legislative oversight, and poor contract administration led to a final renovation project cost  
9 totaling almost \$91 million, or a 172 percent increase from the initial project cost estimate of \$33  
10 million." These acts and omissions by defendants, and each of them, have cumulatively caused  
11 financial harm to the citizens and taxpayers of the City of Oakland in the form of wasteful public  
12 expenditures and the reduction of public services. By failing to heed to the City Auditor's  
13 recommendations, the City of Oakland is acting in bad faith and breaching its fiduciary duty to  
14 oversee and balance the City's budget and to guard against wasteful expenditures.

15 89. As a proximate result of the breach of fiduciary duty and duty of care of  
16 defendants, and each of them, plaintiff and the citizens of Oakland have sustained and will  
17 continue to sustain loss of fiscal funds from the Oakland General Budget, all of which have  
18 caused, and continue to cause a depletion of Oakland's financial resources and resulting in  
19 reduced services to a City in dire need of more public services, not fewer.

20 WHEREFORE, plaintiff prays for declaratory and injunctive relief against defendants, and  
21 each of them, as hereinafter set forth.

22 **THIRD CAUSE OF ACTION:**  
**NEGLIGENCE**  
**(City of Oakland Defendants and**  
**Master Developer Defendants)**

23 90. ~~Plaintiff incorporate paragraphs 1 through 89 as though fully set forth herein.~~  
24 ~~Plaintiff further realleges and incorporates by reference as though set forth each and every~~  
25 ~~allegation contained in the First Cause of Action and the Second Cause of Action herein.~~  
26

1        91. — Plaintiff is informed and believes and thereon alleges that the execution of binding  
2 legal and financial agreements with a master developer that lacks qualifications to perform the  
3 work, and/or the misrepresentation of qualifications of the master developer, negligently and  
4 recklessly violates the public trust, the City Charter, City of Oakland municipal code, state law  
5 and federal law, the California Business & Professions Code and the UFTA. Further plaintiff  
6 alleges the City's failure to ensure that qualification requirements are met by private developers in  
7 partnership with the City to protect the public fund from default and to mitigate other risks to the  
8 public good is reckless and negligent and detrimental to plaintiff and similarly situated resident  
citizens and taxpayers of the City of Oakland.

9        92. — As a result of the City of Oakland's negligence in allowing Tagami and his  
10 company oversee, supervise, and manage the Fox Theatre Renovation Project, the City Council  
11 and City staff, and each of them, were left unawares of the amount of money that had been  
12 obligated to the Fox Theatre Renovation Project until after work orders had been issued. The  
13 result was that \$52 million of City funds were obligated to the project beyond the budget  
14 allocation, and additional funds were needed to compensate unpaid contractors for work  
15 performed. (See Exhibit M.) These reckless and negligent acts by defendants, and each of them,  
16 caused financial harm to plaintiff and similarly situated resident citizens and taxpayers of the City  
17 of Oakland.

18        93. — Plaintiff is informed and believes and thereon alleges that the overruns incurred by  
19 the City in connection with the Fox Theatre Renovation Project was the a direct result of the City  
20 of Oakland's negligently and carelessly giving full authority to Phil Tagami and CCG/CCIG to  
21 oversee, supervise, and manage the project and to approve change orders on the project without  
22 "returning to Council." These overruns constituted wasteful public expenditures, to the detriment  
of plaintiff and similarly situated resident citizens and taxpayers of the City of Oakland.

23        94. — Plaintiff is informed and believes and thereon alleges that the City of Oakland  
24 negligently and carelessly failed to comply with the cautionary recommendations of the  
25 independent Performance Audit prepared by City Auditor, Courtney A. Ruby, CPA, CFE  
26 following the Fox Theatre Renovation Project which stated, in part: "A significant expansion of

1 the project's scope, failure to conduct a comprehensive financial feasibility study, a project  
2 management structure that lacked independence, insufficient legislative oversight, and poor  
3 contract administration led to a final renovation project cost totaling almost \$91 million, or a 172  
4 percent increase from the initial project cost estimate of \$33 million." These reckless and  
5 negligent acts by defendants, and each of them, caused financial harm to the citizens and taxpayers  
6 of the City of Oakland.

7 95. Plaintiff is informed and believes and thereon alleges that the City Council and City  
8 staff negligently and carelessly overlooked the RFQ requirements in the approval of CCIG and  
9 Prologis to proceed with a Lease Disposition and Development Agreement (LDDA) (Exhibit N).  
10 Plaintiff further alleges that the City of Oakland, knew, or should have known, that at the time of  
11 execution of the LDDA, that Phil Tagami and CCG/CCIG had no similar project experience on  
12 any major infrastructure project in terms of the scope, scale, or complexity of the OAB, including  
13 intermodal and logistics. These reckless and negligent acts by defendants, and each of them, to  
14 disregard the RFQ requirements were conducted in bad faith in that the City essentially placed an  
15 inexperienced individual in charge of a potential \$1 billion project, putting the City at risk for  
16 numerous errors in management and overruns, as were already exhibited during defendant Phil  
17 Tagami's "oversight" of the Fox Theater Renovation project, a project far smaller in scope, size  
18 and complexity than the OAB. Thus, to select Phil Tagami to oversee, manage and supervise the  
19 OAB project threatens to cause financial harm to plaintiff and similarly situated citizens and  
20 taxpayers of the City of Oakland in the form of excessive public expenditures, in light of the facts  
21 which demonstrate that Phil Tagami does not have the financial capacity to pay for any potential  
22 overruns and excess costs.

23 96. Plaintiff is informed and believe and thereon alleges that the City defendants, and  
24 each of them, were negligent and careless in their duty to investigate the financial worthiness (and  
25 willingness) of the Master Developer (CCIG and ProLogis) to be able to provide the private  
26 investment capital to complete the redevelopment of the Oakland Army Base prior to signing  
binding agreements related to the disposition of property. These reckless and negligent acts by

1 defendants, and each of them, have put the citizens and taxpayers of the City of Oakland at risk of  
2 incurring excess public expenditures.

3 97. — Plaintiff is informed and believes and thereon allege that the City defendants are  
4 acting negligently and with reckless disregard in failing to enforce the private investment  
5 requirements of the Master Developer in the initial project agreements, putting the City at risk of  
6 absorbing all excess costs incurred by the project and therefore have put the City's financial  
7 resources at risk of excess expenditures and possible bankruptcy. These reckless and negligent  
8 acts by defendants and each of them have caused and will continue to cause financial harm to the  
9 citizens and taxpayers of the City of Oakland.

10 98. — Plaintiff is informed and believes and thereon alleges that neither defendant Phil  
11 Tagami, CCG/CCIG, Daniel Letter, Prologis/AMB, nor Prologis CCIG Oakland Global, LLC  
12 have been required to provide a guaranty to ensure the completion for this large complex project,  
13 despite this requirement being defined clearly stated in the ENA Schedule of Performance (see  
14 Real Estate Term Sheet, Exhibit H.) Further, private investment to match the public funds, which  
15 has been a performance requirement of CCIG and Prologis to proceed with the project, has not  
16 been secured or committed for this project. Nevertheless, defendants, and each of them,  
17 negligently and recklessly executed the LDDA and Property Management Agreement on or about  
18 October 23, 2012 without the Master Developer's satisfaction of these qualifications as outlined in  
19 the RFQ as requirements for a prospective developer, and without proof that the guarantor for the  
20 LDDA is a "financially strong entity with significant assets to guarantee LDDA Project  
21 completion obligation" (Exhibit H), all to the financial harm of the citizens and taxpayers of the  
22 City of Oakland in the form of threat to public funds. Defendants, and each of them, were put on  
23 notice of this problem by plaintiffs and other concerned citizens at City Council meetings and by  
24 way of the initial complaint in this action filed on August 3, 2012.

25 99. — Plaintiff is informed and believe and thereon alleges that similarly the reckless and  
26 negligent waiver of advertising and the RFP/RFQ competitive bidding process and negligent  
selection of the Master Developer defendants will lead to excess public expenditure in that the  
Master Developer defendant Phil Tagami has a historical pattern of costing the City of Oakland



1 large overruns, as evidenced the Fox Theater Renovation Project and the Rotunda Building for  
2 which the City forgave loans to the benefit of Phil Tagami. Said reckless and negligent waiver is  
3 therefore detrimental to plaintiff and other similarly situated resident citizens and taxpayers of the  
4 City of Oakland in the form of a threat of wasteful public expenditures and reduced public  
5 services.

6 100. Plaintiff is informed and believes and thereon alleges that the City defendants are  
7 negligently and carelessly proceeding with agreements and commitments of public funds without  
8 having certainty of the sources of additional required financing. These reckless and negligent acts  
9 by defendants, and each of them, have threatened to put the citizens and taxpayers of the City of  
10 Oakland in financial harm in the form of wasteful public expenditures, which will result in further  
11 reduced services to the City of Oakland—a reduction which the City can ill afford at this time, as  
12 many who live in Oakland and are affected by reduced public services (the reduced number of  
police officers, for example) would agree.

13 101. Plaintiff is informed and believes and thereon alleges that the \$14,000,000  
14 expended by the City of Oakland in relation to the OAB, including the cost of the CEQA  
15 environmental review, should have been borne by the Master Developer. This amount included  
16 the \$1,600,000 from the federal government that was earmarked as an OBRA federal and state  
17 fund grant which required a competitive bidding process. Plaintiff is further informed and  
18 believes and thereon alleges that the requirements of OBRA were negligently and carelessly  
19 ignored in the design and planning for the OAB by virtue of the execution of the ENA and LDDA  
20 with Phil Tagami and the CCG/CCIG entities, all to the financial harm of the citizens and  
21 taxpayers of the City of Oakland in the form of wasteful public expenditures.

22 102. As a proximate result of the negligent acts perpetrated by defendants, and each of  
23 them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss of fiscal  
24 funds from the Oakland General Budget, all of which have caused, and continue to cause a  
25 depletion of Oakland's financial resources and resulting in reduced services to a City in dire need  
26 of more public services, not fewer.

1       ~~WHEREFORE, plaintiff prays against defendants, and each of them, as hereinafter set~~  
2       ~~forth.~~

3                               **THIRD CAUSE OF ACTION:**  
4                               **FRAUD**  
5                               **(City of Oakland Defendants and**  
6                               **Master Developer Defendants)**

7       103. Plaintiff incorporates by reference paragraphs 1 through 102 of this Complaint as  
8       though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set  
9       forth each and every allegation contained in the First and Second Causes of Action.

10      104. Current case law provides that to plead fraud, nothing more is required than that the  
11      allegations be pled in specific language descriptive of the acts relied on to constitute fraud. (See  
12      *Maxwell v. City of Santa Rosa* (1959) 53 Cal. 2d 274.)

13      105. Plaintiff is informed and believes and thereon alleges that the City of Oakland has  
14      repeatedly waived the City of Oakland's competitive bidding requirement for projects that involve  
15      Phil Tagami and/or CCG/CCIG. On the majority, if not all, projects as evidenced by two previous  
16      city projects, the Rotunda Building and the Rotunda Garage undertaken by CCG/CCIG which is  
17      City-funded, the design and construction team contractors selected by CCIG are sourced contracts  
18      without a competitive process. The Oakland Municipal Code clearly states that the special  
19      exception is to be used only when the City deems it to be "in the city's best interest." This  
20      repeated use of waivers when dealing with Tagami and CCG/CCIG (and failure to use waivers  
21      when not dealing with these individuals and companies) points to deliberate and fraudulent intent  
22      especially when the waiver was utilized to award a development contract to a developer already  
23      known to have a history of exceeding budgetary limits. In fact, the City was put on notice of the  
24      danger to public funds when proceeding with the types of contracts it did when allowing Phil  
25      Tagami to act as the Master Developer of the Fox Theater project; thus the City was on notice of  
26      the danger to public funds if proceeding with the same contractual language and the same terms  
27      and conditions with this developer; yet the City disregarded the cautionary recommendations of  
28      the Performance Audit of October 2011 and acted in an arbitrary manner, inconsistent with due  
29      process, and without regard to public benefit to plaintiff and similarly situated resident citizens

1 and taxpayers of the City of Oakland given the threat of future excess public expenditures in  
2 connection with the OAB project.

3 106. Plaintiff is informed and believes and thereon alleges that defendants, and each of  
4 them, have deliberately and fraudulently ignored and refused to incorporate the recommendations  
5 of the October 2011 Fox Theater Performance Audit prepared by Thompson, Cogg, Bazillo &  
6 Associates which recommended against using the same methods as employed with the Fox  
7 Theater, and, "to use this [Fox Theater] project evaluation as a guide to future redevelopment  
8 projects." This failure to heed and adhere to the recommendations of the Performance Audit is a  
9 points to deliberate and fraudulent intent in that this failure to change its municipal code and  
10 contractual methods as set forth in the Performance Audit were made in order to arrive at a  
11 predetermined result contrary to the spirit and purpose of the law, which is detrimental to fiscal  
12 health of the City of Oakland and designed to harm plaintiff and similarly situated resident citizens  
13 and taxpayers of Oakland, all the while defendant Tagami, CCIG and Prologis CCIG Oakland  
14 Global LLC stand to profit millions of dollars without having to even pay anything to "get into the  
15 game."

16 107. Plaintiff is informed and believes and thereon alleges that each of defendants'  
17 policies, acts and practices were intended to result in defendants' making representations that their  
18 decisions were in the best interest of the public and of the citizens and taxpayers of Oakland,  
19 when, in fact, the documents themselves reflect that Phil Tagami and CCG/CCIG were poor  
20 stewards of the public's money as reflected by the Audit performed after the Fox Theatre Project.  
21 By their fraudulent conduct as alleged herein, defendants, and each of them, have created, engaged  
22 in, and/or participated in unfair practices in violation of Public Contract Code 2.04.0505 and  
23 California Code 4528.12, which set forth fair bidding requirements, actions which were performed  
24 in order to arrive at a predetermined result contrary to the spirit and purpose of the law, all of  
25 which are detrimental to the fiscal health of the City of Oakland and designed to harm plaintiff and  
26 similarly situated resident citizens and taxpayers of Oakland in the form of wasteful public  
expenditures.

1           108. Plaintiff is informed and believes and thereon alleges that defendants, and each of  
2 them, aided and abetted, encouraged and rendered substantial assistance to Phil Tagami and  
3 CCG/CCIG in accomplishing their fraudulent conduct and their wrongful goals and other fraud  
4 and wrongdoing complained of herein. In taking action, as particularized herein, to aid and abet  
5 and substantially assist in the commission of these wrongful acts and other wrongdoings  
6 complained of, each defendant acted with an awareness of its primary wrongdoing and realized  
7 that its conduct would substantially assist the accomplishment of the wrongful conduct, wrongful  
8 goals, and wrongdoing, all of which point to fraudulent intent, and actions performed in order to  
9 arrive at a predetermined result contrary to the spirit and purpose of the law, all of which is  
10 detrimental to fiscal health of the City and designed to harm plaintiff and similarly situated  
11 resident citizens and taxpayers of the City Oakland in the form of wasteful public expenditures.

12           109. Plaintiff is informed and believes and thereon alleges that the repeated use of the  
13 special exception to City contracting law is a violation of public law, both City and federal, and  
14 creates favoritism, which is what the municipal code and public contracts codes were specifically  
15 designed to prevent; therefore, these actions point to fraudulent intent, and actions performed in  
16 order to arrive at a predetermined result contrary to the spirit and purpose of the law. (See  
17 *Gogerty v. Coachella Valley Junior College Dist.* 57 Cal. 2d 727.) These unlawful acts are  
18 detrimental to fiscal health of the City and designed to harm plaintiff and similarly situated  
19 resident citizens and taxpayers of the City Oakland in the form of wasteful public expenditures.

20           110. Plaintiff is informed and believes and thereon alleges that the special exception has  
21 deliberately and fraudulently been employed with regard to Phil Tagami and CCG/CCIG on  
22 numerous occasions and with multiple projects, most recently with regard to the Oakland Army  
23 Base. Examples of the use of this waiver include, but are not limited to, the ENA signed in  
24 January 2010, where the Master Developer was to assume responsibility for overseeing and  
25 funding the cost of design and engineering related to master planning of the OAB development;  
26 the Second Amendment to the ENA in March 2011, where the City agreed to fund up to \$14.1  
million dollars for the necessary planning and engineering studies to create a master plan for the  
OAB; and waiving the competitive bidding process to allow the Master Developer to utilize its

1 preselected team of consultants and engineers to perform the contract work using public funds.  
2 (see Exhibit J). These deliberate and fraudulent actions were made in order to arrive at a  
3 predetermined result contrary to the spirit and purpose of the law and are detrimental to plaintiff  
4 and similarly situated resident citizens and taxpayers of the City of Oakland.

5 111. Plaintiff is informed and believes and thereon alleges that similarly the City of  
6 Oakland deliberately and fraudulently waived the advertising and Request for Proposals  
7 (RFP/RFQ) competitive bidding process and awarded the planning and design of infrastructure  
8 improvements for the Port-oriented rail yard and 7<sup>th</sup> Street overpass work, in order to arrive at a  
9 predetermined result contrary to the spirit and purpose of the law, and are therefore detrimental to  
10 plaintiff and other similarly situated resident citizens and taxpayers of the City of Oakland.

11 112. Plaintiff is informed and believes and thereon alleges that the City of Oakland and  
12 the Master Developers deliberately and fraudulently proceeded with the signing of the LDDA  
13 without satisfying the qualifications set out in the RFQ process further failed to secure any  
14 commitments for private funds for the infrastructure phase of the project which was a critical  
15 requirement of the plan for reuse and redevelopment of the Oakland Army Base. These actions  
16 were done with fraudulent intent and in order to arrive at a predetermined result contrary to the  
17 spirit and purpose of the law, and detrimental to plaintiff and other similar situated resident  
18 citizens and taxpayers of the City of Oakland and constitute a fraudulent conveyance in violation  
19 of the UFTA.

20 113. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
21 deliberately and fraudulently approved Resolution 83565, which effectively excluded the Local  
22 Business Enterprise (LBE) and Small Local Business Enterprise (SLBE) from participating in the  
23 public construction contract work on the OAB, in that the City waived the advertising and request  
24 for proposal/qualifications process, and agreed that CCG in its role as one of the developer parties  
25 under the ENA would contract with an "approved team of various consultants and contractors."  
26 Although it is evident from the DDA of both the Rotunda and the Rotunda Garage that Tagami  
had in the past included provisions for the LBE and SLBE and employment of local residents,  
Tagami resisted and continues to resist these requirements of his private-public contracts by

1 contracting solely with his "approved team." This waiver effectively excluded the LBE and the  
2 SLBE from participating in the meaningful contract work on the OAB. These waivers by  
3 defendants, and each of them, were fraudulently executed in order to arrive at a predetermined  
4 result contrary to the spirit and purpose of the law and are detrimental to the citizens and taxpayers  
5 of the City of Oakland in that said exclusions harm the local business economy and thus were not  
6 executed with the "best interests" of the City of Oakland.

7 114. As a proximate result of the fraudulent acts perpetrated by defendants, and each of  
8 them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss of fiscal  
9 funds from the Oakland General Budget, all of which have caused, and continue to cause a  
10 depletion of Oakland's financial resources and resulting in reduced services to a City in dire need  
11 of more public services, not fewer.

12 WHEREFORE, plaintiff prays for declaratory and injunctive relief against defendants, and  
13 each of them, as hereinafter set forth.

14 **FOURTH CAUSE OF ACTION**  
15 **VIOLATION OF CONTRACT CODES**  
16 **(City of Oakland)**

17 115. Plaintiff incorporates by reference paragraphs 1 through 114 of this Complaint as  
18 though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set  
19 forth each and every allegation contained in the First, Second, and Third Causes of Action.

20 116. Government Code §4529.5 provides that any individual or firm proposing to  
21 provide construction project management services pursuant to this chapter shall provide evidence  
22 that the individual or firm and its personnel carrying out onsite responsibilities have expertise.  
23 Defendants, and each of them, have violated this code and others in their negotiations with the  
24 Master Developer defendants. Further, California Public Contract Code states "a design-build  
25 contract requires a clear understanding of the roles and responsibilities of each participant in the  
26 design-build process...that the cost-effective benefits to cities are achieved by shifting the liability  
and risk for cost containment and project completion to the design-build entity." Here, the

1 liability and risk has been shifted to the City, not the private Master Developer defendants. (See  
2 Exhibit S.)

3 117. Waivers are meant to benefit public interest – not private interest. There is no  
4 evidence that the Master Developer defendants were the lowest responsible bidders for the  
5 redevelopment projects planned for the Oakland Army Base. Plaintiff is informed and believes  
6 and thereon alleges that the contract awarded to the Master Developer defendants was made with  
7 logistics in mind, rather than the lowest bid.

8 118. Plaintiff is informed and believes and thereon alleges that the provisions set forth in  
9 the City's Resolution 83565 C.M.S. are, in fact, forbidden by law (see Exhibit F) in that the  
10 requirement that the developer qualifications be appropriate and demonstrated prior to the  
11 execution of binding agreements and that the waiver of competitive bidding process have been the  
12 cumulative effect of irreparable financial harm to the City's limited financial resources, all to the  
13 fiscal harm of plaintiff and similarly situated resident citizens and taxpayers of the City of  
14 Oakland.

15 119. Plaintiff is informed and believes and thereon alleges that the City of Oakland's  
16 utilization of "waivers" and approval of Resolution 83565, which effectively excluded the Local  
17 Business Enterprise (LBE) and Small Local Business Enterprise (SLBE) from participating in the  
18 public construction contract work on the OAB, violated California Contract Code section 20160  
19 all to the harm of plaintiff and similarly situated residents and taxpayers of the City of Oakland in  
20 that public waste occurs when City Council awards contracts to companies that bid higher for  
21 projects than other qualified companies from the LBE and the SLBE would bid, had the LBE and  
22 SLBE been allowed to bid on these projects.

23 120. Plaintiff is informed and believes and thereon alleges that the City of Oakland's  
24 utilization of "waivers" and approval of Resolution 83565 further violated Oakland Municipal  
25 Code 2.04.05, 2.04.0501; California Government Code 4259.12, Federal Law 24 CFR 85, 24 CFR  
26 85.36; OMB Circularly A-102.

27 121. Plaintiff is informed and believes and thereon alleges that in violation of federal  
28 law, no such private investment by defendant Phil Tagami has been identified, secured, or

1 committed for the infrastructure portion of the OAB development, as evidenced in the Port of  
2 Oakland's staff report terminating its negotiation with defendant Phil Tagami and CCIG in  
3 October of 2011 (Exhibit G, p. 8).

4 122. Plaintiff is informed and believes and thereon alleges that the City of Oakland  
5 defendants violated federal contract codes with regard to Master Developer defendants, in  
6 particular, Phil Tagami, CCG/CCIG, and Prologis CCIG Oakland Global, LLC, in that the  
7 Managing Partner Phil Tagami does not possess the required credentials and licenses to be the  
8 Project Construction Manager for the OAB Redevelopment Project. (Exhibit K.) The City  
9 acknowledges under section 4 of the Agreement that Phil Tagami is not a licensed design  
10 professional, which is a prerequisite to supervise or oversee any public construction or renovation  
11 project; however, Government Code sections 4527, 4529.5 and 5500.1 prohibit such supervision  
12 by a non-licensed individual. Nevertheless, the City is proceeding with executed agreements and  
13 commitments of public funds for this undertaking without having certainty about the qualifications  
14 of the Master Developer and the sources of the additional required financing, all to the detriment  
15 of plaintiff and similarly situated citizens and taxpayers of Oakland.

16 123. As a proximate result of the code violations perpetrated by defendants, and each of  
17 them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss of fiscal  
18 funds from the Oakland General Budget, all of which have caused, and continue to cause a  
19 depletion of Oakland's financial resources and resulting in reduced services to a City in dire need  
20 of more public services, not fewer.

21 **FIFTH CAUSE OF ACTION**  
22 **UNFAIR COMPETITION (BUS. & PROF. CODE SEC. 17200 *ET SEQ.*)**  
23 **(Master Developer Defendants)**

24 124. Plaintiff incorporates by reference paragraphs 1 through 123 of this Complaint as  
25 though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set  
26 forth each and every allegation contained in the First, Second, Third, and Fourth Causes of Action.

27 125. This cause of action is brought pursuant to Unfair Competition Law & Business  
28 Professional Code §§ 17200 *et seq.* Defendants' conduct constitutes unfair, unlawful and/or  
29 fraudulent business practices within the meaning of Business & Professions Code §17200.



126. Plaintiff brings this cause of action in virtual representation on behalf of all citizens and taxpayers of the City of Oakland pursuant to Business & Professions Code section 17204.

127. Pursuant to Business & Professions Code § 17203, plaintiff and the citizens of Oakland seek from defendants, and each of them, restitution and the disgorgement of all earnings, profits, compensation, benefits and other ill-gotten gains obtained by defendants as a result of defendants' conduct in violation of Business & Professions Code §§ 17200 *et seq.*

128. Pursuant to Business & Professions Code §17204, plaintiff in virtual representation of all citizens of the City of Oakland, seeks an order of this Court enjoining defendants, and each of them, from continuing to engage in the acts as set forth in this complaint, which acts constitute violations of Business & Professions Code §§ 17200, *et seq.* Plaintiffs and the citizens and taxpayers of Oakland will be irreparably harmed if such an order is not granted.

129. As a proximate result of the conspiratorial acts perpetrated by defendants, and each of them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss of fiscal funds from the Oakland General Budget, all of which have caused, and continue to cause a depletion of Oakland's financial resources and resulting in reduced services to a City in dire need of more public services, not fewer.

**SIXTH CAUSE OF ACTION:**  
**VIOLATION OF UFTA - FRAUDULENT CONVEYANCE**  
**(City of Oakland Defendants and Master Developer Defendants)**

130. Plaintiff incorporates by reference paragraphs 1 through 129 of this Complaint as though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set forth each and every allegation contained in the First, Second, Third, Fourth, and Fifth Causes of Action.

131. Plaintiff is informed and believes that the defendants, and each of them, violated the Uniform Fraudulent Conveyance Act (“UFTA”) when executing the LDDA on October 23, 2012. The City of Oakland authorized through Resolution No. 83565 the Third Amendment to the ENA which changed the developer entity to “Prologis Property, L.P./Prologis Oakland Global LLC”; however, the only signature on the LDDA is that of Mark Hansen, Senior Vice President of

1 Prologis CCIG Oakland Global LLC, effectively removing any contractual obligation of Prologis  
2 Property, L.P. (formerly AMB), the "strong financial partner" as identified in Exhibit N,  
3 Attachment C to the First Amendment to the ENA (p.1 of 4).

4 132. Plaintiff is informed and believes and thereon alleges that the City of Oakland and  
5 Prologis CCIG Oakland Global LLC engaged in a business transaction for which the remaining  
6 assets of the debtor were unreasonably small in relation to the business or transaction, which  
7 constitutes a fraudulent transfer.

8 133. Plaintiff is informed and believes and thereon alleges that the removal of Prologis  
9 Property, L.P. was deliberately omitted to remove liability from "the strong financial partner" (as  
10 identified in Exhibit N), putting the City of Oakland at unreasonable financial risk in that the  
11 "weaker partner" (as identified in Exhibit N), is Phil Tagami (CCG). Pursuant to Resolution No.  
12 83565 the City allowed CCG (Phil Tagami) to assign all of its rights, title, interests, and  
13 obligations in, to and under the ENA to CCIG Oakland Global, LLC." (Exhibit B). There is no  
14 evidence that Prologis CCIG Oakland Global, LLC is a partnership between Prologis and CCIG.  
15 Prologis Property, L.P. is not a party to the LDDA, and this omission was never approved by City  
16 Council resolution. The LDDA is an exclusive negotiation with Phil Tagami (CCG/CCIG)  
17 represents a fraudulent conveyance under California Civil Code §§ 3439-3439.12.

18 134. Plaintiff is informed and believes and thereon alleges that the acts and omission of  
19 defendants, and each of them, violated California Civil Code §3439.04, constituting actual intent  
20 to defraud, delay or hinder the taxpayers of Oakland and/or were done for less than full  
21 consideration (constructive intent).

22 135. Plaintiff is informed and believes and thereon alleges that each of defendants' acts  
23 and omissions were intended to represent that their decisions were in the "best interests" of the  
24 public and of the citizens and taxpayers of Oakland, when, in fact, the documents themselves  
25 reflect that the profit and loss statements and balance sheets of CCG (now Prologis CCIG Oakland  
26 Global, LLC) do not demonstrate sufficient sources of equity needed to support the costs of the  
OAB project." (See Exhibit N.)

1 136. By their conduct as alleged herein, defendants, and each of them, have engaged in a  
2 fraudulent transfer of the Oakland Army Base contrary to the spirit and purpose of the law, which  
3 is detrimental to the fiscal health of the City of Oakland and designed to harm plaintiff and  
4 similarly situated resident taxpayers and citizens in the form of wasteful public expenditures. The  
5 transactions executed by defendants, and each of them, were designed to allow the citizens of  
6 Oakland, through the City of Oakland's budget, to shoulder the entire cost of the Oakland Army  
7 Base project, which breaches the City's mandatory duty to its citizens to safeguard and wisely  
8 spend taxpayer funds.

9 137. As a proximate result of the fraudulent conveyance perpetrated by defendants, and  
10 each of them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss  
11 of fiscal funds from the Oakland General Budget, all of which have caused, and continue to cause  
12 a depletion of Oakland's financial resources and resulting in reduced services to a City in dire  
13 need of more public services, not fewer.

14 WHEREFORE, plaintiff prays for declaratory and injunctive relief against defendants, and  
15 each of them, as hereinafter set forth.

16 **SEVENTH CAUSE OF ACTION:**  
17 **CONSPIRACY TO COMMIT FRAUD**  
18 **(City of Oakland Defendants)**

19 138. Plaintiff incorporates by reference paragraphs 1 through 137 of this Complaint as  
20 though fully set forth herein. Plaintiff further realleges and incorporates by reference as though set  
21 forth each and every allegation contained in the First, Second, Third, Fourth, Fifth, and Sixth  
22 Causes of Action.

23 139. Plaintiff is informed and believes and thereon alleges that at all times herein  
24 mentioned, defendants, and each of them, knowingly and willfully conspired and agreed among  
25 themselves to perpetrate a fraud on plaintiff and other Oakland citizens and taxpayers in  
26 negotiating the ENA with Phil Tagami under the guise that defendant Tagami and California  
Capital Group (CCG) would partner with Daniel Letter and AMB Property, L.P. (the "strong  
financial partner" as described in Exhibit N) when, in fact, defendants had no intention of

1 including Daniel Letter and AMB/Prologis Property, L.P. in the final agreement and planned to  
2 convey the OAB property solely to Phil Tagami and CCG/CCIG.

3 140. The selection of AMB/CCG by the Oakland Redevelopment Agency was through a  
4 *conceptual process*, not a formal competitive bidding process. In January of 2009, the Port issued  
5 an RFQ for a master lessee to assume all operation, maintenance and development obligations of  
6 the Port-owned portion of the OARB and other properties, and on May 2009, the Port issued a  
7 new RFQ which clarified the Port's expectations of a public-private partnership. If negotiations  
8 were successful, the selected developer would enter into a three-year Option period, during which  
9 the developer would be required to meet certain milestones.

10 141. Three development teams responded to the May 2009 RFQ: AMB/CCG,  
11 CenterPoint Properties, and Ports America Outer Harbor Terminal, LLC. AMB/CCG received the  
12 highest score in an "evaluation process," leading Port staff to recommend at the July 16, 2009  
13 Maritime Committee meeting that the Port enter into an ENA with AMB/CCG. The panelists  
14 recognized that the proposals submitted by AMB/CCG were conception. They expressed concern  
15 that the City/Agency be careful regarding the desired outcomes of the ENA process, which  
16 included financial protections for the City, including guarantees of completion at each phase. To  
17 date, the City has not responded to public records requests asking how the scoring of the  
18 "evaluation process" was based.

19 142. On July 14, 2009 the Oakland Redevelopment Agency Report (Exhibit AA)  
20 supported the Interview Panel's recommendation to enter into an Exclusive Negotiation  
21 Agreement (ENA) between the Redevelopment Agency and AMB Property  
22 Corporation/California Capital Group (AMB/CCG) for the development of the former Oakland  
23 Army Base. "A partnership with a world-class developer such as AMB Property Corporation,  
24 combined with the Port of Oakland's new partnership with Ports America, offers Oakland access  
25 to new sources of capital that enable a realistic approach to base renewal." The emphasis on this  
26 conceptual proposal was to create a "unified vision to maintain and strengthen Oakland's place as  
a world-class port." This recommendation was made with the position that a "strong public  
private partnership with AMB/CCG positions the City and Port to attract the investment capital

1 needed to develop the entire Base over the long term." The recommendation was approved at the  
2 Port Board July 21, 2009 meeting.

3 143. The "joint venture" structure provided for AMB to take 15% share of the project  
4 with CCG taking an 85% share. AMB is a publicly traded real estate investment trust (REIT).  
5 Consequently, more financial information is available for AMB than for the other entities; its  
6 financial status is transparent and easily monitored through Securities and Exchange commission  
7 filings and other reporting. In addition to the availability of information for AMB, the company  
8 appears to have substantial capacity to raise equity and debt. In a summary from a financial  
9 package presented to Wall Street Market Analysis in the third quarter of 2008, AMB demonstrated  
10 a total market capitalization of \$9 billion with equity of \$4.9 billion, available cash of \$333  
11 million, and \$2.3 billion in combined available credit and a line of credit capacity. No such  
12 financial capacity of CCG aka Tagami – the partner with 85% control of the project -- exists.

13 144. The City recommended in the July 9, 2009 Agenda Report that "the Agency not  
14 relinquish site control of any area of the Army Base until assurances are in place that final site  
15 plans meet the City's goals and priorities, and that the selected developer has the capacity and  
16 resources to fulfill City's development requirements." Regardless of the Agency's concern that  
17 "all assurances be in place," the City knowingly and willfully conspired and agreed among  
18 themselves to perpetrate a fraud on plaintiff and other Oakland citizens and taxpayers by  
19 relinquishing control of the OAB to AMB/CCG as Master Developer.

20 145. On August 10, 2009, the Redevelopment Agency revised Resolution 2009-0081  
21 (Exhibit BB) to authorize the Exclusive Negotiating Agreement for 360 days from agency  
22 approval between the Oakland Redevelopment Agency and AMB Property Corporation/California  
23 Capital Group (AMB/CCG). Attached as Exhibit D to that Resolution was the Real Estate Term  
24 Sheet that notes (2A) that **"Guarantor must be financially strong entity with significant assets  
25 to guarantee LDDA Project completion** obligation, as determined by Agency. (Exhibit H "Real  
26 Estate Term Sheet").

27 146. The initial ENA was entered into with the Redevelopment Agency and AMB/CCG  
28 despite the City's having recently sustained massive losses as a result of the redevelopment of the

1 Fox Theater, a project that defendant Phil Tagami and CCG oversaw and managed. Plaintiff is  
2 informed and believes that the selection of Phil Tagami as Master Developer of the former OAB  
3 violated Oakland Municipal Code and federal contract codes in that there is no evidence to  
4 demonstrate that Phil Tagami was the lowest responsible bidder on the project, either in terms of  
5 the amount of the bid and in light of Tagami's lack of experience in intermodal and logistics. He  
6 was selected through a *conceptual process* and was given the "highest score" on an unknown  
7 "evaluation" prepared by the Redevelopment Agency. Plaintiff alleges that this selection process  
8 not based on the lowest responsible bid as required by the Oakland Municipal Code, nor was  
9 waiver of the bidding process made in the "best interests of the City." The City was still under an  
10 obligation to demonstrate to the citizens that defendant Tagami was the best possible choice for  
11 the project, given that other developers with far more financial resources and experience than  
12 Tagami with logistic and intermodal were rejected. Plaintiff alleges that these actions resulted in  
13 the awarding of the OAB to entities that were not entitled to the contract and were obtained by  
14 fraud and exploitation of Oakland taxpayers.

14 147. The structure of the financial documents were drafted with intent to arrive at a  
15 predetermined result (see *Maxwell, supra*) to exploit the citizens and taxpayers of Oakland in that  
16 they contained identical provisions to those contained in prior contracts between the City and Phil  
17 Tagami, including the Rotunda, the Rotunda Garage, and the Fox Theater Renovation project  
18 where the instruments were structured so that the developer would profit more on the project, at  
19 the expense of the Oakland taxpayers. This was brought to light by the City Auditor's report of  
20 October 2011. Nevertheless, defendants willfully and knowingly continued to negotiate with  
21 defendant Phil Tatami and CCG/CCIG with regard to the former OAB.

22 148. Upon the selection of AMB/CCG, the Agency required that AMB/CCG deposit  
23 funds with the Agency for Project Expense Payments (PEP). These funds were to be used to  
24 cover project develop related to third-party contracts, City staff costs, and other expenses  
25 necessary to evaluate and thoroughly vet each phase of the proposed development. Specifically,  
26 potential PEP related costs include, but are not limited to planning, CEQA review, design, and  
engineering review, and traffic analysis. There is no evidence that the PEP was ever paid; a public

1 records request made in October of 2012 reflects that the Port ever received the \$50,000 "security  
2 deposit" from Phil Tagami (Exhibit W). This failure of the City to require a nominal deposit from  
3 the Master Developer constitutes fraud (misrepresentation) and fraud (concealment) in that the  
4 citizens of Oakland were lead to believe that the Master Developer had the funds necessary to  
5 complete the proposed project.

6 149. On October 6, 2010 the Agency and AMB/CCG entered into a First Amendment to  
7 the ENA where the Agency (City) agreed to pay for consultants to prepare the required CEQA and  
8 NEPA documentation. The ENA retained LSA Associates and stated that "the Agency will pay  
9 LSA the entire negotiated amount (not to exceed \$360,000) with a developer to "timely reimburse  
10 the agency one-third" of the amount. The First Amendment to the ENA did not provide any  
11 specific reimbursement date from the Master Developer. There is no evidence that the Master  
12 Developer has reimbursed the City for its share of the CEQA study, nor any of the other  
13 predevelopment costs that the City has advanced. These actions of defendants and each of them,  
14 in failing to require Master Developer to reimburse the City for these pre-development costs were  
15 made to perpetrate fraud on the citizens and taxpayers of Oakland in that taxpayer funds used were  
16 knowingly misappropriated to pay for OAB costs when the EDC specifically stated that the City  
17 needed "private capital to fund significant portions of the upfront capital expenses of the base  
18 conversion (Exhibit B, I-3).

