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10 COMMUNITY YOUTH ATHLETIC CENTER

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF SAN DIEGO

13 SOUTH COUNTY DIVISION

14
15 COMMUNITY YOUTH ATHLETIC
CENTER,

16 Plaintiff,

17 vs.

18 ALL PERSONS INTERESTED IN THE
19 MATTER OF THE AMENDMENT TO
NATIONAL CITY'S REDEVELOPMENT
20 PLAN AS ADOPTED BY ORDINANCE
2007-2295 ON JULY 17, 2007 by the City
21 Council of National City, the validity of all
22 proceedings theretofore taken or made for or
in any way connected with the adoption of
the Redevelopment Plan; CITY OF
23 NATIONAL CITY, a municipal corporation;
and NATIONAL CITY COMMUNITY
24 DEVELOPMENT COMMISSION, a public
body, and DOES 1-100, inclusive,

25 Defendants.
26

Case No. ~~GIS~~ 37-2007-00076404-CU-EI-SC

COMPLAINT

1 INTRODUCTION

2 1. This case is about an abuse of power in the name of redevelopment. Rather
3 than devote itself fully to the inner-city kids it was formed to serve, the non-profit
4 Community Youth Athletic Center (the “CYAC”) has spent much of its time during the last
5 two and a half years trying to avoid the use of eminent domain by the city of National City,
6 California. In early 2005, the City approved a plan by a private developer to build luxury
7 condos on the CYAC’s land. To advance this plan, and many others like it, National City
8 passed an ordinance on July 17, 2007, re-declaring an area encompassing nearly 700
9 properties “blighted,” and re-authorizing eminent domain for another decade. Mere days
10 before the public hearing at which the CYAC was required to present all its objections to
11 the reauthorization of eminent domain, the City produced a “report” wholly lacking the
12 support required for authorizing eminent domain in California. Neither the CYAC nor the
13 City could possibly have had time to review it. The CYAC files suit because this
14 ordinance, and the process leading up to it, flagrantly violated the Due Process clauses of
15 the United States and California Constitutions, as well as the state redevelopment statutes.
16 Once it has vindicated its rights, the CYAC, its volunteers and, most importantly, its kids
17 look forward to returning all of their attention to boxing and studying.

18 JURISDICTION & VENUE

19 2. Plaintiff brings this action under the Due Process Clause of the Fourteenth
20 Amendment to the United States Constitution; Article I, Section 7 of the California
21 Constitution; Article I, Section 19 of the California Constitution; the Community
22 Redevelopment Law (Cal. Health & Safety Code § 33000 *et seq.*); the California Code of
23 Civil Procedure (Cal. Civ. Proc. Code §§ 860-870); and the California Public Records Act
24 (Cal. Gov’t Code §§ 6250-6278.48).

25 3. This action challenges the constitutionality and validity of the July 17, 2007
26 amendment to the Redevelopment Plan for the National City Redevelopment Project (the
27 “Amendment”). The Amendment was adopted pursuant to National City Ordinance 2007-
28 2295.

1 STATEMENT OF FACTS

2 **The Community Youth Athletic Center**

3 11. In 1991, Carlos Barragan and his son, Carlos, Jr., both longtime residents of
4 National City, decided to do something about the challenges facing the many troubled
5 youth in their community who were growing up without guidance and discipline. The
6 Barragans were construction workers, not social workers, but they knew about boxing and
7 they knew that boxing could teach at-risk kids self-control, self-respect and self-esteem.

8 12. This father and son team hung a punching bag in the backyard of their
9 modest home and let it be known that anyone was welcome to train—boy or girl—as long
10 as they were willing to work hard. The Barragans were soon overrun with kids skipping
11 rope, shadowboxing and dreaming of being the next Rocky Balboa.

12 13. Not only did they attract kids, the Barragans attracted legions of volunteers,
13 many of them from the law enforcement community, who understood what a positive
14 impact the Barragan boxing program was having.

15 14. The Barragans quickly outgrew their backyard so they relocated the boxing
16 program to a garage they rented with their own money — coaching for two or three hours
17 each night after work.

