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Placerville Historic Preservation League

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

PLACERVILLE HISTORIC )  
PRESERVATION LEAGUE )

Petitioners )

v. )

JUDICIAL COUNCIL OF CALIFORNIA; )  
and, DOES 1 through 20; )

Respondents )

COUNTY OF EL DORADO AND EL )  
DORADO COUNTY BOARD OF )  
SUPERVISORS; JOHN BRIGGS; )  
and DOES 21 through 100 )

Real Parties in Interest )

Case No. \_\_\_\_\_

**VERIFIED PETITION FOR  
WRIT OF MANDATE**

Petitioner Placerville Historic Preservation League alleges:

1. By this action, Petitioner PLACERVILLE HISTORIC PRESERVATION LEAGUE challenges Respondent JUDICIAL COUNCIL OF CALIFORNIA's June 10, 2015, certification of the Final Environmental Impact Report ("EIR") for the New Placerville Courthouse Project, the required findings under the California Environmental Quality Act ("CEQA"), Public Resources Code, section 21000 *et seq.*, and the approval of the New Placerville Courthouse Project ("Project").

2. Petitioner seeks a determination from this Court that Respondent's approval of the Project is invalid and void and that the EIR prepared for the Project fails to satisfy the requirements of CEQA, and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 *et seq.*

### **PARTIES**

3. Petitioner Placerville Historic Preservation League is an unincorporated association and comprised of residents of the Project area located in El Dorado County. Petitioner and its members have a particular interest in the protection of El Dorado County's environment and are increasingly concerned about worsening environmental conditions that detrimentally affect their well-being and that of other residents and visitors to El Dorado County. Petitioner and its members have a direct and substantial beneficial interest in ensuring that Respondent complies with laws relating to environmental protection. Petitioner and its members are adversely affected by Respondent's failure to comply with CEQA in approving the Project. Placerville Historic Preservation League was formed after Respondent's June 10, 2015 approval of the Project. (See Public Resources Code § 21177(c).) Members of Placerville Historic Preservation League timely commented on the EIR.

4. Respondent Judicial Council of California is a subdivision of the State of California. Respondent Judicial Council of California is the CEQA "lead agency" for the Project. As lead agency for the Project, Judicial Council of California is responsible for preparation of an environmental document that describes the Project and its impacts, and, if necessary evaluates mitigation measures and/or alternatives to lessen or avoid any significant environmental impacts.

5. Real Party in Interest El Dorado County is a political subdivision of the State of California and a body corporate and politic exercising local government power. El Dorado County is a CEQA "responsible agency" for the Project.

6. Respondent El Dorado County Board of Supervisors is a legislative body duly authorized under the California Constitution and the laws of the State of California to act on behalf of the County of El Dorado. Respondent El Dorado County Board of Supervisors are responsible for regulating and controlling land use within

the County including, but not limited to, implementing and complying with the provisions of CEQA and the CEQA Guidelines, 14 California Code of Regulations, title 14, section 15000 *et seq.* (the “CEQA Guidelines”).

7. Real Party in Interest John Briggs is the owner of the real property that the County of El Dorado has an option to purchase. A portion of the Project will be located on the property owned by Mr. Briggs.

8. Petitioner is unaware of the true names and capacities of Respondents identified as Does 1-20. Petitioner is informed and believes, and on that basis alleges, that Respondents Does 1-20, inclusive, are individuals, entities or agencies with material interests affected by the Project with respect to the Project or by the Judicial Council of California’s actions with respect to the Project. When the true identities and capacities of these Respondents have been determined, Petitioner will, with leave of Court if necessary, amend this Petition to insert such identities and capacities.

9. Petitioner is unaware of the true names and capacities of Real Parties in Interest identified as Does 21-100. Petitioner is informed and believes, and on that basis allege, that Respondents Does 21-100, inclusive, are individuals, entities or agencies with material interests affected by the Project or by the Judicial Council of California’s actions with respect to the Project. When the true identities and capacities of these Real Parties in Interest have been determined, Petitioner will, with leave of Court if necessary, amend this Petition to insert such identities and capacities.

## **BACKGROUND FACTS**

### **A. THE PROJECT**

10. The Project site is located off Forni Road in the City of Placerville on undeveloped property adjacent to the existing El Dorado County Jail. The assessor parcel numbers are 325-300-002 and 325-300-100.

11. The Project includes the acquisition of property, along with the construction and operation of a new courthouse. The Project will consolidate the courthouse functions currently in the Main Street Courthouse and the court functions in Building C of the County Administrative Complex.

12. The Project includes:

a. The County of El Dorado exchanging approximately five acres of land on APN 325-300-32 for approximately five acres of property on APN 325-300-002 by exercising an option to purchase a portion

of APN 325-300-002;

b. The Judicial Council of California will acquire approximately eight acres of undeveloped land from the County of El Dorado. The Project consists of two parcels: APN 325-300-002 and 325-300-100.

c. The Judicial Council of California will construct and operate a 88,000 square foot courthouse with six courtrooms, three stories, and a basement.

d. The Project's on-site improvements also include a parking lot and an on-site drainage system;

e. The Project's off-site improvements include the extension of the on-site sewer and water lines.

13. The Project provides for the closure of the historic courthouse on Main Street in the City of Placerville. At least 60 persons doing business on Main Street signed a petition opposing the Project and the closure of the courthouse on Main Street. Staff and visitors to the courthouse account for 5% to 20% of their respective businesses. This may result in businesses closing as a result of the closure of the historic courthouse.

