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CITY OF WALNUT

GOVERNMENT ENTITY EXEMPT FOR
FILING FEE PURSUANT TO
GOVERNMENT CODE SECTION 6103

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 26 2015

Sherri R. Carter, Executive Officer/Clerk
By Cristina Grijalva, Deputy

D82 Luis A. Lavin

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL DISTRICT

CITY OF WALNUT, a municipal corporation,)

Petitioner,

vs.

DAVID K. HALL, JUDY CHEN)
HAGGERTY, ROSANNE BADER, MANUEL)
BACA, FRED CHYR, ROBERT F.)
HIDALGO, LAURA SANTOS, AND PAOLA)
MENDOZA, in their capacity as Trustees of
the Board of San Antonio College, a)
Community College District, MOUNT SAN)
ANTONIO COLLEGE, a Community College,)
WILLIAM T. SCROGGINS, in his capacities)
as College President, Chief Executive Officer,)
and Secretary, Governing Board, and DOES 1)
through 10, Inclusive,

Respondents.

TILDEN-COIL CONSTRUCTORS, INC., and)
DOES 11 through 20, inclusive,

Real Parties in Interest.

Case No. **BS 154389**

PETITION FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY
RELIEF, REVIEW OF ACTION TO
EXCLUDE PROPERTY FROM ZONING
ORDINANCE, INJUNCTIVE RELIEF
[CC.P. §§525, 1085; Govt. Code §53094]

Petitioner alleges:

GENERAL ALLEGATIONS

Applicable to All Causes of Action

1. Petitioner CITY OF WALNUT (hereinafter "CITY") is a general law municipal

1 corporation situated in Los Angeles County.

2 2. Respondents DAVID K. HALL, JUDY CHEN HAGGERTY, ROSANNE BADER,
3 MANUEL BACA, FRED CHYR, ROBERT F. HIDALGO, LAURA SANTOS, and PAOLA
4 MENDOZA are duly elected or appointed Trustees of the Mount San Antonio Community College
5 District ("hereinafter "DISTRICT"), and are sued on behalf of the District in their representative
6 capacity. The Board of Trustees is empowered by the California State Constitution to be the policy-
7 making body of the College, pursuant to Education Code §70902, and pursuant to Subdivision (d)
8 of said section, and any related statutes and regulations, may delegate any and all powers not
9 otherwise "nondelegable by statute" to its Chief Executive Officer.

10 3. Respondent WILLIAM T. SCROGGINS holds himself out to be "College President,
11 CEO, and Secretary, Governing Board" of College. Petitioner alleges on information and belief that
12 said Respondent occasionally, if not frequently, implements major policies without prior Board
13 action.

14 4. City alleges on information and belief that Real Party in Interest may be TILDEN-COIL
15 CONSTRUCTORS, INC. ("Tilden"), also alleged and believed to be a corporation doing business
16 within the State of California. Tilden allegedly is a general contractor under contract with the
17 District for construction of the Project.

18 5. District owns that certain property located at 1100 North Grand Avenue, Walnut,
19 ("CAMPUS"), that is currently operated and used as the Mt. San Antonio College ("COLLEGE"),
20 a Community College.

21 6. Petitioner is informed and believes and thereupon alleges that each Respondent
22 designated herein, including each DOE Respondent, is responsible, intentionally, negligently and/or
23 in some other actionable manner, for the events and happenings herein referred to, and that each said
24 Respondent thereby proximately caused injuries and damages to Petitioner as hereinafter alleged,
25 either through said Respondent's own conduct, or through the conduct of its officers directors,
26 managing agents or employees whose conduct was known to, ratified and/or otherwise approved by
27 Respondents by and through their officers, directors and/or managing agents.

28 7. Petitioner is informed and believes and thereupon alleges that at all times mentioned

1 herein, Respondents, and each of them, were the agents, servants, employees, general employees,
2 special employees, employers, general employers, special employers, alter egos, joint venturers
3 and/or independent contractors of their co-Respondents, and, as such, were acting within the scope,
4 course and authority of said agency, employment, alter ego, independent contractor and/or joint
5 venture, and that each and every Respondent, as aforesaid, when acting as a principal was negligent
6 in the selection, hiring, and supervision of each and every Respondent as the agent, servant,
7 employee, employer, independent contractor and/or joint venturer.

8 8. Pursuant to the authority now set forth in Cal. Const. Art. XI, §7, and California's
9 Planning and Land Use Law (Government Code §§65000, et seq.), City adopted as its zoning code,
10 Ordinance #37, and other complementary statutes, and has adopted a General Plan. All land use
11 decisions must be consistent with the General Plan.

12 9. Section 25-27 of the Walnut Zoning Code provides:

13 "25-27 Building permit.

14 No building or structure shall be erected, added to or structurally altered until
15 a permit therefor shall have been issued by the building inspector of the city.

16 All applications for such permit shall be in accordance with the requirements
17 of this chapter, and no building permit shall be issued where such
18 construction, addition or alteration or the use thereof would fail to meet or be
19 in violation of any provisions and requirements of this chapter. (Ord. No. 37,
20 § 1)"

21 10. The District was created in or about December 1945. City was incorporated in 1959,
22 at which time it included a portion of the Campus property within the its' boundaries; City
23 subsequently annexed the entirety of the existing Campus property in 1964.

