

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

04/05/2019 at 02:57:48 PM

Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

1 BRIGGS LAW CORPORATION [FILE: 1007.43]
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7 Attorneys for Plaintiff and Petitioner CREED-21

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

10
11 CREED-21,
12 Plaintiff and Petitioner,
13 vs.
14 CITY OF SAN DIEGO; and DOES 1 through 100,
15 Defendants and Respondents.
16 DOES 101 through 1,000,
17 Defendants and Real Parties in Interest.

CASE NO. 37-2019-00018043-CU-WM-CTL

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND
PETITION FOR WRIT OF MANDATE
UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND
OTHER LAWS**

18
19 Plaintiff and Petitioner CREED-21 ("Petitioner") alleges as follows:

20 **Parties**

21 1. Petitioner is a non-profit organization formed and operating under the laws of the State
22 of California. At least one of Petitioner's members resides in, or near, the City of San Diego,
23 California, and has an interest in, among other things, ensuring compliance with environmental laws
24 and protecting the City's quality of life.

25 2. Defendant and Respondent CITY OF SAN DIEGO ("CITY") is a "public agency" under
26 Section 21063 of the Public Resources Code and a "local government" under Section 30109 of the
27 Public Resources Code. As a "public agency," CITY is required to comply with California
28 Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*

1 10. Petitioner exhausted administrative remedies to the extent required by law. Alternatively
2 and additionally, neither Public Resources Code Section 21177(a)-(b) nor any other exhaustion-of-
3 remedies requirement may be applied to Petitioner.

4 11. Defendants/Respondents' conduct in approving the Project without complying with
5 CEQA and other applicable laws constitutes a prejudicial abuse of discretion because, as alleged in this
6 pleading, they failed to proceed in a manner required by law.

7 12. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of law, since
8 its members and other members of the public will suffer irreparable harm as a result of
9 Defendants/Respondents' violations of CEQA and other applicable laws. Defendants/Respondents'
10 approval of the Project also rests on their failure to satisfy a clear, present, ministerial duty to act in
11 accordance with the applicable laws. Even when Defendants/Respondents are permitted or required
12 by law to exercise their discretion in approving projects under those laws, they remain under a clear,
13 present, ministerial duty to exercise their discretion within the limits of and in a manner consistent with
14 those laws. Defendants/Respondents have had and continue to have the capacity and ability to approve
15 the Project within the time limits of and in a manner consistent with those laws, but
16 Defendants/Respondents have failed and refused to do so and have exercised their discretion beyond
17 the limits of and in a manner that is not consistent with those laws.

18 13. Petitioner has a beneficial right and interest in Defendants/Respondents' fulfillment of
19 all their legal duties, as alleged in this pleading.

20 **FIRST CAUSE OF ACTION:**
21 **Illegal Approval of Project**
22 **(Against All Defendants/Respondents and Real Parties in Interest)**

23 14. Paragraphs 1 through 13 are fully incorporated into this paragraph.

24 15. The Project does not comply with all applicable laws. By way of example and not
25 limitation (including alternative theories of liability):

26 A. The Project violates CEQA. In particular:

27 i. CEQA applies to every discretionary project proposed to be carried out
28 or approved by a public agency, unless the project is exempt from CEQA. Generally speaking, the
public agency must review the potentially significant environmental impacts of every discretionary

1 A. A judgment or other appropriate order determining or declaring that
2 Defendants/Respondents failed to fully comply with CEQA and/or one or more other applicable laws
3 as they relate to the Project and that there must be full compliance therewith before final approval and
4 implementation of the Project may occur;

5 B. A judgment or other appropriate order determining or declaring that
6 Defendants/Respondents failed to comply with CEQA and/or one or more other applicable laws as they
7 relate to the Project and that its approval and implementation was illegal in at least some respect,
8 rendering the approval and implementation null and void;

