

**DRAFT/ FINAL/with proposed order PLACE Certificate OF INTERESTED ENTITIES after cover page\*\*\*\*\***

**\* CERTIFICATE OF INTERESTED ENTITIES OR PERSONS Pursuant to California Rules of Court, rule 8.208, Petitioner GENE HAZZARD certifies: Interested entities/persons: •**

**Alameda County Superior Court; Ryan Richardson, in his individual capacity as Oakland City Attorney • City of Oakland • Oakland City Councilmembers (official capacity) • Oakland City Clerk**

**Petitioner is unaware of any additional entities requiring disclosure.**

**Dated:**

---

**GENE HAZZARD Petitioner, In Pro Per**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT**

**GENE HAZZARD, Petitioner,**

**v.**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA , Respondent,  
Ryan Richardson, in his individual capacity as Oakland City Attorney; City of  
Oakland as a municipal corporation; and does 1-20 Real Parties in Interest**

**PETITION FOR WRIT OF MANDATE, PROHIBITION, OR  
OTHER APPROPRIATE RELIEF (Peremptory Writ in the First  
Instance Requested)**

**Case No. :**

**PAGE (2)**

**TABLE OF CONTENTS**

1. LETTER TO CLERK
2. CERTIFICATE OF INTERESTED ENTITIES OR PERSON
  
3. Table of Authorities
4. Statutes
5. Issues Presented for Review Introduction
6. Factual Background
7. Legal Argument
8. Conclusion
9. Proposed Order

**TABLE OF AUTHORITIES**

1. **Palma v. U.S. Industrial Fasteners, Inc.(1984) 36 Cal.3d 171**
2. **Ng. v. Superior Court (1992) 4 Cal. 4<sup>th</sup> 29**
3. **Mathews v. Eldridge (1976) 424 U.S. 319**
4. **Common Cause v. Board of Supervisors (1989) 49 Cal. 3d 432**
5. **Omaha Indemnity Co. v. Superior Court(1989) 209 Cal. App. 3d 1266**
6. **In re Candelario (1970) 3 Cal. 3d 702**
7. **Rossi v. Brown (1995) 9 Cal. 4<sup>th</sup> 688**
8. **First Amendment Due Process**
9. **Fourteenth Amendment**
10. **Article VI of the California Constitution:” VESTING JUDICIAL POWER IN THE SUPREME COURT,COURTS OF APPEAL, SUPERIOR COURTS, IT OUTLINES THE STRUCTURE, JURISDICTION AND ADMINISTRATION OF THESE COURTS...**

**STATUTES:**

11. **Government Code section 54960**
12. **Government Code section 54960.5**
13. **Government Code section 54964**

14. Code of Civil Procedure section 1085

15. Evidence Code section 1222

Page(3)

16. Election Code section 13119

17. Penal Code section 424

18. AB 155 Statutory language

## ISSUES PRESENTED FOR REVIEW

**\*\*This case presents pure questions of law warranting immediate writ relief: \*Constructive Denial Doctrine; Failure to Calendar; Due Process Violations; Action without proper pleadings; No evidentiary hearing on writ; No sustained demurrer with leave/without leave[final];Procedural ambiguity**

1. Whether Measure A may include “**ENJOINING COLLECTION FORBIDDEN,**” unlawfully restricting judicial review pursuant to section 4.26.130 of Ballot Measure[A] Transaction and Use Tax

2. Whether Section 4.26.010 **TITLE** of Ballot Measure [A] Transaction and Use Tax is **facially** clear that Measure[A] Transaction and Use Tax is NOT inclusive of a “sales tax” pursuant to Resolution 25-0744 C.M.S. which authorizes the City Administrator to enter

into an agreement with the California Department of Tax and Fee Administration and compliant with Assembly Bill(AB 155) passed by the California State Legislature 2011-2012.

3. Whether Resolution No. 90717 contains no “sales tax” language .

4. Whether the October 1, 2025 Notice unlawfully recharacterizes the measure as a “sales tax” without statutory authority.