14. On April 23, 2012, the Judicial Council of California circulated a Notice of Preparation for the EIR. On May 15, 2012, the Judicial Council held a public scoping meeting.

15. In October 2014, the Judicial Council of Sacramento released a Draft EIR for public review and comment.

16. In May 2015, the Judicial Council of California released the Final EIR for the Project.

17. On June 10, 2015, the Judicial Council of California certified the Final EIR for the New Placerville Courthouse Project. In approving the Project, the Judicial Council of Sacramento adopted a mitigation reporting plan; a statement of overriding consideration; and findings pursuant to CEQA.

18. On June 11, 2015, the Judicial Council of California filed a Notice of Determination with the Office of Planning and Research's State Clearinghouse.

#### **JURISDICTION AND VENUE**

19. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code of Civil Procedure section 1085, and Public Resources Code section 21168.5. In the alternative, this Court

has jurisdiction pursuant to Code of Civil Procedure section 1094.5 and Public Resources Code section 21168.

20. Pursuant to Code of Civil Procedure section 394(a), venue is proper in this Court because the Judicial Council of California is located within the County of San Francisco.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES  
AND INADEQUACY OF REMEDY**

21. Petitioner has performed any and all conditions precedent to filing the instant action and has exhausted any and all available administrative remedies to the extent required by law.

22. Petitioner has complied with the requirements of Public Resources Code, section 21167.5 by mailing written notice of this action to the Respondent. A copy of this written notice and proof of service are attached as Exhibit A to this Petition for Writ of Mandate.

23. Petitioner has complied with Public Resources Code section 21167.6 by concurrently filing a request concerning preparation of the record of administrative proceedings relating to this action.

24. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law unless this Court grants the requested writ of mandate to require respondents to set aside their approval of the Project and certification of the EIR. In the absence of such remedies, Respondent's approval will remain in effect in violation of State law.

25. This action has been brought within 30 days of the Judicial Council of California filing of the Notice of Determination as required by Public Resources Code section 21167(c).

**STANDING**

26. Petitioner has standing to assert the claims raised in this Petition because Petitioner's and its respective members' environmental interests are directly and adversely affected by the Respondent's approval of the Project.

**CAUSE OF ACTION**

**(Violation of the California Environmental Quality Act)**

27. Petitioner realleges and incorporate by reference Paragraphs 1 through 26, inclusive, of this Petition, as if fully set forth below.

28. Respondent committed a prejudicial abuse of discretion and failed to proceed in a manner required by law by relying on a EIR that fails to meet the requirements of CEQA for disclosure, analysis, and/or mitigation of significant project impacts.

29. Respondent's Findings of Fact and Statement of Overriding Considerations violate the requirements of the CEQA Guidelines. The Findings fail to identify the changes or alterations that are required to avoid or substantially lessen the project's significant environmental effects (Guidelines § 15091(a)(1); the Findings and Statement of Overriding Considerations are not supported by substantial evidence (Guidelines, § 15091(b)).

30. The EIR fails to comply with the requirements of CEQA in that it fails to adequately disclose, analyze and/or mitigate the Project's environmental impacts and resulting from the Project as required by law, and its conclusions regarding the Project's environmental impacts are not supported by substantial evidence.

a. The EIR failed to adequately, disclose, analyze and/or mitigate the Project's economic impacts to the businesses in historic Placerville on Main Street that will lead to urban decay and blight.

b. The EIR failed to adequately disclose, analyze and/or mitigate the Project's impacts to biological resources. For example, the EIR failed to contain species-specific, protocol-level or wetlands surveys of the Project site. Additionally, the EIR inappropriately defers mitigation of impacts to biological resources by relying upon future surveys to identify impacts and consultation with regulatory agencies for mitigation. The EIR also failed to adequately discuss, analyze and mitigate the potential impact to bird species protected under the Migratory Bird Treaty Act ("MBTA"), and Fish and Game Code sections 3503 and 3503.5.

c. The EIR fails to adequately discuss, analyze and mitigate impacts to rare plants. Additionally, the EIR inappropriately defers mitigation of impacts to rare plants by relying upon future surveys to identify impacts and consultation with regulatory agencies for mitigation

d. The EIR failed to adequately disclose, analyze and/or mitigate the Project's impacts to traffic and circulation. For example, the analysis contains significant volume imbalances between intersections. Additionally, the EIR contains discrepancies regarding trip distribution patterns and "plus project" peak figures.

31. The EIR failed to provide adequate responses to comments on the Draft EIR. (See CEQA Guidelines, § 15088.)

32. Based upon each of the foregoing reasons, the EIR is legally defective under CEQA. Respondent prejudicially abused its discretion in violation of CEQA in approving the Project. As such, the Court should issue a writ of mandate directing Respondent to set aside the certification of the EIR and approval of the Project.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioners pray for judgment as follows:

1. That this Court issue a peremptory writ of mandate ordering Respondent to:
    - (a) vacate and set aside certification of the Final EIR on the grounds that it violates the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*
    - (b) vacate and set aside its June 10, 2015 approval of the Project;
    - (c) suspend approval of any and all contracts for construction of the Project until the Respondent complies with CEQA;
    - (d) suspend all activity that could result in any change or alteration to the physical environment until Respondent has taken such actions as may be necessary to bring their determination, findings or decision regarding the Project into compliance with CEQA;
  2. For Petitioner's costs associated with this action;
  3. For an award of reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5;
- and