18 15. Following a news report on the gym in the late 1990s, United Parcel Service
19 awarded the CYAC a \$100,000 grant to purchase a building. The Barona Band of Mission
20 Indians also made a \$175,000 donation to help the Barragans realize their dream. The
21 Barragans and their closest supporters decided to form a non-profit organization, which
22 they christened the Community Youth Athletic Center. In June 2001, the CYAC purchased
23 its own property at 1018 National City Boulevard in National City. Using donations, the
24 CYAC was able to purchase the building directly, without a mortgage which would have
25 required ongoing payments from the gym.

26 16. The CYAC's central location is perfect — easily accessible by foot, bike, car
27 and bus. Over the years, the CYAC volunteers have extensively renovated the building
28

1 using donated materials. For example, volunteers removed internal columns and replaced
2 them with steel roof beams to create space for the boxing ring.

3 17. The CYAC is not simply an athletic program; its volunteers mentor and tutor
4 kids in a computer lab filled with donated electronics. There is an overwhelming emphasis
5 on education. In fact, the CYAC kids must improve their grades to participate in the
6 program. Nearly all participants graduate from high school and many go on to further
7 education, including college. The CYAC's proven track record in reaching the toughest
8 kids has led many judges to sentence youth offenders to participate in the CYAC program
9 as part of their probation.

10 18. To date, the Barragans and the CYAC have helped over a thousand
11 youngsters. There are about 50-75 kids in the program at any given time, and the waiting
12 list is always long.

13 **National City Redevelopment**

14 19. National City has been engaged in redevelopment planning since at least
15 1969 when National City applied its first "blight" label to a section of the city. By 1978,
16 National City had declared three additional areas of the city "blighted." In 1981, National
17 City merged these four blight zones into what is now known as the National City
18 Redevelopment Project Area ("Project Area").

19 20. The Redevelopment Plan was re-enacted in 1995 to cover the same Project
20 Area, and amended in 2001 for the purpose of acquiring eminent domain authority over
21 properties in the Highland Avenue/Plaza Boulevard area of the City. A proposed
22 amendment in 2005 that sought a ten (10) year re-authorization of eminent domain over
23 commercial property across the Project Area was never ratified.

24 21. The 1995 Redevelopment Plan authorized the use of eminent domain for
25 twelve (12) years across the entire Project Area. This 12-year authorization expired on July
26 18, 2007. National City enacted Ordinance 2007-2295 on July 17, 2007, to renew eminent
27 domain authority for another ten (10) years over a section of the Project Area encompassing
28 roughly 700 properties, including the CYAC's property.

1 22. Today, the Project Area covers approximately two-thirds of the City, much
2 of which has been under a continuous “blight” designation since 1981.

3 23. In a scheme known as Tax Increment Financing, the National City CDC,
4 rather than San Diego County, is entitled to the overwhelming majority of the property tax
5 revenue generated by the Project Area. The 2006-07 budget for National City projected
6 that the CDC would receive about \$12.3 million in tax-increment revenue in that year
7 alone. This amount represents a \$2.7 million increase from the \$9.6 million in tax-
8 increment revenue that the CDC received in the 2004-05 budget. Because the CDC gets
9 significant money from tax-increment revenue, the agency receives more money when land
10 is devoted to high-tax uses.

11 **The Park Village Condominium Project**

12 24. On February 22, 2005, the National City CDC approved a luxury
13 condominium project called Park Village to be built on the property that the CYAC owns,
14 as well as the adjoining property. The CDC also entered into a contract with the developer,
15 the Beauchamp Family Trust, a for-profit enterprise headed by developer Jim Beauchamp.

16 25. On February 28, 2005, six days after approving the Park Village project, the
17 National City CDC notified the CYAC in writing that it “[would] now receive a final offer
18 to acquire [the CYAC] property by the developer.” The letter then went on to state that if
19 the CYAC was “unable to come to terms with the developer on the sale of [its] property,
20 under the approved Owner Participation Agreement, the developer may request that the
21 [CDC] proceed directly with the acquisition of [the CYAC’s] property”

22 26. Within months of the Park Village project’s approval in February 2005,
23 Beauchamp put up a large glossy sign next to the CYAC’s front door with an artist’s
24 rendering of the condominium above the words “Coming Soon.” The sign remained in
25 place until early August 2007 — after National City passed Ordinance 2007-2295 re-
26 authorizing eminent domain.