19 150. On March 15, 2011, the City of Oakland entered into a Second Amendment to the  
20 ENA despite the City's own analysis that: "The joint venture structure of AMB/CCG does not  
21 support the significant projected equity and debt needs of this project. 15% equity participation by  
22 the strong financial partner, with 85% by the weaker partner is a significant problem. CCG's  
23 profit and loss statements from 2006, 2007, and 2008 do not demonstrate sufficient sources of  
24 equity needed for the OAB project." (Exhibit N) Despite its own analysis, the City willfully and  
25 fraudulently continued to negotiate the ENA with AMB/CCG, and, in fact, perpetrated fraud  
26 against the citizens of Oakland by executing the LDDA on October 23, 2013 with the "weak  
partner" (defendant Tagami/CCG).

1           151. The term sheet attached to the August 10, 2009 Agenda Report (Exhibit BB,  
2 Exhibit H) further states that "Agency has invested approximately \$27,000,000 in readying the  
3 Property for development. Lessee shall match the investment with a minimum equity  
4 participation amount of \$27,000,000 prior to any request for Agency funding. Match may include  
5 work conducted on project prior to execution of ENA that adds specific values to project going  
6 forward. Developer shall match future Agency investment in the development of the Property on  
7 a dollar for dollar basis." The Master Developer never matched the Agency funds; in fact, the  
8 City knowingly and willfully failed to compel defendant Tagami to match any funds which also in  
9 direct opposition to the EDC which stated that the only way that the City of Oakland, with its  
10 limited financial resources, could embark upon this project was if the Master Developer matched  
11 the agency funds. Despite these facts being brought to its attention, the City has still refused to  
12 compel defendant Tagami (AMB/CCG) to match the Agency funds, constituting a breach of  
13 mandatory duty and violation of public trust.

14           152. On April 5, 2011, the Redevelopment Agency passed Resolution 2011-0035  
15 authorizing "reimbursement to California Capital Group ("CCG") of up to a maximum amount of  
16 \$14,100,000 for the third-party work for the base's infrastructure. (Exhibit T) Authorizing  
17 "reimbursement" to the Master Developer perpetrated fraud, in that the Master Developer was to  
18 pay all predevelopment costs pursuant to the EDC.

19           153. The April 5, 2011 Resolution also released AMB Property, LP from responsibility  
20 for the planning and design work and designating CCG as the sole party responsible for the  
21 planning and design work. (Exhibit T) Defendants further knowingly and willfully conspired to  
22 remove AMB's participation in the planning and design work on the OAB in order to grant Phil  
23 Tagami 85% control of the entire project, despite his lack of financial capacity to support that  
24 large a percentage of the project. Plaintiff alleges that this removal of Daniel Letter and AMB  
25 from the planning and design work was done knowingly and willfully with intent to defraud the  
26 citizens of Oakland, all of which damage plaintiff and all citizens therein in the form of reduced  
services from the depletion of the City's general fund and the inability to support police services.



1           154. On September 28, 2011, the Oakland City Council Revised Resolution No. 83565  
2 authorized the City to enter into a Third Exclusive Negotiating Agreement with the Master  
3 Developers. (Exhibit B) This resolution authorized AMB Property, LP to change its names to  
4 Prologis Property, LP and to allow CCG to assign all of its interests and obligations under the  
5 ENA to "CCIG Oakland Global, LLC." By allowing CCG to assign all of its interests and  
6 obligations to CCIG Oakland Global, LLC, the City knowingly and willfully created a shield of  
7 liability while at the same time maintaining a façade that this "joint venture" with Prologis  
8 Property, L.P. (the strong financial partner), existed, all of which was knowingly and willfully  
9 crafted to create a false sense of security in the citizens of Oakland who knew of the fiscal  
10 weakness of Tagami and CCG/CCIG, especially in light of the tens of millions of dollars that  
11 defendant Tagami had cost the City of Oakland in connection with the Fox Theater Renovation  
12 project. (Exhibit M).

13           155. The September 28, 2011 ENA specifically stated that "the ENA is ... **not**  
14 **assignable to any other person or entity without the written consent...** (Exhibit B). The ENA  
15 was specifically assigned to Prologis Property, LP *and* CCIG Oakland Global, LLC, yet on  
16 October 23, 2012, the LDDA was executed by "Mark Hansen, Sr. VP" of "Prologis CCIG  
17 Oakland Global, LLC." No such merger between Prologis and CCIG Oakland Global LLC was  
18 ever identified in any of the City resolutions. Plaintiff alleges that the entity Prologis Property,  
19 L.P. was knowingly and willfully removed from the LDDA and/or underwent an concealed  
20 merger with CCIG Oakland Global LLC to enter into the binding agreement on this enormous  
21 project giving the weak partner (CCG/CCIG) full control of the OAB, putting the City at fiscal  
22 risk for the entire project.

23           156. The records of the California Secretary of State will reflect that there is no entity by  
24 the name of "CCIG Oakland Global LLC." There is however an entity by the name of "Prologis  
25 CCIG Oakland Global, LLC" which was incorporated on September 17, 2012, approximately one  
26 month prior to the signing of the LDDA. There is no evidence that Daniel Letter is an officer of  
this corporation. Plaintiff alleges that the entity "Prologis CCIG Oakland Global LLC" is simply a  
"shell corporation" designed to conceal the true intent of defendants, and each of them which was

1 to utilize public funds without transparency to the public and was done with an intent to defraud  
2 the citizens of Oakland.

3 157. On October 18, 2011 the Port of Oakland adopted a resolution acknowledging the  
4 contractual pre-development agreement milestones with Prologis, Inc. and California Capital and  
5 Investment Group (CCIC) had not been achieved and terminated the agreement with Prologis and  
6 CCIG. (Exhibit G). Regardless of the Port's termination of its relationship with AMB/CCG  
7 defendant Tagami, the City of Oakland knowingly and willfully conspired to perpetrate a fraud on  
8 plaintiff and the citizens and taxpayers of Oakland by continuing to negotiate with a Master  
9 Developer when it had willfully and knowingly failed to demonstrate fiscal worthiness for the  
10 project, all with an intent to defraud the citizens of Oakland and to provide a false sense of  
11 security that the City was acting "in the best interests" of the City.

12 158. Despite the protests and concerns voiced by plaintiff and other concerned citizens  
13 of Oakland at City Council meetings, defendants, and each of them, executed the LDDA and  
14 Property Management Agreement with "Prologis CCIG Oakland Global, LLCA" -- an entity that  
15 was never approved of by City Council -- lulling plaintiff and the citizens and taxpayers of  
16 Oakland into a false sense of security that the entity Prologis CCIG Oakland Global LLC would  
17 not create a significant fiscal impact on the City budget. By assigning all rights and interests to  
18 "CCIG Oakland Global, LLC," defendant Tagami attempted to shield himself against any liability  
19 stemming from great financial losses which will occur on the Army Base with a developer that has  
20 no financial capacity (as the factual record demonstrates) and no experience with intermodal and  
21 logistics; further defendant Tagami has shown a pattern of running up overhead and costing the  
22 City millions of dollars as demonstrated by the Fox Theater audit report, all with an intent to  
23 defraud the citizens of Oakland, and each of them as taxpayers who will be burdened with the  
24 entire cost of the OAB project.

25 159. Defendants attempt to shield defendant Tagami from the responsibility to  
26 reimburse the City certain costs that the City has already advanced, as well as from paying any  
other development costs, allows the citizens of Oakland to pay for the entire OAB project, fails in  
that the entity to which he received permission to assign all rights and interests to was "CCIG

1 Oakland Global, LLC" – not "Prologis CCIG Oakland Global, LLC." There is and never has been  
2 an LLC filed with the Secretary of State by the name of "CCIG Oakland Global, LLC," and the  
3 City of Oakland never approved the assignment of all of CCG's rights to an entity by the name of  
4 "Prologis CCIG Oakland Global LLC." This "word smithing" by defendants, and each of them,  
5 constitutes conspiracy to commit fraud to utilize entirely public funds to embark upon a \$1.2  
6 billion project which was specifically prohibited by the EDC of April 2000, and constitutes a  
7 violation of mandatory duty and public trust.

8 160. On September 17, 2012 Prologis CCIG Oakland Global, LLC, a Delaware limited  
9 liability corporation became an official entity, and the entity that the City defendants willfully and  
10 knowingly signed the LDDA. Plaintiff alleges that this "name switching" by defendants, and each  
11 of them, was done to perpetrate fraud against plaintiff and the citizens of Oakland in that they had  
12 no intention from the beginning of ever utilizing funds from AMB/Prologis Property, L.P.; at the  
13 same time defendants Tagami and the City used the entity AMB to be named in the ENA  
14 documents to lull the public into a false sense of security that the entity selected by the City to  
15 developer the OAB had the financial viability to sustained the project.

16 161. To date, despite repeated requests by plaintiff and other Oakland citizens,  
17 defendants have not identified the guarantor for the Oakland Army Base project even though  
18 Exhibit H states that a guarantor is required for this project because of the enormous costs that will  
19 be incurred from breaking ground to project completion. This failure to secure a guarantor  
20 constitutes a willful and knowing intent to defraud plaintiff and all citizens of Oakland in that the  
21 defendants had planned all along for the City of Oakland and other public funds to pay for the  
22 entire cost of the project and to allow Phil Tagami to develop the OAB property without "bringing  
23 any money to the table."

24 162. Plaintiff alleges that these actions by defendants, and each of them, in contracting  
25 with "Prologis CCIG Oakland Global LLC" were orchestrated solely in order to meet the  
26 timeframe requirements to be eligible for federal TCIF funds, yet the Master Developer does not  
have the capacity to match any TCIF funds, shifting the burden of the entire project of the OAB to

1 the City of Oakland's citizens and taxpayers, all the while lulling the public into a false sense of  
2 security that the actions of City Council were made in the "best interests of the City."

3 163. As a proximate result of the conspiratorial acts perpetrated by defendants, and each  
4 of them, plaintiff and the citizens of Oakland have sustained and will continue to sustain loss of  
5 fiscal funds from the Oakland General Budget, all of which have caused, and continue to cause a  
6 depletion of Oakland's financial resources and resulting in reduced services to a City in dire need  
7 of more public services, not fewer.

8 **PRAYER**

9 WHEREFORE, plaintiff prays for injunctive and declaratory relief against defendants, and  
10 each of them, as follows:

11 1. For a temporary restraining order, a preliminary injunction, and a permanent  
12 injunction all enjoining defendants, and each of them, and their agents, servant, and employees  
13 and all persons acting under, in concert with, or for them from proceeding forward with the actions  
14 as provided in the executed agreements between the City of Oakland and Phil Tagami,  
15 CCG/CCIG, David Letter, AMB/Prologis, and/or Prologis CCIG Oakland Global, LLC;

16 2. To null and void all present contracts and agreements between the City of Oakland  
17 and Phil Tagami, CCIG, David Letter, Prologis, and/or Prologis CCIG Oakland Global, LLC;

18 3. To rescind and halt any actions related to the signing and implementation of the  
19 Lease Disposition and Development Agreement between the City of Oakland and Phil Tagami,  
20 CCIG, David Letter, Prologis, and/or Prologis CCIG Oakland Global, LLC;

21 4. To mandate that Phil Tagami of CCIG and Daniel Letter of ProLogis and their  
22 entities to produce evidence of financial capacity to complete the project and to provide reasonable  
23 private investment to match the funds contributed by the City and the State;

24 5. To nullify and future waiver of the competitive bidding process in the City of  
25 Oakland contracting practices and disallow the special exception based on such waiver being  
26 deemed "in the best interest of the City";

1           6.     To institute industry standard requirement that a financial guarantor be required on  
2 the OAB development so that the City is not subjected to undue financial hardship and irreparable  
3 financial harm;

4           7.     To mandate that the city administration be required to develop policies and  
5 procedures for future capital projects prior to the Oakland Army Base moving forward, that states  
6 what, when, and how information regarding scope and costs should be communicated to the City  
7 Council/Committees by the respective city agency;

8           8.     For the Master Developer defendants to pay to the City of Oakland restitution in an  
9 amount equal to all pre-development costs that it did not pay during the pre-development phase of  
10 the City of Oakland and for which the City of Oakland paid.

11           9     For an order that Phil Tagami and CCG/CCIG pay restitution to the City of  
12 Oakland for an amount equal to all overruns that required the City of Oakland to pay during the  
13 Fox Theater Renovation Project;

14           10.    For an order that Phil Tagami and CCG/CCIG pay restitution to the City of  
15 Oakland for the amount equal to the loan that the City of Oakland forgave Phil Tagami in  
16 connection with the Rotunda Building project.

17           11.    That pursuant to Business & Professions Code §§ 17204 and 17535, all defendants,  
18 their officers, directors, principals, assignees, successors, agents, representatives, employees,  
19 subsidiaries, affiliates, and all persons, corporations and other entities acting by through, under, or  
20 on behalf of said defendants, or acting in concert or perception with them, be permanently  
21 enjoined from directly or indirectly making any illegal, untrue, or misleading statements in  
22 violation of Business and Professions Code sections 17200 and 17500.

23           12.    That pursuant to Business & Professions Code §17204, all defendants, their  
24 officers, directors, principals assignees, successors, agents, representatives, employees,  
25 subsidiaries affiliates, and all persons, corporations, and other entities acting by, though, under, or  
26 on behalf of said defendants, or acting in concert or participation with them, be permanently  
enjoined from directly or indirectly committing any violations of Business & Professions Code §§  
17200 *et seq.*, including, but not limited to, the violations alleged in this complaint;

1           13.    For an order awarding the citizens and taxpayers of Oakland general damages  
2 according to proof;

3           14.    For an order awarding the citizens and taxpayers of Oakland economic damages  
4 according to proof;

5           15.    For an order awarding the citizens and taxpayers of Oakland punitive and  
6 exemplary damages according to proof;

7           16.    For an order awarding prejudgment and post-judgment interest at the maximum  
8 legal rate;

9           17.    For attorneys' fees, if applicable;

10          18.    For costs of suit incurred herein; and

11          19.    For such other and further relief as the Court may deem proper.

12 Date: March 7, 2013

13   
14 GENE HAZZARD  
15 Plaintiff *in propria persona*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 1325 East 32<sup>nd</sup> Street, Oakland, CA 94602.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **SECOND SUPPLEMENTAL DECLARATION OF GENE HAZZARD IN SUPPORT OF**  
7 **MOTION TO AMEND**

8 to:

9 *Counsel for the City of Oakland*  
10 Kevin D. Siegel  
11 Burke, Williams and Sorensen  
12 1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

13  
14 — BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
United States mail at San Francisco, California.

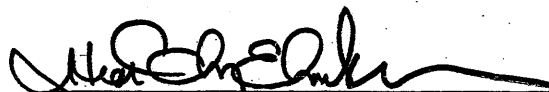
15 X BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
16 office of the person(s) listed above at 1221 Oak Street, Oakland, California.

17 — BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
to the office of the person(s) listed above.

18 — BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
19 facsimile transmission at or about Enter time on that date. This document was transmitted  
20 by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
telephone number (415) 391-6965. The transmission was reported as complete and without  
21 error. A copy of the transmission report, properly issued by the transmitting machine, is  
attached. The names and facsimile numbers of the person(s) are as set forth above.

22 — BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
23 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
service by e-mail. No electronic message or other indication that the transmission was  
unsuccessful was received within a reasonable time after the transmission.

24 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
25 March 7, 2013, at San Francisco, California.

26   
27 HEATHER M. EHMKE  
28

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

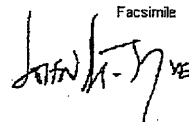
The tentative ruling is affirmed as follows: The Demurrer of Defendants City of Oakland, Council Member Larry Reid, Council Member Nancy Nadel, Council Member Jane Brunner, Council Member Rebecca Kaplan, Council Member Pat Kernighan, Council Member Libby Schaaf, Council Member Ignacio de la Fuente, Council Member Desley Brooks, Mayor Jean Quan, City Administrator Deanna Santana, Assistant City Administrator Fred Blackwell, Former Community and Economic Development Director Dan Lindheim, Former Community and Economic Development Director Walter Cohen, Former OBRA Director Aliza Gallo, OBA Project Manager Pat Cashman, Development Director Gregory Hunter, and OAB Project Manager Al Auletta ("City Defendants") to the Verified Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(e), is DROPPED.

The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile  


Judge John M. True, III

Order

1129



SHORT TITLE:

Hazzard VS City of Oakland

CASE NUMBER:

RG12642082

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order

1130

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

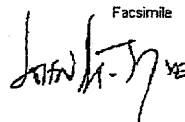
The tentative ruling is affirmed as follows: The Demurrer of Defendants Phil Tagami and Daniel Letter to the First Amended Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(a), (e) and (f), is DROPPED.

The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile  


Judge John M. True, III

Order

1131

SHORT TITLE:

Hazzard VS City of Oakland

CASE NUMBER:

RG12642082

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_

---

Order

1132

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By

  
digital

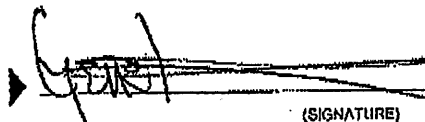
Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>GENE HAZZARD, In Pro Per</b>  282 Adams Street, #6 Oakland, CA 94610 TELEPHONE NO.: (510) 418-0501 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Plaintiff</b>		FOR COURT USE ONLY  ENDORSED FILED ALAMEDA COUNTY  MAR 12 2013 CLERK OF THE SUPERIOR COURT By _____ Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>OAKLAND</b> STREET ADDRESS: <b>Alameda Superior Court</b> MAILING ADDRESS: <b>1225 Fallon Street</b> CITY AND ZIP CODE: <b>Oakland, CA 94612</b> BRANCH NAME:		
PLAINTIFF/PETITIONER: <b>GENE HAZZARD</b>  DEFENDANT/RESPONDENT: <b>CITY OF OAKLAND, et al.</b>		
NOTICE OF ENTRY OF JUDGMENT OR ORDER  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeded \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded was \$25,000 or less)		CASE NUMBER: <b>RG12642082</b>

## TO ALL PARTIES:

1. A judgment, decree, or order was entered in this action on (date): **March 7, 2013**
2. A copy of the judgment, decree, or order is attached to this notice.  
 See attached Order dropping Defendant City of Oakland's Demurrer to First Amended Complaint.

Date: March 12, 2013

GENE HAZZARD(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

  
(SIGNATURE)

BY FAX

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

The tentative ruling is affirmed as follows: The Demurrer of Defendants City of Oakland, Council Member Larry Reid, Council Member Nancy Nadel, Council Member Jane Brunner, Council Member Rebecca Kaplan, Council Member Pat Kernighan, Council Member Libby Schaaf, Council Member Ignacio de la Fuente, Council Member Desley Brooks, Mayor Jean Quan, City Administrator Deanna Santana, Assistant City Administrator Fred Blackwell, Former Community and Economic Development Director Dan Lindheim, Former Community and Economic Development Director Walter Cohen, Former OBRA Director Aliza Gallo, OBA Project Manager Pat Cashman, Development Director Gregory Hunter, and OAB Project Manager Al Auletta ("City Defendants") to the Verified Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(e), is DROPPED.

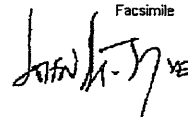
The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile



Judge John M. True, III

Order

1135

SHORT TITLE:

Hazzard VS City of Oakland

CASE NUMBER:

RG12642082

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105 \_\_\_\_\_

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse


Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By   
digital Deputy Clerk



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE (CCP 1013a, 2015.5)**

I am over the age of eighteen years and not a party to the within action; my resident address is 731 Mandana Blvd., Oakland, CA 94610.

On the date below I served the following document(s), the original of which was/were produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

**NOTICE OF ENTRY OF ORDER DROPPING DEFENDANT CITY OF OAKLAND'S  
DEMURRER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

to:

*Counsel for the City of Oakland*  
Kevin D. Siegel  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

- ☒ BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the office of the person(s) listed above.
- ☐ BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express to the office of the person(s) listed above.
- ☐ BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by facsimile transmission at or about Enter time on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (415) 391-6965. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) are as set forth above.
- ☒ BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 12, 2013, at San Francisco, California.

  
HEATHER M. EHMKE

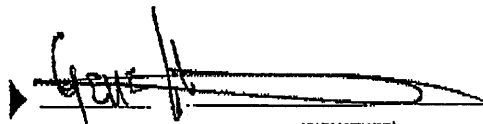
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>GENE HAZZARD, In Pro Per</b>  282 Adams Street, #6 Oakland, CA 94610 TELEPHONE NO.: (510) 418-0501 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Plaintiff</b>	FOR COURT USE ONLY  ENDORSED FILED ALAMEDA COUNTY  MAR 12 2013 CLERK OF THE SUPERIOR COURT By <u>Shirley P. Smith</u>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>OAKLAND</b> STREET ADDRESS: <b>Alameda Superior Court</b> MAILING ADDRESS: <b>1225 Fallon Street</b> CITY AND ZIP CODE: <b>Oakland, CA 94612</b> BRANCH NAME:	
PLAINTIFF/PETITIONER: <b>GENE HAZZARD</b>  DEFENDANT/RESPONDENT: <b>CITY OF OAKLAND, et al.</b>	
NOTICE OF ENTRY OF JUDGMENT OR ORDER  (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeded \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded was \$25,000 or less)	CASE NUMBER: <b>RG12642082</b>

## TO ALL PARTIES:

1. A judgment, decree, or order was entered in this action on (date): **March 7, 2013**
2. A copy of the judgment, decree, or order is attached to this notice.  
 See attached Order dropping Defendant Phil Tagami and Daniel Letter's Demurrer to First Amended Complaint.

Date: March 12, 2013

**GENE HAZZARD**(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

  
 (SIGNATURE)

BY FAX

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

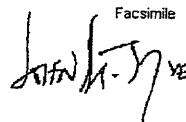
The tentative ruling is affirmed as follows: The Demurrer of Defendants Phil Tagami and Daniel Letter to the First Amended Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(a), (e) and (f), is **DROPPED**.

The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile  


Judge John M. True, III

SHORT TITLE:

Hazzard VS City of Oakland

CASE NUMBER:

RG12642082

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order

1141

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By

  
digital

Deputy Clerk

1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 731 Mandana Blvd., Oakland, CA 94610.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **NOTICE OF ENTRY OF ORDER DROPPING DEFENDANTS PHIL TAGAMI AND**  
7 **DANIEL LETTER'S DEMURRER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

8 to:

9 *Counsel for the City of Oakland*  
10 Kevin D. Siegel  
11 Burke, Williams and Sorenson  
12 1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

13  
14 ☒ BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
United States mail at San Francisco, California.

15 ☐ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
16 office of the person(s) listed above.

17 ☐ BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
to the office of the person(s) listed above.

18 ☐ BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
19 facsimile transmission at or about Enter time on that date. This document was transmitted  
20 by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
21 telephone number (415) 391-6965. The transmission was reported as complete and without  
error. A copy of the transmission report, properly issued by the transmitting machine, is  
attached. The names and facsimile numbers of the person(s) are as set forth above.

22 ☒ BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
23 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
24 service by e-mail. No electronic message or other indication that the transmission was  
unsuccessful was received within a reasonable time after the transmission.

25 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
26 March 12, 2013, at San Francisco, California.

27 

28 HEATHER M. EHMKE

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Motion to Amend Complaint  
Denied

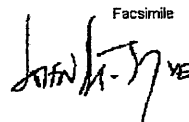
The Motion to Amend Complaint filed for Gene Hazzard was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Plaintiff's Motion for leave to File a Second Amended Complaint is denied.

Dated: 03/13/2013

Facsimile  


Judge John M. True, III

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

GENE HAZZARD, In Pro Per

282 Adams Street, #6  
Oakland, CA 94610  
PHONE NO.: (510) 418-0501

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE: Oakland, CA 94612

BRANCH NAME:

PLAINTIFF/PETITIONER: GENE HAZZARD

DEFENDANT/RESPONDENT: CITY OF OAKLAND, et al.

FOR COURT USE ONLY

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 14 2013

CLERK OF THE SUPERIOR COURT  
By MARGARET J. DOWNIE Deputy

REQUEST FOR DISMISSAL

CASE NUMBER:  
RG12642082

A conformed copy will not be returned by the clerk unless a method of return is provided with the document.

This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) ☐ With prejudice (2) ☒ Without prejudice
- b. (1) ☐ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name):
- (4) ☐ Cross-complaint filed by (name):
- (5) ☒ Entire action of all parties and all causes of action
- (6) ☐ Other (specify):\*

on (date):

on (date):

\* Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date:

GENE HAZZARD

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

\* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

(SIGNATURE)

Attorney or party without attorney for:

☒ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for the cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

Attorney or party without attorney for:

☐ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):5. ☐ Dismissal entered on (date):

as to only (name):

6. ☐ Dismissal not entered as requested for the following reasons (specify):

DISMISSAL ENTERED

MAR 13 2013

By MARGARET J. DOWNIE Deputy7. a. ☐ Attorney or party without attorney notified on (date):☐ Attorney or party without attorney not notified. Filing party failed to provide☐ a copy to be conformed ☐ means to return conformed copy

Date:

Clerk, by

Deputy  
Page 1 of 2



Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

March 14, 2013

**Via Personal Delivery**

The Honorable John M. True, III  
Judge of the Superior Court  
Department 23  
1221 Oak Street, 4<sup>th</sup> Floor  
Oakland, CA 94612

Re: *Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG 12642082

Dear Judge True:

I have received your ruling denying plaintiff leave to file a Second Amended Complaint in the above-referenced action. Thank you for taking the time to review the matter before arriving at your decision. I realize that the Court was put in a unique position of tracking the numerous claims that evolved after the filing of the initial complaint, and to make rulings in a case where the issues were confused by the mistakes of all parties. To that end, I have decided that it would be prudent to dismiss the case, without prejudice, allowing time to further investigate the claims asserted in the Second Amended Complaint so that any future complaints will be more focused and concise. To that end, I am providing you with a courtesy copy of my request for dismissal without prejudice.

It was an honor to speak in your courtroom regarding my concerns, and I thank you for that opportunity.

Very truly yours,



GENE HAZZARD

cc: William E. Adams  
Kevin D. Siegel

1145A

1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 731 Mandana Blvd., Oakland, CA 94610.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **REQUEST FOR DISMISSAL WITHOUT PREJUDICE**

7 to:

8 *Counsel for the City of Oakland*  
9 Kevin D. Siegel  
10 Burke, Williams and Sorenson  
11 1901 Harrison Street, Suite 900  
12 Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwsllaw.com](mailto:ksiegel@bwsllaw.com)

*Counsel for Tagami, et al.*  
Andrew Giacomini  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

13 ☒ BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
14 United States mail at San Francisco, California.

15 ☐ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
16 office of the person(s) listed above.

17 ☐ BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
18 to the office of the person(s) listed above.

19 ☐ BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
20 facsimile transmission at or about Enter time on that date. This document was transmitted  
21 by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
22 telephone number (415) 391-6965. The transmission was reported as complete and without  
23 error. A copy of the transmission report, properly issued by the transmitting machine, is  
24 attached. The names and facsimile numbers of the person(s) are as set forth above.

25 ☐ BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
26 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
27 service by e-mail. No electronic message or other indication that the transmission was  
28 unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
March 14, 2013, at San Francisco, California.

  
HEATHER M. EHMKE



FILED  
ALAMEDA COUNTY

MAR 14 2013

CLERK OF THE SUPERIOR COURT

By \_\_\_\_\_ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

Case No: RG12-642082

Gene Hazzard

Plaintiff

vs.

City of Oakland, et al.

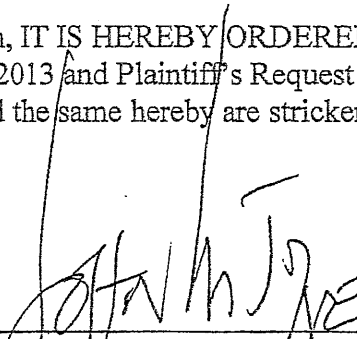
Defendants

**Order**

Good cause appearing, and on Court's own motion, IT IS HEREBY ORDERED, that the Notice of Entry of Judgment or Order filed on March 12, 2013 and Plaintiff's Request for Dismissal Without Prejudice filed March 14, 2013 be, and the same hereby are stricken.

IT IS SO ORDERED

Dated: March 14, 2013

  
John M. True III  
Judge

Department 23  
Alameda County Superior Court



PLAINTIFF/PETITIONER: Gene Hazzard  
 DEFENDANT/RESPONDENT: City of Oakland, et al.

CASE NUMBER:  
 RG12642082

**PROOF OF SERVICE BY FIRST-CLASS MAIL  
 NOTICE OF ENTRY OF JUDGMENT OR ORDER**

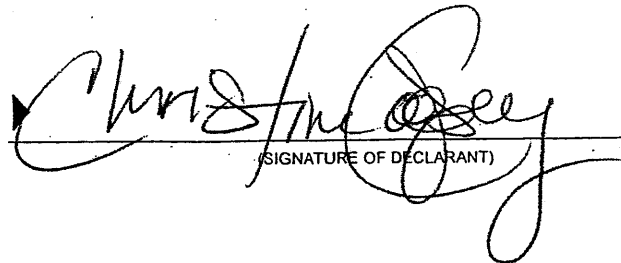
**(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)**

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:  
 Hanson Bridgett LLP, 425 Market Street, 26th Floor, SF, CA 94105
  2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:
    - a. ☐ deposited the sealed envelope with the United States Postal Service.
    - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  3. The *Notice of Entry of Judgment or Order* was mailed:
    - a. on *(date)*: March 18, 2013
    - b. from *(city and state)*: San Francisco, CA
  4. The envelope was addressed and mailed as follows:
 

a. Name of person served: Gene Hazzard  Street address: 282 Adams St., Unit 6 City: Oakland State and zip code: CA 94610	c. Name of person served: Barbara J. Parker, City Attorney, City of Oakland  Street address: One Frank Ogawa Plaza, 6th Floor City: Oakland State and zip code: CA 94612
b. Name of person served: Kevin D. Siegel, Burke, Williams & Sorensen, LLP  Street address: 1901 Harrison St., Ste. 900 City: Oakland State and zip code: CA 94612	d. Name of person served:  Street address: City: State and zip code:
- ☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*
5. Number of pages attached 2.
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- Date: March 18, 2013

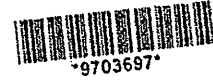
CHRISTINE A. COOPEY

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1149



1 HANSON BRIDGETT LLP  
 2 ANDREW G. GIACOMINI, SBN 154377  
 3 agiacomini@hansonbridgett.com  
 4 WILLIAM E. ADAMS, SBN 153330  
 5 wadams@hansonbridgett.com  
 6 CHRISTINE HILER, SBN 245331  
 7 chiler@hansonbridgett.com  
 8 425 Market Street, 26th Floor  
 9 San Francisco, California 94105  
 10 Telephone: (415) 777-3200  
 11 Facsimile: (415) 541-9366  
 12 Attorneys for Defendants PHIL TAGAMI and  
 13 DANIEL LETTER

FILED  
 ALAMEDA COUNTY

MAR 13 2013

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

12 GENE HAZZARD, Resident taxpayer, City of  
 13 Oakland, California, et al.,

Plaintiff,

v.

15 CITY OF OAKLAND; ALL MEMBERS OF  
 16 THE OAKLAND CITY COUNCIL  
 17 (COUNCIL PRESIDENT LARRY REID,  
 18 NANCY NADEL, JANE BRUNNER,  
 19 REBECCA KAPLAN, PAT KERNIGHAN,  
 20 LIBBY SCHAFF, IGNACIO DE LA  
 21 FUENTE, DESLEY BROOKS); MAYOR  
 22 JEAN QUAN; DEANNA SANTANA, CITY  
 23 ADMINISTRATOR; FRED BLACKWELL,  
 24 ASSISTANT CITY ADMINISTRATOR;  
 25 FORMER COMMUNITY AND ECONOMIC  
 26 DEVELOPMENT DIRECTORS DAN  
 27 LINDHEIM AND WALTER COHEN;  
 28 FORMER OBRA DIRECTOR ALIZA  
 GALLO, OAB PROJECT MANAGER PAT  
 CASHMAN; REDEVELOPMENT  
 DIRECTOR GREGORY HUNTER; OAB  
 PROJECT MANAGER AL AULETTA; PHIL  
 TAGAMI, CCG/GGIG MASTER  
 DEVELOPER, DANIEL LETTER AMB /  
 PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

~~PROPOSED~~ ORDER DENYING  
 PLAINTIFF GENE HAZZARD'S  
 MOTION FOR LEAVE TO FILE A  
 SECOND AMENDED COMPLAINT

Date: March 7, 2013  
 Time: 3:00 p.m.  
 Dept: 23  
 Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
 Trial Date: T.B.D.

Reservation No. #R-1360643

1 Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended Complaint came on  
2 regularly for hearing on March 7, 2013, at 3:00 p.m. in Department 23 of the Alameda County  
3 Superior Court, the Honorable John M. True, III presiding. A Tentative Ruling was published and  
4 was contested by the Defendants.

5 Plaintiff Gene Hazzard appeared in pro per. Defendants Phil Tagami and Daniel Letter  
6 ("Developer Defendants") appeared by and through counsel William E. Adams. Defendants City  
7 of Oakland and the City officials, former officials, employees and former employees (collectively,  
8 "City Defendants") named in the First Amended Complaint ("City Defendants") appeared by and  
9 through their counsel Kevin D. Siegel.

10 Having read the motions, all the memoranda and supporting documents, and having heard  
11 the oral arguments of the parties and considered all papers and evidence filed in connection with  
12 this motion, including the three versions of the proposed Second Amended Complaint filed in  
13 connection with this motion,

14 IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File a Second Amended  
15 Complaint is DENIED. A careful examination of the various versions of the proposed Second  
16 Amended Complaint filed by Plaintiff demonstrates that granting leave to amend the pleadings  
17 further is not warranted because the Second Amended Complaint does not allege facts sufficient to  
18 constitute a cause of action and would be futile because Plaintiff cannot cure the defects presented  
19 in the Complaint and the First Amended Complaint, on which the court sustained the demurrers of  
20 the Defendants. (See *Foxborough v. Van Atta* (1994) 26 Cal.App.4th 217, 230.)

21 DATED: March 15, 2013

22  
23 THE HONORABLE JOHN M. TRUE, III  
JUDGE OF THE SUPERIOR COURT

24  
25  
26  
27 <sup>1</sup> Plaintiff filed versions of the proposed Second Amended Complaint on February 8, February  
28 28, and March 7, 2013.

Unred



<b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</b> ANDREW G. GIACOMINI (SBN154377) - WILLIAM E. ADAMS (SBN153330) CHRISTINE HILER (SBN245331) HANSON BRIDGETT LLP, 425 Market Street, 26th Floor San Francisco, CA 94105 TELEPHONE NO.: 415-777-3200 FAX NO. (Optional): 415-541-9366 E-MAIL ADDRESS (Optional): wadams@hansonbridgett.com ATTORNEY FOR (Name): Defts PHIL TAGAMI and DANIEL LETTER		<b>FOR COURT USE ONLY</b>  <b>FILED</b> ALAMEDA COUNTY  MAR 22 2013  By <u>Glenn Baker</u> Exec. Off/Clerk
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Gene Hazzard, DEFENDANT/RESPONDENT: City of Oakland, et al.		
<b>NOTICE OF ENTRY OF JUDGMENT OR ORDER</b>  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeded \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded was \$25,000 or less)		CASE NUMBER: RG12642082

**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): March 13, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: March 18, 2013

CHRISTINE HILER

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

Christine Hiler  
(SIGNATURE)

1152



PLAINTIFF/PETITIONER: Gene Hazzard

CASE NUMBER:  
RG12642082

DEFENDANT/RESPONDENT: City of Oakland, et al.

## PROOF OF SERVICE BY FIRST-CLASS MAIL

## NOTICE OF ENTRY OF JUDGMENT OR ORDER

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):  
Hanson Bridgett LLP, 425 Market Street, 26th Floor, SF, CA 94105
  2. I served a copy of the Notice of Entry of Judgment or Order by enclosing it in a sealed envelope with postage fully prepaid and (check one):
    - a. ☐ deposited the sealed envelope with the United States Postal Service.
    - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  3. The Notice of Entry of Judgment or Order was mailed:
    - a. on (date): March 22, 2013
    - b. from (city and state): San Francisco, CA
  4. The envelope was addressed and mailed as follows:
 

<ol style="list-style-type: none"> <li>a. Name of person served: Gene Hazzard  Street address: 282 Adams St., Unit 6 City: Oakland State and zip code: CA 94610</li> <li>b. Name of person served: Kevin D. Siegel, Burke, Williams &amp; Sorensen, LLP  Street address: 1901 Harrison St., Ste. 900 City: Oakland State and zip code: CA 94612</li> </ol>	<ol style="list-style-type: none"> <li>c. Name of person served: Barbara J. Parker, City Attorney, City of Oakland  Street address: One Frank Ogawa Plaza, 6th Floor City: Oakland State and zip code: CA 94612</li> <li>d. Name of person served:  Street address: City: State and zip code:</li> </ol>
--	--
- ☐ Names and addresses of additional persons served are attached: (You may use form POS-030(P).)

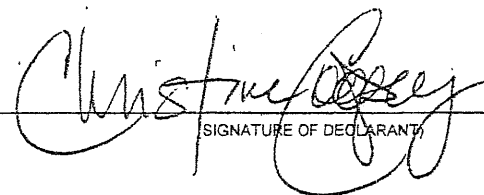
5. Number of pages attached 2.