Page(4)

## I. INTRODUCTION

**T**his case [25CV 122836] presents a structural constitutional violation. The City: • Presented a transaction and use tax • Misrepresented it as a “sales tax” • Attempted to shield itself with “**ENJOINING COLLECTION FORBIDDEN**” This violates: • Separation of powers • Due process • **Right to judicial review Immediate writ relief is warranted.**

### **REQUEST FOR JUDICIAL NOTICE AND EVIDENTIARY FOUNDATION**

Petitioner requests judicial notice of: • Measure A ordinance • Voter Guide materials •

Resolution No. 90717 • October 1, 2025 Notice • Governing statutes These are: • Official acts • Public records • Not subject to dispute This case presents pure questions of law.

**STANDARD OF REVIEW AND WRIT JURISDICTION** Review is de novo. Writ relief is proper where: • Pure legal issues exist • Harm is ongoing • No adequate remedy exists A peremptory writ in the first instance is appropriate.

## **MATERIAL FACTS**

1. AB155 is the enabling State Legislation enacted in 2011 [Exhibit A] authorizing local jurisdictions to impose a TRANSACTION AND USE TAX establishes state level legal authority for TRANSACTION AND USE TAX. "The law requires every retailer engaged in business in this state, as defined, and making sales of tangible personal property for storage, use or other consumption in this state to collect the tax from the purchaser".

2. Plaintiff/Petitioners initial filing on May 19, 2025 only addressed the single provision 4.26.130 of the TRANSACTION AND USE ballot measure [Exhibit F]. 4.26.130 states: ENJOINING COLLECTION FORBIDDEN. "No injunction or writ of mandate or other equitable process shall issue in any suit, action or proceeding in any court against the State or the City or

### **Page(5)**

against any officer of the State or the City to prevent or enjoin the collection under this ordinance..." Provision 4.26.130 is unconstitutional. Rather than schedule this matter for a ExParte Writ of Mandate[Exhibit J- May 19, 2025 timely filed, the court clerk scheduled the matter for a Case Management hearing on September 2, 2025.

The City cannot legislate immunity from judicial proceedings purporting to block any lawsuit challenging the tax- it is unconstitutional on its face; the City cannot forbid its residents from challenging an illegal tax., seeking relief. This tax went into effect on October 1, 2025[Exhibit [I]Special Notice] is illegal and must be disgorged.

3. Plaintiff/Petitioners Supplemental Writ of Mandate was filed on August 25, 2025[Exhibit J-08/25/25] InterCeptor Legal Support Service inadvertently errored and did not include the attached exhibits, resulting in an Amended filing on August 26, 2025 to

included the attached exhibits. Both Writ of Mandate filings May 19, 2025 and the August 25,26, 2025 Supplemental Writ were electronically filed, prompting Respondent who never responded to either filing, stating that they were never properly served. On October 29, 2025 Respondent Richardson was personally [Exhibit [J] 10/29/25 served with both Writ of Mandates May 19, 2025 and the August 25, 2025, Supplemental Writ of Mandate.

The Supplemental Writ of Mandate included Respondent Richardson, unilaterally and illegally altered the 75 word text summary of the April 15,2025 Special Election ballot Measure[A] TRANSACTION AND USE TAX by inserting( sales] into the language of the measure without authorization, Despite Respondents claim that the power and function of the office of the Office of the City Attorney gives Respondent the Authorization[Exhibit- G] "That the City Attorney, in accord with the City Attorney's powers and duties is hereby authorized to [insert] the final ballot question into this Ordinance [after] adoption by the Council so that the ballot question constitutes a true and impartial synopsis of the final proposed measure; and to make any changes to the[texts] of the measure as described herein to conform to the legal requirements or requirements of the County Registrar or the California Department of Tax and Fee

Administration." This is a specious claim by Respondent Richardson.

