

**ORIGINAL**

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AUG 30 2017

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**FILED**  
 SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF RIVERSIDE

AUG 29 2017

L. Hall

7 Attorneys for Plaintiffs and Petitioners  
 8 BUILDING INDUSTRY ASSOCIATION  
 OF SOUTHERN CALIFORNIA and  
 9 BUILDING INDUSTRY LEGAL DEFENSE  
 FOUNDATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 12 FOR THE COUNTY OF RIVERSIDE

14 BUILDING INDUSTRY ASSOCIATION OF  
 SOUTHERN CALIFORNIA and BUILDING  
 15 INDUSTRY LEGAL DEFENSE  
 FOUNDATION,

Case No. RIC1605364

**[PROPOSED] JUDGMENT GRANTING  
 PETITIONERS PETITION FOR WRIT OF  
 MANDATE DIRECTING RESPONDENTS  
 TO VACATE AND SET ASIDE DISTRICT  
 RESOLUTION 2016-01.**

17 Plaintiffs and Petitioners,

18 vs.

19 SAN GORGONIO MEMORIAL  
 20 HEALTHCARE DISTRICT, a California  
 special district, BOARD OF DIRECTORS OF  
 21 THE SAN GORGONIO MEMORIAL  
 HEALTHCARE DISTRICT, and DOES 1-100,  
 22 inclusive,

Hearing Date: July 21, 2017  
 Hearing Time: 10:00 a.m.  
 Judge: The Hon. Sharon J. Waters

23 Defendants and Respondents.

1 This cause came on regularly for hearing on July 21, 2017 at 10:00 a.m. in Department 10  
2 of the above-entitled Court, the Honorable Sharon J. Waters presiding. Plaintiffs and Petitioners  
3 Building Industry Association of Southern California and Building Industry Legal Defense  
4 Foundation, appeared by their attorney, David P. Lanferman of Rutan & Tucker, LLP. Defendants  
5 and Respondents San Gorgonio Memorial Healthcare District and Board of Directors of the San  
6 Gorgonio Memorial Healthcare District, appeared by their attorneys, Iris P. Yang and Ashley E.  
7 Ratliff of Best Best & Krieger LLP.

8 The Court considered the parties' briefing and evidence submitted pursuant to stipulation  
9 and order and issued its tentative ruling on July 20, 2017, and ordered the parties to appear for oral  
10 argument on July 21, 2017. The Court, having reviewed the record in this matter, the briefs  
11 submitted by the parties, and having heard and considered the additional arguments of counsel at  
12 the hearing on July 21, 2017, at the conclusion of the hearing took the matter under submission,  
13 and made a statement of decision, which has been signed and filed,

14 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED, ADJUDGED, AND  
15 DECREED as follows:

16 1. Plaintiffs and Petitioners are entitled to entry of Judgment in their favor, and  
17 Judgment is entered in favor of Plaintiffs and Petitioners and against Defendants and Respondents  
18 San Gorgonio Memorial Healthcare District and Board of Directors of the San Gorgonio  
19 Memorial Healthcare District on Petitioners' Petition for a Writ of Mandate as reflected in the  
20 Notice of Ruling issued by the Court on July 27, 2017, a copy of which is attached to this  
21 Judgment as **Exhibit A** and incorporated herein by this reference;

22 2. Defendants' and Respondents' adoption of Resolution No. 2016-01 purporting to  
23 create development impact/mitigation fees and other actions as described in the Notice of Ruling  
24 was an unlawful, *ultra vires*, act.

25 3. The Clerk of this Court shall forthwith issue a Peremptory Writ of Mandate under  
26 the seal of this Court, commanding the Defendants and Respondents to take timely action to  
27 vacate and set aside District Resolution No. 2016-01.

28 4. The Court reserves jurisdiction to enforce this Judgment and compliance with the

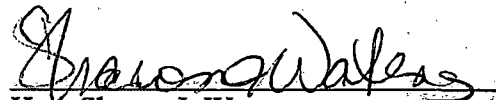
1 Writ of Mandate to be issued.

2 5. Petitioners are awarded their costs of suit as against Respondents.

3 6. The Respondents shall file and serve a Return to the Peremptory Writ of Mandate  
4 within sixty (60) days of the service of the Writ on Respondents' counsel, which Return shall  
5 demonstrate that Respondents have complied with the Writ and taken actions to vacate and set  
6 aside Resolution No. 2016-01 as directed by the Writ.

7 **IT IS SO ORDERED.**

8 DATED: August 29, 2017

9   
10 Hon. Sharon J. Waters  
11 JUDGE OF THE SUPERIOR COURT

12 **APPROVED AS TO FORM:**

13 Dated: August 24, 2017

RUTAN & TUCKER, LLP

15 By: Alyssa Roy  
16 David P. Lanferman  
17 Alyssa B. Roy  
18 Attorneys for Plaintiffs and Petitioners  
19 BUILDING INDUSTRY ASSOCIATION  
20 OF SOUTHERN CALIFORNIA and  
21 BUILDING INDUSTRY LEGAL  
22 DEFENSE FOUNDATION

21 **APPROVED AS TO FORM:**

22 Dated: Aug 23, 2017

BEST BEST & KRIEGER LLP

23 By: Iris P. Yang  
24 Iris P. Yang  
25 Ashley E. Ratliff  
26 Attorneys for Defendants and Respondents  
27 SAN GORGONIO MEMORIAL  
28 HEALTHCARE DISTRICT and BOARD  
OF DIRECTORS OF THE  
SAN GORGONIO MEMORIAL  
HEALTHCARE DISTRICT



