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6 Attorneys for Respondent CITY OF
SEBASTOPOL

EXEMPT FROM FILING FEES
GOV'T CODE § 6103

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SONOMA**

11
12 FRIENDS OF NORTHWEST
SEBASTOPOL, a California nonprofit mutual
13 benefit corporation ,

14 Petitioner,

15 v.

16 CITY OF SEBASTOPOL, acting by and
through the Sebastopol City Council,

17 Respondent,
18

19 SONOMA APPLIED VILLAGES
SERVICES, a California nonprofit mutual
20 benefit corporation; and ST. VINCENT DE
PAUL DISTRICT COUNCIL OF SONOMA
21 COUNTY, INCORPORATED, a California
nonprofit mutual benefit corporation,

22 Real Parties in Interest.
23

Case No. SCV270053

**DECLARATION OF EDWARD
GRUTZMACHER IN SUPPORT OF THE
CITY'S OPPOSITION TO PETITIONER
FRIENDS OF NORTHWEST
SEBASTOPOL'S EX PARTE
APPLICATION FOR AN ALTERNATIVE
WRIT**

Assigned for All Purposes to:
Hon. Arthur A. Wick, Dept. 17

Ex Parte Date: February 1, 2022
Time:
Judge: Hon. Arthur A. Wick
Dept.: 17

Action Filed: January 21, 2022
Trial Date: None Se


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I, EDWARD GRUTZMACHER , declare as follows:

1. I am Of Counsel with Meyers Nave, counsel of record for the City of Sebastopol (“City”) in this matter. I have personal knowledge of the following facts and could and would testify to these facts if called upon to do so. Those facts upon which I do not have personal knowledge I declare based on information and belief.
2. On January 24, 2021, the City Manager informed me that a process server delivered by through the mail slot at City hall copies of the Verified Petition for Writ of Administrative Mandamus (CCP § 1094.5), a Civil Case Cover Sheet, a Notice of Judicial Assignment to this Department, a Request for a Hearing under Public Resources Code section 21167.4, subdivision (a), and a Proof of Service by mail on the City. The City Manager then emailed me copies of these documents.
3. On January 27, 2022, counsel for FNS informed me that FNS would be seeking an ex parte application for an alternative writ on February 1, 2022 at 10:30 a.m. in this Court.
4. On January 31, 2022, I emailed Peter Prows, counsel for FNS and inquired whether FNS would be serving its ex parte application and supporting memorandum. A true and correct copy of that email is included in Exhibit 1, attached hereto.
5. Mr. Prows agreed that it would send over FNS’s papers “hopefully today.” A true and correct copy of that email is included in Exhibit 1, attached hereto. A true and correct copy of that email is included in Exhibit 1, attached hereto.
6. On January 31, 2022 at 3:09 p.m. I received an email from Arlene Won from Mr. Prows’ office with the proposed “partial administrative record” attached. A true and correct copy of that email is included in Exhibit 1, attached hereto.
7. At 4:50 p.m. on January 31, 2022, I received another email from Arlene Won with FNS’s ex parte application papers attached. A true and correct copy of that email is included in Exhibit 1, attached hereto.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 1, 2022 at Auburn, California.



EDWARD GRUTZMACHER

5053275.1

EXHIBIT 1

Bender, Melissa

From: Grutzmacher, Edward
Sent: Tuesday, February 1, 2022 9:01 AM
To: Bender, Melissa
Subject: FW: Friends of Northwest Sebastopol v. City of Sebastopol | Case No. SCV-270053
Attachments: 2022 01.31 Application for Alternative Writ and Memorandum.pdf; 2022 01.31 Alternative Writ.pdf; 2022 01.31 Decl of Peter Prows.pdf; 2022 01.31 Proposed Order.pdf

From: Arlene Won <awon@briscoelaw.net>
Sent: Monday, January 31, 2022 4:49 PM
To: Grutzmacher, Edward <egrutzmacher@meyersnave.com>; bob@robertbonelaw.com; tinyvillages@sonomavillages.org
Cc: Tony Francois <tfrancois@briscoelaw.net>; Peter Prows <pprows@briscoelaw.net>
Subject: Friends of Northwest Sebastopol v. City of Sebastopol | Case No. SCV-270053

[EXTERNAL E-MAIL]

Hello,

Please find attached the following documents:

Ex Parte Application for Alternative Writ of Administrative Mandamus; Memorandum; Alternative Writ of Administrative Mandamus; Declaration of Peter Prows; and [Proposed] Order Granting Alternative Writ of Mandamus.

Thank you,
Arlene Won



ARLENE WON
235 Montgomery Street, Suite 935
San Francisco, California 94104
Direct:(415) 402-2713

Bender, Melissa

From: Grutzmacher, Edward
Sent: Tuesday, February 1, 2022 9:03 AM
To: Bender, Melissa
Subject: FW: Friends of Northwest Sebastopol v. City of Sebastopol | Filed Documents, no. SCV-270053

From: Peter Prows <pprows@briscoelaw.net>
Sent: Monday, January 31, 2022 10:48 AM
To: Grutzmacher, Edward <egrutzmacher@meyersnave.com>
Cc: tinyvillages@sonomavillages.org; bob@robertbonelaw.com; Tony Francois <tfrancois@briscoelaw.net>
Subject: Re: Friends of Northwest Sebastopol v. City of Sebastopol | Filed Documents, no. SCV-270053

Yes. I'll get it to you as soon as possible, hopefully later today.