27 27. This sign stated that the National City CDC approved the Park Village
28 project, and listed the names of each board member of the CDC, including current National

1 City Mayor Ron Morrison (who was also a City Council Member at the time the sign was
2 erected).

3 28. In the year following the Park Village project's approval, Mr. Beauchamp's
4 private attorneys sent the CYAC a series of letters, the first of which gave the CYAC a
5 week to accept a below-market "final offer." This letter closed with the statement that "If I
6 do not hear from you by May 2, 2005, I will assume that you are not interested in Mr.
7 Beauchamp's offer and I will request, on behalf of the Beauchamp Family Trust, that
8 [CDC] proceed with appropriate steps under the law to acquire the [the CYAC] property."

9 **Redevelopment Plan Amendment Procedure**

10 29. The statutory process of re-authorizing eminent domain requires, among
11 other things, that the redevelopment agency determine whether significant blight remains
12 within the area under consideration, and whether eminent domain is necessary to remedy
13 that remaining blight. *See* Cal. Health & Safety Code § 33333.2.

14 30. Under the California Community Redevelopment Law (Cal. Health & Safety
15 Code §§ 33450-33458.5), a local government like National City must go through a series of
16 steps (each with its own legal requirements), before amending a redevelopment plan to
17 authorize eminent domain.

18 31. The redevelopment agency must first conclude that an amendment to the
19 redevelopment plan is desirable. *See* Cal. Health & Safety Code § 33450.

20 32. The redevelopment agency must hold a properly noticed public hearing on
21 the proposed amendment or hold a joint public hearing with the legislative body. The
22 legislative body is also statutorily authorized to hold the public hearing itself. *See* Cal.
23 Health & Safety Code §§ 33451, 33454 and 33458.

24 33. Prior to the public hearing, the redevelopment agency must prepare a report
25 for the legislative body (Cal. Health & Safety Code § 33457.1) containing all of the detailed
26 information required under Health and Safety Code section 33352. This information
27 includes the reasons why the proposed amendment is necessary, and how the
28 redevelopment agency will accomplish its goals.

1 34. The redevelopment agency must provide this report to the public prior to the
2 public hearing. *See* Cal Health & Safety Code § 33457.1.

3 35. When, as in the instant case, the redevelopment agency is recommending
4 that its power of eminent domain be extended, the redevelopment agency must also find
5 —based on substantial evidence—that: (1) “significant blight remains within the project
6 area;” and (2) “[t]hat this blight cannot be eliminated without the use of eminent domain.”
7 Cal. Health & Safety Code § 33333.2(a)(4).

8 36. “Blight” is defined as at least one factor of physical blight in conjunction
9 with at least one factor of economic blight. *See* Cal. Health & Safety Code § 33031. To
10 qualify as “blight,” these statutory factors must be “so prevalent and so substantial that
11 [they] cause . . . a reduction of, or lack of, proper utilization of the area to such an extent
12 that it constitutes a serious physical and economic burden on the community that cannot
13 reasonably be expected to be reversed or alleviated by private enterprise or governmental
14 action, or both, without redevelopment.” *See* Cal. Health & Safety Code § 33030.

15 37. Any member of the public wishing to make written objections to the
16 proposed plan amendment must do so no later than the hour set for the public hearing or
17 they must make oral objections during public hearing on the amendment. *See* Cal. Health
18 & Safety Code § 33362.

19 38. Prior to adopting an ordinance enacting proposed redevelopment plans, the
20 legislative body “shall address the written objections in detail, giving reasons for not
21 accepting specified objections and suggestions. The legislative body shall include a good-
22 faith, reasoned analysis in its response and, for this purpose, conclusionary statements
23 unsupported by factual information shall not suffice.” Cal. Health & Safety Code § 33363.