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

Date: March 22, 2013

CHRISTINE A. COOPEY

(TYPE OR PRINT NAME OF DECLARANT)

► 

SIGNATURE OF DECLARANT



*[Handwritten signature]*  
970 238

1 HANSON BRIDGETT LLP  
2 ANDREW G. GIACOMINI, SBN 154377  
3 agiacomini@hansonbridgett.com  
4 WILLIAM E. ADAMS, SBN 153330  
5 wadams@hansonbridgett.com  
6 CHRISTINE HILER, SBN 245331  
7 425 Market Street, 26th Floor  
8 San Francisco, California 94105  
9 Telephone: (415) 777-3200  
10 Facsimile: (415) 541-9366

11 Attorneys for Defendants PHIL TAGAMI and  
12 DANIEL LETTER

FILED  
ALAMEDA COUNTY

MAR 13 2013

CLERK OF THE SUPERIOR COURT  
By *[Signature]* Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

11 GENE HAZZARD, Resident taxpayer, City of  
12 Oakland, California, et al.,

13 Plaintiff,

14 v.

15 CITY OF OAKLAND; ALL MEMBERS OF  
16 THE OAKLAND CITY COUNCIL  
17 (COUNCIL PRESIDENT LARRY REID,  
18 NANCY NADEL, JANE BRUNNER,  
19 REBECCA KAPLAN, PAT KERNIGHAN,  
20 LIBBY SCHAAF, IGNACIO DE LA  
21 FUENTE, DESLEY BROOKS); MAYOR  
22 JEAN QUAN, DEANNA SANTANA, CITY  
23 ADMINISTRATOR; FRED BLACKWELL,  
24 ASSISTANT CITY ADMINISTRATOR;  
25 FORMER COMMUNITY AND ECONOMIC  
26 DEVELOPMENT DIRECTORS DAN  
27 LINDHEIM AND WALTER COHEN;  
28 FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT  
DIRECTOR GREGORY HUNTER; OAB  
PROJECT MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER AMB/  
PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

~~PROPOSED~~ ORDER SUSTAINING  
DEFENDANTS' DEMURRERS TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT

Date: March 7, 2013  
Time: 3:00 p.m.  
Dept: 23  
Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
Trial Date: T.B.D.

Reservation No. #R-1354686

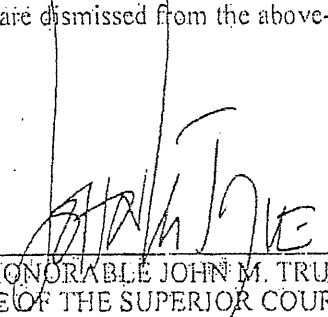
1 The Demurrers of Defendants Phil Tagami and Daniel Letter ("Developer Defendants")  
2 and Defendants City of Oakland and the City officials, former officials, employees and former  
3 employees named in the First Amended Complaint ("City Defendants") to Plaintiff Gene  
4 Hazzard's First Amended Complaint came on regularly for hearing on March 7, 2013, at 3:00 p.m.  
5 in Department 23 of the Alameda County Superior Court, the Honorable John M. True, III  
6 presiding. A Tentative Ruling was published and was contested by the Developer Defendants and  
7 City Defendants.

8 Plaintiff and opposing party Gene Hazzard appeared in pro per. Developer Defendants and  
9 moving parties appeared by and through counsel William E. Adams. City Defendants and moving  
10 parties appeared by and through counsel Kevin D. Siegel.

11 Having read the motions, all the memoranda and supporting documents, and having heard  
12 the oral arguments of the parties and considered all papers, including the requests for judicial  
13 notice, filed in connection with this motion,

14 IT IS HEREBY ORDERED THAT, the Developer Defendants' and City Defendants'  
15 Demurrers to each cause of action alleged in the First Amended Complaint are SUSTAINED  
16 without leave to amend. None of the purported causes of action in the First Amended Complaint  
17 allege facts sufficient to state a cause of action, and it is apparent the Plaintiff is unable to allege  
18 facts sufficient to state a cause of action. All defendants are dismissed from the above-referenced  
19 action with prejudice.

20  
21 DATED: March 13, 2013.

22   
23 THE HONORABLE JOHN M. TRUE, III  
24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27  
28



Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

**FILED**  
ALAMEDA COUNTY

MAR 27 2013

PLAINTIFF, IN PROPRIA PERSONA

CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Plaintiff,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (GGIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100,

Defendants.

Case No. RG12642082

**DECLARATION OF HEATHER M.  
EHMKE AFTER RULING ON HEARING  
ON PLAINTIFF'S MOTION FOR LEAVE  
TO FILE A SECOND AMENDED  
COMPLAINT**

Date: March 7, 2013

Time: 3:00 p.m.

Dept: 23

1 I, Heather M. Ehmke, declare:

2 1. I am over the age of 18 years old and am a citizen of Oakland, California. I have  
3 lived in the Oakland/Piedmont/Lake Merritt area since 1989. The following statements are true  
4 and correct and are based on my personal knowledge and belief.

5 2. I am a legal secretary employed by a plaintiffs' personal injury firm in San  
6 Francisco. I have been working as a legal secretary in the Bay Area since 1980. I am familiar  
7 with the Alameda County Superior Court Local Rules and the court's website.

8 3. I am personally acquainted with Gene Hazzard and am familiar with the facts and  
9 circumstances surrounding this case. My assistance to Mr. Hazzard has been strictly clerical.

10 4. I was present in the courtroom on March 7, 2013 during the hearing on the Motion  
11 for Leave to File a Second Amended Complaint. Before the hearing began, I served Mr. Adams  
12 and Mr. Siegel with a Second Supplemental Declaration of Gene Hazzard to which a second  
13 version of the proposed Second Amended Complaint was attached.

14 5. During oral argument, the attorneys for the defense contested the Court's tentative  
15 ruling which had granted plaintiff's motion to amend. Other than citing *Foxborough v. Van Atta*,  
16 Mr. Adams cited no law in support of his opposition to the motion. Likewise, Mr. Siegel, who  
17 concurred with Mr. Adams, cited no legal support for his position that "this thing must end"  
18 because "it's just not right." Their "legal argument" centered on an objection that Mr. Hazzard  
19 had been "harassing" City Council about the fact there was a lawsuit, which Judge True replied,  
20 "as is his right, freedom of speech."

21 6. At the conclusion of the hearing, the Court instructed defense counsel to prepare a  
22 proposed order sustaining the demurrer without leave to amend to send to Mr. Hazzard for  
23 approval as to form, but did not dismiss the case. Instead, he took the matter under submission.  
24 At no time did the Court instruct defense counsel to prepare an order dismissing the case with  
25 prejudice. The transcript of the hearing, which is attached as Exhibit A, reflects this fact.

26 7. On the morning of March 11, 2013, I checked my Yahoo email and read an email  
from Christine Hiler of Hanson Bridgett that had been sent to me on Friday, March 8, 2013 at  
12:37 p.m. attaching two proposed orders and asking me to provide copies to Gene Hazzard. (I

1 had been out of town between the morning of March 8, 2012 and the evening of March 10, 2013  
2 and had not checked my email during that time period.) Mr. Siegel had sent two replies to Ms.  
3 Hiler since March 8<sup>th</sup> making changes to the orders. I responded to both attorneys at 7:18 a.m. on  
4 March 11, 2013 advising that I would forward the orders to Mr. Hazzard. A true and correct copy  
5 of a printout of these emails is attached hereto as Exhibit B.

6 8. On March 11, 2013, Mr. Hazzard contacted me and advised that he had received  
7 the proposed orders in the mail. Mr. Hazzard dictated a letter to me addressed to Mr. Adams and  
8 Mr. Siegel objecting to the content of the orders. A true and correct copy of this letter is attached  
9 as Exhibit C.

10 9. In that same conversation, Mr. Hazzard advised me that he had received orders in  
11 the mail that the defendants' Demurrers to the First Amended Complaint were dropped because  
12 the tentative ruling had not been contested (Exhibit D). In conjunction with typing the letter to  
13 the defense attorneys, Mr. Hazzard asked me to prepare Notices of Rulings on those orders, which  
14 I did (Exhibit E).

15 10. The Notices of Ruling were filed on March 12, 2013, and a courtesy copy of Mr.  
16 Hazzard's March 12<sup>th</sup> letter objecting to the orders was hand-delivered to the Court. (Exhibit F)  
17 The proposed orders were not attached to Mr. Hazzard's letter; the letter was given to Judge True  
18 strictly for the Court's information that Mr. Hazzard had taken issue with the content of the orders.  
19 At 5:19 p.m., the notices and response letter were emailed to defense counsel. (Exhibit G)

20 11. On March 13, 2013 at 12:39 a.m., Mr. Adams responded to my email asking me to  
21 "thank Mr. Hazzard for his thoughtful response" and that he would be submitting the orders and  
22 the letter to the Court. (Exhibit H)

23 12. On the afternoon of March 13, 2013 shortly after 5:00 p.m., I checked the Court's  
24 website and noted that an entry dated March 13, 2013 that read, "Motion to Amend Complaint  
25 Denied." (Exhibit I)

26 //

//

1           13. I then checked my Yahoo email and saw that Mr. Adams had forwarded the orders  
2 and Mr. Hazzard's March 12<sup>th</sup> letter to the Clerk in Department 23 by email at 3:39 p.m. on March  
3 13, 2013. Exhibit J is a true and correct copy of this email and its attachments reflecting the time  
4 stamp. To my knowledge, this is the first time the proposed orders had been provided to the  
5 Court.

6           14. I spoke with Mr. Hazzard on the evening of March 13, 2013. We had a discussion  
7 about the implication of the Court's ruling denying the motion to amend. Mr. Hazzard told me  
8 that he understood that this to mean the First Amended Complaint was still standing, especially in  
9 light of the fact he had received orders that had dropped the demurrers. Mr. Hazzard told me he  
10 that he wished to dismiss the action without prejudice to preserve his right to re-file, since the First  
11 Amended Complaint did not contain the allegations of breach for violation of UFTA (fraudulent  
12 conveyance) and conspiracy to commit fraud. Mr. Hazzard asked me to prepare a Request for  
13 Dismissal and dictated another letter, this one to the Court, with copies to defense counsel,  
14 explaining that he wished to dismiss his complaint, stating his reasons why, and thanking Judge  
15 True for his time in reviewing the matter.

16           15. The Request for Dismissal without prejudice was filed on the morning of March  
17 14, 2013. True and correct copies of the dismissal and the letter are attached as Exhibit K.

18           16. At approximately 5:05 p.m. on March 14, 2013, I checked the Alameda County  
19 docket and printed the docket. A true and correct copy of the relevant portion of the docket is  
20 attached as Exhibit L. At that time no other orders had been entered on the docket. The docket  
21 showed the following entries:

22               3/14/13 Request for Dismissal without prejudice Entered

23               3/13/13 Motion for Leave to File a Second Amended Complaint Denied

24           17. On the morning of Friday, March 15, 2013 I checked my email and read an email  
25 from Mr. Adams that had been sent to me at 9:00 p.m. on March 14, 2013 asking me for the  
26 contact information for the court reporter that was retained for the March 7, 2013 hearing. I  
responded to that email. (Exhibit M) Later that day, after 5:00 p.m., I again went to the court's  
website and looked at the docket, which again reflected the following:

1 3/14/13 Request for Dismissal without prejudice Entered  
2 3/13/13 Motion for Leave to File a Second Amended Complaint Denied  
3 18. On Monday, March 18, 2013, at approximately 12:00 noon, I checked the court's  
4 website again. This time the docket read like this:

5 3/13/13 Motion for Leave to File a Second Amended Complaint Denied  
6 3/14/13 Request for Dismissal without prejudice Entered  
7 3/14/13 Orders Orders Stricking (sic) Orders Filed

8 There was no document scanned next to the last entry at that time so I was unable to  
9 determine what the "Orders Orders Stricking Orders" meant.

10 19. I checked the docket again after 5:00 p.m. and tried to print out the document  
11 attached to the entry, but was unable to do so. I then had a telephone conversation with Gene  
12 Hazzard to tell him that I had seen "something weird" on the docket but couldn't print it out. At  
13 10:45 p.m., I again went to the court's website and saw one additional entry to the docket:

14 3/13/13 Motion for Leave to File a Second Amended Complaint Denied  
15 3/13/13 Order Denying Motion to File a Second Amended Complaint Granted  
16 3/14/13 Request for Dismissal without prejudice Entered  
17 3/14/13 Orders Orders Stricking (sic) Orders Filed

18 This reading led me to believe that the one additional entry, "Order Denying the Motion to  
19 File a Second Amended Complaint," had not been posted until after 5:00 p.m. on the afternoon of  
20 March 18, 2013.

21 20. On the morning of March 19, 2013 at approximately 7:30 a.m., I once again went  
22 to the website. This time I printed a copy. On March 19, 2013 the docket reflected the following

23 3/13/13 Order Sustaining Demurrer  
24 3/13/13 Motion for Leave to File a Second Amended Complaint Denied  
25 3/13/13 Order Denying Motion to File a Second Amended Complaint Granted  
26 3/14/13 Request for Dismissal without prejudice Entered  
3/14/13 Orders Orders Stricking (sic) Orders Filed



1 A true and correct copy of the relevant portion of the docket that I printed on March 19,  
2 2013 is attached hereto as Exhibit N.

3 21. The purpose of this declaration is to attest to my witnessing the court's docket  
4 being updated several times between March 18, 2013 at 12:00 noon and March 19, 2013 at 7:30  
5 a.m. It is my belief, from the numerous updates of the docket between March 18 and 19, that the  
6 orders sustaining the demurrers without leave and dismissing the complaint with prejudice were  
7 "back dated" to reflect a filing date of March 13, 2013.

8 I declare under penalty of perjury under the laws of the state of California that the  
9 foregoing is true and correct and that this declaration was executed by me on this 27th day of  
10 March, 2013, in Oakland, California.

11   
12 HEATHER M. EHMKE

*Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG12642082

# EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE  
DEPARTMENT NO. 23

---oOo---

GENE HAZZARD, Resident  
taxpayer, City of Oakland,  
California, et al,

Plaintiff,

vs.

No. RG12642082

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
(COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT DIRECTOR  
GREGORY HUNTER; OAK PROJECT  
MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER  
AMB/PROLOGIS MASTER DEVELOPER,  
et al,

Defendants.

COUNTY ADMINISTRATION BUILDING  
OAKLAND, CALIFORNIA  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, MARCH 7, 2013

Reported by:  
Doriann Renaud  
CSR#9772

THE COURT REPORTERS LLC  
(925) 922-2321

A

f0968844-b106-4398-917e-884e3f7acaff

1163

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE  
DEPARTMENT NO. 23

---oOo---

GENE HAZZARD, Resident  
taxpayer, City of Oakland,  
California, et al,

Plaintiff,

vs.

No. RG12642082

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
(COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT DIRECTOR  
GREGORY HUNTER; OAK PROJECT  
MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER  
AMB/PROLOGIS MASTER DEVELOPER,  
et al,

Defendants.

COUNTY ADMINISTRATION BUILDING  
OAKLAND, CALIFORNIA  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, MARCH 7, 2013

Reported by:  
Doriann Renaud  
CSR#9772

THE COURT REPORTERS LLC  
(925) 922-2321

A

f0968844-b106-4398-917e-884e3f7acaff

1164

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF:

GENE HAZZARD,  
In pro per

FOR THE DEFENDANTS:

WILLIAM ADAMS,  
Attorney at Law

KEVIN D. SIEGEL,  
Attorney at Law

1 THURSDAY, MARCH 7, 2013

AFTERNOON SESSION

2 P-R-O-C-E-E-D-I-N-G-S

3 THE COURT: Gene Hazzard versus City of Oakland, et al.  
4 And this matter is being reported by Doriann Renaud. Docket No.  
5 RG12642082. This is on this afternoon for several purposes.

6 Appearances, please, from my left to my right.

7 MR. HAZZARD: Good afternoon, Your Honor. Gene Hazzard for  
8 plaintiff.

9 MR. ADAMS: Good afternoon, Your Honor. William Adams  
10 appearing on behalf of defendants Letter and Tagami.

11 MR. SIEGEL: Good afternoon, Your Honor. Kevin Siegel for  
12 the City and the City defendants.

13 THE COURT: All right. Good afternoon to all of you. I've  
14 issued tentative rulings as to all three lines.

15 Apparently, Mr. Hazzard has been given leave to file yet  
16 another complaint and demurrers have been filed. And my  
17 tentative ruling has been contested by the defendants who feel  
18 that, if I may summarize, this has gone on long enough. There's  
19 no cause of action that the plaintiff has stated or will be able  
20 to state and we should put an end to this.

21 Mr. Adams, anything you want to add?

22 MR. ADAMS: I would, Your Honor. In notifying the Court of  
23 our intention to contest the tentative ruling on the  
24 determination to grant leave to file a 2nd Amended Complaint.  
25 We took the step of citing the Court to the Foxborough v. Van  
26 Atta case, which stands for the proposition that although the  
27 Court is afforded great discretion in making a determination to  
28 amend pleadings, the Court also has the discretion to look at

1 the substantive pleadings and determine whether or not the  
2 proposed amendment would state in fact a viable cause of action.  
3 And if the Court were to determine that a -- and the amendment  
4 would be futile, then it is equally within the discretion of the  
5 Court to deny a motion for leave to amend on that basis.

6 Now, Mr. Hazzard sought initially leave to amend his  
7 complaint. He then subsequently on the 28th of February  
8 submitted yet another iteration of a proposed amended complaint.  
9 Five minutes ago I was handed with a third proposed amended  
10 complaint. So at a minimum, it's unclear to me which iteration  
11 Mr. Hazzard --

12 THE COURT: Well, we're dealing with the 2nd Amended  
13 Complaint. My clerk told me Mr. Hazzard brought something in  
14 today. I have not allowed it to be filed. I don't intend to  
15 allow it to be filed.

16 MR. ADAMS: I believe it has been filed, Your Honor.

17 THE COURT: Well, then it will be stricken.

18 MR. ADAMS: In any event, Mr. Hazzard in his motion before  
19 the Court, had actually invited the Court at page six, line ten  
20 to review the substance of his proposed amendment. And we would  
21 ask the Court to take him up on his invitation. And we submit,  
22 Your Honor, that a review of any of the now five iterations of  
23 his complaint would be deficient as a matter of law on the issue  
24 of separation of powers. We briefed that issue extensively in  
25 two demurrers, Your Honor, and reduced it to its essence.

26 Mr. Hazzard would have this Court substitute its judgment  
27 for the discretionary powers of the City of Oakland in making a  
28 selection of a developer for the Oakland Army Base.

1 Now, that is a violation of the core separation of powers.  
2 It would be an intrusion upon the discretionary authority of the  
3 City. I would also point out that Mr. Hazzard had his day. The  
4 City and its City Counsel had a public hearing on this. Mr.  
5 Hazzard attended. The City had its day. Mr. Hazzard had his  
6 say. And unsatisfied with the outcome of that, he filed this  
7 lawsuit in order to get you to get his way. And I would submit,  
8 Your Honor, that's simply impermissible.

9 THE COURT: Well, that's what you said the first time and  
10 that's what I understood you to say and that candidly is what I  
11 understand the law to be. And that's what you're saying now.

12 So my understanding is that at some point due process for  
13 the pleading party, the plaintiff ends. Due process has been  
14 given. He's had an opportunity to, several opportunities to  
15 plead causes of action that have legal validity and he's failed  
16 to do that. And so implicit in what you're saying here: Why  
17 should I give you yet another opportunity?

18 MR. ADAMS: That's correct, Your Honor. There is one other  
19 point that I would like to make and that is --

20 THE COURT: Yes.

21 MR. ADAMS: Your Honor, this case has been extance since  
22 last August. And the existence of the lawsuit itself has served  
23 as fodder in collateral public hearings for Mr. Hazzard to  
24 castigate my client in public forums and that has gone on for  
25 months and months and months.

26 THE COURT: Well, of course, he has that right under the  
27 First Amendment.

28 MR. ADAMS: Certainly. But he's --



1 THE COURT: The question that I have in front of me is is  
2 should this case be kept alive any longer?

3 MR. ADAMS: Correct.

4 THE COURT: But whatever he might be using it for in public  
5 is up to you not to me.

6 MR. ADAMS: To dignify those allegations, Your Honor, by  
7 the mere existence of this lawsuit is what we take offense to  
8 and that's why we believe it's time to bring this matter to an  
9 end and resolve it.

10 THE COURT: Mr. Siegel.

11 MR. SIEGEL: I concur completely. And the point I would  
12 add is I understand obviously the Court is always inclined to  
13 grant leave to amend because they want to make sure that they're  
14 given the full and fair opportunity to the plaintiff to state  
15 the best case he has. And so obviously we understand the  
16 perspective that Your Honor is coming from.

17 But here we do have an invitation. I think you have an  
18 invitation to look at the 2nd Amended Complaint as you know  
19 there's three versions -- and just as a housekeeping matter, in  
20 the reply -- not only was there a version of the 2nd Amended  
21 Complaint filed today, which I understand you said would be  
22 stricken. There's another one attached to reply papers to a  
23 declaration. So it's still unclear to me whether we're going on  
24 the basis of the one that was noticed with the moving papers or  
25 the one that's a part of the reply.

26 But either way you want to go, Your Honor, I think that, if  
27 you look at those, it's the same situation that we've had all  
28 along both as the taxpayer standing and as to the merits which

1 Mr. Adams addressed as to the discretionary issue for the City.  
2 And with that invitation, I do think -- I would hope that you  
3 would take it up and look at that 2nd Amended Complaint and see  
4 that it's the same. And I'll just point out one thing about the  
5 taxpayer standing.

6 It's the same situation as before where there is just a  
7 conclusory ascertain that Mr. Hazzard pay taxes. But then he  
8 undercuts it by referring to Exhibit R, which is a document that  
9 just shows that there was a debt owed to the City. Doesn't  
10 discuss what type of debt. So he's undercuts his own allegation  
11 and in the version of the 2nd Amended Complaint, which is  
12 attached to the declaration of the reply papers, there is an  
13 effort to bring in a new, quote, unquote, taxpayer named Queen  
14 Thurston, I think is the name. And there's a letter. And all  
15 it says is I want to join the lawsuit and I'm a taxpayer.

16 So I think by bringing this forward he's shown that he  
17 can't do it. And I think that it's fair then to say it's now  
18 been enough time. And this is his, you know, it's the 2nd  
19 Amended Complaint he's basically put forth. We're going to do  
20 the same demurrer again. And it's going to be an hour at the  
21 courthouse. And it's costing the court time and money. It's  
22 costing us time and money and it's just not -- it's just not  
23 right. And I think it's fair enough to do it now and to look at  
24 that 2nd Amended Complaint and make a decision.

25 THE COURT: Mr. Hazzard.

26 MR. HAZZARD: Yes, Your Honor.

27 THE COURT: Why should this continue taking up everybody's  
28 time? It is apparent to me even without the comments of these

1 two gentlemen standing to your left that you're not going to be  
2 able to plead a claim against the City of Oakland and all these  
3 individuals. And I've told you that before. And they're saying  
4 that nothing you filed including what you brought in this  
5 afternoon is any different.

6 So why shouldn't this just, you know, be dismissed? You  
7 take your shot of at Court of Appeal if that's what you want to  
8 do. You go out and talk about it in various public forums if  
9 that's what you want to do. But I don't have any relief that I  
10 can give you now. So why should I continue what's going on  
11 here?

12 MR. HAZZARD: Thank you, Your Honor.

13 First of all, counsel has presented a case to you  
14 Foxborough. Foxborough is not relevant to this case.  
15 Foxborough --

16 THE COURT: I'd appreciate it actually if you'd answer my  
17 question.

18 MR. HAZZARD: But --

19 THE COURT: Answer my question.

20 MR. HAZZARD: Well, this is a fluid action. Every time I'm  
21 uncovering information that goes to the heart of this matter,  
22 we're dealing with --

23 THE COURT: Thank you. What have you uncovered?

24 MR. HAZZARD: Fraudulent conveyance.

25 THE COURT: And how do you have standing to challenge what  
26 you claim to be a fraudulent conveyance.

27 MR. HAZZARD: Kirkeby v. Superior Court, 2004, 33 Cal.4th  
28 [sic] addresses a transfer under the UFTA is defined as every

1 mode, direct or indirect where the transaction for which the  
2 debtor's access were unreasonably small. And that's what we  
3 find here in this case.

4 When we go to Civil Code 3439, dash, 3439.1 [sic]. A  
5 debtor is insolvent if, at fair valuations, the sum of the  
6 debtor's debts is greater than all the debtor's assets. A  
7 debtor who is generally not paying his or her debts as they  
8 become due.

9 A transfer made or obligation incurred by a debtor is  
10 fraudulent as to a creditor...

11 And the creditors are the City. Then we go --

12 THE COURT: Wait. Wait. Okay. You just talked yourself  
13 right out of court, Mr. Hazzard. The creditors are the City.  
14 They're not you. So you don't have standing.

15 MR. HAZZARD: No. The creditors -- if I may, Your Honor.  
16 The creditors are the City or the citizens and the residents of  
17 it, who will suffer as a result of the City incurring a debt  
18 because the defendant Tagami has insufficient capitalization as  
19 required and as the City has so stated.

20 Additionally, under allowing for an amended complaint. We  
21 look at Civil Code procedure section 403.010, dash, 403.090,  
22 which says: If a plaintiff, cross-complainant, or petitioner  
23 files an amended complaint or other amended initial pleadings  
24 that change the jurisdictional classification to limited to  
25 unlimited. The parties at the time of the filing the pleading,  
26 shall pay the reclassification fees provided. Unlimited to  
27 limited no reclassification fee is required. If under, 403.030,  
28 if a party in a limited civil case files a cross-complaint that

1 causes the action or proceeding to exceed the maximum amount in  
2 controversy for a limited civil case or otherwise.

3 You got 403.030. You got 403.040. You have -- then the  
4 various sections under those respective codes. And where  
5 there's the -- the defendants have exhaustively tried to say I  
6 don't have standing. So I'm moving towards the next move.  
7 526(a) of the Civil Code says, the citizens do have standing.

8 So now I have to quash the exhaustive use of the standing  
9 issue. Queen Thurston and I have submitted a -- and I could  
10 submit also the taxpayers' assessment.

11 THE COURT: Tell you what, Mr. Hazzard. Here's what I'm  
12 going to do.

13 MR. HAZZARD: Yes, sir.

14 THE COURT: I instructed my clerk to strike your -- what is  
15 it, 2nd or 3rd Amended Complaint?

16 MR. HAZZARD: It's a draft, sir.

17 MR. SIEGEL: There's three 2nd Amended Complaints, Your  
18 Honor.

19 THE COURT: Well, I'll accept this. I'll file this. I'll  
20 look at it.

21 MR. HAZZARD: Yes, sir.

22 THE COURT: I want an order from you upholding -- granting  
23 the demurrer without leave to amend and dismissing the matter.  
24 I'll consider that order when I get it. Show it to Mr. Hazzard  
25 for approval as to form. If he doesn't approve it within a  
26 timely period of time. Submit it to the Court. I'll look at it  
27 and I'll give very serious consideration to granting it and  
28 putting an end to this case.

1 And Mr. Hazzard, if I should do that, then you know where  
2 to go from here.

3 MR. HAZZARD: Yes, sir.

4 THE COURT: There's the Court of Appeal who looks at what  
5 the trial courts do and that may be your remedy.

6 Thank you all very much.

7 MR. ADAMS: Thank you, Your Honor.

8 THE COURT: Case management.

9 MR. SIEGEL: I hate to say that but...

10 THE COURT: I don't think it's going to be necessary, but I  
11 will set a case management conference for June 6th, 2013, at  
12 3:00 p.m. in the event the matter hasn't been disposed of in  
13 this court.

14 MR. HAZZARD: What was that date, Your Honor?

15 THE COURT: June 6th, 2013, 3:00 p.m.

16 MR. HAZZARD: Thank you. Thank you very much, Your Honor.

17 MR. SIEGEL: Thank you very much.

18 MR. HAZZARD: Thank you.

19  
20 (Proceedings were concluded.)

21 ----oOo----

1       STATE OF CALIFORNIA       }  
2                                       } SS  
3       COUNTY OF ALAMEDA       }  
4

5       I, DORIANN RENAUD, CSR 9772, do hereby certify that I am an  
6       Official Reporter of the Superior Court in and for the County of  
7       Alameda, State of California, and that as such I reported the  
8       proceedings had in the foregoing matter at the time and place  
9       set forth herein;

10      That my stenographic notes of said proceedings were transcribed  
11      into typewriting by me and that the preceding pages numbered 1  
12      through 9, constitute a full, true and correct transcription of  
13      said notes.

14      Dated this 14th day of March, 2013 executed at Oakland,  
15      California.  
16  
17

18                                       \_\_\_\_\_  
19                                       DORIANN RENAUD, CSR  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT B



particular circumstances from an independent tax advisor.

From: Christine Hiller [mailto:CHiller@hansonbridgett.com]  
Sent: Friday, March 08, 2013 12:37 PM  
To: Siegel, Kevin D.; 'Whitewolf303@att.net'  
Cc: William E. Adams  
Subject: Hazzard v. City of Oakland, et al. - Proposed Orders

Dear Ms. Ehmkke and Mr. Siegel,

Attached for your review are copies of the proposed orders on the Defendants' Demurres and on Mr. Hazzard's Motion for Leave to File a Second Amended Complaint that we prepared in accordance with the Court's instructions at the March 7, 2013 hearing.

Ms. Ehmkke, pursuant to Rule of Court 3.1312, please have Mr. Hazzard provide his approval as to form of the attached orders by signing them and returning them to me or state any reasons for your disapproval no later than March 13, 2013. We will also mail Mr. Hazzard copies of these documents to his home address, but if you are in a position to provide it to him electronically, we would appreciate your courtesies in this regard.

Thank You,  
Christine

Christine Hiller  
Senior Counsel  
Hanson Bridgett LLP  
(415) 996-5102 Direct  
(415) 996-3487 Fax  
chiller@hansonbridgett.com



425 Market Street, 26th Floor  
San Francisco, CA 94105

San Francisco | Sacramento | North Bay | Silicon Valley | East Bay



This communication, including any attachments, is confidential and may be protected by privilege. If you are not the intended recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or email, and permanently delete all copies, electronic or other, you may have.

B

for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

IRS Circular 230 Disclosure: In compliance with certain U.S. Treasury regulations, please be informed that unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service. In addition, if any such advice is referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, the advice should be construed as written and (ii) the taxpayer receiving said communication should seek advice based on the tax particular circumstances from an independent tax advisor.

---

**From:** Siegel, Kevin D.  
**Sent:** Friday, March 08, 2013 3:07 PM  
**To:** 'Christine Hiler'  
**Cc:** William E. Adams; 'whitewolf303@att.net'; Seals, Celestine O.  
**Subject:** RE: Hazzard v. City of Oakland, et al. - Proposed Orders

I have made some proposed changes, in track changes mode. See attached.

Please accept and recirculate for consideration by Plaintiff, or call me with any question or concern.

thx.

Kevin D. Siegel | Partner  
1901 Harrison Street, Suite 900 | Oakland, CA 94612  
d - 510.903.8806 | t - 510.273.8780 | f - 510.839.9104  
[ksiegel@bwsllaw.com](mailto:ksiegel@bwsllaw.com) | vCard | [bwsllaw.com](http://bwsllaw.com)



The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee name. Information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Recipients should not disseminate, distribute or copy this e-mail. If you are not the designated addressee named above or the authorized agent for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

IRS Circular 230 Disclosure: In compliance with certain U.S. Treasury regulations, please be informed that unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service. In addition, if any such advice is referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, the advice should be construed as written and (ii) the taxpayer receiving said communication should seek advice based on the tax particular circumstances from an independent tax advisor.

---

**From:** Christine Hiler [mailto:[CHiler@hansonbridgett.com](mailto:CHiler@hansonbridgett.com)]  
**Sent:** Friday, March 08, 2013 12:37 PM  
**To:** Siegel, Kevin D.; 'whitewolf303@att.net'  
**Cc:** William E. Adams  
**Subject:** Hazzard v. City of Oakland, et al. - Proposed Orders

Dear Ms. Ehmke and Mr. Siegel,

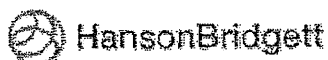
Attached for your review are copies of the proposed orders on the Defendants' Demurrers and on Mr. Hazzard's Motion for Leave to Amend Second Amended Complaint that we prepared in accordance with the Court's instructions at the March 7, 2013 hearing.

Ms. Ehmke, pursuant to Rule of Court 3.1312, please have Mr. Hazzard provide his approval as to form of the attached orders by March 13, 2013, and returning them to me or state any reasons for your disapproval no later than March 13, 2013. We will also mail Mr. Hazzard these documents to his home address, but if you are in a position to provide it to him electronically, we would appreciate your comments in this regard.

Thank You,  
Christine

---

Christine Hiler  
Senior Counsel  
Hanson Bridgett LLP  
(415) 995-5102 Direct  
(415) 995-3487 Fax  
[chiler@hansonbridgett.com](mailto:chiler@hansonbridgett.com)



Thank You,  
Christine

**From:** Siegel, Kevin D. [mailto:KSiegel@bwsllaw.com]  
**Sent:** Friday, March 08, 2013 3:54 PM  
**To:** Christine Hiler  
**Cc:** William E. Adams; whitewolf303@att.net; Seals, Celestine O.  
**Subject:** RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Please use these versions instead. I changed both. Or call with any question or concern.

thank you.

Kevin D. Siegel | Partner  
1901 Harrison Street, Suite 900 | Oakland, CA 94612  
d - 510.903.8806 | t - 510.273.8780 | f - 510.839.9104

BURKE WILLIAMS & SORENSEN, LLP

The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Receipt of this email with publicly accessible records. If you are not the designated addressee named above or the author of this email, you received this document through inadvertent error and any further review, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. IRS Circular 230 Disclosure: In compliance with certain U.S. Treasury regulations, please be informed that unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service. In addition, if any such advice is referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or other financial product, the advice should be construed as written and (ii) the taxpayer receiving said communication should seek advice based on the particular circumstances from an independent tax advisor.

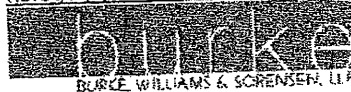
**From:** Siegel, Kevin D.  
**Sent:** Friday, March 08, 2013 3:07 PM  
**To:** 'Christine Hiler'  
**Cc:** William E. Adams; whitewolf303@att.net; Seals, Celestine O.  
**Subject:** RE: Hazzard v. City of Oakland, et al. - Proposed Orders

I have made some proposed changes, in track changes mode. See attached.

Please accept and recirculate for consideration by Plaintiff, or call me with any question or concern.

thx.

Kevin D. Siegel | Partner  
1901 Harrison Street, Suite 900 | Oakland, CA 94612  
d - 510.903.8806 | t - 510.273.8780 | f - 510.839.9104  
[ksiegel@bwsllaw.com](mailto:ksiegel@bwsllaw.com) | [vCard](#) | [bwsllaw.com](http://bwsllaw.com)



The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Receipt of this email with publicly accessible records. If you are not the designated addressee named above or the author of this email, you received this document through inadvertent error and any further review, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. IRS Circular 230 Disclosure: In compliance with certain U.S. Treasury regulations, please be informed that unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service. In addition, if any such advice is referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or other financial product, the advice should be construed as written and (ii) the taxpayer receiving said communication should seek advice based on the particular circumstances from an independent tax advisor.

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT C

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

March 12, 2013

*Via U.S. Mail and Electronic Service*

William E. Adams  
Hanson, Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94104

Kevin D. Siegel, Esq.  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501

Re: *Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG 12642082

Dear Mr. Siegel and Mr. Adams:

I have reviewed defendant Tagami, *et al.*'s proposed orders related to the March 7, 2013 hearing in the matter RG 12642082 of Gene Hazzard (Plaintiff) in pro per v. City of Oakland, Phil Tagami (CCIG Oakland Global LLC) and Daniel Letter (Prologis Property LP) (Defendants) and note that they reflect different language from what the Court stated in open court as reflected in the official transcript of the proceedings.

First, defendant Tagami's counsel requested that pursuant to Rule 3.1312 that plaintiff approve the orders as to form or object within five days, failing to note that requesting a time frame under Rule 3.1312 is premature in that the Court took the matter under submission. Therefore, the deadline plaintiff has to approve and/or object to any proposed order should be tolled from the Court's formal ruling. Nevertheless, plaintiff submits the following objections:

While the Court instructed defendants to prepare a proposed order, he did not grant defendants' demurrers. The Court ruled that the demurrers were moot. Further, the Court issued Orders stating that the demurrers were dropped because defendants did not contest the Tentative Ruling as to the demurrers. Thus, the only matter before the Court on March 7<sup>th</sup> was plaintiff's Motion for Leave to File a Second Amended Complaint. Thus, defendant should have prepared only one order.

Secondly, the orders submitted cite language that is not supported by the Court's instructions. Specifically, the Court did not state that the action would be dismissed with prejudice. Nor did the Court state that the order denying plaintiff's motion to amend was granted based on *Foxborough v. Van Atta* (1994) 26 Cal. App. 4th. Rather, the Court took the matter under

C

1181

submission. Further, defendant fails to state that the Second Supplemental Declaration of Gene Hazzard in Support of Motion for Leave to File a Second Amended Complaint, which was accompanied a draft of the Second Amended Complaint, was taken under submission.

Defendants presented nothing in their oral presentation that differed from their opposition to the motion, which the Court already considered when it issued its March 5, 2013 Tentative Ruling (as to both demurrers) stating: "Pursuant to CCP 430.10(a)(e) (f) defendant's demurrer is DROPPED. The Demurrer is moot. The Court has granted Plaintiff's Motion to File a Second Amended Complaint." Attached are copies of the Notices of Entry of Order served pursuant to the Court's order within five days of the Order.

Plaintiff in oral presentation objected defendant's use of *Foxborough* which defendant Tagami's counsel cited to persuade the court as to why it should reverse the Tentative Ruling. *Foxborough* is not at all similar to the facts in this case. The plaintiff in *Foxborough* was barred from amendment because of the statute of limitations. In the instant matter, the statute of limitation is not an issue. In fact, the date upon which the amendments are tolled is the execution of the LDDA on October 23, 2013, which plaintiff bases his causes of action for fraud, fraudulent conveyance, and conspiracy to commit fraud.

Plaintiff further cited the following statutes and authorities in support of amending his complaint in oral argument and in his moving papers:

- Code of Civil Procedure § 473, which states:

"(a)(1)The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or correcting a mistake in the name of party, or a mistake in any other respect; ...The court may likewise, in its discretion, after notice to the adverse party, allow, upon any terms as may be just, an amendment to any pleading or proceeding in other particulars..."