PETER PROWS
235 Montgomery Street, Suite 935
San Francisco, California 94104
Direct: (415) 402-2708 Cell: (415) 994-8991

On Jan 31, 2022, at 10:42, Grutzmacher, Edward <egrutzmacher@meyersnave.com> wrote:

Peter,

Do you intend to send us your application and supporting memorandum in advance of the ex parte tomorrow? If so, when can we expect to receive it?

Thanks,

Ed

From: Peter Prows <pprows@briscoelaw.net>
Sent: Friday, January 28, 2022 4:05 PM
To: Grutzmacher, Edward <egrutzmacher@meyersnave.com>
Cc: tinyvillages@sonomavillages.org; bob@robertbonelaw.com; Tony Francois <tfrancois@briscoelaw.net>
Subject: RE: Friends of Northwest Sebastopol v. City of Sebastopol | Filed Documents, no. SCV-270053

Thank you Ed.

As CCP 1094.5(a) permits us to do, as of today we have now lodged those parts of the record we believe suffice to show the City's prejudicial abuse of discretion. I'A partial record lodged by petitioner "is sufficient for the purposes of section 1094.5[a]":

A petitioner has the burden to provide a partial record that will allow sufficient and effective review by the court. A partial record of an administrative proceeding is sufficient for the purposes of section 1094.5, subdivision (a) if it provides the reviewing court a basis for the affirmance or reversal of the order or decision, and establishes where in the proceedings the administrative body proceeded in excess of its jurisdiction, or denied a fair hearing or abused its discretion. This partial record must accurately represent the administrative proceedings, provide the reviewing court an understanding of what occurred below, and enable that court to provide an independent judicial review of the administrative decision.

(Elizabeth D. v. Zolin (1993) 21 Cal.App.4th 347, 355.)

Our view is that you should be free to argue on the merits that we have not lodged a sufficient record to show an abuse of discretion, or to supplement the record with any other appropriate materials you'd like. But we don't need to await certification of the record to proceed.

We'll proceed with the ex parte application for the alternative writ on Tuesday, with a hearing date on the merits proposed for 16 February. If we get that schedule, we shouldn't need a stay.

Please let me know whether I can report to the Court that you still object.

Thanks.

Peter

PETER PROWS

235 Montgomery Street, Suite 935
San Francisco, California 94104
Direct: (415) 402-2708 Cell: (415) 994-8991

From: Grutzmacher, Edward <egrutzmacher@meyersnave.com>
Sent: Friday, January 28, 2022 3:09 PM
To: Peter Prows <pprows@briscoelaw.net>
Cc: tinyvillages@sonomavillages.org; bob@robertbonelaw.com; Tony Francois <tfrancois@briscoelaw.net>
Subject: RE: Friends of Northwest Sebastopol v. City of Sebastopol | Filed Documents, no. SCV-270053

Peter,

I have conferred with the City and the City has conferred with SAVS (who is currently not represented by counsel). Neither the City nor SAVS can agree to the proposed schedule. As I indicated on our phone call, the issues raised in your petition necessitate the preparation and certification of an administrative record. This cannot be done on the schedule you proposed.

Thanks,

Ed

From: Peter Prows <pprows@briscoelaw.net>
Sent: Thursday, January 27, 2022 4:53 PM
To: Grutzmacher, Edward <egrutzmacher@meyersnave.com>
Cc: tinyvillages@sonomavillages.org; bob@robertbonelaw.com; Tony Francois

<tfrancois@briscoelaw.net>

Subject: Re: Friends of Northwest Sebastopol v. City of Sebastopol | Filed Documents, no. SCV-270053

Importance: High

[EXTERNAL E-MAIL]

To follow up: the schedule I proposed below seems consistent with the City's 30 November action and subsequent schedule, and with the concept that we should be able to proceed to a timely hearing on the merits without the need for a stay in the meantime. At the 30 November meeting, the City approved a motion to "Make a commitment to prohibiting RVs from moving into an RV Village as described in this Staff Report until the parking concerns described here have been addressed and resolved, with the benefit of the requested plan from City Staff." The parking plan still has not been developed, and no parking plan is on the City's 1 February meeting agenda. Because a City parking plan is still at least several weeks away, and the City has made a commitment to prohibiting RVs from moving into 845 Gravenstein before the parking issue is resolved, we should have enough time to get this case resolved on the merits in the meantime according to the schedule I've proposed below.

Please let me know whether you agree.

Thanks.