Firstly, Respondent's actions of the City Council's approval of ORDINANCE 13833 C.M.S. on January 9, 2025 [Exhibit -E] Measure [A] TRANSACTION AND USE TAX requires any proposed amendment after Council's approval of the ORDINANCE, must return to Council for consideration and their approval, there's no indication that Respondent

**Page(6)**

Richardson was in compliance. Secondly, Provision 4.26.010 [Exhibit -F] Title, gives an unambiguous description of the ORDINANCE, stating as follows:

**"This ordinance shall be known as the City of Oakland TRANSACTION AND USE TAX ORDINANCE. This city of Oakland hereinafter shall be called "City".**

This ordinance shall be applicable in the incorporated territory of the City".

There is no language of [sales] reflected in 4.26.010 Title. Thirdly,

Resolution 90740 C.M.S. [Exhibit -H] approved by the Council on June 3, 2025 authorizing the City Administrator to execute agreements with the California Department of Tax and Fee Administration for implementation of the local City of Oakland TRANSACTION AND USE TAX. Again, there is no language reflecting [sales]. Fourthly, Resolution 90595 C.M.S [Exhibit- B] dated January 13, 2025 appears to be approved after the Council approved on January 9, 2025 ORDINANCE 13833 C.M.S. advancing the

**proposed ORDINANCE to the April 15, 2025 Special Election Ballot Measure. Fifthly, the City Council approval of Resolution 90595 Rowena Brown, Ken Houston were not members of the Oakland City Council prior to November 2024 to which my Public Information Request 25-12205 to which I was referencing for the Resolution Number which was nonexistent at the time. So, how can such a Resolution Number 90595 on January 13, 2025 be applicable to Petitioners request for November 2024, Respondent's unilateral and unlawful action to alter the [text] summary of Measure [A] TRANSACTION AND USE TAX was with calculated intentions to mislead and mischaracterize the true purpose of Measure [A] TRANSACTION AND USE.**

**In addition, Respondent's action runs afoul of the Elections Code 13119. 13314, 9280 and Government 54964.**

4. The Special City Council Meeting held on December 16, 2024 Exhibit C-) was another example of Respondent Richardson and Does 1-20 to commit subterfuge in mischaracterization of the TRANSACTION AND USE TAX prior to Council approval on January 9, 2025 of ORDINANCE 13833 C.M.S.[Exhibit-E], as a [sales

tax]. This was an illegal unauthorized City Council meeting; under City Charter 208 and under November 9, 2017 the Legal Opinion of the City Attorney only a SINGLE AGENDA item can be discussed and voted on;

## Page(7)

5. there were nine(9) non-consent Agenda Items and five(5) consent calendar agenda items discussed and voted on.

In Councilmember Kevin Jenkins dated December 12, 2024 Agenda Report CM Jenkins[Exhibit -D] states: "The proposed sales tax] increase is a strategic response to this crisis, designed to generate a sustainable revenue stream that will help bridge the city's budgetary shortfall and prevent further cuts to essential service".

Councilmembers Jenkins, Reid, Kaplan, and Bas in partnership with the City Administrator and the Oakland City Attorney's Office, have brought forth this proposal. It, should be noted, that the [sales tax] language was not broached in the discussion of Measure [A] TRANSACTION AND USE TAX at the time of the Council approval of ORDINANCE 13833 C.M.S.[Exhibit-E]; it was however, surreptitiously executed by Respondent Richardson filing on January 16, 2025 [Exhibit -G] with the Alameda County Registrar claiming the power and function allows Respondent Richardson to alter the [text] summary [after] City Council approval of ORDINANCE 13833 C.M.S.

The City Council meeting held on December 17, 2024[C-1] Agenda Item 8, ; the City Council Declared an Emergency pursuant to Article XIII C, section 2B of the California Constitution- proposing a General Tax Measure for the April 15, 2025 Special Election Ballot{Exhibit-C]

Additional Material Facts as noted by the Court's [CASE REGISTER-25CV122836] and the dates of each action noted are certified filings most of which are considered **procedural ambiguities** because of the court clerks[clerical error] in the classification of Petitioner's Gene Hazzard ExParte Writ of Mandate , timely filed on May 19, 2025.