24 39. In addition to considering written objections, the legislative body must also
25 “evaluate the report of the agency, the report and recommendation of the project area
26 committee, and all evidence and testimony for and against the adoption of the plan” before
27 adopting the proposed plan by ordinance. Cal Health & Safety Code § 33363.

28

1 40. The ordinance adopting a proposed amendment must contain, among other
2 things, more than a dozen specific findings based on “clearly articulated and documented
3 evidence” that, for example, “the project area is a blighted area” Cal. Health & Safety
4 Code § 33367.

5 41. Any objector to the proposed amendment may file suit within 90 days to test
6 the legal validity of the ordinance or any findings contained in the ordinance. *See* Cal.
7 Health & Safety Code § 33500. The objector may only litigate those specific issues that the
8 objector identified in written objections or oral objections during the public hearing held
9 prior to the adoption of the ordinance. *See* Cal. Health & Safety Code § 33501.2.

10 42. The California State Legislature recognized the importance of fair
11 redevelopment procedures by enacting reforms in 2006 that increased the documentation
12 and evidence required to support redevelopment plans. The General Assembly explained
13 that the purpose of the new law was “to focus public officials’ attention and their
14 extraordinary redevelopment powers” on properties with serious problems, “to increase the
15 opportunities to review local officials’ findings regarding the conditions of blight,” and “to
16 increase the opportunities for oversight of redevelopment activities.” Cal. Stats. 2006,
17 ch. 595, §1.

18 **The National City 2007 Redevelopment Plan Amendment**

19 43. The Redevelopment Plan enacted on July 18, 1995, authorized the use of
20 eminent domain for twelve (12) years over the two-thirds of National City comprising the
21 Project Area.

22 44. At some point in early 2007, National City and the CDC decided to pursue
23 an amendment to the 1995 Redevelopment Plan that would re-authorize the use of eminent
24 domain over approximately 700 non-residential properties within a defined section of the
25 overall Project Area before the prior eminent domain authorization expired on July 18,
26 2007.

27 45. The CDC has signed redevelopment contracts with several developers,
28 including Mr. Beauchamp, whose Beauchamp Family Trust had actually placed deposits

1 with the City. It would not be possible (or at least it would be exceedingly difficult) for the
2 CDC to carry out these contracts without having the power of eminent domain at its
3 disposal.

4 46. According to an internal document entitled “Schedule of Actions,” as early
5 as March of 2007, the CDC instructed its longtime redevelopment consultant—Rosenow
6 Spevecek Group (“RSG”)—to conduct “research to substantiate blight and fold into Report
7 to Council.” “Report to Council” almost certainly refers to the report a redevelopment
8 agency is required to provide its legislative body prior to a plan amendment. *See* Cal.
9 Health & Safety Code § 33457.1.

10 47. RSG apparently conducted some form of visual survey of the nearly 700
11 properties in the 2007 Amendment Area in April 2007, concluding that at least 71%
12 suffered from physical blight. RSG did not include the underlying data from this survey in
13 its eventual Report to the City Council (which was never released to the public) and
14 National City has never provided it to the CYAC, despite several formal requests under the
15 California Public Records Act. It is possible that neither the CDC nor the City have ever
16 seen or evaluated the underlying data.

17 48. RSG apparently also had discussions with National City employees
18 concerning allegations of code violations, hazardous waste, and crime. The purpose of
19 these conversations appears to have been simply to produce evidence of blight. In an
20 April 24, 2007 email, an RSG employee asks a City employee for information on code
21 violations, noting that RSG is “trying to prove existing blight and [is] most concerned with
22 code violations.”

23 49. In April 2004, the CDC mailed a notice to all of the property owners in the
24 Project Area informing them that a joint public hearing would be held on June 19, 2007 at
25 City Hall to consider a proposed amendment to the 1995 Redevelopment Plan. The notice
26 explained that the public hearing would provide the public with its sole chance to object to
27 the proposed amendment, and that the failure to object would affect any future right to
28

1 challenge the amendment. In June 2007, National City or the CDC also published general
2 public notices about the hearing in local newspapers.