- Code of Civil Procedure §§ 403.010-403.090, stating what was necessary and proper to amend
- Civil Code and Procedure § 526(a), which was read into the record
- *Kirkeby v. Superior Court* (2004) 33 Cal. 4th 642
- *Maxwell v. Santa Rosa* (1959) 53 Cal. 2d 274

Kevin Siegel  
William E. Adams  
March 12, 2013  
Page 3

The Second Supplemental Declaration filed March 7, 2013, which the Court took under submission, gives additional credence that plaintiff's standing is proper, citing in the Motion for Leave to Amend and the Second Amended Complaint the following: *Kappadahl v. Alcan Pacific Co* (1963) 222 Cal. App. 2d 626; *Joint Council of Intern's Residents v. Board of Supervisors* (1989) 210 Cal. App 3d 12202; *Wine v. Council of Los Angeles* (1960) 1977 Cal. App. 2d 157; *Nickerson v. County of San Bernardino* 179 Cal. 518, 522, *Dunn v. Long Beach L& N Co.* 114 Cal. 605. However, since the demurrers were dropped, the issue of standing is moot. Therefore, plaintiff should be allowed to file a Second Amended Complaint. Alternatively, plaintiff is free to file a new action based on the new facts and allegations. Therefore, any order stating that this case is dismissed with prejudice is not supported by law and is an attempt to deceive plaintiff, an unrepresented party, into waiving his rights to lawfully bring a taxpayer action.

Plaintiff therefore objects to the form and content of both orders.

Respectfully submitted,

  
GENE HAZZARD

GH/he  
Enclosures

cc: The Honorable John True, III  
Judge of the Superior Court, Department 23

Barbara J. Parker and Randolph Hill

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT D



Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The Demurrer of Defendants Phil Tagami and Daniel Letter to the First Amended Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(a), (e) and (f), is DROPPED.

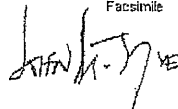
The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile



Judge John M. True, III

Order

(D) - 1

1185

SHORT TITLE:

Hazzard VS City of Oakland

CASE NUMBER:

RG12642082

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By

  
digital

Deputy Clerk

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Hazzard	No. <u>RG12642082</u>
Plaintiff/Petitioner(s)	Order
VS.	Demurrer to the First Amended Complaint
City of Oakland	Dropped
Defendant/Respondent(s)	
(Abbreviated Title)	

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

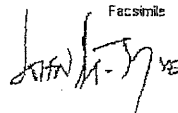
The tentative ruling is affirmed as follows: The Demurrer of Defendants City of Oakland, Council Member Larry Reid, Council Member Nancy Nadel, Council Member Jane Brunner, Council Member Rebecca Kaplan, Council Member Pat Kernighan, Council Member Libby Schaaf, Council Member Ignacio de la Fuente, Council Member Desley Brooks, Mayor Jean Quan, City Administrator Deanna Santana, Assistant City Administrator Fred Blackwell, Former Community and Economic Development Director Dan Lindheim, Former Community and Economic Development Director Walter Cohen, Former OBRA Director Aliza Gallo, OBA Project Manager Pat Cashman, Development Director Gregory Hunter, and OAB Project Manager Al Auletta ("City Defendants") to the Verified Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(e), is DROPPED.

The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile  


Judge John M. True, III

Order

(D) - 2

1187

SHORT TITLE: Hazzard VS City of Oakland	CASE NUMBER: RG12642082
--	----------------------------

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order

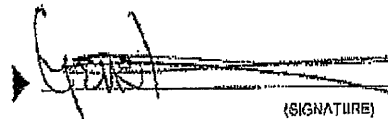
1188

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>GENE HAZZARD, In Pro Per</b>  282 Adams Street, #6 Oakland, CA 94610 TELEPHONE NO.: (510) 418-0501 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Plaintiff</b>		FOR COURT USE ONLY  ENDORSED FILED ALAMEDA COUNTY  MAR 12 2013 CLERK OF THE SUPERIOR COURT By _____ Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>OAKLAND</b> STREET ADDRESS: <b>Alameda Superior Court</b> MAILING ADDRESS: <b>1225 Fallon Street</b> CITY AND ZIP CODE: <b>Oakland, CA 94612</b> BRANCH NAME:		
PLAINTIFF/PETITIONER: <b>GENE HAZZARD</b>  DEFENDANT/RESPONDENT: <b>CITY OF OAKLAND, et al.</b>		
NOTICE OF ENTRY OF JUDGMENT OR ORDER  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeded \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded was \$25,000 or less)		CASE NUMBER: <b>RG12642082</b>

## TO ALL PARTIES:

1. A judgment, decree, or order was entered in this action on (date): **March 7, 2013**
2. A copy of the judgment, decree, or order is attached to this notice.  
 See attached Order dropping Defendant City of Oakland's Demurrer to First Amended Complaint.

Date: March 12, 2013

GENE HAZZARD(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)


(SIGNATURE)

BY FAX

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The Demurrer of Defendants City of Oakland, Council Member Larry Reid, Council Member Nancy Nadel, Council Member Jane Brunner, Council Member Rebecca Kaplan, Council Member Pat Kernighan, Council Member Libby Schaaf, Council Member Ignacio de la Fuente, Council Member Desley Brooks, Mayor Jean Quan, City Administrator Deanna Santana, Assistant City Administrator Fred Blackwell, Former Community and Economic Development Director Dan Lindheim, Former Community and Economic Development Director Walter Cohen, Former OBRA Director Aliza Gallo, OBA Project Manager Pat Cashman, Development Director Gregory Hunter, and OAB Project Manager Al Auletta ("City Defendants") to the Verified Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(e), is DROPPED.

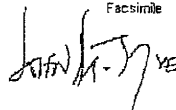
The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile



Judge John M. True, III

Order

SHORT TITLE:	Hazzard VS City of Oakland	CASE NUMBER:	RG12642082
--------------	----------------------------	--------------	------------

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP

Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP

Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order



Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By

  
digital

Deputy Clerk

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE (CCP 1013a, 2015.5)**

I am over the age of eighteen years and not a party to the within action; my resident address is 731 Mandana Blvd., Oakland, CA 94610.

On the date below I served the following document(s), the original of which was/were produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

**NOTICE OF ENTRY OF ORDER DROPPING DEFENDANT CITY OF OAKLAND'S  
DEMURRER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

to:

*Counsel for the City of Oakland*  
Kevin D. Siegel  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.

— BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the office of the person(s) listed above.

— BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express to the office of the person(s) listed above.

— BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by facsimile transmission at or about Enter time on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (415) 391-6965. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) are as set forth above.

X BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 12, 2013, at San Francisco, California.

  
HEATHER M. EHMKE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>GENE HAZZARD, In Pro Per</b>  282 Adams Street, #6 Oakland, CA 94610 TELEPHONE NO.: (510) 418-0501 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Plaintiff</b>		FOR COURT USE ONLY  ENDORSED FILED ALAMEDA COUNTY  MAR 12 2013  CLERK OF THE SUPERIOR COURT By <u>[Signature]</u>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>OAKLAND</b> STREET ADDRESS: <b>Alameda Superior Court</b> MAILING ADDRESS: <b>1225 Fallon Street</b> CITY AND ZIP CODE: <b>Oakland, CA 94612</b> BRANCH NAME:		
PLAINTIFF/PETITIONER: <b>GENE HAZZARD</b>  DEFENDANT/RESPONDENT: <b>CITY OF OAKLAND, et al.</b>		
NOTICE OF ENTRY OF JUDGMENT OR ORDER  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded exceeded \$25,000) (Amount demanded was \$25,000 or less)		
		CASE NUMBER: <b>RG12642082</b>

## TO ALL PARTIES:

1. A judgment, decree, or order was entered in this action on (date): **March 7, 2013**
2. A copy of the judgment, decree, or order is attached to this notice.  
 See attached Order dropping Defendant Phil Tagami and Daniel Letter's Demurrer to First Amended Complaint.

Date: March 12, 2013

GENE HAZZARD(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

[Signature]  
 (SIGNATURE)

BY FAX

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

---

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

---

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)

(Abbreviated Title)

No. RG12642082

Order

Demurrer to the First Amended Complaint  
Dropped

The Demurrer to the First Amended Complaint was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and has not been contested.

**IT IS HEREBY ORDERED THAT:**

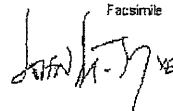
The tentative ruling is affirmed as follows: The Demurrer of Defendants Phil Tagami and Daniel Letter to the First Amended Complaint of Plaintiff Gene Hazzard, pursuant to CCP § 430.10(a), (e) and (f), is DROPPED.

The Demurrer is moot. The Court has granted Plaintiff's Motion for Leave to File a Second Amended Complaint.

The Court will prepare the order and mail copies to the parties. Plaintiff shall file and serve the Notice of Entry of Order within five (5) days of the date shown on the Clerk's Certificate of Mailing.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 03/07/2013

Facsimile  


---

Judge John M. True, III

---

Order

SHORT TITLE:	Hazzard VS City of Oakland	CASE NUMBER:	RG12642082
--------------	----------------------------	--------------	------------

ADDITIONAL ADDRESSEES

---

Hanson Bridgett Marcus Vlahos & Rudy  
LLP  
Attn: Giacomini, Andrew G  
425 Market Street, 26th Floor  
San Francisco, CA 94105-2173

HANSON BRIDGETT LLP  
Attn: Adams, William E.  
425 Market Street, 26th Floor  
Suite 620  
San Francisco, CA 94105\_\_\_\_\_

---

Order

Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse

Case Number: RG12642082  
Order After Hearing Re: of 03/07/2013

**DECLARATION OF SERVICE BY MAIL**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 03/08/2013.

Executive Officer / Clerk of the Superior Court

By

  
digital

Deputy Clerk

1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 731 Mandana Blvd., Oakland, CA 94610.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **NOTICE OF ENTRY OF ORDER DROPPING DEFENDANTS PHIL TAGAMI AND**  
7 **DANIEL LETTER'S DEMURRER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

8 to:

9 *Counsel for the City of Oakland*  
10 Kevin D. Siegel  
11 Burke, Williams and Sorenson  
12 1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

13  
14 X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
United States mail at San Francisco, California.

15        BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
16 office of the person(s) listed above.

17        BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
to the office of the person(s) listed above.

18        BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
19 facsimile transmission at or about Enter time on that date. This document was transmitted  
20 by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
telephone number (415) 391-6965. The transmission was reported as complete and without  
21 error. A copy of the transmission report, properly issued by the transmitting machine, is  
attached. The names and facsimile numbers of the person(s) are as set forth above.

22 X BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
23 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
service by e-mail. No electronic message or other indication that the transmission was  
unsuccessful was received within a reasonable time after the transmission.

24  
25 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
26 March 12, 2013, at San Francisco, California.

27   
28 HEATHER M. EHMKE

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT E



*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT F

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

March 12, 2013

COPY DELIVERED  
Date: 3/12 Int: KG  
3:35 PM Box

*Via U.S. Mail and Electronic Service*

William E. Adams  
Hanson, Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94104

Kevin D. Siegel, Esq.  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501

Re: *Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG 12642082

BY FAX

Dear Mr. Siegel and Mr. Adams:

I have reviewed defendant Tagami, *et al.*'s proposed orders related to the March 7, 2013 hearing in the matter RG 12642082 of Gene Hazzard (Plaintiff) in pro per v. City of Oakland, Phil Tagami (CCIG Oakland Global LLC) and Daniel Letter (Prologis Property LP) (Defendants) and note that they reflect different language from what the Court stated in open court as reflected in the official transcript of the proceedings.

First, defendant Tagami's counsel requested that pursuant to Rule 3.1312 that plaintiff approve the orders as to form or object within five days, failing to note that requesting a time frame under Rule 3.1312 is premature in that the Court took the matter under submission. Therefore, the deadline plaintiff has to approve and/or object to any proposed order should be tolled from the Court's formal ruling. Nevertheless, plaintiff submits the following objections:

While the Court instructed defendants to prepare a proposed order, he did not grant defendants' demurrers. The Court ruled that the demurrers were moot. Further, the Court issued Orders stating that the demurrers were dropped because defendants did not contest the Tentative Ruling as to the demurrers. Thus, the only matter before the Court on March 7<sup>th</sup> was plaintiff's Motion for Leave to File a Second Amended Complaint. Thus, defendant should have prepared only one order.

Secondly, the orders submitted cite language that is not supported by the Court's instructions. Specifically, the Court did not state that the action would be dismissed with prejudice. Nor did the Court state that the order denying plaintiff's motion to amend was granted based on *Foxborough v. Van Atta* (1994) 26 Cal. App. 4th. Rather, the Court took the matter under

(F)

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

March 12, 2013

COPY DELIVERED  
Date: 3/12 Int: KG  
3:35 PM Box

*Via U.S. Mail and Electronic Service*

William B. Adams  
Hanson, Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94104

Kevin D. Siegel, Esq.  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501

Re: *Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG 12642082

BY FAX

Dear Mr. Siegel and Mr. Adams:

I have reviewed defendant Tagami, *et al.*'s proposed orders related to the March 7, 2013 hearing in the matter RG 12642082 of Gene Hazzard (Plaintiff) in pro per v. City of Oakland, Phil Tagami (CCIG Oakland Global LLC) and Daniel Letter (Prologis Property LP) (Defendants) and note that they reflect different language from what the Court stated in open court as reflected in the official transcript of the proceedings.

First, defendant Tagami's counsel requested that pursuant to Rule 3.1312 that plaintiff approve the orders as to form or object within five days, failing to note that requesting a time frame under Rule 3.1312 is premature in that the Court took the matter under submission. Therefore, the deadline plaintiff has to approve and/or object to any proposed order should be tolled from the Court's formal ruling. Nevertheless, plaintiff submits the following objections:

While the Court instructed defendants to prepare a proposed order, he did not grant defendants' demurrers. The Court ruled that the demurrers were moot. Further, the Court issued Orders stating that the demurrers were dropped because defendants did not contest the Tentative Ruling as to the demurrers. Thus, the only matter before the Court on March 7<sup>th</sup> was plaintiff's Motion for Leave to File a Second Amended Complaint. Thus, defendant should have prepared only one order.

Secondly, the orders submitted cite language that is not supported by the Court's instructions. Specifically, the Court did not state that the action would be dismissed with prejudice. Nor did the Court state that the order denying plaintiff's motion to amend was granted based on *Foxborough v. Van Atta* (1994) 26 Cal. App. 4th. Rather, the Court took the matter under

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT G

Search

Sear



# It's simple to get started

with a .net email from a .net ISP

START TODAY

Calendar

Notepad

What's New? Mobile Mail Optic

Mail Search

Try the new att.net

Previous | Next | Back to Messages

Mark as Unread |

Delete

Reply

Forward

Move...

**RE: Hazzard v. City of Oakland, et al. - Proposed Orders**

Wednesday, March 13, 2013 12:1

From: "Heather Ehmke" <whitewolf303@att.net>

To: "Christine Hiler" <CHiler@hansonbridgett.com>, "Kevin D. Siegel" <KSiegel@bwsllaw.com>

Cc: "William E. Adams" <WAdams@hansonbridgett.com>, "Celestine O. Seals" <CSeals@bwsllaw.com>

3 Files (498KB) | Download All



Letter to.



Notice of.



Notice of.

Attached is Mr. Hazzard's response to the proposed Orders.

— On Sat, 3/9/13, Siegel, Kevin D. <KSiegel@bwsllaw.com> wrote:

From: Siegel, Kevin D. <KSiegel@bwsllaw.com>

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

To: "Christine Hiler" <CHiler@hansonbridgett.com>

Cc: "William E. Adams" <WAdams@hansonbridgett.com>, whitewolf303@att.net, "Seals, Celestine O." <CSeals@bwsllaw.com>

Date: Saturday, March 9, 2013, 12:29 AM

Thank you. Enjoy the weekend.

Kevin Siegel

**From:** Christine Hiler [mailto:CHiler@hansonbridgett.com]

**Sent:** Friday, March 08, 2013 4:19 PM

**To:** Siegel, Kevin D.

**Cc:** William E. Adams; whitewolf303@att.net; Seals, Celestine O.

**Subject:** RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Kevin,

I accepted your changes to both proposed orders and made a couple more to the way our clients were named.

Ms. Ehmke, I will mail these versions of the proposed orders to Mr. Hazzard. But again, if you are in a position to provide it to him electronically we would appreciate your courtesies in this regard.

Thank You,  
Christine

**From:** Siegel, Kevin D. [mailto:KSiegel@bwsllaw.com]

**Sent:** Friday, March 08, 2013 3:54 PM

**To:** Christine Hiler

**Cc:** William E. Adams; whitewolf303@att.net; Seals, Celestine O.

**Subject:** RE: Hazzard v. City of Oakland, et al. - Proposed Orders

G

1204

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT H

SHARE  
BREAKFAST

Help feed the potential of  
kids in your community.

Join the  
movement  
CLICK HERE!

TM, ©2010  
Kellogg NA

Notepad

What's New? Mobile Mail Options

Mail Search

Try the new att.net Mail

Previous | Next | Back to Messages

Mark as Unread | Print

Delete

Reply

Forward

Spam

Move...

RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Wednesday, March 13, 2013 12:29 AM

From: "William E. Adams" <WAdams@hansonbridgett.com>

To: "Heather Ehmke" <whitewolf303@att.net>, "Christine Hiler" <CHiler@hansonbridgett.com>, "Kevin D. Siegel" <KSiegel@bwsllaw.com>

Cc: "Celestine O. Seals" <CSeals@bwsllaw.com>

Please thank Mr. Hazzard for his thoughtful response and let him know we will submit his letter with the proposed orders.

Sent with Good (www.good.com)

-----Original Message-----

From: Heather Ehmke [whitewolf303@att.net]

Sent: Tuesday, March 12, 2013 05:19 PM Pacific Standard Time

To: Christine Hiler; Kevin D. Siegel

Cc: William E. Adams; Celestine O. Seals

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Attached is Mr. Hazzard's response to the proposed Orders:

----- On Sat, 3/9/13, Siegel, Kevin D. <KSiegel@bwsllaw.com> wrote:

From: Siegel, Kevin D. <KSiegel@bwsllaw.com>

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

To: "Christine Hiler" <CHiler@hansonbridgett.com>

Cc: "William E. Adams" <WAdams@hansonbridgett.com>, whitewolf303@att.net, "Seals, Celestine O." <CSeals@bwsllaw.com>

Date: Saturday, March 9, 2013, 12:29 AM

Thank you. Enjoy the weekend.

Kevin Siegel

-----  
From: Christine Hiler [mailto:CHiler@hansonbridgett.com]

Sent: Friday, March 08, 2013 4:19 PM

To: Siegel, Kevin D.

Cc: William E. Adams; whitewolf303@att.net; Seals, Celestine O.

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Kevin,

I accepted your changes to both proposed orders and made a couple more to the way our clients were named.

Ms. Ehmke, I will mail these versions of the proposed orders to Mr. Hazzard. But again, if you are in a position to provide it to him electronically we would appreciate your courtesies in this regard.

Thank You,  
Christine

-----  
From: Siegel, Kevin D. [mailto:KSiegel@bwsllaw.com]

Sent: Friday, March 08, 2013 3:54 PM

To: Christine Hiler

Cc: William E. Adams; whitewolf303@att.net; Seals, Celestine O.

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

1206

SHARE  
BREAKFAST

help feed the potential of  
kids in your community.

Join the  
movement  
CLICK HERE!

© 1997-2013  
KelleysNA

Notepad

What's New? Mobile Mail Options

Mail Search

Try the new att.net Mail

Previous | Next | Back to Messages

Mark as Unread | Print

Delete

Reply

Forward

Spam

Move...

RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Wednesday, March 13, 2013 12:29 AM

From: "William E. Adams" <WAdams@hansonbridgett.com>

To: "Heather Ehmke" <whitewolf303@att.net>, "Christine Hiler" <CHiler@hansonbridgett.com>, "Kevin D. Siegel" <KSiegel@bwsllaw.com>

Cc: "Celestine O. Seals" <CSeals@bwsllaw.com>

Please thank Mr. Hazzard for his thoughtful response and let him know we will submit his letter with the proposed orders.

Sent with Good (www.good.com)

—Original Message—

From: Heather Ehmke [whitewolf303@att.net]

Sent: Tuesday, March 12, 2013 05:19 PM Pacific Standard Time

To: Christine Hiler; Kevin D. Siegel

Cc: William E. Adams; Celestine O. Seals

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Attached is Mr. Hazzard's response to the proposed Orders.

— On Sat, 3/9/13, Siegel, Kevin D. <KSiegel@bwsllaw.com> wrote:

From: Siegel, Kevin D. <KSiegel@bwsllaw.com>

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

To: "Christine Hiler" <CHiler@hansonbridgett.com>

Cc: "William E. Adams" <WAdams@hansonbridgett.com>, whitewolf303@att.net, "Seals, Celestine O." <CSeals@bwsllaw.com>

Date: Saturday, March 9, 2013, 12:29 AM

Thank you. Enjoy the weekend.

Kevin Siegel

From: Christine Hiler [mailto:CHiler@hansonbridgett.com]

Sent: Friday, March 08, 2013 4:19 PM

To: Siegel, Kevin D.

Cc: William E. Adams; whitewolf303@att.net; Seals, Celestine O.

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

Kevin,

I accepted your changes to both proposed orders and made a couple more to the way our clients were named.

Ms. Ehmke, I will mail these versions of the proposed orders to Mr. Hazzard. But again, if you are in a position to provide it to him electronically we would appreciate your courtesies in this regard.

Thank You,

Christine

From: Siegel, Kevin D. [mailto:KSiegel@bwsllaw.com]

Sent: Friday, March 08, 2013 3:54 PM

To: Christine Hiler

Cc: William E. Adams; whitewolf303@att.net; Seals, Celestine O.

Subject: RE: Hazzard v. City of Oakland, et al. - Proposed Orders

1207



*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT I

Gene Hazzard  
282 Adams Street,  
Unit #6  
Oakland, CA 94610

Burke, Williams & Sorensen, LLP  
Attn: Siegel, Kevin D.  
1901 Harrison St., #900  
Oakland, CA 94612-3501

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Hazzard

Plaintiff/Petitioner(s)

VS.

City of Oakland

Defendant/Respondent(s)  
(Abbreviated Title)

No. RG12642082

Order

Motion to Amend Complaint  
Denied

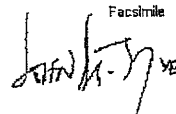
The Motion to Amend Complaint filed for Gene Hazzard was set for hearing on 03/07/2013 at 03:00 PM in Department 23 before the Honorable John M. True, III. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Plaintiff's Motion for leave to File a Second Amended Complaint is denied.

Dated: 03/13/2013

Facsimile  


Judge John M. True, III

Order

(I)

120

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT J

All new att.net Mail | Help

Mail | AT

Search

Search Web

AdChoices

You shared  
his first kick.

endar Notepad

What's New? Mobile Mail Options

Mail Search

Try the new att.net Mail

Previous | Next | Back to Messages

Mark as Unread | Print

Delete Reply Forward Spam Move...

Hazzard v. City of Oakland, et al, Action No. RG12642082

Wednesday, March 13, 2013 3:49 PM

From: "William E. Adams" &lt;WAdams@hansonbridgett.com&gt;

To: "dept.23@alameda.courts.ca.gov" &lt;dept.23@alameda.courts.ca.gov&gt;

Cc: "Heather Ehmke" &lt;whitewolf303@att.net&gt; (whitewolf303@att.net); "Siegel, Kevin D." (KSiegel@bwsllaw.com) &lt;KSiegel@bwsllaw.com&gt;, "Christine Hiller" &lt;CHiller@hansonbridgett.com&gt;

2 Files (784KB) | Download All



Letter to Mr. Hazzard LTR to Hazzard

Mr. Bir:

Attached please find the defendants' proposed orders for the demurrers to the First Amended Complaint and the denial of leave to file a Second Amended Complaint (attached as enclosures to a letter to Mr. Hazzard dated March 8, 2013), which the court heard on March 7, 2013, and Mr. Hazzard's March 13, 2013 response letter refusing to consent to approval as to form of these proposed orders.

Please feel free to contact me with any questions.

William E. Adams  
Partner  
Hanson Bridgett LLP  
(415) 995-5004 Direct  
(415) 995-3446 Fax  
WAdams@hansonbridgett.com



Hanson Bridgett LLP  
425 Market Street, 26th Floor  
San Francisco, CA 94105

San Francisco | Sacramento | North Bay | Silicon Valley | East Bay

Think twice before printing Always recycle Switch off as you go

This communication, including any attachments, is confidential and may be protected by privilege. If you are not the intended recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or email, and permanently delete all copies, electronic or other, you may have.

The foregoing applies even if this notice is embedded in a message that is forwarded or attached.

Delete Reply Forward Spam Move...

Previous | Next | Back to Messages

Select Message Encoding

Full Headers

J

1211

1 HANSON BRIDGETT LLP  
2 ANDREW G. GIACOMINI, SBN 154377  
3 agiacomini@hansonbridgett.com  
4 WILLIAM E. ADAMS, SBN 153330  
5 wadams@hansonbridgett.com  
6 CHRISTINE HILER, SBN 245331  
7 chiler@hansonbridgett.com  
8 425 Market Street, 26th Floor  
9 San Francisco, California 94105  
10 Telephone: (415) 777-3200  
11 Facsimile: (415) 541-9366

12 Attorneys for Defendants PHIL TAGAMI and  
13 DANIEL LETTER

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

12 GENE HAZZARD, Resident taxpayer, City of  
13 Oakland, California, et al.,

14 Plaintiff,

15 v.

16 CITY OF OAKLAND; ALL MEMBERS OF  
17 THE OAKLAND CITY COUNCIL  
18 (COUNCIL PRESIDENT LARRY REID,  
19 NANCY NADEL, JANE BRUNNER,  
20 REBECCA KAPLAN, PAT KERNIGHAN,  
21 LIBBY SCHAAF, IGNACIO DE LA  
22 FUENTE, DESLEY BROOKS); MAYOR  
23 JEAN QUAN; DEANNA SANTANA, CITY  
24 ADMINISTRATOR; FRED BLACKWELL,  
25 ASSISTANT CITY ADMINISTRATOR;  
26 FORMER COMMUNITY AND ECONOMIC  
27 DEVELOPMENT DIRECTORS DAN  
28 LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT  
DIRECTOR GREGORY HUNTER; OAB  
PROJECT MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER AMB /  
PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

**[PROPOSED] ORDER DENYING  
PLAINTIFF GENE HAZZARD'S  
MOTION FOR LEAVE TO FILE A  
SECOND AMENDED COMPLAINT**

Date: March 7, 2013  
Time: 3:00 p.m.  
Dept: 23  
Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
Trial Date: T.B.D.

Reservation No. #R-1360643

1 Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended Complaint came on  
2 regularly for hearing on March 7, 2013, at 3:00 p.m. in Department 23 of the Alameda County  
3 Superior Court; the Honorable John M. True, III presiding. A Tentative Ruling was published and  
4 was contested by the Defendants.

5 Plaintiff Gene Hazzard appeared in pro per. Defendants Phil Tagami and Daniel Letter  
6 ("Developer Defendants") appeared by and through counsel William E. Adams. Defendants City  
7 of Oakland and the City officials, former officials, employees and former employees (collectively,  
8 "City Defendants") named in the First Amended Complaint ("City Defendants") appeared by and  
9 through their counsel Kevin D. Siegel.

10 Having read the motions, all the memoranda and supporting documents, and having heard  
11 the oral arguments of the parties and considered all papers and evidence filed in connection with  
12 this motion, including the three versions of the proposed Second Amended Complaint filed in  
13 connection with this motion,<sup>1</sup>

14 IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File a Second Amended  
15 Complaint is DENIED. A careful examination of the various versions of the proposed Second  
16 Amended Complaint filed by Plaintiff demonstrates that granting leave to amend the pleadings  
17 further is not warranted because the Second Amended Complaint does not allege facts sufficient to  
18 constitute a cause of action and would be futile because Plaintiff cannot cure the defects presented  
19 in the Complaint and the First Amended Complaint, on which the court sustained the demurrers of  
20 the Defendants. (*See Foxborough v. Van Atta* (1994) 26 Cal.App.4th 217, 230.)

21 DATED: March \_\_\_, 2013

22  
23 THE HONORABLE JOHN M. TRUE, III  
24 JUDGE OF THE SUPERIOR COURT  
25

26  
27 <sup>1</sup> Plaintiff filed versions of the proposed Second Amended Complaint on February 8, February  
28 28, and March 7, 2013.

1 Approved as to form by:  
2

3 DATED: March , 2013  
4

5 By: \_\_\_\_\_  
6 GENE HAZZARD  
7 *In Pro Per Plaintiff*  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 HANSON BRIDGETT LLP  
2 ANDREW G. GIACOMINI, SBN 154377  
3 agiacomini@hansonbridgett.com  
4 WILLIAM E. ADAMS, SBN 153330  
5 wadams@hansonbridgett.com  
6 CHRISTINE HILER, SBN 245331  
7 425 Market Street, 26th Floor  
8 San Francisco, California 94105  
9 Telephone: (415) 777-3200  
10 Facsimile: (415) 541-9366

11 Attorneys for Defendants PHIL TAGAMI and  
12 DANIEL LETTER

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

11 GENE HAZZARD, Resident taxpayer, City of  
12 Oakland, California, et al.,

13 Plaintiff,

14 v.

15 CITY OF OAKLAND; ALL MEMBERS OF  
16 THE OAKLAND CITY COUNCIL  
17 (COUNCIL PRESIDENT LARRY REID,  
18 NANCY NADEL, JANE BRUNNER,  
19 REBECCA KAPLAN, PAT KERNIGHAN,  
20 LIBBY SCHAAF, IGNACIO DE LA  
21 FUENTE, DESLEY BROOKS); MAYOR  
22 JEAN QUAN; DEANNA SANTANA, CITY  
23 ADMINISTRATOR; FRED BLACKWELL,  
24 ASSISTANT CITY ADMINISTRATOR;  
25 FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT  
DIRECTOR GREGORY HUNTER; OAB  
PROJECT MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER AMB /  
PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

**[PROPOSED] ORDER SUSTAINING  
DEFENDANTS' DEMURRERS TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT**

Date: March 7, 2013  
Time: 3:00 p.m.  
Dept: 23  
Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
Trial Date: T.B.D.

Reservation No. #R-1354686



1 The Demurrers of Defendants Phil Tagami and Daniel Letter ("Developer Defendants")  
2 and Defendants City of Oakland and the City officials, former officials, employees and former  
3 employees named in the First Amended Complaint ("City Defendants") to Plaintiff Gene  
4 Hazzard's First Amended Complaint came on regularly for hearing on March 7, 2013, at 3:00 p.m.  
5 in Department 23 of the Alameda County Superior Court, the Honorable John M. True, III  
6 presiding. A Tentative Ruling was published and was contested by the Developer Defendants and  
7 City Defendants.

8 Plaintiff and opposing party Gene Hazzard appeared in pro per. Developer Defendants and  
9 moving parties appeared by and through counsel William E. Adams. City Defendants and moving  
10 parties appeared by and through counsel Kevin D. Siegel.

11 Having read the motions, all the memoranda and supporting documents, and having heard  
12 the oral arguments of the parties and considered all papers, including the requests for judicial  
13 notice, filed in connection with this motion,

14 IT IS HEREBY ORDERED THAT, the Developer Defendants' and City Defendants'  
15 Demurrers to each cause of action alleged in the First Amended Complaint are SUSTAINED  
16 without leave to amend. None of the purported causes of action in the First Amended Complaint  
17 allege facts sufficient to state a cause of action, and it is apparent the Plaintiff is unable to allege  
18 facts sufficient to state a cause of action. All defendants are dismissed from the above-referenced  
19 action with prejudice.

20  
21 DATED: March \_\_\_\_, 2013

22 THE HONORABLE JOHN M. TRUE, III  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27  
28

1 Approved as to form by:

2

3 DATED: March , 2013

4

5

By: \_\_\_\_\_

GENE HAZZARD

*In Pro Per Plaintiff*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT K

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

March 14, 2013

**Via Personal Delivery**

The Honorable John M. True, III  
Judge of the Superior Court  
Department 23  
1221 Oak Street, 4<sup>th</sup> Floor  
Oakland, CA 94612

Re: *Hazzard v. City of Oakland*  
Alameda County Superior Court Action No. RG 12642082

Dear Judge True:

I have received your ruling denying plaintiff leave to file a Second Amended Complaint in the above-referenced action. Thank you for taking the time to review the matter before arriving at your decision. I realize that the Court was put in a unique position of tracking the numerous claims that evolved after the filing of the initial complaint, and to make rulings in a case where the issues were confused by the mistakes of all parties. To that end, I have decided that it would be prudent to dismiss the case, without prejudice, allowing time to further investigate the claims asserted in the Second Amended Complaint so that any future complaints will be more focused and concise. To that end, I am providing you with a courtesy copy of my request for dismissal without prejudice.

It was an honor to speak in your courtroom regarding my concerns, and I thank you for that opportunity.

Very truly yours,

  
GENE HAZZARD

cc: William E. Adams  
Kevin D. Siegel

(K-1)

TORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

GENE HAZZARD, In Pro Per

2 Adams Street, #6  
Oakland, CA 94610

TELEPHONE NO.: (510) 418-0501

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

TORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE: Oakland, CA 94612

BRANCH NAME:

PLAINTIFF/PETITIONER: GENE HAZZARD

DEFENDANT/RESPONDENT: CITY OF OAKLAND, et al.

FOR COURT USE ONLY

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 14 2013

CLERK OF THE SUPERIOR COURT  
By MARGARET J. DOWNILL Deputy

REQUEST FOR DISMISSAL

CASE NUMBER:  
RG12642082

A conformed copy will not be returned by the clerk unless a method of return is provided with the document.  
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)

TO THE CLERK: Please dismiss this action as follows:

- a. (1) ☐ With prejudice (2) ☒ Without prejudice  
b. (1) ☐ Complaint (2) ☐ Petition  
(3) ☐ Cross-complaint filed by (name):  
(4) ☐ Cross-complaint filed by (name):  
(5) ☒ Entire action of all parties and all causes of action  
(6) ☐ Other (specify):\*

on (date):

on (date):

\* Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date:

GENE HAZZARD

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

(SIGNATURE)

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

\*\* If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for the cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(f) or (g).

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):  
5. ☐ Dismissal entered on (date): as to only (name):  
6. ☐ Dismissal not entered as requested for the following reasons (specify):

DISMISSAL ENTERED

MAR 13 2013

By MARGARET J. DOWNILL Deputy

7. a. ☐ Attorney or party without attorney notified on (date):  
b. ☐ Attorney or party without attorney not notified. Filing party failed to provide  
☐ a copy to be conformed ☐ means to return conformed copy

Date:

Clerk, by

Deputy  
Page 1 of 2

PLAINTIFF/PETITIONER: GENE HAZZARD  
 DEFENDANT/RESPONDENT: CITY OF OAKLAND, et al.

CASE NUMBER:  
 RG12642082

### COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

### Declaration Concerning Waived Court Fees

1. The court waived fees and costs in this action for (name):
2. The person in item 1 is (check one below):
  - a. ☐ not recovering anything of value by this action.
  - b. ☐ recovering less than \$10,000 in value by this action.
  - c. ☐ recovering \$10,000 or more in value by this action. (If item 2c is checked, item 3 must be completed.)
3. ☐ All court fees and costs that were waived in this action have been paid to the court (check one): ☐ Yes ☐ No

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

Date: \_\_\_\_\_

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)

\_\_\_\_\_  
 (SIGNATURE)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PROOF OF SERVICE (CCP 1013a, 2015.5)

I am over the age of eighteen years and not a party to the within action; my resident address is 731 Mandana Blvd., Oakland, CA 94610.

On the date below I served the following document(s), the original of which was/were produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

REQUEST FOR DISMISSAL WITHOUT PREJUDICE

to:

*Counsel for the City of Oakland*  
Kevin D. Siegel  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
Andrew Giacomini  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

- ☒ BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the office of the person(s) listed above.
- ☐ BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express to the office of the person(s) listed above.
- ☐ BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by facsimile transmission at or about Enter time on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (415) 391-6965. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) are as set forth above.
- ☐ BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 14, 2013, at San Francisco, California.



























  
HEATHER M. EHMKE

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT L



Date	Action	Image (Java)	Image (TIFF)
03/14/13	Request Re: Dismissal w/o prejudice - entire action Entered		
03/13/13	Motion to Amend Complaint Denied		
03/07/13	Motion to Amend Complaint Taken Under Submission		
03/07/13	Case Management Conference Order Issued		
03/07/13	Demurrer to the First Amended Complaint - Dropped		
03/07/13	Demurrer to the First Amended Complaint - Dropped		
02/19/13	Motion for Reconsideration Denied		
12/17/12	Case Management Conference Order Issued		
12/17/12	Motion to Expunge Lis Pendens Granted		
12/17/12	Motion Joinder Granted		
11/19/12	Motion Joinder - Motion Rescheduled		
11/19/12	Demurrer Sustained With Leave to Amend		
11/19/12	Demurrer Sustained With Leave to Amend		
11/19/12	Motion to Expunge Lis Pendens - Motion Rescheduled		

(L)

*Hazzard v. City of Oakland*

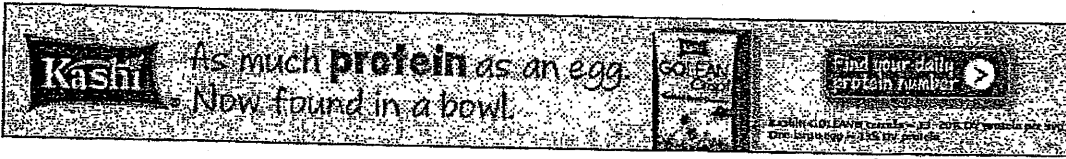
Alameda County Superior Court Action No. RG12642082

# EXHIBIT M

[Out](#) | [All new att.net Mail](#) | [Help](#)
[Mail](#) | [AT](#)

Search

Search Web


[Calendar](#) | [Notepad](#)
[What's New?](#) | [Mobile Mail](#) | [Options](#)

Mail Search

[Try the new att.net Mail](#)
[Previous](#) | [Next](#) | [Back to Messages](#)
[Mark as Unread](#) | [Print](#)
[Delete](#) | [Reply](#) | [Forward](#) | [Spam](#) | [Move...](#)

RE: Hazzard v. City of Oakland

Friday, March 15, 2013 12:00 AM

From: "William E. Adams" &lt;WAdams@hansonbridgett.com&gt;

To: "Heather Ehmke" &lt;whitewolf303@att.net&gt;

Thanks.