9 C. Injunctive relief prohibiting Defendants/Respondents (and any and all persons acting at
10 the request of, in concert with, or for the benefit of one or more of them) from taking any action on any
11 aspect of, in furtherance of, or otherwise based on the Project unless and until Defendants/Respondents
12 comply with CEQA and all other applicable laws, as determined by the Court;

13 D. Any and all other relief that may be authorized by CEQA or other applicable laws, or
14 any combination of them, but is not explicitly or specifically requested elsewhere in this Prayer;

15 E. Any and all legal fees and other expenses incurred by Petitioner in connection with this
16 proceeding, including but not limited to reasonable attorney fees as authorized by the Code of Civil
17 Procedure; and

18 F. Any and all further relief that this Court may deem appropriate.

19 Date: April 5, 2019.

Respectfully submitted,

BRIGGS LAW CORPORATION

21 By: Cory J. Briggs
22 Cory J. Briggs

23 Attorneys for Plaintiff and Petitioner CREED-21
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25
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27
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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT AND OTHER LAWS**

Exhibit "A"

BRIGGS LAW CORPORATION

*San Diego Office:
4891 Pacific Highway, Suite 104
San Diego, CA 92110*

Telephone: 619-497-0021

Please respond to: Inland Empire Office

*Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786*

*Telephone: 909-949-7115
Facsimile: 909-949-7121*

BLC File(s): 1007.43

5 April 2019

City Clerk Elizabeth Maland
City of San Diego
202 "C" Street, 2nd Floor
San Diego, CA 92101

Via Fax Only to 619-533-4045

Re: Notice of Commencement of Action

Dear City Clerk:

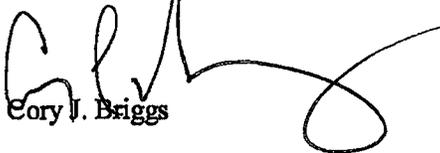
I represent CREED-21 and am sending this Notice of Commencement of Action on my client's behalf.

Please be advised that an action is to be commenced by my client in San Diego County Superior Court against your agency. The action will challenge your agency's approval of the so-called Parking Requirement Regulatory Reform for Multifamily Residential Development in Transit Priority Areas, as reflected in Ordinance no. O-21057 and Resolution nos. R-312234 and 312235 on or about March 19, 2019, on the grounds that the approval violated the California Environmental Quality Act (PUB. RES. CODE § 21000 *et seq.*). The action may also challenge your agency's approval of the project based on one or more violations of other laws.

If you have any questions, please feel free to contact me.

Sincerely,

BRIGGS LAW CORPORATION


Cory J. Briggs



BRIGGS LAW CORPORATION

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San Diego, CA 92110

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Telephone: 909-949-7115
Facsimile: 909-949-7121

FACSIMILE COVER SHEET

Recipient: City Clerk Elizabeth Maland

Recipient's fax number: 619-533-4045

Date: April 5, 2019 BLC File: 1007.43

Total Pages (including cover sheet): 2

Sender: Cory J. Briggs

Sender's fax number: 619-515-6410 909-949-7121

Message: Please see the attached notice of commencement
of action. Thank you.

Original Document to Follow? Yes No

CONFIDENTIALITY

The document accompanying this facsimile transmission contains information that may be either confidential, legally privileged, or both. The information is intended only for the use of the recipient(s) named on this cover sheet. If not done by or at the direction of the recipient(s), disclosure, copying, distribution, or reliance on any of the contents of this transmission is strictly prohibited. If you have received this facsimile transmission in error, please notify us immediately by telephone so that we can arrange for its return at no cost to you.

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BRIGGS LAW CORPORATION

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDATE etc. and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a of CREED-21

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on April 5, 20 19, at San Diego, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Theresa Quiroz Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of State of California. I am over the age of 18 and not a party to the within action; my business address is,

On, 20, I served the foregoing document described as

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list: by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL I deposited such envelope in the mail at California. The envelope was mailed with postage thereon fully prepaid.

As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on, 20, at California. (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on, 20, at California. (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I (Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

(By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)