The Clerk should have filed Petitioner's Writ under the court's [**directed calendar**] which would have assigned this matter to Department 24 whose jurisdiction is to hear Writ matters. Instead the clerk misclassified Petitioner's Writ to Department 23 for general Civil matters- Case Management Conference

Subsequently, all of Petitioner's filings were addressing Case Management Conference matters rather than ExParte Writ of Mandate.

1. August 26, 2025 [Exhibit J] The Notice of Case Management filed by the Clerk.
2. August 26, 2025 [Exhibit J] Hearing on Petition Writ of Mandate scheduled for 09/02/2025 - Not held -vacated by court 08/26/2025

**Page (8)**

3. 09/15/2025 Notice of Case rescheduling location filed by Clerk [Exhibit J]
4. 09/15/2025 Tentative Ruling published for 09/23/2025 Case Management Conference [Exhibit J]
5. 09/17/2025 Motion to vacate Notice of Motion filed by Gene HAZZARD

(Petitioner) [Exhibit J]

6. 09/17/2025 Motion to vacate Notice of Motion to vacate[**Denied**] Result Date 10/30/2025 [Exhibit J]
7. 09/17/2025 ORDER: Proposed ORDER vacating Case Management Conference scheduled for September 23, 2025 and setting hearing on Petitioner's ExParte Application - received from Gene Hazzard [Exhibit J]
8. 09/18/2025 Hearing on Motion to vacate Case Management Conference scheduled for September 23, 2025; filed by Gene Hazzard(Petitioner) **CRS # 201514972988** scheduled 10/30/2025 Department 23 [Exhibit J]
9. 10/09/2025 Order to Show Cause(OSC) : Failure to appear to serve scheduled for 12/02/2025 Department 23 [Exhibit J]
10. 10/09/2025 Minute Order [Case Management Conference] [Exhibit J]
11. 10/09/2025 ORDER re: Case Management filed by: Court[Exhibit J]
12. **10/13/2025** \*\*\*\*Notice of Case Management REASSIGNMENT(Civil) [Exhibit J]
13. **10/13/2025** Case **reassigned** to Rene C. Davidson Courthouse in Department 23 Hon. Michael Markham Reason: **Transfer for Reassignment** [Exhibit J]
14. 10/28/2025 Hearing on Motion for Leave to Amend **Writ of Mandate** filed by Gene Hazzard petitioner **CRS # A-122836-001** SCHEDULED FOR 11/25/2025 [Exhibit J]

15. 10/29/2025 Proof [not summons and complaint filed by Gene Hazzard(Petitioner) as to Ryan Richardson, City Attorney[Exhibit J]
16. 10/30/2025 Tentative Ruling Published for 10/30/2025 10:00a.m. hearing on Motion to **Vacate** Case Management Conference scheduled for September 23, 2025 etc.; filed by Gene Hazzard(Petitioner) **CRS#201514972988** [Exhibit J]
17. 10/30/2025 ORDER re: Hearing on Motion to vacate Motion to vacate Case Management **CRS# 201514972988** filed by Gene Hazzard(Petitioner) on Signed and Filed by: Court [Exhibit J]
18. 11/18/2025 Case Management Conference scheduled for 12/02/2025 at 10:00am Rene C. Davidson Courthouse at Dept. 23
19. 11/18/2025 General **Order** (Case Management Order) Entered by: Court [Exhibit J]

**Page(9)**

20. 11/20/2025 Hearing on Motion for Leave to Amend Writ of Man date; filed by Gene Hazzard(Petitioner) **CRS # A-122836-001** scheduled for 11/25/2025 at 10:00 AM in Rene C. Davidson Courthouse at Dept. 23 [Exhibit J]
21. 12/01/2025 Tentative Ruling Published for 12/02/2025 10:00 AM Hearing on Motion for Leave to Amend Writ of Mandate; filed by Gene Hazzard(Petitioner) **CRS#A-122836-001** [Exhibit J]
22. 12/02/2025 Case Management Conference scheduled for 02/03/2026 at 10am Rene C. Davidson Courthouse Department 1 [Exhibit J]
23. 12/02/2025 **Order** re: Case Management Conference; Hearing on Motion for Leave to Amend Writ of Mandate: filed by Gene Hazzard(Petitioner) **CRS# A-122836-001** Signed and Filed by: Court [Exhibit J]
24. 01/02/2026 **Case reassigned to Rene C. Davidson Courthouse in Department 1 Hon. Michael Markham** [Exhibit J]
25. 01/08/2026 Request for **Entry of Default/ Judgment**, Received from : Gene Hazzard (Petitioner) As to: **City of Oakland, a municipal corporation**