From: Heather Ehmke [mailto:whitewolf303@att.net]

Sent: Thursday, March 14, 2013 4:59 PM

To: William E. Adams

Subject: Re: Hazzard v. City of Oakland

She was retained her through the Court Reporters LLC. Their phone number is (925) 922-2321.

— On Thu, 3/14/13, William E. Adams <WAdams@hansonbridgett.com> wrote:

From: William E. Adams &lt;WAdams@hansonbridgett.com&gt;

Subject: Hazzard v. City of Oakland

To: "Heather Ehmke" &lt;whitewolf303@att.net&gt; (whitewolf303@att.net) &lt;whitewolf303@att.net&gt;

Date: Thursday, March 14, 2013, 9:00 PM

Dear Ms. Ehmke:

Could you please provide me with contact information for the court reporter you retained for the March 7, 2013 hearing? Thanks.

William E. Adams

Partner

Hanson Bridgett LLP

(415) 995-5004 Direct

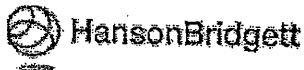
(415) 995-3446 Fax

WAdams@hansonbridgett.com

Hanson Bridgett LLP

425 Market Street, 26th Floor

San Francisco, CA 94105



San Francisco | Sacramento | North Bay | Silicon Valley | East Bay

Think twice before printing Always recycle Switch off as you go

This communication, including any attachments, is confidential and may be protected by privilege. If you are not the intended recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or email, and permanently delete all copies, electronic or other, you may have.

















The foregoing applies even if this notice is embedded in a message that is forwarded or attached.

1226

*Hazzard v. City of Oakland*

Alameda County Superior Court Action No. RG12642082

# EXHIBIT N

			
03/12/13	Notice of Entry of Order Filed		
03/12/13	Notice of Entry of Order Filed		
03/13/13	Order Denying Plaintiff to File a Second Amended Complaint Filed		
03/13/13	Motion to Amend Complaint Denied		
03/13/13	Order Sustaining demurrer without leave to amend Filed		
03/13/13	Order Sustaining demurrer without leave to amend Filed		
03/14/13	Request Re: Dismissal w/o prejudice - entire action Filed		
03/14/13	Request Re: Dismissal w/o prejudice - entire action Entered		
03/14/13	Order Order Stricking filings Filed		



1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 1325 East 32<sup>nd</sup> Street, Oakland, CA 94602.

4 On the date below I served the following documents, the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **DECLARATION OF HEATHER M. EHMKE AFTER RULING ON HEARING ON**  
7 **PLAINTIFF'S MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT**

8 on:

9 *Counsel for the City of Oakland*  
10 Kevin D. Siegel  
11 Burke, Williams and Sorenson  
12 1901 Harrison Street, Suite 900  
13 Oakland, CA 94612  
14 (510) 273-8780  
15 [ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
Andrew Giacomini  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

14 X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
15 United States mail at San Francisco, California.

16 — BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
17 office of the person(s) listed above.

18 — BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
19 to the office of the person(s) listed above.

20 — BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
21 facsimile transmission at or about Enter time on that date. This document was transmitted  
22 by using a facsimile machine that complies with California Rules of Court Rule 2003(3).

23 — BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
24 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
25 service by e-mail. No electronic message or other indication that the transmission was  
26 unsuccessful was received within a reasonable time after the transmission.

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
28 March 27, 2013 at Oakland, California.

  
LAVORA B. HAZZARD

ORIGINAL

Unrecd



<b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</b> Kevin D. Siegel (SBN 194787) Burke Williams & Sorensen, LLP 1901 Harrison Street, Suite 900 Oakland, CA 94612 TELEPHONE NO.: 510-273-8780 FAX NO. (Optional): 510-839-9104 E-MAIL ADDRESS (Optional): ksiegel@bwsllaw.com ATTORNEY FOR (Name): City of Oakland, et al.		<b>FOR COURT USE ONLY</b>  <b>FILED</b> ALAMEDA COUNTY APR - 4 2013 By <u>Gina Baker</u> <small>Exec. Off./Clerk</small>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Gene Hazzard DEFENDANT/RESPONDENT: City of Oakland, et al.		
<b>NOTICE OF ENTRY OF JUDGMENT OR ORDER</b>  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeded \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded was \$25,000 or less)		CASE NUMBER: RG12642082

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): March 26, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: April 3, 2013

Kevin D. Siegel

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

► Kevin D Siegel  
(SIGNATURE)

1230

PLAINTIFF/PETITIONER: Gene Hazzard

CASE NUMBER:  
RG12642082

DEFENDANT/RESPONDENT: City of Oakland, et al.

## PROOF OF SERVICE BY FIRST-CLASS MAIL

## NOTICE OF ENTRY OF JUDGMENT OR ORDER

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):  
1901 Harrison Street, Oakland, CA 94612
2. I served a copy of the Notice of Entry of Judgment or Order by enclosing it in a sealed envelope with postage fully prepaid and (check one):
  - a. ☒ deposited the sealed envelope with the United States Postal Service.
  - b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
3. The Notice of Entry of Judgment or Order was mailed:
  - a. on (date): April 3, 2013
  - b. from (city and state): Oakland, CA
4. The envelope was addressed and mailed as follows:
 

<ol style="list-style-type: none"> <li>a. Name of person served: Gene Hazzard  Street address: 282 Adams Street, Unit #6 City: Oakland State and zip code: CA 94610</li> <li>b. Name of person served: Barbara J. Parker City Attorney, City of Oakland Street address: One Frank H. Ogawa Plz, 6th Flr. City: Oakland State and zip code: CA 94612</li> </ol>	<ol style="list-style-type: none"> <li>c. Name of person served: William E. Adams Hanson Bridgett LLP Street address: 425 Market St., 26th Flr. City: San Francisco State and zip code: CA 94105</li> <li>d. Name of person served:  Street address: City: State and zip code:</li> </ol>
--	---

☐ Names and addresses of additional persons served are attached. (You may use form POS-030(P).)
5. Number of pages attached 2.

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

Date: April 3, 2013

Celestine Seals

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)



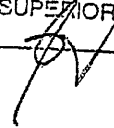
  
\*9703687\*

1 BARBARA J. PARKER (SBN 69722)  
City Attorney  
2 RANDOLPH W. HALL (SBN 80142)  
Chief Assistant City Attorney  
3 CITY OF OAKLAND  
One Frank H. Ogawa Plaza, 6th Floor  
4 Oakland, CA 94612  
Tel: 510.238.3601 Fax: 510.238.6500

Exempt from Filing Fees Per Gov  
Code § 6103

FILED  
ALAMEDA COUNTY

MAR 26 2013

CLERK OF THE SUPERIOR COURT  
By  Deputy

5 Kevin D. Siegel (SBN 194787)  
6 E-mail: [ksiegel@bwsllaw.com](mailto:ksiegel@bwsllaw.com)  
BURKE, WILLIAMS & SORESENSEN, LLP  
7 1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501  
8 Tel: 510.273.8780 Fax: 510.839.9104

9 Attorneys for Defendants  
CITY OF OAKLAND; ALL MEMBERS OF THE OAKLAND CITY COUNCIL  
10 (COUNCIL PRESIDENT LARRY REID, NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
11 LA FUENTE, DESLEY BROOKS); MAYOR JEAN QUAN; DEANNA  
SANTANA, CITY ADMINISTRATOR; FRED BLACKWELL, ASSISTANT  
12 CITY ADMINISTRATOR; FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN LINDHEIM AND WALTER COHEN;  
13 FORMER OBRA DIRECTOR ALIZA GALLO, OAB PROJECT MANAGER  
PAT CASHMAN; REDEVELOPMENT DIRECTOR GREGORY HUNTER;  
14 OAB PROJECT MANAGER AL AULETTA

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF ALAMEDA  
17

18 GENE HAZZARD, Resident taxpayer, City of  
19 Oakland, California, et al.,

20 Plaintiff,

21 v.

22 CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
23 (COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
24 REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
25 FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
26 ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
27 FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
28 LINDHEIM AND WALTER COHEN;

Case No. RG12642082

Assigned for All Purposes To:  
Honorable John M. True, III

[PROPOSED] JUDGMENT  
OF DISMISSAL

BURKE, WILLIAMS &  
SORENSEN, LLP  
ATTORNEYS AT LAW  
OAKLAND

OAK #4844-5549-6979 v1

- 1 -

[PROPOSED] JUDGMENT OF DISMISSAL

1232

1 FORMER OBRA DIRECTOR ALIZA  
2 GALLO, OAB PROJECT MANAGER PAT  
3 CASHMAN; REDEVELOPMENT  
4 DIRECTOR GREGORY HUNTER; OAB  
5 PROJECT MANAGER AL AULETTA; PHIL  
6 TAGAMI, CCG/GGIG MASTER  
7 DEVELOPER, DANIEL LETTER  
8 AMB/PROLOGIS MASTER DEVELOPER,  
9 et al.

10 Defendants.

11 This Court having sustained the demurrers to the First Amended Complaint without leave  
12 to amend and denied Plaintiff Gene Hazzard's motion for leave to file a second amended  
13 complaint, and good cause appearing, this Court enters judgment of dismissal against Plaintiff.

14 Defendants shall be entitled to recover their costs.

15 DATED: 3-26-13, 2013

16 By: 

17 HON. JOHN M. TRUE, III  
18 Judge of the Superior Court

19 APPROVED AS TO FORM.

20 GENE HAZZARD



111 = RCD  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

FILED  
ALAMEDA COUNTY

APR 08 2013

CLERK OF THE SUPERIOR COURT  
By Paulino Lingohan Deputy

PLAINTIFF, IN PROPRIA PERSONA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Appellant,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100.

Respondents.

Case No. RG12642082

NOTICE OF APPEAL; ELECTION TO  
PROCEED UNDER RULE 8.124,  
CALIFORNIA RULES OF COURT;  
DESIGNATION OF REPORTER'S  
TRANSCRIPT WITH SUBSTITUTION OF  
CERTIFIED TRANSCRIPT

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:


2 Plaintiff GENE HAZZARD appeals from the Notice of Entry of Judgment entered March  
3 28, 2013. This Notice of Appeal is filed simultaneously with a Notice Designating the Record on  
4 Appeal as set forth herein.

5 Appellant elects to proceed under the provisions of Rule 8.124 of the California Rules of  
6 Court.

7 Appellant designates for inclusion in the Reporter's Transcript the hearing on Motion for  
8 Leave to File a Second Amended Complaint held on March 7, 2013, in Department 20 reported by  
9 Doriann Renaud, C.S.R. A certified transcript of these proceedings is provided with this notice  
10 and substituted for the deposit of the cost of the transcript. (See Cal rules of Court Rule  
11 8.139(b)(2).  
12

13 Appellant further designates for inclusion in the Reporter's Transcript the hearing on  
14 Motion for Leave to File a Second Amended Complaint held on February 19, 2013, in Department  
15 20 reported by Christine Bedard, C.S.R. A certified transcript of these proceedings is provided  
16 with this notice and substituted for the deposit of the cost of the transcript. (See Cal rules of Court  
17 Rule 8.139(b)(2).  
18

19 Date: April 8, 2013  
20

21   
22 GENE HAZZARD  
23 Plaintiff *in propria persona*  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE JOHN M. TRUE III, JUDGE  
DEPARTMENT 512

---o0o---

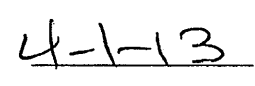
GENE HAZZARD, et al.,  
Plaintiffs,  
vs.  
CITY OF OAKLAND, et al.,  
Defendants.

No. RG12642082  
DECLARATION OF  
MARIA L. BECERRA  
CSR #10848  
(Representative  
of The Court  
Reporters LLC)

I, MARIA L. BECERRA, Certified Shorthand Reporter,  
and as a representative of THE COURT REPORTERS LLC, declare  
that after a thorough search of our records, no deposit is  
required in the above-entitled matter. Transcripts for  
2/19/13 and 3/7/13 were previously ordered and paid for.



Maria L. Becerra, CSR #10848



Date

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE  
DEPARTMENT NO. 23

---oOo---

GENE HAZZARD, Resident  
taxpayer, City of Oakland,  
California, et al,

Plaintiff,

vs.

No. RG12642082

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
(COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT DIRECTOR  
GREGORY HUNTER; OAK PROJECT  
MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER  
AMB/PROLOGIS MASTER DEVELOPER,  
et al,

Defendants.

COUNTY ADMINISTRATION BUILDING  
OAKLAND, CALIFORNIA  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, MARCH 7, 2013

Reported by:  
Doriann Renaud  
CSR#9772

THE COURT REPORTERS LLC  
(925) 922-2321

1237

f0968844-b106-4398-917e-884e3f7acaff

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF:

GENE HAZZARD,  
In pro per

FOR THE DEFENDANTS:

WILLIAM ADAMS,  
Attorney at Law

KEVIN D. SIEGEL,  
Attorney at Law

1 THURSDAY, MARCH 7, 2013

AFTERNOON SESSION

2 P-R-O-C-E-E-D-I-N-G-S

3 THE COURT: Gene Hazzard versus City of Oakland, et al.  
4 And this matter is being reported by Doriann Renaud. Docket No.  
5 RG12642082. This is on this afternoon for several purposes.

6 Appearances, please, from my left to my right.

7 MR. HAZZARD: Good afternoon, Your Honor. Gene Hazzard for  
8 plaintiff.

9 MR. ADAMS: Good afternoon, Your Honor. William Adams  
10 appearing on behalf of defendants Letter and Tagami.

11 MR. SIEGEL: Good afternoon, Your Honor. Kevin Siegel for  
12 the City and the City defendants.

13 THE COURT: All right. Good afternoon to all of you. I've  
14 issued tentative rulings as to all three lines.

15 Apparently, Mr. Hazzard has been given leave to file yet  
16 another complaint and demurrers have been filed. And my  
17 tentative ruling has been contested by the defendants who feel  
18 that, if I may summarize, this has gone on long enough. There's  
19 no cause of action that the plaintiff has stated or will be able  
20 to state and we should put an end to this.

21 Mr. Adams, anything you want to add?

22 MR. ADAMS: I would, Your Honor. In notifying the Court of  
23 our intention to contest the tentative ruling on the  
24 determination to grant leave to file a 2nd Amended Complaint.  
25 We took the step of citing the Court to the Foxborough v. Van  
26 Atta case, which stands for the proposition that although the  
27 Court is afforded great discretion in making a determination to  
28 amend pleadings, the Court also has the discretion to look at



1 the substantive pleadings and determine whether or not the  
2 proposed amendment would state in fact a viable cause of action.  
3 And if the Court were to determine that a -- and the amendment  
4 would be futile, then it is equally within the discretion of the  
5 Court to deny a motion for leave to amend on that basis.

6 Now, Mr. Hazzard sought initially leave to amend his  
7 complaint. He then subsequently on the 28th of February  
8 submitted yet another iteration of a proposed amended complaint.  
9 Five minutes ago I was handed with a third proposed amended  
10 complaint. So at a minimum, it's unclear to me which iteration  
11 Mr. Hazzard --

12 THE COURT: Well, we're dealing with the 2nd Amended  
13 Complaint. My clerk told me Mr. Hazzard brought something in  
14 today. I have not allowed it to be filed. I don't intend to  
15 allow it to be filed.

16 MR. ADAMS: I believe it has been filed, Your Honor.

17 THE COURT: Well, then it will be stricken.

18 MR. ADAMS: In any event, Mr. Hazzard in his motion before  
19 the Court, had actually invited the Court at page six, line ten  
20 to review the substance of his proposed amendment. And we would  
21 ask the Court to take him up on his invitation. And we submit,  
22 Your Honor, that a review of any of the now five iterations of  
23 his complaint would be deficient as a matter of law on the issue  
24 of separation of powers. We briefed that issue extensively in  
25 two demurrers, Your Honor, and reduced it to its essence.

26 Mr. Hazzard would have this Court substitute its judgment  
27 for the discretionary powers of the City of Oakland in making a  
28 selection of a developer for the Oakland Army Base.

1 Now, that is a violation of the core separation of powers.  
2 It would be an intrusion upon the discretionary authority of the  
3 City. I would also point out that Mr. Hazzard had his day. The  
4 City and its City Counsel had a public hearing on this. Mr.  
5 Hazzard attended. The City had its day. Mr. Hazzard had his  
6 say. And unsatisfied with the outcome of that, he filed this  
7 lawsuit in order to get you to get his way. And I would submit,  
8 Your Honor, that's simply impermissible.

9 THE COURT: Well, that's what you said the first time and  
10 that's what I understood you to say and that candidly is what I  
11 understand the law to be. And that's what you're saying now.

12 So my understanding is that at some point due process for  
13 the pleading party, the plaintiff ends. Due process has been  
14 given. He's had an opportunity to, several opportunities to  
15 plead causes of action that have legal validity and he's failed  
16 to do that. And so implicit in what you're saying here: Why  
17 should I give you yet another opportunity?

18 MR. ADAMS: That's correct, Your Honor. There is one other  
19 point that I would like to make and that is --

20 THE COURT: Yes.

21 MR. ADAMS: Your Honor, this case has been extance since  
22 last August. And the existence of the lawsuit itself has served  
23 as fodder in collateral public hearings for Mr. Hazzard to  
24 castigate my client in public forums and that has gone on for  
25 months and months and months.

26 THE COURT: Well, of course, he has that right under the  
27 First Amendment.

28 MR. ADAMS: Certainly. But he's --

1 THE COURT: The question that I have in front of me is is  
2 should this case be kept alive any longer?

3 MR. ADAMS: Correct.

4 THE COURT: But whatever he might be using it for in public  
5 is up to you not to me.

6 MR. ADAMS: To dignify those allegations, Your Honor, by  
7 the mere existence of this lawsuit is what we take offense to  
8 and that's why we believe it's time to bring this matter to an  
9 end and resolve it.

10 THE COURT: Mr. Siegel.

11 MR. SIEGEL: I concur completely. And the point I would  
12 add is I understand obviously the Court is always inclined to  
13 grant leave to amend because they want to make sure that they're  
14 given the full and fair opportunity to the plaintiff to state  
15 the best case he has. And so obviously we understand the  
16 perspective that Your Honor is coming from.

17 But here we do have an invitation. I think you have an  
18 invitation to look at the 2nd Amended Complaint as you know  
19 there's three versions -- and just as a housekeeping matter, in  
20 the reply -- not only was there a version of the 2nd Amended  
21 Complaint filed today, which I understand you said would be  
22 stricken. There's another one attached to reply papers to a  
23 declaration. So it's still unclear to me whether we're going on  
24 the basis of the one that was noticed with the moving papers or  
25 the one that's a part of the reply.

26 But either way you want to go, Your Honor, I think that, if  
27 you look at those, it's the same situation that we've had all  
28 along both as the taxpayer standing and as to the merits which

1 Mr. Adams addressed as to the discretionary issue for the City.  
2 And with that invitation, I do think -- I would hope that you  
3 would take it up and look at that 2nd Amended Complaint and see  
4 that it's the same. And I'll just point out one thing about the  
5 taxpayer standing.

6 It's the same situation as before where there is just a  
7 conclusory ascertain that Mr. Hazzard pay taxes. But then he  
8 undercuts it by referring to Exhibit R, which is a document that  
9 just shows that there was a debt owed to the City. Doesn't  
10 discuss what type of debt. So he's undercuts his own allegation  
11 and in the version of the 2nd Amended Complaint, which is  
12 attached to the declaration of the reply papers, there is an  
13 effort to bring in a new, quote, unquote, taxpayer named Queen  
14 Thurston, I think is the name. And there's a letter. And all  
15 it says is I want to join the lawsuit and I'm a taxpayer.

16 So I think by bringing this forward he's shown that he  
17 can't do it. And I think that it's fair then to say it's now  
18 been enough time. And this is his, you know, it's the 2nd  
19 Amended Complaint he's basically put forth. We're going to do  
20 the same demurrer again. And it's going to be an hour at the  
21 courthouse. And it's costing the court time and money. It's  
22 costing us time and money and it's just not -- it's just not  
23 right. And I think it's fair enough to do it now and to look at  
24 that 2nd Amended Complaint and make a decision.

25 THE COURT: Mr. Hazzard.

26 MR. HAZZARD: Yes, Your Honor.

27 THE COURT: Why should this continue taking up everybody's  
28 time? It is apparent to me even without the comments of these

1 two gentlemen standing to your left that you're not going to be  
2 able to plead a claim against the City of Oakland and all these  
3 individuals. And I've told you that before. And they're saying  
4 that nothing you filed including what you brought in this  
5 afternoon is any different.

6 So why shouldn't this just, you know, be dismissed? You  
7 take your shot of at Court of Appeal if that's what you want to  
8 do. You go out and talk about it in various public forums if  
9 that's what you want to do. But I don't have any relief that I  
10 can give you now. So why should I continue what's going on  
11 here?

12 MR. HAZZARD: Thank you, Your Honor.

13 First of all, counsel has presented a case to you  
14 Foxborough. Foxborough is not relevant to this case.  
15 Foxborough --

16 THE COURT: I'd appreciate it actually if you'd answer my  
17 question.

18 MR. HAZZARD: But --

19 THE COURT: Answer my question.

20 MR. HAZZARD: Well, this is a fluid action. Every time I'm  
21 uncovering information that goes to the heart of this matter,  
22 we're dealing with --

23 THE COURT: Thank you. What have you uncovered?

24 MR. HAZZARD: Fraudulent conveyance.

25 THE COURT: And how do you have standing to challenge what  
26 you claim to be a fraudulent conveyance.

27 MR. HAZZARD: Kirkeby v. Superior Court, 2004, 33 Cal.4th  
28 [sic] addresses a transfer under the UFTA is defined as every

1 mode, direct or indirect where the transaction for which the  
2 debtor's access were unreasonably small. And that's what we  
3 find here in this case.

4 When we go to Civil Code 3439, dash, 3439.1 [sic]. A  
5 debtor is insolvent if, at fair valuations, the sum of the  
6 debtor's debts is greater than all the debtor's assets. A  
7 debtor who is generally not paying his or her debts as they  
8 become due.

9 A transfer made or obligation incurred by a debtor is  
10 fraudulent as to a creditor...

11 And the creditors are the City. Then we go --

12 THE COURT: Wait. Wait. Okay. You just talked yourself  
13 right out of court, Mr. Hazzard. The creditors are the City.  
14 They're not you. So you don't have standing.

15 MR. HAZZARD: No. The creditors -- if I may, Your Honor.  
16 The creditors are the City or the citizens and the residents of  
17 it, who will suffer as a result of the City incurring a debt  
18 because the defendant Tagami has insufficient capitalization as  
19 required and as the City has so stated.

20 Additionally, under allowing for an amended complaint. We  
21 look at Civil Code procedure section 403.010, dash, 403.090,  
22 which says: If a plaintiff, cross-complainant, or petitioner  
23 files an amended complaint or other amended initial pleadings  
24 that change the jurisdictional classification to limited to  
25 unlimited. The parties at the time of the filing the pleading,  
26 shall pay the reclassification fees provided. Unlimited to  
27 limited no reclassification fee is required. If under, 403.030,  
28 if a party in a limited civil case files a cross-complaint that

1 causes the action or proceeding to exceed the maximum amount in  
2 controversy for a limited civil case or otherwise.

3 You got 403.030. You got 403.040. You have -- then the  
4 various sections under those respective codes. And where  
5 there's the -- the defendants have exhaustively tried to say I  
6 don't have standing. So I'm moving towards the next move.

7 526(a) of the Civil Code says, the citizens do have standing.

8 So now I have to quash the exhaustive use of the standing  
9 issue. Queen Thurston and I have submitted a -- and I could  
10 submit also the taxpayers' assessment.

11 THE COURT: Tell you what, Mr. Hazzard. Here's what I'm  
12 going to do.

13 MR. HAZZARD: Yes, sir.

14 THE COURT: I instructed my clerk to strike your -- what is  
15 it, 2nd or 3rd Amended Complaint?

16 MR. HAZZARD: It's a draft, sir.

17 MR. SIEGEL: There's three 2nd Amended Complaints, Your  
18 Honor.

19 THE COURT: Well, I'll accept this. I'll file this. I'll  
20 look at it.

21 MR. HAZZARD: Yes, sir.

22 THE COURT: I want an order from you upholding -- granting  
23 the demurrer without leave to amend and dismissing the matter.  
24 I'll consider that order when I get it. Show it to Mr. Hazzard  
25 for approval as to form. If he doesn't approve it within a  
26 timely period of time. Submit it to the Court. I'll look at it  
27 and I'll give very serious consideration to granting it and  
28 putting an end to this case.

1 And Mr. Hazzard, if I should do that, then you know where  
2 to go from here.

3 MR. HAZZARD: Yes, sir.

4 THE COURT: There's the Court of Appeal who looks at what  
5 the trial courts do and that may be your remedy.

6 Thank you all very much.

7 MR. ADAMS: Thank you, Your Honor.

8 THE COURT: Case management.

9 MR. SIEGEL: I hate to say that but...

10 THE COURT: I don't think it's going to be necessary, but I  
11 will set a case management conference for June 6th, 2013, at  
12 3:00 p.m. in the event the matter hasn't been disposed of in  
13 this court.

14 MR. HAZZARD: What was that date, Your Honor?

15 THE COURT: June 6th, 2013, 3:00 p.m.

16 MR. HAZZARD: Thank you. Thank you very much, Your Honor.

17 MR. SIEGEL: Thank you very much.

18 MR. HAZZARD: Thank you.

19

20 (Proceedings were concluded.)

21 ---oOo---

22

23

24

25

26

27

28



1       STATE OF CALIFORNIA       }  
2                                       } SS  
3       COUNTY OF ALAMEDA       }  
4

5       I, DORIANN RENAUD, CSR 9772, do hereby certify that I am an  
6       Official Reporter of the Superior Court in and for the County of  
7       Alameda, State of California, and that as such I reported the  
8       proceedings had in the foregoing matter at the time and place  
9       set forth herein;

10      That my stenographic notes of said proceedings were transcribed  
11      into typewriting by me and that the preceding pages numbered 1  
12      through 9, constitute a full, true and correct transcription of  
13      said notes.

14      Dated this 14th day of March, 2013 executed at Oakland,  
15      California.

16  
17  
18                                       \_\_\_\_\_  
19                                       DORIANN RENAUD, CSR  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>A</b>	2:6	cause 2:19 3:2	council 3:10,11	deficient 3:23
able 2:19 7:2	appearing 2:10	causes 4:15 9:1	counsel 4:4 7:13	defined 7:28
accept 9:19	appreciate 7:16	cag 3:19	county 3:2,23 11:2	demurrer 6:20
access 8:2	approval 9:25	certainly 4:28	11:6	9:23
action 2:19 3:2	approve 9:25	certify 11:5	course 4:26	demurrers 2:16
4:15 7:20 9:1	army 3:28	challenge 7:25	court 3:1 2:3,13,22	3:25
adams 1:5 2:9,9,21	ascertain 6:7	change 8:24	2:25,27,28 3:3,5	deny 3:5
2:22 3:16,18 4:18	assessment 9:10	citing 2:25	3:12,17,19,19,21	department 3:4
4:21,28 5:3,6 6:1	assets 8:6	citizens 8:16 9:7	3:26 4:9,20,26 5:1	desley 3:13
10:7	assistant 3:14	city 3:7,10,10,13,14	5:4,10,12 6:21,25	determination 2:24
add 2:21 5:12	atta 2:26	2:3,12,12 3:27 4:3	6:27 7:7,16,19,23	2:27
additionally 8:20	attached 5:22 6:12	4:4,4,5 6:1,9 7:2	7:25,27 8:12,13	determine 3:1,3
addressed 6:1	attended 4:5	8:11,13,16,17,19	9:11,14,19,22,26	developer 3:19,20
addresses 7:28	attorney 1:5,7	civil 8:4,21,28 9:2,7	10:4,4,8,10,13,15	3:28
administration	august 4:22	claim 7:2,26	11:6	development 3:15
3:23	auletta 3:18	classification 8:24	courthouse 6:21	different 7:5
administrator 3:14	authority 4:2	clerk 3:13 9:14	courts 10:5	dignify 5:6
3:14		client 4:24	creditor 8:10	direct 8:1
afforded 2:27	<b>B</b>	code 8:4,21 9:7	creditors 8:11,13	director 3:16,17
afternoon 2:1,5,7,9	base 3:28	codes 9:4	8:15,16	directors 3:15
2:11,13 7:5	basically 6:19	cohen 3:16	crosscomplainant	discretion 2:27,28
ago 3:9	basis 3:5 5:24	collateral 4:23	8:22	3:4
al 3:7,18,20 2:3	behalf 2:10	coming 5:16	crosscomplaint	discretionary 3:27
alameda 3:2 11:2,7	believe 3:16 5:8	comments 6:28	8:28	4:2 6:1
alive 5:2	best 5:15	community 3:15	csr 3:28 11:5,19	discuss 6:10
aliza 3:16	blackwell 3:14	complaint 2:16,24		dismissed 7:6
allegation 6:10	briefed 3:24	3:7,8,10,13,23	<b>D</b>	dismissing 9:23
allegations 5:6	bring 5:8 6:13	5:18,21 6:3,11,19	d 1:6	disposed 10:12
allow 3:15	bringing 6:16	6:24 8:20,23 9:15	dan 3:15	docket 2:4
allowed 3:14	brooks 3:13	complaints 9:17	daniel 3:19	document 6:8
allowing 8:20	brought 3:13 7:4	completely 5:11	dash 8:4,21	doesnt 6:9 9:25
amb 3:20	brunner 3:11	concluded 10:20	date 10:14	dont 3:14 7:9 8:14
amend 2:28 3:5,6	building 3:23	conclusory 6:7	dated 11:14	9:6 10:10
5:13 9:23	<b>C</b>	concur 5:11	day 4:3,5 11:14	doriann 3:27 2:4
amended 2:24 3:8	cal 7:27	conference 10:11	de 3:12	11:5,19
3:9,12 5:18,20 6:3	california 3:1,7,24	consider 9:24	dealing 3:12 7:22	draft 9:16
6:11,19,24 8:20	11:1,7,15	consideration 9:27	deanna 3:13	due 4:12,13 8:8
8:23,23 9:15,17	candidly 4:10	constitute 11:12	debt 6:9,10 8:17	
amendment 3:2,3	cant 6:17	contest 2:23	debtor 8:5,7,9	<b>E</b>
3:20 4:27	capitalization 8:18	contested 2:17	debtors 8:2,6,6	economic 3:15
amount 9:1	case 2:26 4:21 5:2	continue 6:27 7:10	debts 8:6,7	effort 6:13
answer 7:16,19	5:15 7:13,14 8:3	controversary 9:2	decision 6:24	either 5:26
apparent 6:28	8:28 9:2,28 10:8	conveyance 7:24,26	declaration 5:23	ends 4:13
apparently 2:15	10:11	core 4:1	6:12	equally 3:4
appeal 7:7 10:4	cashman 3:17	correct 4:18 5:3	defendant 8:18	essence 3:25
appearances 1:1	castigate 4:24	11:12	defendants 3:21	et 3:7,20 2:3
		costing 6:21,22	1:5 2:10,12,17 9:5	event 3:18 10:12

everybodys 6:27 exceed 9:1 executed 11:14 exhaustive 9:8 exhaustively 9:5 exhibit 6:8 existence 4:22 5:7 extance 4:21 extensively 3:24	gene 3:6 1:3 2:3,7 generally 8:7 gentlemen 7:1 ggig 3:19 give 4:17 7:10 9:27 given 2:15 4:14 5:14 go 5:26 7:8 8:4,11 10:2 goes 7:21 going 5:23 6:19,20 7:1,10 9:12 10:10 good 2:7,9,11,13 grant 2:24 5:13 granting 9:22,27 great 2:27 greater 8:6 gregory 3:18	I id 7:16 ignacio 3:12 iii 3:3 ill 6:4 9:19,19,19,24 9:26,27 im 6:15 7:20 9:6,11 impermissible 4:8 implicit 4:16 inclined 5:12 including 7:4 incurred 8:9 incurring 8:17 indirect 8:1 individuals 7:3 information 7:21 initial 8:23 initially 3:6 insolvent 8:5 instructed 9:14 insufficient 8:18 intend 3:14 intention 2:23 intrusion 4:2 invitation 3:21 5:17 5:18 6:2 invited 3:19 issue 3:23,24 6:1 9:9 issued 2:14 iteration 3:8,10 iterations 3:22 ive 2:13 7:3	kernighan 3:12 kevin 1:6 2:11 kirkeby 7:27 know 5:18 6:18 7:6 10:1	merits 5:28 minimum 3:10 minutes 3:9 mode 8:1 money 6:21,22 months 4:25,25,25 motion 3:5,18 move 9:6 moving 5:24 9:6
F fact 3:2 failed 4:15 fair 5:14 6:17,23 8:5 february 3:7 fee 8:27 feel 2:17 fees 8:26 file 2:15,24 9:19 filed 2:16 3:14,15 3:16 4:6 5:21 7:4 files 8:23,28 filing 8:25 find 8:3 first 4:9,27 7:13 five 3:9,22 fluid 7:20 fodder 4:23 foregoing 11:8 form 9:25 former 3:15,16 forth 6:19 11:9 forums 4:24 7:8 forward 6:16 foxborough 2:25 7:14,14,15 fraudulent 7:24,26 8:10 fred 3:14 front 5:1 fuente 3:13 full 5:14 11:12 futile 3:4	H handed 3:9 hasnt 10:12 hate 10:9 hazzard 3:6 1:3 2:3 2:7,7,15 3:6,11,13 3:18,26 4:3,5,5,23 6:7,25,26 7:12,18 7:20,24,27 8:13 8:15 9:11,13,16 9:21,24 10:1,3,14 10:16,18 hearing 4:4 hearings 4:23 heart 7:21 heres 9:11 hes 4:14,15,28 6:10 6:16,19 honor 2:7,9,11,22 3:16,22,25 4:8,18 4:21 5:6,16,26 6:26 7:12 8:15 9:18 10:7,14,16 honorable 3:3 hope 6:2 hour 6:20 housekeeping 5:19 hunter 3:18	J jane 3:11 jean 3:13 john 3:3 join 6:15 judge 3:3 judgment 3:26 june 10:11,15 jurisdictional 8:24	L la 3:12 larry 3:11 law 1:5,7 3:23 4:11 lawsuit 4:7,22 5:7 6:15 leave 2:15,24 3:5,6 5:13 9:23 left 2:6 7:1 legal 4:15 letter 3:19 2:10 6:14 libby 3:12 limited 8:24,27,28 9:2 lindheim 3:16 line 3:19 lines 2:14 long 2:18 longer 5:2 look 2:28 5:18,27 6:3,23 8:21 9:20 9:26 looks 10:4	N nadel 3:11 name 6:14 named 6:13 nancy 3:11 necessary 10:10 new 6:13 notes 11:10,13 noticed 5:24 notifying 2:22 numbered 11:11
G gallo 3:17		K kaplan 3:12 kept 5:2	M m 3:3 10:12,15 making 2:27 3:27 management 10:8 10:11 manager 3:17,18 march 3:26 2:1 11:14 master 3:19,20 matter 2:4 3:23 5:8 5:19 7:21 9:23 10:12 11:8 maximum 9:1 mayor 3:13 members 3:10 mere 5:7	O oab 3:17 oak 3:18 oakland 3:7,10,10 3:24 2:3 3:27,28 7:2 11:14 obligation 8:9 obra 3:16 obviously 5:12,15 offense 5:7 official 11:6 okay 8:12 ooo 3:5 10:21 opportunities 4:14 opportunity 4:14 4:17 5:14 order 4:7 9:22,24 outcome 4:6 owed 6:9
			P p 10:12,15 page 3:19 pages 11:11 papers 5:22,24	

6:12  
 part 5:25  
 parties 8:25  
 party 4:13 8:28  
 pat 3:12,17  
 pay 6:7 8:26  
 paying 8:7  
 period 9:26  
 perspective 5:16  
 petitioner 8:22  
 phil 3:18  
 place 11:8  
 plaintiff 3:8 1:3 2:8  
 2:19 4:13 5:14  
 8:22  
 plead 4:15 7:2  
 pleading 4:13 8:25  
 pleadings 2:28 3:1  
 8:23  
 please 2:6  
 point 4:3,12,19  
 5:11 6:4  
 powers 3:24,27 4:1  
 preceding 11:11  
 presented 7:13  
 president 3:11  
 pro 1:4  
 procedure 8:21  
 proceeding 9:1  
 proceedings 3:25  
 2:2 10:20 11:8,10  
 process 4:12,13  
 project 3:17,18  
 prologis 3:20  
 proposed 3:2,8,9  
 3:20  
 proposition 2:26  
 provided 8:26  
 public 4:4,23,24  
 5:4 7:8  
 purposes 2:5  
 put 2:20 6:19  
 putting 9:28

**Q**

quan 3:13  
 quash 9:8

queen 6:13 9:9  
 question 5:1 7:17  
 7:19  
 quote 6:13

**R**

r 6:8  
 rebecca 3:12  
 reclassification  
 8:26,27  
 redevelopment  
 3:17  
 reduced 3:25  
 referring 6:8  
 reid 3:11  
 relevant 7:14  
 relief 7:9  
 remedy 10:5  
 renaud 3:27 2:4  
 11:5,19  
 reply 5:20,22,25  
 6:12  
 reported 3:27 2:4  
 11:7  
 reporter 11:6  
 reporters 3:25  
 required 8:19,27  
 resident 3:6  
 residents 8:16  
 resolve 5:9  
 respective 9:4  
 result 8:17  
 review 3:20,22  
 rg12642082 3:8 2:5  
 right 2:6,13 4:26  
 6:23 8:13  
 ruling 2:17,23  
 rulings 2:14

**S**

santana 3:13  
 saying 4:11,16 7:3  
 says 6:15 8:22 9:7  
 schaaf 3:12  
 section 8:21  
 sections 9:4  
 see 6:3

selection 3:28  
 separation 3:24 4:1  
 serious 9:27  
 served 4:22  
 session 2:1  
 set 10:11 11:9  
 shot 7:7  
 shouldnt 7:6  
 show 9:24  
 shown 6:16  
 shows 6:9  
 sic 7:28 8:4  
 siegel 1:6 2:11,11  
 5:10,11 9:17 10:9  
 10:17  
 simply 4:8  
 sir 9:13,16,21 10:3  
 situation 5:27 6:6  
 six 3:19  
 small 8:2  
 sought 3:6  
 ss 11:2  
 standing 5:28 6:5  
 7:1,25 8:14 9:6,7  
 9:8  
 stands 2:26  
 state 3:1 2:20 3:2  
 5:14 11:1,7  
 stated 2:19 8:19  
 stenographic 11:10  
 step 2:25  
 stricken 3:17 5:22  
 strike 9:14  
 submit 3:21 4:7  
 9:10,26  
 submitted 3:8 9:9  
 subsequently 3:7  
 substance 3:20  
 substantive 3:1  
 substitute 3:26  
 suffer 8:17  
 sum 8:5  
 summarize 2:18  
 superior 3:1 7:27  
 11:6  
 sure 5:13

**T**

tagami 3:19 2:10  
 8:18  
 take 3:21 5:7 6:3  
 7:7  
 talk 7:8  
 talked 8:12  
 taxes 6:7  
 taxpayer 3:7 5:28  
 6:5,13,15  
 taxpayers 9:10  
 tell 9:11  
 ten 3:19  
 tentative 2:14,17  
 2:23  
 thank 7:12,23 10:6  
 10:7,16,16,17,18  
 thats 4:8,9,10,11,18  
 5:8,25 7:7,9 8:2  
 theres 2:18 5:19,22  
 6:14 9:5,17 10:4  
 theyre 5:13 7:3  
 8:14  
 thing 6:4  
 think 5:17,26 6:2  
 6:14,16,17,23  
 10:10  
 third 3:9  
 three 2:14 5:19  
 9:17  
 thursday 3:26 2:1  
 thurston 6:14 9:9  
 time 4:9 5:8 6:18  
 6:21,22,28 7:20  
 8:25 9:26 11:8  
 timely 9:26  
 today 3:14 5:21  
 told 3:13 7:3  
 transaction 8:1  
 transcribed 11:10  
 transcript 3:25  
 transcription 11:12  
 transfer 7:28 8:9  
 trial 10:5  
 tried 9:5  
 true 3:3 11:12

two 3:25 7:1  
 type 6:10  
 typewriting 11:11

**U**

ufta 7:28  
 unclear 3:10 5:23  
 uncovered 7:23  
 uncovering 7:21  
 undercuts 6:8,10  
 understand 4:11  
 5:12,15,21  
 understanding  
 4:12  
 understood 4:10  
 unlimited 8:25,26  
 unquote 6:13  
 unreasonably 8:2  
 unsatisfied 4:6  
 upholding 9:22  
 use 9:8

**V**

v 2:25 7:27  
 validity 4:15  
 valuations 8:5  
 van 2:25  
 various 7:8 9:4  
 version 5:20 6:11  
 versions 5:19  
 versus 2:3  
 viable 3:2  
 violation 4:1  
 vs 3:9

**W**

wait 8:12,12  
 walter 3:16  
 want 2:21 5:13,26  
 6:15 7:7,9 9:22  
 way 4:7 5:26  
 weve 5:27  
 whats 7:10  
 william 1:5 2:9

**X****Y**

youd 7:16 youre 4:11,16 7:1	9 11:12 9772 3:28 11:5			
<u>Z</u>				
<u>0</u>				
00 10:12,15 01 08:21 03 08:27 9:3 04 09:3 09 08:21				
<u>1</u>				
1 8:4 11:11 14th 11:14				
<u>2</u>				
2004 7:27 2013 3:26 2:1 10:11 10:15 11:14 23 3:4 28th 3:7 2nd 2:24 3:12 5:18 5:20 6:3,11,18,24 9:15,17				
<u>3</u>				
3 10:12,15 33 7:27 3439 8:4,4 3rd 9:15				
<u>4</u>				
403 8:21,21,27 9:3 9:3 4th 7:27				
<u>5</u>				
526 9:7				
<u>6</u>				
6th 10:11,15				
<u>7</u>				
7 3:26 2:1				
<u>8</u>				
<u>9</u>				

IN THE SUPERIOR COURT, STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

---000---

BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE

GENE HAZZARD,

PLAINTIFF,

NO. RG12642082

VS.