24 11. District has announced its' intention to build a parking structure on the Northwest
25 corner of the Mt. SAC campus designated and known as "Lot A". The parking structure ("Project")
26 is proposed to have 5 levels, and will provide approximately 2,300 parking spots. The Project will
27 be within approximately 120 feet of a City residential area and will impact the surrounding
28 neighborhood, including traffic, noise, land use and aesthetics. District has refused to consider any

1 alternative sites located more centrally within the campus, which would significantly reduce the
2 impact on nearby residential areas. Notwithstanding that City has presented formal opposition to
3 the actions of District related to its Project, District has commenced “the initial infrastructure and
4 foundation phase”.

5 12. District’s Lot A is situated in an “RPD Zone” in City. City’s Zoning Code Section 25-
6 89.1 provides:

7 “Property in an RPD Zone may be used for:

8 (a) Any use permitted in an R-1 Zone, of the specific minimum lot size
9 specified at the time of change of zone, e.g., RPD (10,000) — 3.5, under the
10 same limitations and conditions including area requirements, front, side and
11 rear yards, garages and auxiliary uses.”,

12 and does not permit a multi-story parking structure, as proposed by District (Zoning Code §25-89.1).

13 13. Notwithstanding, District did on February 11, 2015, adopt its Resolution No. 14-05,
14 entitled, “Resolution 14-05 Mt. San Antonio Community College District Exempting the Parking
15 Structure, a Facilities Master Plan Project, From the City of Walnut’s Zoning Ordinances”.

16 14. Government Code section 53094(a), cited in the Resolution, and by inference §53091,
17 do not apply to Community College Districts; City has complied with §53091(e); the District did not
18 comply with Subdivision (c) of §53094(a), rendering its’ action a nullity, even had the code sections
19 applied.

20 15. District has published notice that it intends to use public financing in order to pay for
21 the Project’s construction; a statutory condition precedent of such financing is strict compliance with
22 the City’s zoning code, as provided for in Education Code §§81902, 81951.

23 16. City incorporates by reference all of the foregoing allegations into each of the following
24 individual causes of action.

25
26 FIRST CAUSE OF ACTION

27 (Writ of Mandamus Against All Respondents)

28 17. Respondents have a clear, present, and ministerial duty to comply with the Zoning Code

1 of the City of Walnut.

2 18. Petitioner has no other plain, speedy or adequate remedy.

3 19. Mandate should issue to order the Trustees of the Mount San Antonio College and the
4 Mount San Antonio Community College District, and the College President, to cease and desist from
5 taking any further action to construct a parking structure on its "Lot A", absent consent of City.
6

7 SECOND CAUSE OF ACTION

8 (Declaratory Relief, Against All Respondents)

9 20. City and District have an actual and present controversy, in that District contends that
10 it can build any structure anywhere on its Campus, where City contends that it must process the
11 parking structure application through City's adopted zoning processes.

12 21. City seeks a determination by this Court of each party's respective rights and
13 obligations under City's General Plan and Zoning Code for the proposed parking structure and
14 District's future proposed non-classroom projects.
15

16 THIRD CAUSE OF ACTION

17 (Zoning Exclusion Review, Against All Respondents)

18 22. City contends that District's actions in claiming as a school district an exemption for
19 a non-classroom use is an attempt to circumvent City's General Plan and Zoning Code. Failure to
20 provide mandatory statutory notice renders the Resolution invalid, and in total constitutes arbitrary
21 and capricious actions.

22 23. City seeks review pursuant to Government Code §53094(c) and a declaration that
23 District's Resolution is without legal effect.
24

25 FOURTH CAUSE OF ACTION

26 (Injunctive Relief, Against All Defendants)

27 24. District did on or about March 11, 2015, submit a revised proposal for the subject
28 parking structure to the Division of the State Architect for review and approval.

25. City alleges on information and belief that the Trustees, or the District and/or the College President will continue with this illegal building scheme unless restrained.

26. The Court has inherent power to enjoin further extensions of the existing Project building plan in order to avoid additional crises affecting zoning violations.

PRA YER

1. As to the First Cause of Action, that this Court issue a peremptory writ of mandate requiring members of the governing board of the Mount San Antonio College District and the District and College President to perform their ministerial duties under the State Constitution and the State Planning and Zoning Act, and comply with the City of Walnut Zoning Code, where not exempted.

2. As to the Second Cause of Action, for a decision by this Court that all Respondents must comply with the General Plan and the City of Walnut's Zoning Code as to construction of the proposed parking structure Project on Lot A, and subsequent non-classroom projects.

3. As to the Third Cause of Action, for the Court's determination that all Respondents may not avail themselves of the provisions of Government Code §53094.

4. As to the Fourth Cause of Action, for an injunction prohibiting Respondents from taking any action with respect to the proposed parking structure Project on Lot A not in compliance with the City's Zoning Code.

5. For costs of suit incurred herein;

6. For attorney's fees pursuant any applicable statute; and

7. For such other and further relief as the Court deems just and proper.

Dated:

MICHAEL B. MONTGOMERY
Attorney for Petitioner
CITY OF WALNUT