— **PETER PROWS**

235 Montgomery Street, Suite 935
San Francisco, California 94104
Direct: (415) 402-2708 Cell: (415) 994-8991

On 27 Jan 2022, at 15:24, Peter Prows <pprows@briscoelaw.net> wrote:

Dear Mr. Grutzmacher (with a copy to Mr. Bone and SAVS):

The file-stamped copy of our petition and related documents filed last Friday are attached. We have been assigned to Judge Wick. These are also going out for service on your offices again today.

SAVS, if you are represented by counsel, please let me know.

I write to give notice that on Tuesday 1 February by 10:30am in Courtroom 17 we intend to apply ex parte for an alternative writ of mandamus.

If we can reach agreement, with Court approval, on a prompt briefing schedule and hearing date on the merits, we should not need to also apply ex parte for a stay of the City's 30 November action in this matter. But if we cannot reach agreement, this email also gives notice that we will also be applying ex parte for a stay of that action on Tuesday 1 February by 10:30am in Courtroom 17. I hope you will agree that it's in the best interests of all to proceed expeditiously to resolution of this matter on the merits.

CCP 1107 normally gives only 5 days after an alternative writ is served to file an opposition brief on the merits to the issuance of the prerogative writ. I'm willing

to agree to give you seven days to file your merits brief if you will agree to the following schedule that gets us to a hearing on the merits on 16 February:

Monday 31 January: Petitioner to file and serve (by email) its application for alternative writ of mandamus, including memorandum on the merits
Tuesday 1 February: Alternative writ issues and is served (by email)
Tuesday 8 February: Oppositions due (with service by email)
Thursday 10 February: Reply due (with service by email)
Wednesday 16 February, 3pm (D17's regular law & motion calendar): hearing on the merits

Please let me know by tomorrow whether you agree or have any other suggestions that get us to a hearing on the merits by 16 February. If you have any questions, please call.

Thank you.

Peter

Begin forwarded message:

From: Arlene Won <awon@briscoelaw.net>
Subject: Friends of Northwest Sebastopol v. City of Sebastopol
| Filed Documents
Date: 27 January 2022 at 13:55:57 PST
To: Tony Francois <tfrancois@briscoelaw.net>, Peter Prows
<pprows@briscoelaw.net>

Attached are the filed documents.

Thanks,
Arlene

<2022 01.21 Civil Case Cover Sheet.pdf><2022 01.21 Petition.pdf><2022 01.21
Request for Hearing.pdf><2022 01.21 Notice of Assignment.pdf>

Bender, Melissa

From: Grutzmacher, Edward
Sent: Tuesday, February 1, 2022 9:03 AM
To: Bender, Melissa
Subject: FW: Friends of Northwest Sebastopol v. City of Sebastopol | Case No. SCV-270053
Attachments: Partial Administrative Record 1.31.22.pdf; Notice of Nonavailability of Court Reporters.pdf; Proof of Service 1.31.22.pdf

From: Arlene Won <awon@briscoelaw.net>
Sent: Monday, January 31, 2022 3:06 PM
To: Grutzmacher, Edward <egrutzmacher@meyersnave.com>; bob@robertbonelaw.com; tinyvillages@sonomavillages.org
Cc: Tony Francois <tfrancois@briscoelaw.net>; Peter Prows <pprows@briscoelaw.net>
Subject: Friends of Northwest Sebastopol v. City of Sebastopol | Case No. SCV-270053

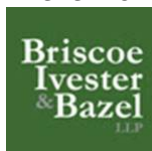
[EXTERNAL E-MAIL]

Hello,

Please find attached the following documents:

**Partial Administrative Record (Pages 1-152);
Notice of Nonavailability of Court Reporters; and
Proof of Service.**

Thank you,
Arlene Won



ARLENE WON
235 Montgomery Street, Suite 935
San Francisco, California 94104
Direct:(415) 402-2713

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PROOF OF SERVICE

Friends of Northwest Sebastopol v. City of Sebastopol, Sonoma
Superior Court Case No. SCV270053 STATE OF CALIFORNIA, COUNTY OF ALAMEDA

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Alameda, State of California. My business address is 1999 Harrison Street, 9th Floor, Oakland, CA 94612.

On February 1, 2022, I served true copies of the following document(s) described as **DECLARATION OF EDWARD GRUTZMACHER IN SUPPORT OF THE CITY’S OPPOSITION TO PETITIONER FRIENDS OF NORTHWEST SEBASTOPOL’S EX PARTE APPLICATION FOR AN ALTERNATIVE WRIT** on the interested parties in this action as follows:

Tony Francois, Esq.
Peter Prows Esq.
Briscoe Ivester & Bazel LLP
235 Montgomery Street, Suite 935
San Francisco, CA 94104


Attorneys for Petitioner FRIENDS OF
NORTHWEST SEBASTOPOL

Telephone: (415) 402-2700
Facsimile: (415) 398-5630
Email: tfrancois@briscoelaw.net
Email: pprows@briscoelaw.net

BY ELECTRONIC SERVICE: I served the document(s) on the person listed in the Service List by submitting an electronic version of the document(s) to Odyssey eFileCA through the user interface at www.odysseyfileca.com.

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

Executed on February 1, 2022, at Oakland, California.



Melissa Bender