3 50. On May 15, 2007, the CYAC President Clemente Casillas unsuccessfully
4 visited the CDC in search of documents and other information the CDC intended to rely on
5 in making its recommendation to the City Council that the proposed 2007 Amendment be
6 adopted. On May 23, 2007, Mr. Casillas made a formal request under the Freedom of
7 Information Act for all the evidence intended to support the proposed amendment. This
8 request specifically stated that the CYAC needed the information to prepare for the June 19,
9 2007 public hearing.

10 51. A June 5, 2007 email from Walter Lauderdale of RSG to Patricia Beard (a
11 manager with the CDC) states: "attached is the Draft Report to Council. At this point I
12 believe you have all pertinent documents." Again, "Report to Council" almost certainly
13 refers to the report a redevelopment agency is required to provide its legislative body prior
14 to a plan amendment. *See* Cal. Health & Safety Code § 33457.1. The CDC did not provide
15 any of these documents (or anything else) to the CYAC in response to its May 23, 2007
16 written request.

17 52. On the afternoon of June 14, 2007, in response to the CYAC's Public
18 Records Act request, George Eiser, the City Attorney for National City, provided the
19 CYAC with some documents, including a document entitled: "Draft Report to the City
20 Council: 2007 Amendment National City Redevelopment Plan" ("Draft Report"). The
21 Draft Report was prepared by RSG for the CDC to fulfill its statutory duty under California
22 Health & Safety Code sections 33457.1 & 33352. None of the documents provided to the
23 CYAC included the raw data from RSG's April field survey of the 2007 Amendment Area
24 or any other specific underlying data concerning, for example, code violations or crime.

25 53. The Draft Report was never made generally available to the public.

26 54. On information and belief, the City Council did not receive the Draft Report
27 until the afternoon of June 14, 2007.

28

1 55. The CYAC President, Mr. Casillas, immediately faxed the Draft Report to
2 the CYAC's attorneys at the Institute for Justice ("IJ") in Arlington, Virginia.

3 56. As soon as the document was received in the late afternoon of June 14, 2007,
4 IJ attorneys immediately scanned it and sent it to the CYAC expert witnesses for analysis.
5 IJ attorneys also began their own independent legal analysis.

6 57. On June 15, 2007, Mr. Casillas tried to deliver follow-up Public Records Act
7 requests to the National City Police Department, the National City Fire Department, and the
8 National City Planning Department seeking the data RSG and the CDC used to draw certain
9 conclusions in the Draft Report. Mr. Casillas was not able to deliver these requests,
10 however, because the City offices are entirely closed on Fridays. The Public Records Act
11 requests were successfully delivered on Monday, June 18, 2007, but National City did not
12 respond before the public hearing on June 19, 2007.

13 58. Two experts worked over the weekend prior to the June 19, 2007 hearing
14 preparing affidavits pointing out serious methodological flaws in the Draft Report. These
15 experts were, however, substantially impaired in their ability to analyze the Draft Report
16 because: (1) they did not have anything close to sufficient time to conduct an analysis, and
17 (2) they did not have access to any of the underlying data.

18 59. IJ attorneys and California attorney Donna Matias also worked over the
19 weekend and right up until the moment of the June 19, 2007 public hearing, preparing a
20 detailed, 31-page objection to the findings and conclusions of the Draft Report. As was the
21 case with the CYAC's experts, the CYAC's attorneys were substantially impaired in their
22 ability to prepare full objections to the proposed 2007 Amendment because they also lacked
23 sufficient time and the underlying data.