CITY OF OAKLAND, ET AL.

COPY

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
FEBRUARY 19, 2013

---000---

A P P E A R A N C E S:

FOR THE PLAINTIFF:

GENE HAZZARD  
PRO-PER

FOR THE DEFENDANTS:  
PHIL TAGAMI AND  
DANIEL LETTER

LAW OFFICE OF HANSON BRIDGETT  
BY: WILLIAM ADAMS  
425 MARKET STREET, 26TH FLOOR  
SAN FRANCISCO, CA 94105

FOR THE DEFENDANT:  
CITY OF OAKLAND

BURKE, WILLIAMS & SIEGEL  
BY: KEVIN SIEGEL  
1901 HARRISON STREET, 9TH FLOOR  
OAKLAND, CA 94612

REPORTED BY: CHRISTINE BEDARD, C.S.R.

1 FEBRUARY 19, 2013

2  
3 THE COURT: LINE THREE IS HAZZARD VS. CITY OF OAKLAND,  
4 ET AL. GOOD AFTERNOON. THIS IS GENE HAZZARD VS. CITY OF  
5 OAKLAND, ET AL. RG12642082 ON THE CALENDAR TODAY FOR OUR  
6 RECONSIDERATION. WE HAVE CHRISTINE BEDARD, CSR, MAKING A RECORD  
7 OF THESE PROCEEDINGS. MAY I HAVE THE APPEARANCE OF COUNSEL AND  
8 PARTIES. MR. HAZZARD.

9 MR. HAZZARD: GOOD AFTERNOON, GENE HAZZARD.

10 MR. ADAMS: GOOD AFTERNOON, YOUR HONOR. WILLIAM ADAMS  
11 APPEARING ON BEHALF OF DEFENDANTS DANIEL LETTER AND PHIL TAGAMI.

12 MR. SIEGEL: GOOD AFTERNOON, YOUR HONOR. KEVIN SIEGEL ON  
13 BEHALF OF THE CITY OF OAKLAND DEFENDANTS.

14 THE COURT: ALL RIGHT. IN THIS CASE I ISSUED A TENTATIVE  
15 RULING DENYING THE REQUEST FOR RECONSIDERATION ON VARIOUS  
16 GROUNDS, AND I UNDERSTAND, MR. HAZZARD, THAT IT IS YOUR WISH TO  
17 CONTEST THAT RULING, AND I WILL LISTEN CAREFULLY, BUT BRIEFLY,  
18 TO WHAT YOU MAY HAVE TO SAY.

19 MR. HAZZARD: THANK YOU, YOUR HONOR. WE'RE HERE  
20 YOUR HONOR, FOR TWO REASONS, IN THIS VENUE. ONE IS BECAUSE  
21 DEFENDANT TAGAMI, THEY FAILED TO ENTER ENTRY OF JUDGMENT, FILE  
22 AN ENTRY OF JUDGMENT OR ORDER.

23 AND THE OTHER, OBVIOUSLY, IS MY CHALLENGING YOUR  
24 TENTATIVE RULING IN THIS MATTER, BECAUSE IN YOUR TENTATIVE  
25 RULING, YOUR HONOR, YOU SAID, "THE MOTION IS NOT BASED UPON NEW  
26 OR DIFFERENT FACTS, CIRCUMSTANCES OR LAW," WHICH, IN FACT, THERE  
27 IS NEW FACTS AND CIRCUMSTANCES.

28 WHEN YOU LOOK AT THE ORIGINAL COMPLAINT, YOU GAVE ME

1 REAL CLEAR INSTRUCTIONS, IN TERMS OF THE PRESENTATION, WHICH I  
2 DID ON DECEMBER 14TH, ONE DAY BEFORE YOUR TENTATIVE RULING.  
3 THOSE WERE NEW CIRCUMSTANCES. HAD I FILED -- ALTHOUGH YOU FILED  
4 A TIMELY RULING ON DECEMBER 14TH, HAD I FILED THAT ON THE 12TH  
5 OF DECEMBER, YOU MAY NOT HAVE MADE THAT RULING, BECAUSE YOU  
6 DIDN'T HAVE THE FIRST AMENDED COMPLAINT IN YOUR POSSESSION TO  
7 REVIEW.

8 THE NEW FACTS IN EVIDENCE ARE FRAUD. WHEN YOU LOOK AT  
9 PAGE 30, THE FOURTH CAUSE OF ACTION, WHICH WAS NOT IN THE FIRST  
10 COMPLAINT, ORIGINAL COMPLAINT, IT'S FRAUD. PAGE 34, THE FIFTH  
11 CAUSE OF ACTION, VIOLATION OF CONTRACT CODES. WHEN WE LOOK AT  
12 17200 OF THE BUSINESS AND PROFESSIONAL [SIC] CODE, 3439.9 ALSO,  
13 BOTH OF WHICH ARE NEW FACTS, THAT DID NOT APPEAR IN THE ORIGINAL  
14 COMPLAINT. I WAS PREPARED TO DO AN APPEAL, BUT INSTEAD, BECAUSE  
15 OF THE ECONOMICS, I DID A MOTION FOR RECONSIDERATION.

16 ON DEFENDANT'S FAILURE TO FILE AN ENTRY OF THE ORDER, I  
17 WILL CITE NATIONAL ADVERTISING V. CITY OF ROHNERT PARK, 1984 160  
18 CAL APP. 3 614; AN UNTIMELY FILING.

19 WHEN WE GO TO THE FRAUD QUESTION ISSUE, I'LL USE  
20 MAXWELL V. SANTA ROSA, 53 CAL 2ND 274 WHERE THE ISSUE OF  
21 FRAUD -- AND THAT'S WHAT I'M ALLEGING, AND YOU DON'T HAVE TO  
22 SHOW FRAUD. IT'S A SITUATION WHERE, EVEN IF FRAUD IS  
23 THREATENED, IT'S A BASIS FOR A -- A CONSIDERATION IN THIS  
24 MATTER.

25 WHEN WE GO TO KIRKEBY, V. SUPERIOR COURT, 2004 33 CAL 4  
26 642, AND THIS REALLY MAKES A POINT, "A REAL PROPERTY CLAIM AND,  
27 THEREFORE, SUPPORTS THE RECORDING OF A NOTICE OF PENDENCY OF  
28 ACTION COMMONLY REFERRED TO AS A LIS PENDENS." THIS WAS -- "A



1 LIS PENDENS IS A RECORDED DOCUMENT GIVING CONSTRUCTIVE NOTICE  
2 THAT AN ACTION HAS BEEN FILED AFFECTING" THE "TITLE."

3 THIS FRAUD ALLEGATION IS AFFECTING A FRAUDULENT  
4 CONVEYANCE IS AFFECTING THE TITLE ON THIS PROPERTY CLAIM, AND  
5 WE'RE TALKING ABOUT A PROPERTY CLAIM. WE'RE NOT TALKING ABOUT A  
6 PROPERTY INTEREST. WHEN YOU LOOK AT KIRKEBY, IT'S THE PROPERTY  
7 CLAIM, NOT A PROPERTY INTEREST.

8 AND I THINK WE COULD GO FURTHER, AND WE USE DAVIS V.  
9 CITY OF SANTA ANA, 108 CAL. APP 2ND 669. THE DISCRETIONARY  
10 POWERS OF THE MUNICIPAL AUTHORITIES WOULD NOT BE INTERFERED WITH  
11 A SUIT BY A TAX PAYER FOR AN INJUNCTION IN ABSENCE OF FRAUD,  
12 YOUR HONOR.

13 THE ONLY RESTRICTIONS IMPOSED BY THE JEWEL OF BASIC LAW  
14 IS THAT SUCH DISPOSITION SHALL BE FOR THE BENEFIT OF THE CITY  
15 AND ITS CONSTITUENTS. SO YOU IGNORE -- LET ME SAY IT APPEARS  
16 THAT YOU'VE IGNORED THAT FIRST AMENDED COMPLAINT, AND IT CLEARLY  
17 ESTABLISHED FRAUD.

18 AND SO WE'RE TALKING ABOUT TRYING TO PREVENT ANY  
19 FURTHERANCE IN THIS MATTER, BECAUSE IT'S ALREADY SHOWN BY THE  
20 CITY'S OWN DOCUMENTATION THAT DEFENDANT TAGAMI DOES NOT HAVE THE  
21 FINANCIAL CAPACITY, NOR DOES HE HAVE THE EXPERIENCE, AND IF  
22 WE'RE LOOKING AT THE BUDGETARY CONSTRAINTS OF THE CITY, IT'S  
23 IRRESPONSIBLE FOR BOTH THE LEGISLATIVE BODY, AND, WITH ALL DUE  
24 RESPECT, THIS COURT, TO IGNORE COMPELLING SITUATIONS AS IT  
25 AFFECTS THE CITY'S BUDGETARY SITUATION.

26 THE COURT: THANK YOU, MR. HAZZARD.

27 MR. HAZZARD: THANK YOU, YOUR HONOR.

28 THE COURT: ANY RESPONSE, MR. ADAMS OR MR. SIEGEL?

1 MR. ADAMS: BRIEFLY, YOUR HONOR. WHEN WE WERE HEARD ON  
2 THE MOTION TO EXPUNGE THE LIS PENDENS, THE COURT WAS VERY CLEAR  
3 IN DIRECTING MY OFFICE TO PREPARE A PROPOSED FORM OF ORDER, AND  
4 YOU ASKED FOR IT TO BE DELIVERED TO YOU NO LATER THAN  
5 DECEMBER 20.

6 IT WAS DELIVERED EARLY. YOU SIGNED IT BEFORE  
7 CHRISTMAS. IT WAS DULY RECORDED. THERE'S NO UNTIMELINESS IN  
8 THE ENTRY OF THE ORDER, YOUR HONOR.

9 SECONDLY, WITH RESPECT TO THE MOTION FOR  
10 RECONSIDERATION, MR. HAZZARD HAS ADVANCED NO NEW ARGUMENTS THAT  
11 WEREN'T FOUND IN HIS PAPERS, AND HIS ARGUMENTS ARE NOT IMPROVED  
12 BY REPETITION HERE TODAY. WE DON'T GET TO THE ISSUE OF  
13 LIS PENDENS, BECAUSE SIMPLY HE HAS NOT SATISFIED THE FUNDAMENTAL  
14 REQUIREMENTS THAT WOULD ENTITLE HIM TO A RECONSIDERATION OF THE  
15 FACTS OF THE EXPUNGEMENT ORDER.

16 HOWEVER, IF WE WERE TO GET TO THE EXPUNGEMENT ORDER,  
17 MR. HAZZARD'S PAPERS REFLECT A FUNDAMENTAL MISAPPREHENSION OF  
18 WHAT A LIS PENDENS IS FOR. IT'S MISGUIDED TO THINK THAT HE, AS  
19 A CITIZEN OF THE CITY OF OAKLAND, IS ENTITLED TO RECORD A CLOUD  
20 ON TITLE FOR THE OAKLAND ARMY BASE BECAUSE HE DISPUTES OR  
21 DISAGREES WITH THE SELECTION OF THE DEVELOPER TO BUILD THAT  
22 PROPERTY.

23 SO EVEN IF WE WERE TO GET PAST THE HURDLE, WHICH WE  
24 DON'T ON THE RECONSIDERATION, HIS UNDERSTANDING OF THE  
25 CIRCUMSTANCES THAT WOULD GIVE RISE TO A LIS PENDENS ARE  
26 INCORRECT. I WOULD ALSO SUBMIT, YOUR HONOR, THAT ABSENT THE  
27 UNUSUAL CIRCUMSTANCES BY WHICH MR. HAZZARD WAS ABLE TO RECORD A  
28 LIS PENDENS IN THE FIRST INSTANCE, MY CLIENT PROBABLY WOULD HAVE

1 BEEN ENTITLED TO A RECOVERY OF SUBSTANTIAL FEES ASSOCIATED WITH  
2 UNTANGLING THAT MESS.

3 WE WEREN'T AWARDED THAT IN THE LAST GO-AROUND, AND WE  
4 ALLOWED THAT TO GO BY. WE'RE HERE ON A RECONSIDERATION. I  
5 WOULD ASK THE COURT UPHOLD ITS TENTATIVE RULING. I THINK IT'S  
6 CORRECT, AND WE SHOULD DISPENSE WITH THIS MATTER. THANK YOU.

7 THE COURT: THANK YOU, MR. ADAMS. MR. SIEGEL, ANYTHING?

8 MR. SIEGEL: VERY BRIEFLY. I CONCUR WITH WHAT THE  
9 DEVELOPER DEFENDANTS ARE SAYING. THE ONLY THING I'LL ADD IS  
10 WHAT YOU'LL SEE WHEN YOU GET TO THE HEARING ON THE DEMURRER ON  
11 THE FIRST AMENDED COMPLAINT.

12 THE COURT: WHEN IS THAT?

13 MR. SIEGEL: MARCH 7TH. IT'S COMING SOON. WE HAVE  
14 DEMURRED AGAIN THE FRAUD, AND THE CONTRACT CLAIM ISSUES THAT  
15 MR. HAZZARD ARE BRINGING UP ARE NOT NEW FACTS. IT'S JUST A  
16 REPACKAGING OF THE SAME ALLEGATIONS THAT ALREADY EXISTED AND IS  
17 PUTTING A NEW TITLE AND A LITTLE BIT OF SPIN ON THE ISSUES, BUT  
18 WE REALLY HAVE THE SAME COMPLAINT HERE.

19 SO THOUGH I AGREE WE SHOULDN'T BE GETTING THERE AS TO  
20 ANALYZE THE MERITS OF THE MOTION TO EXPUNGE OR REANALYZING, I  
21 MUST SAY, THERE REALLY IS NOTHING NEW ON THOSE ISSUES.

22 THE COURT: ALL RIGHT. THANK YOU, ALL. THE MATTER  
23 HAVING BEEN SUBMITTED, THE TENTATIVE RULING IS CONFIRMED AND  
24 WILL BE THE COURT'S FINAL RULING, AND I WILL -- I DON'T KNOW IF  
25 WE HAVE A CASE MANAGEMENT CONFERENCE SCHEDULED ALREADY.

26 MR. HAZZARD: YOUR HONOR, MAY I --

27 THE COURT: NO. NO.

28 MR. HAZZARD: YOUR HONOR, THEY MADE -- YOUR HONOR, THEY

1 MADE CERTAIN ALLEGATIONS --

2 THE COURT: DO NOT INTERRUPT ME. MADAM COURT REPORTER,  
3 WE'LL GO OFF THE RECORD UNLESS MR. HAZZARD CAN CONTROL HIMSELF.

4 THE CLERK: WE DO HAVE IT. IT'S ON MARCH THE 18TH.

5 THE COURT: THAT WILL BE CONTINUED TO, WHAT DATE DID YOU  
6 SAY?

7 MR. ADAMS: MARCH 7TH IS THE DEMURER.

8 THE COURT: WE'LL HAVE FURTHER CASE MANAGEMENT ON  
9 MARCH 7TH. THANK YOU, ALL.

10 MR. ADAMS: THANK YOU.

11 MR. SIEGEL: MARCH 7TH.

12

13

14

---000---

15

16

17

18

19

20

21

22

23

24

25

26

27

28

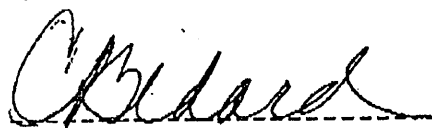
1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF ALAMEDA )

4  
5  
6  
7 I, CHRISTINE BEDARD, Certified Shorthand Reporter, do  
8 hereby certify that I am a pro tempore reporter of the  
9 Superior Court of the State of California, and that as  
10 such, I reported the proceedings had in the above-entitled  
11 matter at the time and place set for herein.

12 That my stenograph notes were thereafter transcribed  
13 into typewriting under my direction; and that the  
14 foregoing pages constitute a full, true and correct  
15 transcription of my said notes to the best of my ability.

16  
17  
18 

19 CHRISTINE BEDARD, C.S.R. #10709

20  
21  
22 dated: February 25, 2013

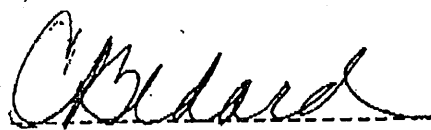
1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF ALAMEDA )

4  
5  
6  
7 I, CHRISTINE BEDARD, Certified Shorthand Reporter, do  
8 hereby certify that I am a pro tempore reporter of the  
9 Superior Court of the State of California, and that as  
10 such, I reported the proceedings had in the above-entitled  
11 matter at the time and place set for herein.

12 That my stenograph notes were thereafter transcribed  
13 into typewriting under my direction; and that the  
14 foregoing pages constitute a full, true and correct  
15 transcription of my said notes to the best of my ability.

16  
17  
18 

19 CHRISTINE BEDARD, C.S.R. #10709

20  
21  
22 dated: February 25, 2013

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

On the date below I served the following document(s), the original of which was/were produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

to:

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
wadams@hansonbridgett.com

- X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- \_\_\_ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the office of the person(s) listed above.
- \_\_\_ BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express to the office of the person(s) listed above.
- \_\_\_ BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by facsimile transmission at or about Enter time on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (415) 391-6965. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) are as set forth above.
- \_\_\_ BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 8, 2013, at San Francisco, California.

HEATHER M. EHMKE

1262

SUPERIOR COURT  
STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

1225 FALLON STREET  
OAKLAND, CA 94612

ROOM 64  
APPEALS SECTION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

NOTICE TO ATTORNEY re NOTICE OF APPEAL

Action No. RG12642082

HAZZARD VS. CITY OF OAKLAND  
PLAINTIFF(S)/DEFENDANT(S)

FILED  
ALAMEDA COUNTY

To: HAZZARD, GENE

282 ADAMS STREET  
SUITE #6  
OAKLAND, CA 94610

APR 10 2013

CLERK OF THE SUPERIOR COURT  
By Ruby [Signature]  
Deputy

In compliance with RULES ON APPEAL adopted by the Judicial Council,  
this is to inform you that notice of appeal in the above matter was  
filed on 04-08-13.

CLERK OF THE SUPERIOR COURT  
of the State of California  
in and for the County of Alameda,

By: R. [Signature]

Deputy

CERTIFICATE OF MAILING

I do hereby certify that, on 04-10-13, I mailed copies of the above  
notice, as indicated above, by depositing them enclosed in sealed  
envelopes with postage thereon fully prepaid, in the United States  
Post Office at Oakland, California or through the Alameda County  
Messenger Service.

CLERK OF THE SUPERIOR COURT

By: R. [Signature]

Deputy

1263



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Gene Hazzard</b> <b>282 Adams Street, #6</b> <b>Oakland, CA 94610</b> TELEPHONE NO.: (510) 418-0501      FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, In Pro Per		<div style="font-size: small;">FOR COURT USE ONLY</div> <div style="font-size: large; font-weight: bold; margin: 10px 0;">           ENDORSED FILED ALAMEDA COUNTY         </div> <div style="font-size: large; font-weight: bold; margin: 10px 0;">APR 12 2013</div> <div style="font-weight: bold; margin: 10px 0;">           CLERK OF THE SUPERIOR COURT By Josefina Vélez, Deputy         </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: GENE HAZZARD DEFENDANT/RESPONDENT: CITY OF OAKLAND, et al.		
<b>APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)</b>		
RE: Appeal filed on (date): April 8, 2013		Superior Court Case Number: <b>RG12642082</b> Court of Appeal Case Number (if known):
<b>Notice: Please read form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b>		

## 1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I elect to use the following method of providing the Court of Appeal with a record of the documents filed in the superior (check a, b, c, d, or e and fill in any required information):

- a. ☐ A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section on page 2 of this form.)
- (1) ☐ I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2) ☐ I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have attached the following document (check (a) or (b)):
- (a) ☐ An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) ☐ An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b. ☒ An appendix under rule 8.124.
- c. ☐ The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, Fourth, and Fifth Appellate Districts, permit parties to stipulate to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d. ☐ An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)
- e. ☐ A settled statement under rule 8.137. (You must complete item 2b(3) below and attach to your proposed statement on appeal copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.137(b)(3).)

## 2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I elect to proceed:

- a. ☐ WITHOUT a record of the oral proceedings in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in determining whether an error was made in the superior court proceedings.

1264

CASE NAME:

APP-003

CASE NUMBER:

- b. ☒ WITH the following record of the oral proceedings in the superior court:

(1) ☒ A reporter's transcript under rule 8.130. (You must fill out the reporter's transcript section on page 3 of this form.)  
I have (check all that apply):

(a) ☐ Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).

(b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).

(c) ☒ Attached the reporter's written waiver of a deposit for (check either (i) or (ii)):

(i) ☒ all of the designated proceedings.

(ii) ☐ part of the designated proceedings.

(d) ☒ Attached a certified transcript under rule 8.130(b)(3).

(2) ☐ An agreed statement. (Check and complete either (a) or (b) below.)

(a) ☐ I have attached an agreed statement to this notice.

(b) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement. (You must attach a copy of this stipulation to this notice.) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.

(3) ☐ A settled statement under rule 8.137. (You must attach the motion required under rule 8.137(a) to this form.)

### 3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE REVIEWING COURT

☐ I request that the clerk transmit to the reviewing court under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (give the title and date or dates of the administrative proceeding):

Title of Administrative Proceeding	Date or Dates

### 4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(You must complete this section if you checked item 1a. above indicating that you elect to use a clerk's transcript as the record of the documents filed in the superior court.)

a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed or, if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(1) Notice of appeal	
(2) Notice designating record on appeal (this document)	
(3) Judgment or order appealed from	
(4) Notice of entry of judgment (if any)	
(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)	
(6) Ruling on one or more of the items listed in (5).	
(7) Register of actions or docket (if any)	

1265

CASE NAME:

APP-003

CASE NUMBER:

**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

- b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in a. above to be included in the clerk's transcript, you must identify those documents here.)

☐ I request that the clerk include the following documents from the superior court proceeding in the transcript. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed)

	Document Title and Description	Date of Filing
(8)		
(9)		
(10)		
(11)		
(12)		

☐ See additional pages.

c. **Exhibits to be included in clerk's transcript.**

☐ I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court (for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence):

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			
(4)			
(5)			

☐ See additional pages.

**5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT**

(You must complete this section if you checked item 2b(1) above indicating that you elect to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.)

- a. I request that the reporters provide (check one):

- (1) ☒ My copy of the reporter's transcript in paper format.
- (2) ☐ My copy of the reporter's transcript in computer-readable format.
- (3) ☐ My copy of the reporter's transcript in paper format and a second copy in computer-readable format.

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

CASE NAME:

APP- 003

CASE NUMBER:

## b. Proceedings.

I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—and, if you know it, the name of the court reporter who recorded the proceedings).

Date	Department	Full/Partial Day	Description of Proceedings	Reporter's Name
(1) 3/7/13	20	Partial day	Hearing on Motion to Amend	Doriann Renaud
(2) 2/19/13	20	Partial day	Hearing on Motion for Reconsideration	Christine Bedard
(3)				
(4)				
(5)				
(6)				
(7)				

☐ See additional pages.

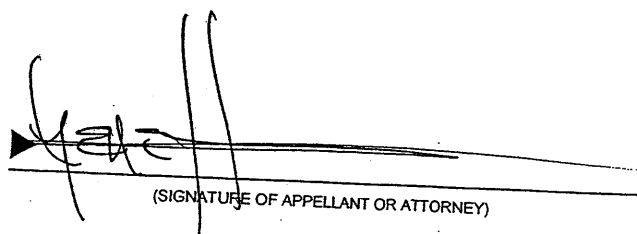
c. The proceedings designated in 5b ☐ include ☒ do not include all of the testimony in the superior court.

If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal (rule 8.130(a)(2) provides that your appeal will be limited to these points unless, on motion, the reviewing court permits otherwise).

Date: April 12, 2013

GENE HAZZARD

(TYPE OR PRINT NAME)

  
(SIGNATURE OF APPELLANT OR ATTORNEY)

1267

1  
2  
3 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
4 IN AND FOR THE COUNTY OF ALAMEDA  
5 BEFORE THE HONORABLE JOHN M. TRUE III, JUDGE  
6 DEPARTMENT 512

7 ---o0o---

8 GENE HAZZARD, et al.,

9 Plaintiffs,

10 vs.

11 CITY OF OAKLAND, et al.,

12 Defendants.  
13 \_\_\_\_\_/

No. RG12642082

DECLARATION OF  
MARIA L. BECERRA  
CSR #10848  
(Representative  
of The Court  
Reporters LLC)

14  
15  
16 I, MARIA L. BECERRA, Certified Shorthand Reporter,  
17 and as a representative of THE COURT REPORTERS LLC, declare  
18 that after a thorough search of our records, no deposit is  
19 required in the above-entitled matter. Transcripts for  
20 2/19/13 and 3/7/13 were previously ordered and paid for.  
21

22  
23 Maria L. Becerra

24 Maria L. Becerra, CSR #10848

4-1-13

25 Date  
26  
27  
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE  
DEPARTMENT NO. 23

---oOo---

GENE HAZZARD, Resident  
taxpayer, City of Oakland,  
California, et al,

Plaintiff,

vs.

No. RG12642082

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
(COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT DIRECTOR  
GREGORY HUNTER; OAK PROJECT  
MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER  
AMB/PROLOGIS MASTER DEVELOPER,  
et al,

Defendants.

COUNTY ADMINISTRATION BUILDING  
OAKLAND, CALIFORNIA  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, MARCH 7, 2013

Reported by:  
Doriann Renaud  
CSR#9772

THE COURT REPORTERS LLC  
(925) 922-2321

1269

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF:

GENE HAZZARD,  
In pro per

FOR THE DEFENDANTS:

WILLIAM ADAMS,  
Attorney at Law

KEVIN D. SIEGEL,  
Attorney at Law

1 THURSDAY, MARCH 7, 2013

AFTERNOON SESSION

2 P-R-O-C-E-E-D-I-N-G-S

3 THE COURT: Gene Hazzard versus City of Oakland, et al.  
4 And this matter is being reported by Doriann Renaud. Docket No.  
5 RG12642082. This is on this afternoon for several purposes.

6 Appearances, please, from my left to my right.

7 MR. HAZZARD: Good afternoon, Your Honor. Gene Hazzard for  
8 plaintiff.

9 MR. ADAMS: Good afternoon, Your Honor. William Adams  
10 appearing on behalf of defendants Letter and Tagami.

11 MR. SIEGEL: Good afternoon, Your Honor. Kevin Siegel for  
12 the City and the City defendants.

13 THE COURT: All right. Good afternoon to all of you. I've  
14 issued tentative rulings as to all three lines.

15 Apparently, Mr. Hazzard has been given leave to file yet  
16 another complaint and demurrers have been filed. And my  
17 tentative ruling has been contested by the defendants who feel  
18 that, if I may summarize, this has gone on long enough. There's  
19 no cause of action that the plaintiff has stated or will be able  
20 to state and we should put an end to this.

21 Mr. Adams, anything you want to add?

22 MR. ADAMS: I would, Your Honor. In notifying the Court of  
23 our intention to contest the tentative ruling on the  
24 determination to grant leave to file a 2nd Amended Complaint.  
25 We took the step of citing the Court to the Foxborough v. Van  
26 Atta case, which stands for the proposition that although the  
27 Court is afforded great discretion in making a determination to  
28 amend pleadings, the Court also has the discretion to look at



1 the substantive pleadings and determine whether or not the  
2 proposed amendment would state in fact a viable cause of action.  
3 And if the Court were to determine that a -- and the amendment  
4 would be futile, then it is equally within the discretion of the  
5 Court to deny a motion for leave to amend on that basis.

6 Now, Mr. Hazzard sought initially leave to amend his  
7 complaint. He then subsequently on the 28th of February  
8 submitted yet another iteration of a proposed amended complaint.  
9 Five minutes ago I was handed with a third proposed amended  
10 complaint. So at a minimum, it's unclear to me which iteration  
11 Mr. Hazzard --

12 THE COURT: Well, we're dealing with the 2nd Amended  
13 Complaint. My clerk told me Mr. Hazzard brought something in  
14 today. I have not allowed it to be filed. I don't intend to  
15 allow it to be filed.

16 MR. ADAMS: I believe it has been filed, Your Honor.

17 THE COURT: Well, then it will be stricken.

18 MR. ADAMS: In any event, Mr. Hazzard in his motion before  
19 the Court, had actually invited the Court at page six, line ten  
20 to review the substance of his proposed amendment. And we would  
21 ask the Court to take him up on his invitation. And we submit,  
22 Your Honor, that a review of any of the now five iterations of  
23 his complaint would be deficient as a matter of law on the issue  
24 of separation of powers. We briefed that issue extensively in  
25 two demurrers, Your Honor, and reduced it to its essence.

26 Mr. Hazzard would have this Court substitute its judgment  
27 for the discretionary powers of the City of Oakland in making a  
28 selection of a developer for the Oakland Army Base.

1 Now, that is a violation of the core separation of powers.  
2 It would be an intrusion upon the discretionary authority of the  
3 City. I would also point out that Mr. Hazzard had his day. The  
4 City and its City Counsel had a public hearing on this. Mr.  
5 Hazzard attended. The City had its day. Mr. Hazzard had his  
6 say. And unsatisfied with the outcome of that, he filed this  
7 lawsuit in order to get you to get his way. And I would submit,  
8 Your Honor, that's simply impermissible.

9 THE COURT: Well, that's what you said the first time and  
10 that's what I understood you to say and that candidly is what I  
11 understand the law to be. And that's what you're saying now.

12 So my understanding is that at some point due process for  
13 the pleading party, the plaintiff ends. Due process has been  
14 given. He's had an opportunity to, several opportunities to  
15 plead causes of action that have legal validity and he's failed  
16 to do that. And so implicit in what you're saying here: Why  
17 should I give you yet another opportunity?

18 MR. ADAMS: That's correct, Your Honor. There is one other  
19 point that I would like to make and that is --

20 THE COURT: Yes.

21 MR. ADAMS: Your Honor, this case has been extance since  
22 last August. And the existence of the lawsuit itself has served  
23 as fodder in collateral public hearings for Mr. Hazzard to  
24 castigate my client in public forums and that has gone on for  
25 months and months and months.

26 THE COURT: Well, of course, he has that right under the  
27 First Amendment.

28 MR. ADAMS: Certainly. But he's --

1 THE COURT: The question that I have in front of me is is  
2 should this case be kept alive any longer?

3 MR. ADAMS: Correct.

4 THE COURT: But whatever he might be using it for in public  
5 is up to you not to me.

6 MR. ADAMS: To dignify those allegations, Your Honor, by  
7 the mere existence of this lawsuit is what we take offense to  
8 and that's why we believe it's time to bring this matter to an  
9 end and resolve it.

10 THE COURT: Mr. Siegel.

11 MR. SIEGEL: I concur completely. And the point I would  
12 add is I understand obviously the Court is always inclined to  
13 grant leave to amend because they want to make sure that they're  
14 given the full and fair opportunity to the plaintiff to state  
15 the best case he has. And so obviously we understand the  
16 perspective that Your Honor is coming from.

17 But here we do have an invitation. I think you have an  
18 invitation to look at the 2nd Amended Complaint as you know  
19 there's three versions -- and just as a housekeeping matter, in  
20 the reply -- not only was there a version of the 2nd Amended  
21 Complaint filed today, which I understand you said would be  
22 stricken. There's another one attached to reply papers to a  
23 declaration. So it's still unclear to me whether we're going on  
24 the basis of the one that was noticed with the moving papers or  
25 the one that's a part of the reply.

26 But either way you want to go, Your Honor, I think that, if  
27 you look at those, it's the same situation that we've had all  
28 along both as the taxpayer standing and as to the merits which

1 Mr. Adams addressed as to the discretionary issue for the City.  
2 And with that invitation, I do think -- I would hope that you  
3 would take it up and look at that 2nd Amended Complaint and see  
4 that it's the same. And I'll just point out one thing about the  
5 taxpayer standing.

6 It's the same situation as before where there is just a  
7 conclusory ascertain that Mr. Hazzard pay taxes. But then he  
8 undercuts it by referring to Exhibit R, which is a document that  
9 just shows that there was a debt owed to the City. Doesn't  
10 discuss what type of debt. So he's undercuts his own allegation  
11 and in the version of the 2nd Amended Complaint, which is  
12 attached to the declaration of the reply papers, there is an  
13 effort to bring in a new, quote, unquote, taxpayer named Queen  
14 Thurston, I think is the name. And there's a letter. And all  
15 it says is I want to join the lawsuit and I'm a taxpayer.

16 So I think by bringing this forward he's shown that he  
17 can't do it. And I think that it's fair then to say it's now  
18 been enough time. And this is his, you know, it's the 2nd  
19 Amended Complaint he's basically put forth. We're going to do  
20 the same demurrer again. And it's going to be an hour at the  
21 courthouse. And it's costing the court time and money. It's  
22 costing us time and money and it's just not -- it's just not  
23 right. And I think it's fair enough to do it now and to look at  
24 that 2nd Amended Complaint and make a decision.

25 THE COURT: Mr. Hazzard.

26 MR. HAZZARD: Yes, Your Honor.

27 THE COURT: Why should this continue taking up everybody's  
28 time? It is apparent to me even without the comments of these

1 two gentlemen standing to your left that you're not going to be  
2 able to plead a claim against the City of Oakland and all these  
3 individuals. And I've told you that before. And they're saying  
4 that nothing you filed including what you brought in this  
5 afternoon is any different.

6 So why shouldn't this just, you know, be dismissed? You  
7 take your shot of at Court of Appeal if that's what you want to  
8 do. You go out and talk about it in various public forums if  
9 that's what you want to do. But I don't have any relief that I  
10 can give you now. So why should I continue what's going on  
11 here?