**(Respondent); Barbara Parker, former City Attorney(Respondent); Ryan Richardson, City Attorney(Respondent) et. al [Exhibit J]**

26. 01/08/2026 Declaration of Gene Hazzard in Support of Request for Entry of Default filed by Gene Hazzard(Petitioner) [Exhibit J]
27. 01/08/2026 **REJECTION re: Request to Enter Notice Issued by : Clerk [Exhibit J]**
28. **01/22/2026 Motion re: to Confirm Writ Procedural Posture, Correct Filed by Gene Hazzard(Petitioner) [Exhibit J]**
29. **01/22/2026 updated—Motion re: to Confirm Writ Procedural Posture Correct: Result: Denied Result Date: 02/19/2026 [Exhibit J]**
30. **01/22/2026 Hearing on Motion- Other MOTION TO CONFIRM WRIT PROCEDURAL POSTURE, CORRECT ADMINISTRATIVE CASE CLASSIFICATION,**

**Page (10)**

31. **AND FOR ISSUANCE OF AN ORDER TO SHOW CAUSE(OSC) AND/OR ALTERNATIVE AND/OR PEREMTORY WRIT OF MANDATE; filed by Gene Hazzard (Petitioner) CRS # 74184276917 SCHEDULED FOR 02/17/2026 AT 10:00 AM in**

**Rene C. Davidson Courthouse at Department 1[Exhibit J]**

32. **01/30/2026 Notice of Case Reassignment (Civil) Filed by: Clerk [Exhibit J]**
33. **01/30/2026 Notice of Case Rescheduling or Location Filed by: Clerk[Exhibit J]**
34. **01/30/2026 Case reassigned to Rene C. Davidson Courthouse in Department 24- Hon. Rebekah Evenson –Reason Transfer Reassignment [Exhibit J]**
35. **01/30/2026 Case Management Conference scheduled for 02/03/2026 at 10:00 AM in Rene C. Davidson Courthouse at Department 1 Not held- Rescheduled by Court was rescheduled to 02/11/2026 03:00 PM at Department 24 [Exhibit J]**
36. **01/30/2026 Hearing on Motion- Other MOTION TO CONFIRM WRIT PROCEDURAL POSTURE, CORRECT ADMINISTRATIVE CASE CLASSIFICATION, AND FOR ISSUANCE OF AN ORDSEER TO SHOW CAUSE(OSC) AND/OR ALTERNATIVE AND/OR PEREMPTORY WRIT OF**

**MANDATE; filed by Gene Hazzard (Petitioner) CRS #741842876917 scheduled for 02/17/2026 at 10:00 AM in Rene C. Davidson Courthouse at Department 1 Not Held- Rescheduled by Court was rescheduled to 02/19/2026 09:00 AM at Department 24 [Exhibit J]**

37. **02/17/2026 Tentative Ruling Published for 02/19/2026 9:00 AM Hearing on Motion- Other MOTION TO CONFIRM WRIT PROCEDURAL POSTURE, CORRECT ADMINISTRATIVE CASE CLASSIFICATION , AND FOR ISSUANCE OF AN ORDER TO SHOW CAUSE(OSC) AND/OR ALTERNATIVE AND/OR PEREMPTORY WRIT OF MANDATE: filed by Gene Hazzard (Petitioner) CRS# 741842876917 [Exhibit J]**
38. **02/19/2026 Minute Order (Hearing on Motion- Other MOTION TO CONFIRM WRIT PROCEDURAL p...[Exhibit J]**
39. **02/24/2026 General Order (Court Order TO SHOW CAUSE RE: SANCTIONS [Exhibit J]**