24 60. On June 19, 2007, literally minutes before the public hearing was to begin at
25 6:00 p.m., the CYAC's attorneys filed a written objection to the proposed 2007
26 Amendment. The CYAC was not able to submit its six-volume appendix in its entirety on
27 June 19, 2007 because the overnight delivery service used had a mechanical problem with
28 an aircraft, and did not deliver the appendix from Arlington, Virginia to National City on

1 time. The CYAC was able to file the following parts of the appendix on time: Volume I in
2 its entirety; Volume II in its entirety except that the photos were in black and white, not
3 color; Volume III in its entirety; only Tab 1 of the six tabs in Volume IV; and Tabs 4-8 of
4 the eight tabs in Volume VI. With the permission of the City Council, the CYAC filed the
5 full six-volume appendix on the morning of June 20, 2007 as soon as it was delivered by
6 the courier. The only documents that the CYAC did not submit on June 19, 2007 were
7 public documents already in the possession of the City and the CDC. All of the documents
8 that the CYAC produced itself (as opposed to the public documents already in the
9 possession of Defendants), were filed on June 19, 2007 — before the public hearing.

10 61. So many members of the public attended the June 19, 2007 hearing that
11 people overflowed into the council chamber lobby. Many members of the public lodged
12 written or oral objections to the proposed 2007 Amendment. Not a single member of the
13 public spoke in support of the proposed 2007 Amendment.

14 62. Members of the City Council commented throughout the public hearing that
15 the power of eminent domain was necessary to facilitate the economic development of the
16 City.

17 63. National City was required to prepare responses to the written objections
18 lodged prior to the public hearing under California Health & Safety Code section 33363.
19 Following the public hearing, National City and the CDC assigned to RSG the
20 responsibility of preparing their respective responses.

21 64. The City Council scheduled a vote on the ordinance adopting the proposed
22 2007 Amendment for July 10, 2007. RSG failed to prepare a response to the CYAC's
23 objection letter prior to July 10, 2007. Instead, RSG responded to some of the documents
24 in the six-volume appendix that the CYAC filed with its objection letter.

25 65. The July 10, 2007 meeting was subsequently rescheduled to July 12, 2007.
26 During this two-day interval, RSG prepared a written response to the CYAC's objection
27 letter, including many technical and complex questions of law. RSG is not a law firm. The
28 City presented RSG's responses to the CYAC on July 12, 2007. Logically, National City

1 had virtually no time before the July 12, 2007 City Council meeting to consider RSG's
2 responses, and only three business days to do so before the City Council voted on the
3 proposed amendment on July 17, 2007.

4 66. At the meeting on July 12, 2007, Council Members again expressed their
5 desire to authorize eminent domain because the condemnation power was allegedly
6 essential to economic development in National City.

7 67. On July 17, 2007, the City Council enacted Ordinance 2007-2295, adopting
8 the proposed 2007 Amendment almost in its entirety. The one alteration by the City
9 Council was to authorize eminent domain for only ten (10) years, rather than the twelve
10 (12) years in the original proposal.

11 68. Ordinance 2007-2295 triggered the 90-day clock under California Health &
12 Safety Code section 33500 within which the CYAC and any other objector must file a
13 reverse validation action.

14 69. On July 27, 2007, the CYAC's IJ attorneys sent National City's attorney,
15 George Eiser, a letter setting forth what things the CYAC asked for in its California Public
16 Records Act requests that had yet to be produced. The CYAC's attorneys specifically
17 reiterated the importance of receiving the raw data the CDC and RSG used to come to their
18 conclusions about the persistence of blight in the 2007 Amendment Area and the need for
19 the reauthorization of eminent domain.

20 70. On August 9, 2007, Mr. Eiser notified the CYAC's attorneys by email that
21 he had a set of documents in response to the July 27, 2007 letter, but that he would have to
22 review them to ensure that no privileged documents were produced. Mr. Eiser specifically
23 noted in his email that he asked the CDC's consultants for responsive documents as well.

24 71. On August 16, 2007, Mr. Eiser communicated to the CYAC that some
25 documents were available for inspection. He also commented that, to the extent documents
26 were not produced, it was due to the fact that either the documents were not in the CDC's
27 possession, or that the documents requested were protected by the attorney-client privilege.

28

1 its land, and causes uncertainty in its long-term plans to carry out its mission on behalf of
2 at-risk youth.

3 79. Responding to threats of eminent domain consumes a significant amount of
4 the CYAC's and its volunteers' time, which time would otherwise be spent advancing the
5 CYAC's mission of providing training and services to at-risk youth.