12 MR. HAZZARD: Thank you, Your Honor.

13 First of all, counsel has presented a case to you  
14 Foxborough. Foxborough is not relevant to this case.  
15 Foxborough --

16 THE COURT: I'd appreciate it actually if you'd answer my  
17 question.

18 MR. HAZZARD: But --

19 THE COURT: Answer my question.

20 MR. HAZZARD: Well, this is a fluid action. Every time I'm  
21 uncovering information that goes to the heart of this matter,  
22 we're dealing with --

23 THE COURT: Thank you. What have you uncovered?

24 MR. HAZZARD: Fraudulent conveyance.

25 THE COURT: And how do you have standing to challenge what  
26 you claim to be a fraudulent conveyance.

27 MR. HAZZARD: Kirkeby v. Superior Court, 2004, 33 Cal.4th  
28 [sic] addresses a transfer under the UFTA is defined as every

1 mode, direct or indirect where the transaction for which the  
2 debtor's access were unreasonably small. And that's what we  
3 find here in this case.

4 When we go to Civil Code 3439, dash, 3439.1 [sic]. A  
5 debtor is insolvent if, at fair valuations, the sum of the  
6 debtor's debts is greater than all the debtor's assets. A  
7 debtor who is generally not paying his or her debts as they  
8 become due.

9 A transfer made or obligation incurred by a debtor is  
10 fraudulent as to a creditor...

11 And the creditors are the City. Then we go --

12 THE COURT: Wait. Wait. Okay. You just talked yourself  
13 right out of court, Mr. Hazzard. The creditors are the City.  
14 They're not you. So you don't have standing.

15 MR. HAZZARD: No. The creditors -- if I may, Your Honor.  
16 The creditors are the City or the citizens and the residents of  
17 it, who will suffer as a result of the City incurring a debt  
18 because the defendant Tagami has insufficient capitalization as  
19 required and as the City has so stated.

20 Additionally, under allowing for an amended complaint. We  
21 look at Civil Code procedure section 403.010, dash, 403.090,  
22 which says: If a plaintiff, cross-complainant, or petitioner  
23 files an amended complaint or other amended initial pleadings  
24 that change the jurisdictional classification to limited to  
25 unlimited. The parties at the time of the filing the pleading,  
26 shall pay the reclassification fees provided. Unlimited to  
27 limited no reclassification fee is required. If under, 403.030,  
28 if a party in a limited civil case files a cross-complaint that

1 causes the action or proceeding to exceed the maximum amount in  
2 controversy for a limited civil case or otherwise.

3 You got 403.030. You got 403.040. You have -- then the  
4 various sections under those respective codes. And where  
5 there's the -- the defendants have exhaustively tried to say I  
6 don't have standing. So I'm moving towards the next move.  
7 526(a) of the Civil Code says, the citizens do have standing.

8 So now I have to quash the exhaustive use of the standing  
9 issue. Queen Thurston and I have submitted a -- and I could  
10 submit also the taxpayers' assessment.

11 THE COURT: Tell you what, Mr. Hazzard. Here's what I'm  
12 going to do.

13 MR. HAZZARD: Yes, sir.

14 THE COURT: I instructed my clerk to strike your -- what is  
15 it, 2nd or 3rd Amended Complaint?

16 MR. HAZZARD: It's a draft, sir.

17 MR. SIEGEL: There's three 2nd Amended Complaints, Your  
18 Honor.

19 THE COURT: Well, I'll accept this. I'll file this. I'll  
20 look at it.

21 MR. HAZZARD: Yes, sir.

22 THE COURT: I want an order from you upholding -- granting  
23 the demurrer without leave to amend and dismissing the matter.  
24 I'll consider that order when I get it. Show it to Mr. Hazzard  
25 for approval as to form. If he doesn't approve it within a  
26 timely period of time. Submit it to the Court. I'll look at it  
27 and I'll give very serious consideration to granting it and  
28 putting an end to this case.

1 And Mr. Hazzard, if I should do that, then you know where  
2 to go from here.

3 MR. HAZZARD: Yes, sir.

4 THE COURT: There's the Court of Appeal who looks at what  
5 the trial courts do and that may be your remedy.

6 Thank you all very much.

7 MR. ADAMS: Thank you, Your Honor.

8 THE COURT: Case management.

9 MR. SIEGEL: I hate to say that but...

10 THE COURT: I don't think it's going to be necessary, but I  
11 will set a case management conference for June 6th, 2013, at  
12 3:00 p.m. in the event the matter hasn't been disposed of in  
13 this court.

14 MR. HAZZARD: What was that date, Your Honor?

15 THE COURT: June 6th, 2013, 3:00 p.m.

16 MR. HAZZARD: Thank you. Thank you very much, Your Honor.

17 MR. SIEGEL: Thank you very much.

18 MR. HAZZARD: Thank you.

19

20 (Proceedings were concluded.)

21 ---oOo---

22

23

24

25

26

27

28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

STATE OF CALIFORNIA     }  
                                  } SS  
COUNTY OF ALAMEDA     }

I, DORIANN RENAUD, CSR 9772, do hereby certify that I am an  
Official Reporter of the Superior Court in and for the County of  
Alameda, State of California, and that as such I reported the  
proceedings had in the foregoing matter at the time and place  
set forth herein;

That my stenographic notes of said proceedings were transcribed  
into typewriting by me and that the preceding pages numbered 1  
through 9, constitute a full, true and correct transcription of  
said notes.

Dated this 14th day of March, 2013 executed at Oakland,  
California.

\_\_\_\_\_  
DORIANN RENAUD, CSR

<p><b>A</b></p> <p>able 2:19 7:2  accept 9:19  access 8:2  action 2:19 3:2  4:15 7:20 9:1  adams 1:5 2:9,9,21  2:22 3:16,18 4:18  4:21,28 5:3,6 6:1  10:7  add 2:21 5:12  additionally 8:20  addressed 6:1  addresses 7:28  administration  3:23  administrator 3:14  3:14  afforded 2:27  afternoon 2:1,5,7,9  2:11,13 7:5  ago 3:9  al 3:7,18,20 2:3  alameda 3:2 11:2,7  alive 5:2  aliza 3:16  allegation 6:10  allegations 5:6  allow 3:15  allowed 3:14  allowing 8:20  amb 3:20  amend 2:28 3:5,6  5:13 9:23  amended 2:24 3:8  3:9,12 5:18,20 6:3  6:11,19,24 8:20  8:23,23 9:15,17  amendment 3:2,3  3:20 4:27  amount 9:1  answer 7:16,19  apparent 6:28  apparently 2:15  appeal 7:7 10:4  appearances 1:1</p>	<p>2:6  appearing 2:10  appreciate 7:16  approval 9:25  approve 9:25  army 3:28  ascertain 6:7  assessment 9:10  assets 8:6  assistant 3:14  atta 2:26  attached 5:22 6:12  attended 4:5  attorney 1:5,7  august 4:22  auletta 3:18  authority 4:2</p> <p><b>B</b></p> <p>base 3:28  basically 6:19  basis 3:5 5:24  behalf 2:10  believe 3:16 5:8  best 5:15  blackwell 3:14  briefed 3:24  bring 5:8 6:13  bringing 6:16  brooks 3:13  brought 3:13 7:4  brunner 3:11  building 3:23</p> <p><b>C</b></p> <p>cal 7:27  california 3:1,7,24  11:1,7,15  candidly 4:10  cant 6:17  capitalization 8:18  case 2:26 4:21 5:2  5:15 7:13,14 8:3  8:28 9:2,28 10:8  10:11  cashman 3:17  castigate 4:24</p>	<p>cause 2:19 3:2  causes 4:15 9:1  ccg 3:19  certainly 4:28  certify 11:5  challenge 7:25  change 8:24  citing 2:25  citizens 8:16 9:7  city 3:7,10,10,13,14  2:3,12,12 3:27 4:3  4:4,4,5 6:1,9 7:2  8:11,13,16,17,19  civil 8:4,21,28 9:2,7  claim 7:2,26  classification 8:24  clerk 3:13 9:14  client 4:24  code 8:4,21 9:7  codes 9:4  cohen 3:16  collateral 4:23  coming 5:16  comments 6:28  community 3:15  complaint 2:16,24  3:7,8,10,13,23  5:18,21 6:3,11,19  6:24 8:20,23 9:15  complaints 9:17  completely 5:11  concluded 10:20  conclusory 6:7  concur 5:11  conference 10:11  consider 9:24  consideration 9:27  constitute 11:12  contest 2:23  contested 2:17  continue 6:27 7:10  controversary 9:2  conveyance 7:24,26  core 4:1  correct 4:18 5:3  11:12  costing 6:21,22</p>	<p>council 3:10,11  counsel 4:4 7:13  county 3:2,23 11:2  11:6  course 4:26  court 3:1 2:3,13,22  2:25,27,28 3:3,5  3:12,17,19,19,21  3:26 4:9,20,26 5:1  5:4,10,12 6:21,25  6:27 7:7,16,19,23  7:25,27 8:12,13  9:11,14,19,22,26  10:4,4,8,10,13,15  11:6  courthouse 6:21  courts 10:5  creditor 8:10  creditors 8:11,13  8:15,16  crosscomplainant  8:22  crosscomplaint  8:28  csr 3:28 11:5,19</p> <p><b>D</b></p> <p>d 1:6  dan 3:15  daniel 3:19  dash 8:4,21  date 10:14  dated 11:14  day 4:3,5 11:14  de 3:12  dealing 3:12 7:22  deanna 3:13  debt 6:9,10 8:17  debtor 8:5,7,9  debtors 8:2,6,6  debts 8:6,7  decision 6:24  declaration 5:23  6:12  defendant 8:18  defendants 3:21  1:5 2:10,12,17 9:5</p>	<p>deficient 3:23  defined 7:28  demurrer 6:20  9:23  demurrers 2:16  3:25  deny 3:5  department 3:4  desley 3:13  determination 2:24  2:27  determine 3:1,3  developer 3:19,20  3:28  development 3:15  different 7:5  dignify 5:6  direct 8:1  director 3:16,17  directors 3:15  discretion 2:27,28  3:4  discretionary 3:27  4:2 6:1  discuss 6:10  dismissed 7:6  dismissing 9:23  disposed 10:12  docket 2:4  document 6:8  doesnt 6:9 9:25  dont 3:14 7:9 8:14  9:6 10:10  doriann 3:27 2:4  11:5,19  draft 9:16  due 4:12,13 8:8</p> <p><b>E</b></p> <p>economic 3:15  effort 6:13  either 5:26  ends 4:13  equally 3:4  essence 3:25  et 3:7,20 2:3  event 3:18 10:12</p>
---	--	--	---	---

everybodys 6:27	gene 3:6 1:3 2:3,7		kernighan 3:12	merits 5:28
exceed 9:1	generally 8:7	I	kevin 1:6 2:11	minimum 3:10
executed 11:14	gentlemen 7:1	id 7:16	kirkeby 7:27	minutes 3:9
exhaustive 9:8	ggig 3:19	ignacio 3:12	know 5:18 6:18 7:6	mode 8:1
exhaustively 9:5	give 4:17 7:10 9:27	iii 3:3	10:1	money 6:21,22
exhibit 6:8	given 2:15 4:14	ill 6:4 9:19,19,24		months 4:25,25,25
existence 4:22 5:7	5:14	9:26,27	L	motion 3:5,18
extance 4:21	go 5:26 7:8 8:4,11	im 6:15 7:20 9:6,11	la 3:12	move 9:6
extensively 3:24	10:2	impermissible 4:8	larry 3:11	moving 5:24 9:6
F	goes 7:21	implicit 4:16	law 1:5,7 3:23 4:11	N
fact 3:2	going 5:23 6:19,20	inclined 5:12	lawsuit 4:7,22 5:7	nadel 3:11
failed 4:15	7:1,10 9:12 10:10	including 7:4	6:15	name 6:14
fair 5:14 6:17,23	good 2:7,9,11,13	incurred 8:9	leave 2:15,24 3:5,6	named 6:13
8:5	grant 2:24 5:13	incurring 8:17	5:13 9:23	nancy 3:11
february 3:7	granting 9:22,27	indirect 8:1	left 2:6 7:1	necessary 10:10
fee 8:27	great 2:27	individuals 7:3	legal 4:15	new 6:13
feel 2:17	greater 8:6	information 7:21	letter 3:19 2:10	notes 11:10,13
fees 8:26	gregory 3:18	initial 8:23	6:14	noticed 5:24
file 2:15,24 9:19	H	initially 3:6	libby 3:12	notifying 2:22
filed 2:16 3:14,15	handed 3:9	insolvent 8:5	limited 8:24,27,28	numbered 11:11
3:16 4:6 5:21 7:4	hasnt 10:12	instructed 9:14	9:2	O
files 8:23,28	hate 10:9	insufficient 8:18	hindheim 3:16	oab 3:17
filing 8:25	hazzard 3:6 1:3 2:3	intend 3:14	line 3:19	oak 3:18
find 8:3	2:7,7,15 3:6,11,13	intention 2:23	lines 2:14	oakland 3:7,10,10
first 4:9,27 7:13	3:18,26 4:3,5,5,23	intrusion 4:2	long 2:18	3:24 2:3 3:27,28
five 3:9,22	6:7,25,26 7:12,18	invitation 3:21 5:17	longer 5:2	7:2 11:14
fluid 7:20	7:20,24,27 8:13	5:18 6:2	look 2:28 5:18,27	obligation 8:9
fodder 4:23	8:15 9:11,13,16	invited 3:19	6:3,23 8:21 9:20	obra 3:16
foregoing 11:8	9:21,24 10:1,3,14	issue 3:23,24 6:1	9:26	obviously 5:12,15
form 9:25	10:16,18	9:9	looks 10:4	offense 5:7
former 3:15,16	hearing 4:4	issued 2:14	M	official 11:6
forth 6:19 11:9	hearings 4:23	iteration 3:8,10	m 3:3 10:12,15	okay 8:12
forums 4:24 7:8	heart 7:21	iterations 3:22	making 2:27 3:27	ooo 3:5 10:21
forward 6:16	heres 9:11	ive 2:13 7:3	management 10:8	opportunities 4:14
foxborough 2:25	hes 4:14,15,28 6:10	J	10:11	opportunity 4:14
7:14,14,15	6:16,19	jane 3:11	manager 3:17,18	4:17 5:14
fraudulent 7:24,26	honor 2:7,9,11,22	jean 3:13	march 3:26 2:1	order 4:7 9:22,24
8:10	3:16,22,25 4:8,18	john 3:3	11:14	outcome 4:6
fred 3:14	4:21 5:6,16,26	join 6:15	master 3:19,20	owed 6:9
front 5:1	6:26 7:12 8:15	judge 3:3	matter 2:4 3:23 5:8	P
fuate 3:13	9:18 10:7,14,16	judgment 3:26	5:19 7:21 9:23	p 10:12,15
full 5:14 11:12	honorable 3:3	june 10:11,15	10:12 11:8	page 3:19
futile 3:4	hope 6:2	jurisdictional 8:24	maximum 9:1	pages 11:11
G	hour 6:20	K	mayor 3:13	papers 5:22,24
gallo 3:17	housekeeping 5:19	kaplan 3:12	members 3:10	
	hunter 3:18	kept 5:2	mere 5:7	

6:12. part 5:25 parties 8:25 party 4:13 8:28 pat 3:12,17 pay 6:7 8:26 paying 8:7 period 9:26 perspective 5:16 petitioner 8:22 phil 3:18 place 11:8 plaintiff 3:8 1:3 2:8 2:19 4:13 5:14 8:22 plead 4:15 7:2 pleading 4:13 8:25 pleadings 2:28 3:1 8:23 please 2:6 point 4:3,12,19 5:11 6:4 powers 3:24,27 4:1 preceding 11:11 presented 7:13 president 3:11 pro 1:4 procedure 8:21 proceeding 9:1 proceedings 3:25 2:2 10:20 11:8,10 process 4:12,13 project 3:17,18 prologis 3:20 proposed 3:2,8,9 3:20 proposition 2:26 provided 8:26 public 4:4,23,24 5:4 7:8 purposes 2:5 put 2:20 6:19 putting 9:28	queen 6:13 9:9 question 5:1 7:17 7:19 quote 6:13	selection 3:28 separation 3:24 4:1 serious 9:27 served 4:22 session 2:1 set 10:11 11:9 shot 7:7 shouldnt 7:6 show 9:24 shown 6:16 shows 6:9 sic 7:28 8:4 siegel 1:6 2:11,11 5:10,11 9:17 10:9 10:17 simply 4:8 sir 9:13,16,21 10:3 situation 5:27 6:6 six 3:19 small 8:2 sought 3:6 ss 11:2 standing 5:28 6:5 7:1,25 8:14 9:6,7 9:8 stands 2:26 state 3:1 2:20 3:2 5:14 11:1,7 stated 2:19 8:19 stenographic 11:10 step 2:25 stricken 3:17 5:22 strike 9:14 submit 3:21 4:7 9:10,26 submitted 3:8 9:9 subsequently 3:7 substance 3:20 substantive 3:1 substitute 3:26 suffer 8:17 sum 8:5 summarize 2:18 superior 3:1 7:27 11:6 sure 5:13	<b>T</b> tagami 3:19 2:10 8:18 take 3:21 5:7 6:3 7:7 talk 7:8 talked 8:12 taxes 6:7 taxpayer 3:7 5:28 6:5,13,15 taxpayers 9:10 tell 9:11 ten 3:19 tentative 2:14,17 2:23 thank 7:12,23 10:6 10:7,16,16,17,18 thats 4:8,9,10,11,18 5:8,25 7:7,9 8:2 theres 2:18 5:19,22 6:14 9:5,17 10:4 theyre 5:13 7:3 8:14 thing 6:4 think 5:17,26 6:2 6:14,16,17,23 10:10 third 3:9 three 2:14 5:19 9:17 thursday 3:26 2:1 thurston 6:14 9:9 time 4:9 5:8 6:18 6:21,22,28 7:20 8:25 9:26 11:8 timely 9:26 today 3:14 5:21 told 3:13 7:3 transaction 8:1 transcribed 11:10 transcript 3:25 transcription 11:12 transfer 7:28 8:9 trial 10:5 tried 9:5 true 3:3 11:12	two 3:25 7:1 type 6:10 typewriting 11:11
	<b>R</b> r 6:8 rebecca 3:12 reclassification 8:26,27 redevelopment 3:17 reduced 3:25 referring 6:8 reid 3:11 relevant 7:14 relief 7:9 remedy 10:5 renaud 3:27 2:4 11:5,19 reply 5:20,22,25 6:12 reported 3:27 2:4 11:7 reporter 11:6 reporters 3:25 required 8:19,27 resident 3:6 residents 8:16 resolve 5:9 respective 9:4 result 8:17 review 3:20,22 rg12642082 3:8 2:5 right 2:6,13 4:26 6:23 8:13 ruling 2:17,23 rulings 2:14			<b>U</b> ufta 7:28 unclear 3:10 5:23 uncovered 7:23 uncovering 7:21 undercuts 6:8,10 understand 4:11 5:12,15,21 understanding 4:12 understood 4:10 unlimited 8:25,26 unquote 6:13 unreasonably 8:2 unsatisfied 4:6 upholding 9:22 use 9:8
				<b>V</b> v 2:25 7:27 validity 4:15 valuations 8:5 van 2:25 various 7:8 9:4 version 5:20 6:11 versions 5:19 versus 2:3 viable 3:2 violation 4:1 vs 3:9
	<b>S</b> santana 3:13 saying 4:11,16 7:3 says 6:15 8:22 9:7 schaaf 3:12 section 8:21 sections 9:4 see 6:3			<b>W</b> wait 8:12,12 walter 3:16 want 2:21 5:13,26 6:15 7:7,9 9:22 way 4:7 5:26 weve 5:27 whats 7:10 william 1:5 2:9
<b>Q</b> quan 3:13 uash 9:8				<b>X</b>
				<b>Y</b>

youd 7:16  
youre 4:11,16 7:1

9 11:12  
97723:28 11:5

Z

0

00 10:12,15  
01 08:21  
03 08:27 9:3  
04 09:3  
09 08:21

1

1 8:4 11:11  
14th 11:14

2

2004 7:27  
2013 3:26 2:1 10:11  
10:15 11:14  
23 3:4  
28th 3:7  
2nd 2:24 3:12 5:18  
5:20 6:3,11,18,24  
9:15,17

3

3 10:12,15  
33 7:27  
3439 8:4,4  
3rd 9:15

4

403 8:21,21,27 9:3  
9:3  
4th 7:27

5

5269:7

6

6th 10:11,15

7

7 3:26 2:1

8

9

IN THE SUPERIOR COURT, STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

---000---

BEFORE THE HONORABLE JOHN M. TRUE, III, JUDGE

GENE HAZZARD,

PLAINTIFF,

VS.

CITY OF OAKLAND, ET AL.

NO. RG12642082

COPY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 19, 2013

---000---

A P P E A R A N C E S:

FOR THE PLAINTIFF:

GENE HAZZARD  
PRO-PER

FOR THE DEFENDANTS:  
PHIL TAGAMI AND  
DANIEL LETTER

LAW OFFICE OF HANSON BRIDGETT  
BY: WILLIAM ADAMS  
425 MARKET STREET, 26TH FLOOR  
SAN FRANCISCO, CA 94105

FOR THE DEFENDANT:  
CITY OF OAKLAND

BURKE, WILLIAMS & SIEGEL  
BY: KEVIN SIEGEL  
1901 HARRISON STREET, 9TH FLOOR  
OAKLAND, CA 94612

REPORTED BY: CHRISTINE BEDARD, C.S.R.

1 FEBRUARY 19, 2013

2  
3 THE COURT: LINE THREE IS HAZZARD VS. CITY OF OAKLAND,  
4 ET AL. GOOD AFTERNOON. THIS IS GENE HAZZARD VS. CITY OF  
5 OAKLAND, ET AL. RG12642082 ON THE CALENDAR TODAY FOR OUR  
6 RECONSIDERATION. WE HAVE CHRISTINE BEDARD, CSR, MAKING A RECORD  
7 OF THESE PROCEEDINGS. MAY I HAVE THE APPEARANCE OF COUNSEL AND  
8 PARTIES. MR. HAZZARD.

9 MR. HAZZARD: GOOD AFTERNOON, GENE HAZZARD.

10 MR. ADAMS: GOOD AFTERNOON, YOUR HONOR. WILLIAM ADAMS  
11 APPEARING ON BEHALF OF DEFENDANTS DANIEL LETTER AND PHIL TAGAMI.

12 MR. SIEGEL: GOOD AFTERNOON, YOUR HONOR. KEVIN SIEGEL ON  
13 BEHALF OF THE CITY OF OAKLAND DEFENDANTS.

14 THE COURT: ALL RIGHT. IN THIS CASE I ISSUED A TENTATIVE  
15 RULING DENYING THE REQUEST FOR RECONSIDERATION ON VARIOUS  
16 GROUNDS, AND I UNDERSTAND, MR. HAZZARD, THAT IT IS YOUR WISH TO  
17 CONTEST THAT RULING, AND I WILL LISTEN CAREFULLY, BUT BRIEFLY,  
18 TO WHAT YOU MAY HAVE TO SAY.

19 MR. HAZZARD: THANK YOU, YOUR HONOR. WE'RE HERE  
20 YOUR HONOR, FOR TWO REASONS, IN THIS VENUE. ONE IS BECAUSE  
21 DEFENDANT TAGAMI, THEY FAILED TO ENTER ENTRY OF JUDGMENT, FILE  
22 AN ENTRY OF JUDGMENT OR ORDER.

23 AND THE OTHER, OBVIOUSLY, IS MY CHALLENGING YOUR  
24 TENTATIVE RULING IN THIS MATTER, BECAUSE IN YOUR TENTATIVE  
25 RULING, YOUR HONOR, YOU SAID, "THE MOTION IS NOT BASED UPON NEW  
26 OR DIFFERENT FACTS, CIRCUMSTANCES OR LAW," WHICH, IN FACT, THERE  
27 IS NEW FACTS AND CIRCUMSTANCES.

28 WHEN YOU LOOK AT THE ORIGINAL COMPLAINT, YOU GAVE ME

1 REAL CLEAR INSTRUCTIONS, IN TERMS OF THE PRESENTATION, WHICH I  
2 DID ON DECEMBER 14TH, ONE DAY BEFORE YOUR TENTATIVE RULING.  
3 THOSE WERE NEW CIRCUMSTANCES. HAD I FILED -- ALTHOUGH YOU FILED  
4 A TIMELY RULING ON DECEMBER 14TH, HAD I FILED THAT ON THE 12TH  
5 OF DECEMBER, YOU MAY NOT HAVE MADE THAT RULING, BECAUSE YOU  
6 DIDN'T HAVE THE FIRST AMENDED COMPLAINT IN YOUR POSSESSION TO  
7 REVIEW.

8 THE NEW FACTS IN EVIDENCE ARE FRAUD. WHEN YOU LOOK AT  
9 PAGE 30, THE FOURTH CAUSE OF ACTION, WHICH WAS NOT IN THE FIRST  
10 COMPLAINT, ORIGINAL COMPLAINT, IT'S FRAUD. PAGE 34, THE FIFTH  
11 CAUSE OF ACTION, VIOLATION OF CONTRACT CODES. WHEN WE LOOK AT  
12 17200 OF THE BUSINESS AND PROFESSIONAL [SIC] CODE, 3439.9 ALSO,  
13 BOTH OF WHICH ARE NEW FACTS, THAT DID NOT APPEAR IN THE ORIGINAL  
14 COMPLAINT. I WAS PREPARED TO DO AN APPEAL, BUT INSTEAD, BECAUSE  
15 OF THE ECONOMICS, I DID A MOTION FOR RECONSIDERATION.

16 ON DEFENDANT'S FAILURE TO FILE AN ENTRY OF THE ORDER, I  
17 WILL CITE NATIONAL ADVERTISING V. CITY OF ROHNERT PARK, 1984 160  
18 CAL APP. 3 614; AN UNTIMELY FILING.

19 WHEN WE GO TO THE FRAUD QUESTION ISSUE, I'LL USE  
20 MAXWELL V. SANTA ROSA, 53 CAL 2ND 274 WHERE THE ISSUE OF  
21 FRAUD -- AND THAT'S WHAT I'M ALLEGING, AND YOU DON'T HAVE TO  
22 SHOW FRAUD. IT'S A SITUATION WHERE, EVEN IF FRAUD IS  
23 THREATENED, IT'S A BASIS FOR A -- A CONSIDERATION IN THIS  
24 MATTER.

25 WHEN WE GO TO KIRKEBY, V. SUPERIOR COURT, 2004 33 CAL 4  
26 642, AND THIS REALLY MAKES A POINT, "A REAL PROPERTY CLAIM AND,  
27 THEREFORE, SUPPORTS THE RECORDING OF A NOTICE OF PENDENCY OF  
28 ACTION COMMONLY REFERRED TO AS A LIS PENDENS." THIS WAS -- "A



1 LIS PENDENS IS A RECORDED DOCUMENT GIVING CONSTRUCTIVE NOTICE  
2 THAT AN ACTION HAS BEEN FILED AFFECTING" THE "TITLE."

3 THIS FRAUD ALLEGATION IS AFFECTING A FRAUDULENT  
4 CONVEYANCE IS AFFECTING THE TITLE ON THIS PROPERTY CLAIM, AND  
5 WE'RE TALKING ABOUT A PROPERTY CLAIM. WE'RE NOT TALKING ABOUT A  
6 PROPERTY INTEREST. WHEN YOU LOOK AT KIRKEBY, IT'S THE PROPERTY  
7 CLAIM, NOT A PROPERTY INTEREST.

8 AND I THINK WE COULD GO FURTHER, AND WE USE DAVIS V.  
9 CITY OF SANTA ANA, 108 CAL. APP 2ND 669. THE DISCRETIONARY  
10 POWERS OF THE MUNICIPAL AUTHORITIES WOULD NOT BE INTERFERED WITH  
11 A SUIT BY A TAX PAYER FOR AN INJUNCTION IN ABSENCE OF FRAUD,  
12 YOUR HONOR.

13 THE ONLY RESTRICTIONS IMPOSED BY THE JEWEL OF BASIC LAW  
14 IS THAT SUCH DISPOSITION SHALL BE FOR THE BENEFIT OF THE CITY  
15 AND ITS CONSTITUENTS. SO YOU IGNORE -- LET ME SAY IT APPEARS  
16 THAT YOU'VE IGNORED THAT FIRST AMENDED COMPLAINT, AND IT CLEARLY  
17 ESTABLISHED FRAUD.

18 AND SO WE'RE TALKING ABOUT TRYING TO PREVENT ANY  
19 FURTHERANCE IN THIS MATTER, BECAUSE IT'S ALREADY SHOWN BY THE  
20 CITY'S OWN DOCUMENTATION THAT DEFENDANT TAGAMI DOES NOT HAVE THE  
21 FINANCIAL CAPACITY, NOR DOES HE HAVE THE EXPERIENCE, AND IF  
22 WE'RE LOOKING AT THE BUDGETARY CONSTRAINTS OF THE CITY, IT'S  
23 IRRESPONSIBLE FOR BOTH THE LEGISLATIVE BODY, AND, WITH ALL DUE  
24 RESPECT, THIS COURT, TO IGNORE COMPELLING SITUATIONS AS IT  
25 AFFECTS THE CITY'S BUDGETARY SITUATION.

26 THE COURT: THANK YOU, MR. HAZZARD.

27 MR. HAZZARD: THANK YOU, YOUR HONOR.

28 THE COURT: ANY RESPONSE, MR. ADAMS OR MR. SIEGEL?

1 MR. ADAMS: BRIEFLY, YOUR HONOR. WHEN WE WERE HEARD ON  
2 THE MOTION TO EXPUNGE THE LIS PENDENS, THE COURT WAS VERY CLEAR  
3 IN DIRECTING MY OFFICE TO PREPARE A PROPOSED FORM OF ORDER, AND  
4 YOU ASKED FOR IT TO BE DELIVERED TO YOU NO LATER THAN  
5 DECEMBER 20.

6 IT WAS DELIVERED EARLY. YOU SIGNED IT BEFORE  
7 CHRISTMAS. IT WAS DULY RECORDED. THERE'S NO UNTIMELINESS IN  
8 THE ENTRY OF THE ORDER, YOUR HONOR.

9 SECONDLY, WITH RESPECT TO THE MOTION FOR  
10 RECONSIDERATION, MR. HAZZARD HAS ADVANCED NO NEW ARGUMENTS THAT  
11 WEREN'T FOUND IN HIS PAPERS, AND HIS ARGUMENTS ARE NOT IMPROVED  
12 BY REPETITION HERE TODAY. WE DON'T GET TO THE ISSUE OF  
13 LIS PENDENS, BECAUSE SIMPLY HE HAS NOT SATISFIED THE FUNDAMENTAL  
14 REQUIREMENTS THAT WOULD ENTITLE HIM TO A RECONSIDERATION OF THE  
15 FACTS OF THE EXPUNGEMENT ORDER.

16 HOWEVER, IF WE WERE TO GET TO THE EXPUNGEMENT ORDER,  
17 MR. HAZZARD'S PAPERS REFLECT A FUNDAMENTAL MISAPPREHENSION OF  
18 WHAT A LIS PENDENS IS FOR. IT'S MISGUIDED TO THINK THAT HE, AS  
19 A CITIZEN OF THE CITY OF OAKLAND, IS ENTITLED TO RECORD A CLOUD  
20 ON TITLE FOR THE OAKLAND ARMY BASE BECAUSE HE DISPUTES OR  
21 DISAGREES WITH THE SELECTION OF THE DEVELOPER TO BUILD THAT  
22 PROPERTY.

23 SO EVEN IF WE WERE TO GET PAST THE HURDLE, WHICH WE  
24 DON'T ON THE RECONSIDERATION, HIS UNDERSTANDING OF THE  
25 CIRCUMSTANCES THAT WOULD GIVE RISE TO A LIS PENDENS ARE  
26 INCORRECT. I WOULD ALSO SUBMIT, YOUR HONOR, THAT ABSENT THE  
27 UNUSUAL CIRCUMSTANCES BY WHICH MR. HAZZARD WAS ABLE TO RECORD A  
28 LIS PENDENS IN THE FIRST INSTANCE, MY CLIENT PROBABLY WOULD HAVE

1 BEEN ENTITLED TO A RECOVERY OF SUBSTANTIAL FEES ASSOCIATED WITH  
2 UNTANGLING THAT MESS.

3 WE WEREN'T AWARDED THAT IN THE LAST GO-AROUND, AND WE  
4 ALLOWED THAT TO GO BY. WE'RE HERE ON A RECONSIDERATION. I  
5 WOULD ASK THE COURT UPHOLD ITS TENTATIVE RULING. I THINK IT'S  
6 CORRECT, AND WE SHOULD DISPENSE WITH THIS MATTER. THANK YOU.

7 THE COURT: THANK YOU, MR. ADAMS. MR. SIEGEL, ANYTHING?

8 MR. SIEGEL: VERY BRIEFLY. I CONCUR WITH WHAT THE  
9 DEVELOPER DEFENDANTS ARE SAYING. THE ONLY THING I'LL ADD IS  
10 WHAT YOU'LL SEE WHEN YOU GET TO THE HEARING ON THE DEMURRER ON  
11 THE FIRST AMENDED COMPLAINT.

12 THE COURT: WHEN IS THAT?

13 MR. SIEGEL: MARCH 7TH. IT'S COMING SOON. WE HAVE  
14 DEMURRED AGAIN THE FRAUD, AND THE CONTRACT CLAIM ISSUES THAT  
15 MR. HAZZARD ARE BRINGING UP ARE NOT NEW FACTS. IT'S JUST A  
16 REPACKAGING OF THE SAME ALLEGATIONS THAT ALREADY EXISTED AND IS  
17 PUTTING A NEW TITLE AND A LITTLE BIT OF SPIN ON THE ISSUES, BUT  
18 WE REALLY HAVE THE SAME COMPLAINT HERE.

19 SO THOUGH I AGREE WE SHOULDN'T BE GETTING THERE AS TO  
20 ANALYZE THE MERITS OF THE MOTION TO EXPUNGE OR REANALYZING, I  
21 MUST SAY, THERE REALLY IS NOTHING NEW ON THOSE ISSUES.

22 THE COURT: ALL RIGHT. THANK YOU, ALL. THE MATTER  
23 HAVING BEEN SUBMITTED, THE TENTATIVE RULING IS CONFIRMED AND  
24 WILL BE THE COURT'S FINAL RULING, AND I WILL -- I DON'T KNOW IF  
25 WE HAVE A CASE MANAGEMENT CONFERENCE SCHEDULED ALREADY.

26 MR. HAZZARD: YOUR HONOR, MAY I --

27 THE COURT: NO. NO.

28 MR. HAZZARD: YOUR HONOR, THEY MADE -- YOUR HONOR, THEY

MADE CERTAIN ALLEGATIONS --

THE COURT: DO NOT INTERRUPT ME. MADAM COURT REPORTER,  
WE'LL GO OFF THE RECORD UNLESS MR. HAZZARD CAN CONTROL HIMSELF.

THE CLERK: WE DO HAVE IT. IT'S ON MARCH THE 18TH.

THE COURT: THAT WILL BE CONTINUED TO, WHAT DATE DID YOU  
SAY?

MR. ADAMS: MARCH 7TH IS THE DEMURER.

THE COURT: WE'LL HAVE FURTHER CASE MANAGEMENT ON  
MARCH 7TH. THANK YOU, ALL.

MR. ADAMS: THANK YOU.

MR. SIEGEL: MARCH 7TH.

---000---

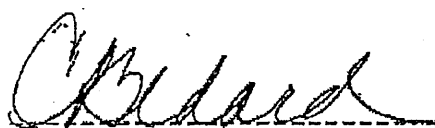
1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF ALAMEDA )

4  
5  
6  
7 I, CHRISTINE BEDARD, Certified Shorthand Reporter, do  
8 hereby certify that I am a pro tempore reporter of the  
9 Superior Court of the State of California, and that as  
10 such, I reported the proceedings had in the above-entitled  
11 matter at the time and place set for herein.

12 That my stenograph notes were thereafter transcribed  
13 into typewriting under my direction; and that the  
14 foregoing pages constitute a full, true and correct  
15 transcription of my said notes to the best of my ability.  
16  
17

18   
19

20 CHRISTINE BEDARD, C.S.R. #10709

21  
22 dated: February 25, 2013  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE (CCP 1013a, 2015.5)**

I am over the age of eighteen years and not a party to the within action; my resident address is 731 Mandana Blvd., Oakland, CA 94610.

On the date below I served the following document(s), the original of which was/were produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

**APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL**

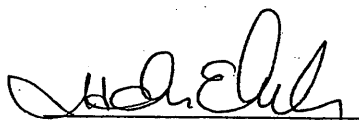
to:

*Counsel for the City of Oakland*  
Kevin D. Siegel  
Burke, Williams and Sorenson  
1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

- ☒ **BY MAIL.** I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ **BY PERSONAL SERVICE.** I caused such document(s) to be delivered by hand to the office of the person(s) listed above.
- ☐ **BY FEDERAL EXPRESS.** I caused such document(s) to be delivered by Federal Express to the office of the person(s) listed above.
- ☐ **BY FACSIMILE TRANSMISSION.** I caused such document(s) to be delivered by facsimile transmission at or about Enter time on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (415) 391-6965. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) are as set forth above.
- ☐ **BY ELECTRONIC TRANSMISSION.** By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 12, 2013, at San Francisco, California.

  
HEATHER M. EHMKE

Gene Hazzard  
282 Adams Street, Unit #6  
Oakland, CA 94610  
(510) 418-0501

ENDORSED  
FILED  
ALAMEDA COUNTY

APR 12 2013

PLAINTIFF, IN PROPRIA PERSONA

CLERK OF THE SUPERIOR COURT  
By Josefina Vélez, Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

GENE HAZZARD, Oakland citizen and  
resident taxpayer, City of Oakland; and all  
similarly situated residents and taxpayers  
of the City of Oakland,

Appellant,

v.

CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL: COUNCIL  
PRESIDENT LARRY REID, NANCY NADEL,  
JANE BRUNNER, REBECCA KAPLAN, PAT  
KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
LA FUENTE, DESLEY BROOKS; MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
LINDHEIM AND WALTER COHEN;  
FORMER OBRA DIRECTOR ALIZA GALLO,  
OAB PROJECT MANAGER PAT CASHMAN;  
REDEVELOPMENT DIRECTOR GREGORY  
HUNTER; OAB PROJECT MANAGER AL  
AULETTA; PHIL TAGAMI, CALIFORNIA  
CAPITAL & INVESTMENT GROUP (CCIG)  
(formerly known as CALIFORNIA CAPITAL  
GROUP (CCG); DANIEL LETTER, PROLOGIS,  
LP (formerly known as AMB PROPERTY  
CORPORATION); PROLOGIS CCIG  
OAKLAND GLOBAL, LLC, and Does 1-100.

Respondents.

Case No. RG12642082

**FIRST AMENDED NOTICE OF APPEAL;  
ELECTION TO PROCEED UNDER RULE  
8.124, CALIFORNIA RULES OF COURT;  
DESIGNATION OF REPORTER'S  
TRANSCRIPT WITH SUBSTITUTION OF  
CERTIFIED TRANSCRIPT**

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 Plaintiff GENE HAZZARD amends the notice of appeal filed on April 8, 2013 to appeal  
3 the Notice of Entry of Judgment entered March 26, 2013 (not March 28, 2013). Plaintiff further  
4 appeals the Notice of Entry of Judgment entered on February 20, 2013. This Notice of Appeal is  
5 filed simultaneously with a Notice Designating the Record on Appeal as set forth herein.

6 Appellant elects to proceed under the provisions of Rule 8.124 of the California Rules of  
7 Court.

8 Appellant designates for inclusion in the Reporter's Transcript the hearing on Motion for  
9 Leave to File a Second Amended Complaint held on March 7, 2013, in Department 20 reported by  
10 Doriann Renaud, C.S.R. A certified transcript of these proceedings is provided with this notice  
11 and substituted for the deposit of the cost of the transcript. (See Cal rules of Court Rule  
12 8.139(b)(2).  
13

14 Appellant further designates for inclusion in the Reporter's Transcript the hearing on  
15 Motion for Leave to File a Second Amended Complaint held on February 19, 2013, in Department  
16 20 reported by Christine Bedard, C.S.R. A certified transcript of these proceedings is provided  
17 with this notice and substituted for the deposit of the cost of the transcript. (See Cal rules of Court  
18 Rule 8.139(b)(2).  
19

20 Date: April 12, 2013

21  
22   
23 GENE HAZZARD

24 Plaintiff *in propria persona*  
25  
26



1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 731 Mandana Blvd., Oakland, CA 94610.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **FIRST AMENDED NOTICE OF APPEAL; ELECTION TO PROCEED UNDER RULE**  
7 **8.124, CALIFORNIA RULES OF COURT; DESIGNATION OF REPORTER'S**  
8 **TRANSCRIPT WITH SUBSTITUTION OF CERTIFIED TRANSCRIPT**

9 to:

10 *Counsel for the City of Oakland*  
11 Kevin D. Siegel  
12 Burke, Williams and Sorenson  
13 1901 Harrison Street, Suite 900  
Oakland, CA 94612  
(510) 273-8780  
[ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 777-3200  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

14 X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
15 United States mail at San Francisco, California.

16 — BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
17 office of the person(s) listed above.

18 — BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
to the office of the person(s) listed above.

19 — BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
20 facsimile transmission at or about Enter time on that date. This document was transmitted  
21 by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
telephone number (415) 391-6965. The transmission was reported as complete and without  
22 error. A copy of the transmission report, properly issued by the transmitting machine, is  
attached. The names and facsimile numbers of the person(s) are as set forth above.

23 — BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the  
24 e-mail address(es) listed based on a court order or an agreement of the parties to accept  
service by e-mail. No electronic message or other indication that the transmission was  
unsuccessful was received within a reasonable time after the transmission.

25 I declare under penalty of perjury that the foregoing is true and correct. Executed on April  
26 12, 2013, at San Francisco, California.

27   
28 HEATHER M. EHMKE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>JOSEPH M. QUINN, SBN 171898; CHRISTINE HILER (SBN245331)</b> <b>HANSON BRIDGETT LLP</b> <b>425 MARKET STREET, 26th FLOOR</b> <b>SF, CA 94105</b> TELEPHONE NO.: (415) 777-3200 FAX NO. (Optional): (415) 541-9366 E-MAIL ADDRESS (Optional): Jquinn@hansonbridgett.com ATTORNEY FOR (Name): Defendants/Respondents PHIL TAGAMI and DANIEL LETTER	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME:	
PLAINTIFF/PETITIONER: GENE HAZZARD DEFENDANT/RESPONDENT: CITY OF OAKLAND, et al.	
<b>RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL</b> <b>(UNLIMITED CIVIL CASE)</b>	
RE: Appeal filed on (date): April 8, 2013	Superior Court Case Number: RG12642082 Court of Appeal Case Number (if known): A138354
<b>Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b>	

# 1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

The appellant has elected to use a clerk's transcript under rule 8.122.

- a. ☐ Additional documents. (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents here.)

In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents from the superior court proceedings. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

Document Title and Description	Date of Filing
--------------------------------	----------------

(1)

(2)

(3)

☐ See additional pages.

- b. ☐ Additional exhibits. (If you want any exhibits from the superior court proceedings in addition to those designated by the appellant to be included in the clerk's transcript, you must identify these exhibits here.)

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence.)

Exhibit Number	Description	Admitted (Yes/No)
----------------	-------------	-------------------

(1)

(2)

(3)

☐ See additional pages.

1297

CASE NAME: HAZZARD v. CITY OF OAKLAND, et al.

CASE NUMBER: RG12642082

c. ☐ Copy of clerk's transcript. I request a copy of the clerk's transcript. (check (1) or (2).)

(1) ☐ I will pay the superior court clerk for this transcript when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, I will not receive a copy.

(2) ☐ I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have attached the following document (check (a) or (b)):

(a) ☐ An order granting a waiver of court fees and costs under rule 3.50 et seq.; or

(b) ☐ An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)

## 2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has elected to use a reporter's transcript under rule 8.130.

a. ☒ Additional proceedings. (If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)

In addition to the proceedings designated by the appellant, I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—and, if you know it, the name of the court reporter who recorded the proceedings.)

Date	Department	Full/Partial Day	Description of Proceedings	Reporter's Name
(1) 12/17/2012 23		Partial	CMC; Demurrer; Mtn to Expun. Lis Pends	Maria L. Becerra
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
<input type="checkbox"/> See additional pages.				

1298

CASE NAME: HAZZARD v. CITY OF OAKLAND, et al.

CASE NUMBER: RG12642082

## 2.b. Copy of Reporter's Transcript.

- (1) ☒ I request a copy of the reporter's transcript.
- (2) ☒ I request that the reporters provide (check (a), (b), or (c)):
- (a) ☒ My copy of the reporter's transcript in paper format.
- (b) ☐ My copy of the reporter's transcript in computer-readable format.
- (c) ☐ My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

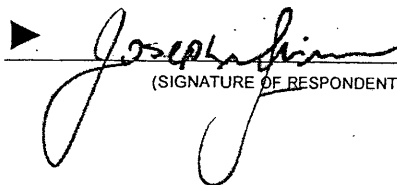
## (3) I have (check all that apply):

- (a) ☒ Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(b)(3).
- (c) ☐ Attached the reporter's written waiver of a deposit for (check either (i) or (ii)):
- (i) ☐ All of the designated proceedings.
- (ii) ☐ Part of the designated proceedings.
- (d) ☐ Attached a certified transcript under rule 8.130(b)(3).

Date: April 18, 2013

JOSEPH M. QUINN

(TYPE OR PRINT NAME)



(SIGNATURE OF RESPONDENT OR ATTORNEY)



1299

1 **PROOF OF SERVICE**

2 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**  
3 ***Gene Hazzard v. City of Oakland, et al.*; Case No. RG12642082**  
4 **(Court of Appeal Case No. A138354)**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am  
6 employed in the County of San Francisco, State of California. My business address is 425 Market  
7 Street, 26th Floor, San Francisco, CA 94105.

8 On April 18, 2013, I served true copies of the following document(s) described as

9 **RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL**  
10 **(UNLIMITED CIVIL CASE)**

11 on the interested parties in this action as follows:

12 ***Plaintiff In Pro Per***

13 Gene Hazzard  
14 282 Adams Street, Unit #6  
15 Oakland, CA 94610  
16 Tel: (510) 418-0501

17 ***Attorneys for City Defendants***

18 Barbara J. Parker  
19 City Attorney  
20 Randolph W. Hall  
21 Chief Assistant City Attorney  
22 CITY OF OAKLAND  
23 One Frank Ogawa Plaza, 6th Floor  
24 Oakland, CA 94612  
25 Tel: (510) 238-3601  
26 Fax: (510) 238-6500

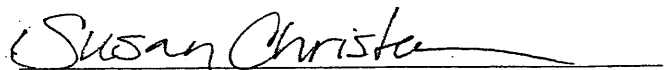
27 ***Co-counsel for City Defendants***

28 Kevin D. Siegel  
BURKE, WILLIAMS & SORENSEN, LLP  
1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501  
Tel: (510) 273-8780  
Fax: (510) 839-9104  
Email: [ksiegel@gwslaw.com](mailto:ksiegel@gwslaw.com)

29 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the  
30 persons at the addresses listed in the Service List and placed the envelope for collection and  
31 mailing, following our ordinary business practices. I am readily familiar with Hanson  
32 Bridgett LLP's practice for collecting and processing correspondence for mailing. On the same  
33 day that the correspondence is placed for collection and mailing, it is deposited in the ordinary  
34 course of business with the United States Postal Service, in a sealed envelope with postage fully  
35 prepaid.

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

38 Executed on April 18, 2013, at San Francisco, California.

39   
40 Susan Christensen



1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 Plaintiff/appellant GENE HAZZARD amends the notice of appeal filed on April 8, 2013 to  
3 give notice of his appeal on the Order Sustaining Defendants Demurrers entered on March 22,  
4 2013, the Order Denying Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended  
5 Complaint entered on March 20, 2013, and the Order Striking the Request for Dismissal entered  
6 on March 14, 2013. Copies of these orders are attached.

7 Plaintiff/appellant further appeals the Notice of Entry of Judgment entered March 26,  
8 2013, of which notice has been given.

9 Plaintiff/appellant withdraws his appeal on the Notice of Entry of Judgment entered on  
10 February 20, 2013.

11 Appellant elects to proceed under the provisions of Rule 8.124 of the California Rules of  
12 Court.

13 Appellant designates for inclusion in the Reporter's Transcript the hearing on Motion for  
14 Leave to File a Second Amended Complaint held on March 7, 2013, in Department 20 reported by  
15 Doriann Renaud, C.S.R. A certified transcript of these proceedings has been provided in  
16 substitution for the deposit of the cost of the transcript. (See Cal rules of Court Rule 8.139(b)(2).

17 Appellant further designates for inclusion in the Reporter's Transcript of February 19,  
18 2013, in Department 20 reported by Christine Bedard, C.S.R. A certified transcript of these  
19 proceedings was provided with this first amended notice in substitution for the deposit of the cost  
20 of the transcript. (See Cal rules of Court Rule 8.139(b)(2).

21 Date: May 13, 2013

22  
23  
24 

25 GENE HAZZARD  
26 Plaintiff *in propria persona*

Unred



\*11063329\*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

ANDREW G. GIACOMINI (SBN154377) - WILLIAM E. ADAMS (SBN153330)

CHRISTINE HILER (SBN245331)

HANSON BRIDGETT LLP, 425 Market Street, 26th Floor

San Francisco, CA 94105

TELEPHONE NO.: 415-777-3200

FAX NO. (Optional): 415-541-9366

E-MAIL ADDRESS (Optional): wadams@hansonbridgett.com

ATTORNEY FOR (Name): Defts PHIL TAGAMI and DANIEL LETTER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS: 1225 Fallon Street

MAILING ADDRESS:

CITY AND ZIP CODE: Oakland, CA 94612

BRANCH NAME:

FOR COURT USE ONLY

**FILED**  
ALAMEDA COUNTY

MAR 22 2013

By Guia Bahro Exec. Off/Clerk

PLAINTIFF/PETITIONER: Gene Hazzard,

DEFENDANT/RESPONDENT: City of Oakland, et al.

**NOTICE OF ENTRY OF JUDGMENT  
OR ORDER**

CASE NUMBER:  
RG12642082

(Check one):



**UNLIMITED CASE**  
(Amount demanded  
exceeded \$25,000)



**LIMITED CASE**  
(Amount demanded was  
\$25,000 or less)

**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): March 13, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: March 18, 2013

CHRISTINE HILER

(TYPE OR PRINT NAME OF



ATTORNEY



PARTY WITHOUT ATTORNEY)

Christine Hiler

(SIGNATURE)



1303



PLAINTIFF/PETITIONER: Gene Hazzard

CASE NUMBER:  
RG12642082

DEFENDANT/RESPONDENT: City of Oakland, et al.

## PROOF OF SERVICE BY FIRST-CLASS MAIL

## NOTICE OF ENTRY OF JUDGMENT OR ORDER

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):  
Hanson Bridgett LLP, 425 Market Street, 26th Floor, SF, CA 94105
2. I served a copy of the Notice of Entry of Judgment or Order by enclosing it in a sealed envelope with postage fully prepaid and (check one):
  - a. ☐ deposited the sealed envelope with the United States Postal Service.
  - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
3. The Notice of Entry of Judgment or Order was mailed:
  - a. on (date): March 22, 2013
  - b. from (city and state): San Francisco, CA
4. The envelope was addressed and mailed as follows:
 

<ol style="list-style-type: none"> <li>a. Name of person served: Gene Hazzard  Street address: 282 Adams St., Unit 6 City: Oakland State and zip code: CA 94610</li> <li>b. Name of person served: Kevin D. Siegel, Burke, Williams &amp; Sorensen, LLP Street address: 1901 Harrison St., Ste. 900 City: Oakland State and zip code: CA 94612</li> </ol>	<ol style="list-style-type: none"> <li>c. Name of person served: Barbara J. Parker, City Attorney, City of Oakland  Street address: One Frank Ogawa Plaza, 6th Floor City: Oakland State and zip code: CA 94612</li> <li>d. Name of person served:  Street address: City: State and zip code:</li> </ol>
---	--

☐ Names and addresses of additional persons served are attached: (You may use form POS-030(P).)

5. Number of pages attached 2.

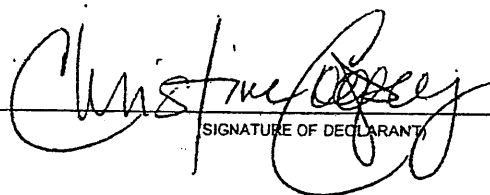
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: March 22, 2013

CHRISTINE A. COOPEY

(TYPE OR PRINT NAME OF DECLARANT)

SIGNATURE OF DECLARANT




1304

*Adams*  
970 2536

1 HANSON BRIDGETT LLP  
2 ANDREW G. GIACOMINI, SBN 154377  
3 agiacomini@hansonbridgett.com  
4 WILLIAM E. ADAMS, SBN 153330  
5 wadams@hansonbridgett.com  
6 CHRISTINE HILER, SBN 245331  
7 425 Market Street, 26th Floor  
8 San Francisco, California 94105  
9 Telephone: (415) 777-3200  
10 Facsimile: (415) 541-9366  
11  
12 Attorneys for Defendants PHIL TAGAMI and  
13 DANIEL LETTER

FILED  
ALAMEDA COUNTY

MAR 13 2013

CLERK OF THE SUPERIOR COURT

By *[Signature]* Deputy

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

11 GENE HAZZARD, Resident taxpayer, City of  
12 Oakland, California, et al.,

13 Plaintiff,

14 v.

15 CITY OF OAKLAND; ALL MEMBERS OF  
16 THE OAKLAND CITY COUNCIL;  
17 COUNCIL PRESIDENT LARRY REID,  
18 NANCY NADEL, JANE BRUNNER,  
19 REBECCA KAPLAN, PAT KERNIGHAN,  
20 LIBBY SCHAAF, IGNACIO DE LA  
21 FUENTE, DESLEY BROOKS; MAYOR  
22 JEAN QUAN; DEANNA SANTANA, CITY  
23 ADMINISTRATOR; FRED BLACKWELL,  
24 ASSISTANT CITY ADMINISTRATOR;  
25 FORMER COMMUNITY AND ECONOMIC  
26 DEVELOPMENT DIRECTORS DAN  
27 LINDHEIM AND WALTER COHEN;  
28 FORMER OBRA DIRECTOR ALIZA  
GALLO, OAB PROJECT MANAGER PAT  
CASHMAN; REDEVELOPMENT  
DIRECTOR GREGORY HUNTER; OAB  
PROJECT MANAGER AL AULETTA; PHIL  
TAGAMI, CCG/GGIG MASTER  
DEVELOPER, DANIEL LETTER AMB/  
PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

~~PROPOSED~~ ORDER SUSTAINING  
DEFENDANTS' DEMURRERS TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT

Date: March 7, 2013  
Time: 3:00 p.m.  
Dept: 23  
Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
Trial Date: T.B.D.

Reservation No. #R-1354686

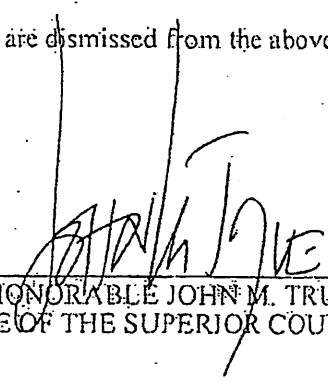
1 The Demurrers of Defendants Phil Pagani and Daniel Letter ("Developer Defendants")  
2 and Defendants City of Oakland and the City officials, former officials, employees and former  
3 employees named in the First Amended Complaint ("City Defendants") to Plaintiff Gene  
4 Hazzard's First Amended Complaint came on regularly for hearing on March 7, 2013, at 3:00 p.m.  
5 in Department 23 of the Alameda County Superior Court, the Honorable John M. True, III  
6 presiding. A Tentative Ruling was published and was contested by the Developer Defendants and  
7 City Defendants.

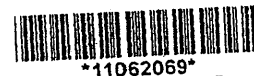
8 Plaintiff and opposing party Gene Hazzard appeared in pro per. Developer Defendants and  
9 moving parties appeared by and through counsel William E. Adams. City Defendants and moving  
10 parties appeared by and through counsel Kevin D. Siegel.

11 Having read the motions, all the memoranda and supporting documents, and having heard  
12 the oral arguments of the parties and considered all papers, including the requests for judicial  
13 notice, filed in connection with this motion,

14 IT IS HEREBY ORDERED THAT, the Developer Defendants' and City Defendants'  
15 Demurrers to each cause of action alleged in the First Amended Complaint are SUSTAINED  
16 without leave to amend. None of the purported causes of action in the First Amended Complaint  
17 allege facts sufficient to state a cause of action, and it is apparent the Plaintiff is unable to allege  
18 facts sufficient to state a cause of action. All defendants are dismissed from the above-referenced  
19 action with prejudice.

20  
21 DATED: March 13, 2013.  
22

23   
THE HONORABLE JOHN M. TRUE, III  
JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27  
28



<b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</b> ANDREW G. GIACOMINI (SBN154377) - WILLIAM E. ADAMS (SBN153330) CHRISTINE HILER (SBN245331) HANSON BRIDGETT LLP, 425 Market Street, 26th Floor San Francisco, CA 94105 TELEPHONE NO.: 415-777-3200 FAX NO. (Optional): 415-541-9366 E-MAIL ADDRESS (Optional): wadams@hansonbridgett.com ATTORNEY FOR (Name): Defts PHIL TAGAMI and DANIEL LETTER		<b>FOR COURT USE ONLY</b>  <b>FILED</b> <b>ALAMEDA COUNTY</b> <b>MAR 20 2013</b> By <i>[Signature]</i> Exec. Off. Clerk
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Gene Hazzard, DEFENDANT/RESPONDENT: City of Oakland, et al.		
<b>NOTICE OF ENTRY OF JUDGMENT OR ORDER</b>  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeded \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded was \$25,000 or less)		CASE NUMBER: RG12642082

**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): March 13, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: March 18, 2013

CHRISTINE HILER

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*[Signature]*  
(SIGNATURE)

1307

PLAINTIFF/PETITIONER: Gene Hazzard

DEFENDANT/RESPONDENT: City of Oakland, et al.

CASE NUMBER:  
RG12642082

## PROOF OF SERVICE BY FIRST-CLASS MAIL

## NOTICE OF ENTRY OF JUDGMENT OR ORDER

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):  
Hanson Bridgett LLP, 425 Market Street, 26th Floor, SF, CA 94105
  2. I served a copy of the Notice of Entry of Judgment or Order by enclosing it in a sealed envelope with postage fully prepaid and (check one):
    - a. ☐ deposited the sealed envelope with the United States Postal Service.
    - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  3. The Notice of Entry of Judgment or Order was mailed:
    - a. on (date): March 18, 2013
    - b. from (city and state): San Francisco, CA
  4. The envelope was addressed and mailed as follows:
 

<ol style="list-style-type: none"> <li>a. Name of person served: Gene Hazzard</li> <li>Street address: 282 Adams St., Unit 6</li> <li>City: Oakland</li> <li>State and zip code: CA 94610</li> </ol>	<ol style="list-style-type: none"> <li>c. Name of person served: Barbara J. Parker, City Attorney, City of Oakland</li> <li>Street address: One Frank Ogawa Plaza, 6th Floor</li> <li>City: Oakland</li> <li>State and zip code: CA 94612</li> </ol>
<ol style="list-style-type: none"> <li>b. Name of person served: Kevin D. Siegel, Burke, Williams &amp; Sorensen, LLP</li> <li>Street address: 1901 Harrison St., Ste. 900</li> <li>City: Oakland</li> <li>State and zip code: CA 94612</li> </ol>	<ol style="list-style-type: none"> <li>d. Name of person served:</li> <li>Street address:</li> <li>City:</li> <li>State and zip code:</li> </ol>
- ☐ Names and addresses of additional persons served are attached. (You may use form POS-030(P).)

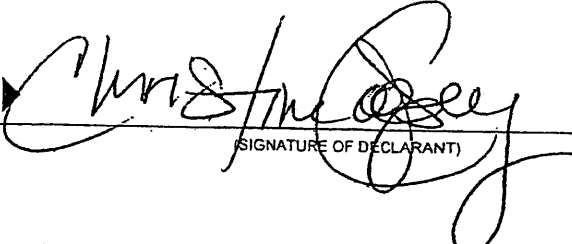
5. Number of pages attached 2.

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

Date: March 18, 2013

CHRISTINE A. COOPEY

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)



1 HANSON BRIDGETT LLP  
 2 ANDREW G. GIACOMINI, SBN 154377  
 3 agiacomini@hansonbridgett.com  
 4 WILLIAM E. ADAMS, SBN 153330  
 5 wadams@hansonbridgett.com  
 6 CHRISTINE HILER, SBN 245331  
 7 chiler@hansonbridgett.com  
 8 425 Market Street, 26th Floor  
 9 San Francisco, California 94105  
 10 Telephone: (415) 777-3200  
 11 Facsimile: (415) 541-9366  
 12 Attorneys for Defendants PHIL TAGAMI and  
 13 DANIEL LETTER

FILED  
 ALAMEDA COUNTY

MAR 13 2013

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

12 GENE HAZZARD, Resident taxpayer, City of  
 13 Oakland, California, et al.,

Plaintiff,

v.

15 CITY OF OAKLAND; ALL MEMBERS OF  
 16 THE OAKLAND CITY COUNCIL  
 17 (COUNCIL PRESIDENT LARRY REID,  
 18 NANCY NADEL, JANE BRUNNER,  
 19 REBECCA KAPLAN, PAT KERNIGHAN,  
 20 LIBBY SCHAAF, IGNACIO DE LA  
 21 FUENTE, DESLEY BROOKS); MAYOR  
 22 JEAN QUAN; DEANNA SANTANA, CITY  
 23 ADMINISTRATOR; FRED BLACKWELL,  
 24 ASSISTANT CITY ADMINISTRATOR;  
 25 FORMER COMMUNITY AND ECONOMIC  
 26 DEVELOPMENT DIRECTORS DAN  
 27 LINDHEIM AND WALTER COHEN;  
 28 FORMER OBRA DIRECTOR ALIZA  
 GALLO, OAB PROJECT MANAGER PAT  
 CASHMAN; REDEVELOPMENT  
 DIRECTOR GREGORY HUNTER; OAB  
 PROJECT MANAGER AL AULETTA; PHIL  
 TAGAMI, CCG/GGIG MASTER  
 DEVELOPER, DANIEL LETTER AMB /  
 PROLOGIS MASTER DEVELOPER, et al.,

Defendants.

CASE NO. RG12642082

~~PROPOSED~~ ORDER DENYING  
 PLAINTIFF GENE HAZZARD'S  
 MOTION FOR LEAVE TO FILE A  
 SECOND AMENDED COMPLAINT

Date: March 7, 2013  
 Time: 3:00 p.m.  
 Dept: 23  
 Judge: Hon. John M. True, III

Action Filed: August 3, 2012  
 Trial Date: T.B.D.

Reservation No. #R-1360643

[PROPOSED] ORDER DENYING PLAINTIFF GENE HAZZARD'S MOTION FOR LEAVE TO FILE A SECOND  
 AMENDED COMPLAINT; CASE NO. RG12642082

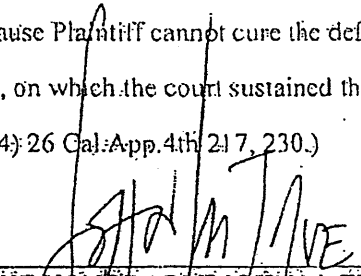
1 Plaintiff Gene Hazzard's Motion for Leave to File a Second Amended Complaint came on  
2 regularly for hearing on March 7, 2013, at 3:00 p.m. in Department 23 of the Alameda County  
3 Superior Court, the Honorable John M. True, III presiding. A Tentative Ruling was published and  
4 was contested by the Defendants.

5 Plaintiff Gene Hazzard appeared in pro per. Defendants Phil Tagami and Daniel Letter  
6 ("Developer Defendants") appeared by and through counsel William E. Adams. Defendants City  
7 of Oakland and the City officials, former officials, employees and former employees (collectively,  
8 "City Defendants") named in the First Amended Complaint ("City Defendants") appeared by and  
9 through their counsel Kevin D. Siegel.

10 Having read the motions, all the memoranda and supporting documents, and having heard  
11 the oral arguments of the parties and considered all papers and evidence filed in connection with  
12 this motion, including the three versions of the proposed Second Amended Complaint filed in  
13 connection with this motion,

14 IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File a Second Amended  
15 Complaint is DENIED. A careful examination of the various versions of the proposed Second  
16 Amended Complaint filed by Plaintiff demonstrates that granting leave to amend the pleadings  
17 further is not warranted because the Second Amended Complaint does not allege facts sufficient to  
18 constitute a cause of action and would be futile because Plaintiff cannot cure the defects presented  
19 in the Complaint and the First Amended Complaint, on which the court sustained the demurrers of  
20 the Defendants. (See *Foxborough v. Van Alst* (1994) 26 Cal.App.4th 217, 230.)

21 DATED: March 15, 2013

22   
23 THE HONORABLE JOHN M. TRUE, III  
24 JUDGE OF THE SUPERIOR COURT

25  
26  
27 <sup>1</sup> Plaintiff filed versions of the proposed Second Amended Complaint on February 8, February  
28 28, and March 7, 2013.



FILED  
ALAMEDA COUNTY

MAR 14 2013

CLERK OF THE SUPERIOR COURT  
By \_\_\_\_\_ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

Gene Hazzard

Case No: RG12-642082

Plaintiff

Order

vs.

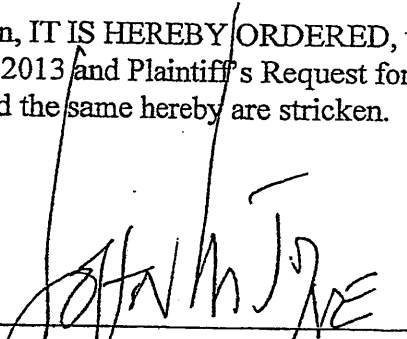
City of Oakland, et al.

Defendants

Good cause appearing, and on Court's own motion, IT IS HEREBY ORDERED, that the Notice of Entry of Judgment or Order filed on March 12, 2013 and Plaintiff's Request for Dismissal Without Prejudice filed March 14, 2013 be, and the same hereby are stricken.

IT IS SO ORDERED

Dated: March 14, 2013

  
John M. True III  
Judge

Department 23  
Alameda County Superior Court



Unkred



"11292672"

FOR COURT USE ONLY

**FILED**  
ALAMEDA COUNTY

APR - 4 2013

By Guise Baker Exec. Off/Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Kevin D. Siegel (SBN 194787)

Burke Williams & Sorensen, LLP

1901 Harrison Street, Suite 900

Oakland, CA 94612

TELEPHONE NO.: 510-273-8780

FAX NO. (Optional): 510-839-9104

E-MAIL ADDRESS (Optional): ksiegel@bwslaw.com

ATTORNEY FOR (Name): City of Oakland, et al.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS: 1225 Fallon Street

MAILING ADDRESS: 1225 Fallon Street

CITY AND ZIP CODE: Oakland, CA 94612

BRANCH NAME:

PLAINTIFF/PETITIONER: Gene Hazzard

DEFENDANT/RESPONDENT: City of Oakland, et al.

**NOTICE OF ENTRY OF JUDGMENT  
OR ORDER**

CASE NUMBER:

RG12642082

(Check one):



**UNLIMITED CASE**  
(Amount demanded  
exceeded \$25,000)



**LIMITED CASE**  
(Amount demanded was  
\$25,000 or less)

**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): March 26, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: April 3, 2013

Kevin D. Siegel

(TYPE OR PRINT NAME OF



ATTORNEY



PARTY WITHOUT ATTORNEY)

Kevin D Siegel

(SIGNATURE)

OAK #4840-4513-2819 v1

Form Approved for Optional Use  
Judicial Council of California  
CIV-130 (New January 1, 2010)

**NOTICE OF ENTRY OF JUDGMENT OR ORDER**

www.courtinfo.ca.gov

American LegalNet, Inc.  
www.FormsWorkFlow.com



1312

PLAINTIFF/PETITIONER: Gene Hazzard

CASE NUMBER:  
RG12642082

DEFENDANT/RESPONDENT: City of Oakland, et al.

**PROOF OF SERVICE BY FIRST-CLASS MAIL  
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

*(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)*

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:  
1901 Harrison Street, Oakland, CA 94612

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:

- a. ☒ deposited the sealed envelope with the United States Postal Service.  
b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on *(date)*: April 3, 2013  
b. from *(city and state)*: Oakland, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served: Gene Hazzard

Street address: 282 Adams Street, Unit #6  
City: Oakland  
State and zip code: CA 94610

c. Name of person served: William E. Adams  
Hanson Bridgett LLP

Street address: 425 Market St., 26th Flr.  
City: San Francisco  
State and zip code: CA 94105

b. Name of person served: Barbara J. Parker  
City Attorney, City of Oakland  
Street address: One Frank H. Ogawa Plz, 6th Flr.  
City: Oakland  
State and zip code: CA 94612

d. Name of person served:  
Street address:  
City:  
State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached 2.

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

Date: April 3, 2013

Celestine Seals

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

  
"9703687"

1 BARBARA J. PARKER (SBN 69722)  
City Attorney  
2 RANDOLPH W. HALL (SBN 80142)  
Chief Assistant City Attorney  
3 CITY OF OAKLAND  
One Frank H. Ogawa Plaza, 6th Floor  
4 Oakland, CA 94612  
Tel: 510.238.3601 Fax: 510.238.6500

5 Kevin D. Siegel (SBN 194787)  
6 E-mail: [ksiegel@bwsllp.com](mailto:ksiegel@bwsllp.com)  
BURKE, WILLIAMS & SORESENSEN, LLP  
7 1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501  
8 Tel: 510.273.8780 Fax: 510.839.9104

9 Attorneys for Defendants  
CITY OF OAKLAND; ALL MEMBERS OF THE OAKLAND CITY COUNCIL  
10 (COUNCIL PRESIDENT LARRY REID, NANCY NADEL, JANE BRUNNER,  
REBECCA KAPLAN, PAT KERNIGHAN, LIBBY SCHAAF, IGNACIO DE  
11 LA FUENTE, DESLEY BROOKS); MAYOR JEAN QUAN; DEANNA  
SANTANA, CITY ADMINISTRATOR; FRED BLACKWELL, ASSISTANT  
12 CITY ADMINISTRATOR; FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN LINDHEIM AND WALTER COHEN;  
13 FORMER OBRA DIRECTOR ALIZA GALLO, OAB PROJECT MANAGER  
PAT CASHMAN; REDEVELOPMENT DIRECTOR GREGORY HUNTER;  
14 OAB PROJECT MANAGER AL AULETTA

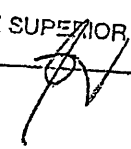
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF ALAMEDA  
17

18 GENE HAZZARD, Resident taxpayer, City of  
19 Oakland, California, et al.,  
20 Plaintiff,  
21 v.

22 CITY OF OAKLAND; ALL MEMBERS OF  
THE OAKLAND CITY COUNCIL  
23 (COUNCIL PRESIDENT LARRY REID,  
NANCY NADEL, JANE BRUNNER,  
24 REBECCA KAPLAN, PAT KERNIGHAN,  
LIBBY SCHAAF, IGNACIO DE LA  
25 FUENTE, DESLEY BROOKS); MAYOR  
JEAN QUAN; DEANNA SANTANA, CITY  
26 ADMINISTRATOR; FRED BLACKWELL,  
ASSISTANT CITY ADMINISTRATOR;  
27 FORMER COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTORS DAN  
28 LINDHEIM AND WALTER COHEN;

Exempt from Filing Fees Per Gov  
Code § 6103

FILED  
ALAMEDA COUNTY

MAR 26 2013  
CLERK OF THE SUPERIOR COURT  
By  Deputy

Case No. RG12642082  
Assigned for All Purposes To:  
Honorable John M. True, III

[PROPOSED] JUDGMENT  
OF DISMISSAL

BURKE, WILLIAMS &  
SORENSEN, LLP  
ATTORNEYS AT LAW  
OAKLAND

OAK #4844-5549-6979 v1

- 1 -

[PROPOSED] JUDGMENT OF DISMISSAL

1314

Defendants.

Defendants shall be entitled to recover their costs.

By:

HON. JOHN M. TRUE, III  
Judge of the Superior Court

GENE HAZZARD

1315

1 **PROOF OF SERVICE (CCP 1013a, 2015.5)**

2 I am over the age of eighteen years and not a party to the within action; my resident  
3 address is 731 Mandana Blvd., Oakland, CA 94610.

4 On the date below I served the following document(s), the original of which was/were  
5 produced on paper purchased as recycled, in accordance with Rules of Court §201(b):

6 **SECOND AMENDED NOTICE OF APPEAL; ELECTION TO PROCEED UNDER RULE**  
7 **8.124, CALIFORNIA RULES OF COURT; DESIGNATION OF REPORTER'S**  
8 **TRANSCRIPT WITH SUBSTITUTION OF CERTIFIED TRANSCRIPT**

9 to:

10 *Counsel for the City of Oakland*  
11 Kevin D. Siegel  
12 Burke, Williams and Sorenson  
13 1901 Harrison Street, Suite 900  
14 Oakland, CA 94612  
15 Tel: (510) 273-8780  
16 Fax: (510) 839-9104  
17 [ksiegel@bwslaw.com](mailto:ksiegel@bwslaw.com)

*Counsel for Tagami, et al.*  
William E. Adams  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
Tel: (415) 777-3200  
Fax: (415) 541-9366  
[wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com)

15 Barbara Parker  
16 City Attorney  
17 City of Oakland  
18 One Frank Ogawa Plaza, 4<sup>th</sup> Floor  
19 Oakland, CA 94612  
20 Tel: (510) 238-3815  
21 Fax: (510) 238-6500  
22 [bjparker@oaklandcityattorney.org](mailto:bjparker@oaklandcityattorney.org)

23 X BY MAIL. I caused such envelope with postage thereon fully prepaid to be placed in the  
24 United States mail at San Francisco, California.

25        BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the  
26 office of the person(s) listed above.

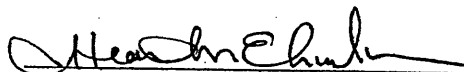
27        BY FEDERAL EXPRESS. I caused such document(s) to be delivered by Federal Express  
28 to the office of the person(s) listed above.

       BY FACSIMILE TRANSMISSION. I caused such document(s) to be delivered by  
facsimile transmission at or about Enter time on that date. This document was transmitted  
by using a facsimile machine that complies with California Rules of Court Rule 2003(3),  
telephone number (415) 391-6965. The transmission was reported as complete and without  
error. A copy of the transmission report, properly issued by the transmitting machine, is  
attached. The names and facsimile numbers of the person(s) are as set forth above.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

— BY ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the persons at the e-mail address(es) listed based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 13, 2013, at San Francisco, California.

  
HEATHER M. EHMKE

SUPERIOR COURT  
STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

1225 FALLON STREET  
OAKLAND, CA 94612

ROOM G4  
APPEALS SECTION

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

CLERK'S NOTICE re CERTIFICATION OF RECORD ON APPEAL  
**FILED**  
ALAMEDA COUNTY

Action No. RG12642082

MAY 13 2013

HAZZARD VS. CITY OF OAKLAND  
Plaintiff(s)/Defendant(s) CLERK OF THE SUPERIOR COURT  
By Ruby [Signature] Deputy

In accordance with the California Rules of Court, the above captioned record on appeal is hereby certified to the (✓) Court of Appeals, First Appellate District, ( ) Appellate Division of the Superior Court and is being transmitted to said court this date.

Date: 05-13-13

CLERK OF THE SUPERIOR COURT

By: [Signature]

Deputy

CERTIFICATE OF TRANSMITTAL

I certify that on 05-13-13, I sent a copy of this notice to the address indicated below by the following method:

- ( ) United States Postal Service at Oakland, CA with postage fully prepaid.  
✓) FED EX ( ) Inter-office delivery

CLERK OF THE SUPERIOR COURT

By: [Signature]

Deputy

ADAMS, WILLIAM E.  
HANSON BRIDGETT  
425 MARKET ST.  
26TH FLOOR  
SAN FRANCISCO, CA 94105