Page (11)

## LEGAL ARGUMENT

- I. **“ENJOINING COLLECTION FORBIDDEN” IS VOID** A municipality cannot eliminate judicial power. The clause is unconstitutional and void. **Provision 4.26.130**  
**\*Because the defect is structural; The Clause is void AB INITO and Unenforceable in its application**

II. **VIOLATION OF ACCESS TO COURTS** The clause blocks judicial review. This is a denial of due process. 14<sup>th</sup> Amendment of the United States Constitution.

**MEASURE A IS NOT A SALES TAX** The text imposes only a transaction and use tax. No “sales tax” exists in the measure. October 1, 2025 Special Notice enactment of the unconstitutional Sales Tax. The City unlawfully recharacterized Measure [A] Transaction and Use Tax- **Notice is Ultra Vires No authority to support this action**

**IV. RESOLUTION NO. 90717 CONFIRMS THIS** The official certification contains no “sales tax” language.

**VI. PEREMPTORY WRIT REQUIRED** • Pure legal issue • Constitutional defect • Ongoing harm Immediate relief is required .

VII. **PALMA NOTICE** Petitioner provides notice that a peremptory writ in the first instance will be sought.

**Page (12)**

## **CONCLUSION**

The Court should:

1. Strike “ENJOINING COLLECTION FORBIDDEN”
2. Confirm Measure A is not a sales tax
3. Invalidate unlawful City actions
4. Issue a peremptory writ

## **[PROPOSED] ORDER**

ISSUING PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA, RESPONDENT.  
RYAN RICHARDSON, IN HIS INDIVIDUAL CAPACITY AS OAKLAND CITY  
ATTORNEY; CITY OF OAKLAND A MUNICIPAL CORPORATION; AND DOES 1-20  
REAL PARTIES VIN INTEREST

**Page(9)**

**ORDER** Upon consideration of the Petition for Writ of Mandate, the supporting papers, and the record before the Court, and good cause appearing: The Court finds that this matter presents pure questions of law, that the material facts are undisputed, and that Petitioner's entitlement to relief is clear as a matter of law, within the meaning of *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171.

The Court further finds that:

1. Oakland Ballot Measure A includes a provision stating "ENJOINING COLLECTION FORBIDDEN," which purports to restrict the availability of injunctive relief and judicial review;
2. Said provision is unconstitutional on its face as it violates Article VI of the California Constitution and impermissibly infringes upon the judiciary's inherent authority;
3. The text of Measure A, including Section 4.26.010, imposes a transaction and use tax, and does not impose or authorize a "sales tax";
4. The official certification of the April 15, 2025 Special Election results (Resolution No. 90717) contains no reference to a "sales tax";
5. The City of Oakland's October 1, 2025 Notice characterizing Measure A as a "sales tax" constitutes an unauthorized and ultra vires act, lacking statutory authority and inconsistent with the enacted measure;
6. The conduct described herein is inconsistent with governing law, including *Rossi v. Brown* (1995) 9 Cal.4th 688.

**IT IS HEREBY ORDERED:**

1. A peremptory writ of mandate in the first instance shall issue;
2. Respondents are directed to cease and refrain from enforcing, invoking, or relying upon the provision of Measure A stating "ENJOINING COLLECTION FORBIDDEN";

3. Said provision is hereby declared void and unconstitutional;
4. Respondents are further directed to cease and refrain from representing,

characterizing, or administering Measure A as a “sales tax,” and shall conform  
official

statements conduct to the enacted text of the measure;

5. Any actions taken in reliance on the unlawful recharacterization of Measure A as a  
“sales tax” are hereby declared invalid to the extent inconsistent with this Order;

6. This decision shall be final immediately as to this Court, and no rehearing shall be  
entertained.

IT IS SO ORDERED

Dated:

---

Presiding Justice

Associate Justice

Associate Justice