6 80. The failure of National City and the CDC to disclose the Draft Report to the
7 CYAC before June 14, 2007, and their failure to disclose other relevant information to the
8 CYAC prior to the June 19, 2007 public hearing drastically impaired the CYAC's ability to
9 prepare a full and effective objection to the 2007 Amendment.

10 81. This interference with the CYAC's ability to prepare an effective objection
11 constitutes a denial of its Due Process rights because the statutory objection procedure
12 under the Community Redevelopment Law is the only way for the CYAC to protect itself
13 from the City's bogus blight designation and re-authorization of eminent domain.

14 82. The numerous bad-faith violations of the Community Redevelopment Law
15 by the City and the CDC resulted in a re-authorization of eminent domain, thereby causing
16 the injury described above.

17 83. The CYAC sought public documents under the California Public Records
18 Act that were not protected by any recognized statutory or common law privilege. The
19 failure of National City and the National City CDC to turn over these public documents
20 seriously impaired the CYAC's ability to object to the 2007 Amendment and continues to
21 impair their ability to challenge it.

22 FIRST CAUSE OF ACTION

23 (Against Defendant City Of National City And Defendant National City CDC For Violating
24 Cal. Health & Safety Code § 33457.1)

25 84. The CYAC re-alleges each allegation of paragraphs 1-83 above, as though
26 fully set forth herein.

27 85. The CYAC brings this first cause of action pursuant to California Health &
28 Safety Code Section 33457.1 ("Section 33457.1").

1 THIRD CAUSE OF ACTION

2 (Against Defendant City Of National City For Violating Article I, Section 7(a) Of The
3 California Constitution)

4 93. The CYAC re-alleges each allegation of paragraphs 1 through 92, as though
5 fully set forth herein.

6 94. The CYAC brings this third cause of action pursuant to the Due Process
7 Clause of Article I, Section 7(a) and the Takings Clause of Article I, Section 19 of the
8 California Constitution.

9 95. The Takings Clause of Article I, Section 19 of the California Constitution
10 prohibits the use of eminent domain for economic development.

11 96. National City violated the Procedural Due Process right of the CYAC when
12 the City enacted ordinance 2007-2295 because the Due Process Clause does not allow the
13 City to authorize eminent domain for a constitutionally illegitimate purpose.

14 FOURTH CAUSE OF ACTION

15 (Against Defendant City Of National City For Violating Article I, Section 7(a) Of The
16 California Constitution)

17 97. The CYAC re-alleges each allegation of paragraphs 1 though 96, as though
18 fully set forth herein.

19 98. The CYAC brings this fourth cause of action pursuant to the Due Process
20 Clause of Article I, Section 7(a) of the California Constitution.

21 99. The Takings Clause of Article I, Section 19 of the California Constitution
22 prohibits the use of eminent domain simply to raise tax revenue.

23 100. National City violated the Procedural Due Process right of the CYAC when
24 the City enacted ordinance 2007-2295 because the Due Process clause does not allow the
25 City to authorize eminent domain for a constitutionally illegitimate purpose.

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1 FIFTH CAUSE OF ACTION

2 (Against Defendant City Of National City For Violating Statutory Requirements Of The
3 Community Redevelopment Law)

4 101. The CYAC re-alleges each allegation of paragraphs 1 through 100, as
5 though full set forth herein.

6 102. The CYAC brings this fifth cause of action pursuant to the various statutory
7 requirements of the Community Redevelopment Law listed below.

8 103. National City violated the Community Redevelopment Law by enacting
9 Ordinance 2007-2295 without:

- 10 a. Clearly articulated and documented evidence that the 2007 Amendment
11 Area is blighted. *See* Cal. Health & Safety Code § 33367(d)(1).
- 12 b. Substantial evidence that at least one factor of physical blight was present in
13 the 2007 Amendment Area. *See* Cal. Health & Safety Code § 33031(a).
- 14 c. Substantial evidence that at least one factor of economic blight was present
15 in the 2007 Amendment Area. *See* Cal. Health & Safety Code § 33031(b).
- 16 d. Substantial evidence that “the combination of conditions set forth in Section
17 33031 is so prevalent and so substantial that it causes a reduction of, or lack
18 of, proper utilization of the area to such an extent that it constitutes a serious
19 physical and economic burden on the community that cannot reasonably be
20 expected to be reversed or alleviated by private enterprise or governmental
21 action, or both, without redevelopment.” Cal. Health & Safety Code §
22 33030.
- 23 e. Substantial evidence that significant blight remains within the project area.
24 *See* Cal. Health & Safety Code § 33333.2.
- 25 f. Substantial evidence that the remaining significant blight cannot be
26 eliminated without the use of eminent domain. *See* Cal. Health & Safety
27 Code § 33333.2.
- 28

- 1 g. Clearly articulated and documented evidence that the 2007 Amendment is in
2 the public interest. *See* Cal. Health & Safety Code § 33367(d)(2).
- 3 h. Clearly articulated and documented evidence that carrying out the 2007
4 Amendment is in the public interest. *See* Cal. Health & Safety Code §
5 33367(d)(5).
- 6 i. Clearly articulated and documented evidence that eminent domain is
7 necessary. *See* Cal. Health & Safety Code § 33367(d)(6).
- 8 j. Clearly articulated and documented evidence that the National City CDC has
9 a feasible method or plan for the relocation of displaced people. *See* Cal.
10 Health & Safety Code § 33367(d)(7).
- 11 k. Clearly articulated and documented evidence that non-contiguous areas are
12 not being included for the purpose of tax increment revenues. *See* Cal.
13 Health & Safety Code § 33367(d)(9).
- 14 l. Clearly articulated and documented evidence that the inclusion of non-
15 blighted property in the 2007 Amendment is necessary and not simply to
16 capture tax revenue. *See* Cal. Health & Safety Code § 33367(d)(10).
- 17 m. Clearly articulated and documented evidence that private enterprise cannot
18 remedy blight. *See* Cal. Health & Safety Code § 33367(d)(11).
- 19 n. Clearly articulated and documented evidence that the ten-year time limit on
20 eminent domain in the 2007 Amendment is reasonably related to the
21 proposed projects to be implemented in the 2007 Amendment Area. *See*
22 Cal. Health & Safety Code § 33367(d)(12).
- 23 o. Clearly articulated and documented evidence that implementation of the
24 2007 Amendment will alleviate blight. *See* Cal. Health & Safety Code
25 §§ 33367(d)(13) & (14).
- 26 104. National City also failed to:
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- 1 a. Engage in a “good faith, reasoned analysis” in its written response to
2 objections to the 2007 Amendment. *See* Cal. Health & Safety Code §
3 33363.
- 4 b. Seriously evaluate all the evidence for and against the adoption of the 2007
5 Amendment pursuant to California Health & Safety Code Section 33363,
6 because it had neither the necessary information nor the sufficient time to do
7 so.

8 SIXTH CAUSE OF ACTION

9 (Against Defendant National City CDC For Violating The Statutory Requirements Of The
10 Community Redevelopment Law)

11 105. The CYAC re-alleges each allegation of paragraphs 1 through 104, as
12 though fully set forth herein.

13 106. The CYAC brings this sixth cause of action pursuant to the various statutory
14 requirements of the California Community Redevelopment Law listed below.

15 107. The National City CDC, with respect to Ordinance 2007-2295, failed to
16 reach its conclusions based on:

- 17 a. Substantial evidence that significant blight remains within the 2007
18 Amendment Area. *See* Cal. Health & Safety Code § 33333.2.
- 19 b. Substantial evidence that this significant blight cannot be eliminated without
20 the use of eminent domain. *See* Cal. Health & Safety Code § 33333.2.
- 21 c. Specific quantifiable evidence that the 2007 Amendment Area contains the
22 physical and economic blight factors set forth in California Health & Safety
23 Code Section 33031. *See* Cal. Health & Safety Code § 33352(b)(1).
- 24 d. Specific quantifiable evidence that the physical and economic blight is so
25 prevalent and substantial that it seriously harms the entire project area. *See*
26 Cal. Health & Safety Code § 33352(b)(2).

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