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE**

<b>TITLE:</b> BUILDING INDUSTRY ASSOCIATION OF SOUTHERN CALIFORNIA vs. SAN GORGONIO MEMORIAL HEALTHCARE DISTRICT, et al.	<b>DATE &amp; DEPT:</b> 07/27/17 D10	<b>NUMBER:</b> RIC1605364
<b>COUNSEL:</b> None present	<b>REPORTER:</b> None	<b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE JUL 27 2017
<b>PROCEEDING:</b> NOTICE OF RULING		L. Hall <i>AK</i>

**RULING**

Petitioner's request for judicial notice is denied. Respondents' request for judicial notice is granted although the Court finds petitioner's relevancy objection to the 2005-2006 CEQA documents is well taken. Respondents' objection to Exhibit "A," attached to Mr. Lanferman's declaration, is sustained but the objections to Exhibits "B", and "C" are overruled. Petitioner's objections to Exhibit A, attached to Ms. Yang's declaration, and to paragraphs 3, 4, and 5 of Ms. Yang's declaration regarding her communications with Mr. Gardner, are sustained on all grounds raised.

Respondents adopted Resolution No. 2016-01, purportedly pursuant to the Mitigation Fee Act (Government Code Section 66000 et seq.) to create development impact/mitigation fees, approve a Nexus Study to support respondents' required reasonable relationship findings required by section 66001(3) and (4) and adopt a Capital Facilities Improvement Plan so as to identify the public facilities to be financed with these fees as required by section 66001(2). The Mitigation Fee Act does not give respondents the authority to so act. Rather this act merely establishes the procedure to be followed by an entity that does have authority to establish development mitigation fees. (See 73 Ops.Atty.Gen.223 (1990).) Since the District is not a city or a county, it has no constitutional "police power" authority to support its resolution. (*California Building Industry Assn. v. Gov. Bd. Of Newhall School District* (1988) 206 Cal.App.3d 212, 234.) Nor does the Healthcare District Law support this resolution. That law authorizes three methods of financing: (a) annual assessments (Health & Safety Code section 32200 et seq.); (b) special assessments

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L. Hall (cmg), Clerk  
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(section 32240 et seq.); and (c) bond issues (section 32300 et seq.) (*Paso Robles War Memorial Hosp. Dist. v. Negley* (1946) 29 Cal.2d 203, 206.) Accordingly, the petition is granted on the grounds that adoption of Resolution No. 2016-01 was an unlawful, *ultra vires*, act. In light of this determination, the Court does not address the other arguments raised in the petition.

Petitioner shall prepare and serve a proposed order or judgment consistent with this ruling. An OSC re: receipt of the proposed order or judgment is hereby set for August 30, 2017, at 8:30 a.m. in Dept. 10. If the proposed order or judgment is submitted prior to the OSC hearing date, no appearance is required.

Sharon Waters, Judge  
L. Hall (cmg), Clerk  
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE  
4050 Main Street - 2nd Floor  
Riverside, CA 92501  
www.riverside.courts.ca.gov

CLERK'S CERTIFICATE OF MAILING

BUILDING INDUSTRY ASSOCIATION OF SOUTHERN

vs.

CASE NO. RIC1605364

SAN GORGONIO MEMORIAL HEALTHCARE DISTRICT

TO: RUTAN & TUCKER LLP  
FIVE PALO ALTO SQUARE  
3000 EL CAMINO REAL #200  
PALO ALTO CA 94306-9814

I certify that I am currently employed by the Superior Court of California, County of Riverside and I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the attached Notice of Ruling on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Dated: 07/27/17

by: LETICIA HALL, Deputy Clerk

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

3 I am employed by the law office of Rutan & Tucker, LLP in the County of Santa Clara,  
4 State of California. I am over the age of 18 and not a party to the within action. My business  
5 address is Five Palo Alto Square, 3000 El Camino Real, Suite 200, Palo Alto, CA 94306-9814.  
6 My electronic notification address is rstamant@rutan.com.

7 On August 24, 2017, I served on the interested parties in said action the within:

8 **(PROPOSED) JUDGMENT GRANTING PETITIONERS PETITION FOR WRIT  
9 OF MANDATE DIRECTING RESPONDENTS TO VACATE AND SET ASIDE  
10 DISTRICT RESOLUTION 2016-01**

11 as stated below:

12 Iris P. Yang  
13 Ashley E. Ratliff  
14 BEST BEST & KRIEGER LLP  
15 500 Capitol Mall, Suite 1700  
16 Sacramento, CA 95814  
17 Tel: (916) 325-4000  
18 Fax: (916) 325-4010  
19 Email: iris.yang@bbklaw.com  
20 ashley.ratliff@bbklaw.com  
21 *Attorneys for Defendants and Respondents*  
22 *San Geronio Memorial Healthcare District and the Board of*  
23 *Directors of the San Geronio Memorial Healthcare District*

24  (BY MAIL) by placing a true copy thereof in sealed envelope(s) addressed as shown  
25 above.

26 In the course of my employment with Rutan & Tucker, LLP, I have, through first-hand  
27 personal observation, become readily familiar with Rutan & Tucker, LLP's practice of collection  
28 and processing correspondence for mailing with the United States Postal Service. Under that  
practice, I deposited such envelope(s) in an out-box for collection by other personnel of Rutan &  
Tucker, LLP, and for ultimate posting and placement with the U.S. Postal Service on that same  
day in the ordinary course of business. If the customary business practices of Rutan & Tucker,  
LLP with regard to collection and processing of correspondence and mailing were followed, and I  
am confident that they were, such envelope(s) were posted and placed in the United States mail at  
Palo Alto, California, that same date. I am aware that on motion of 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.

(BY E-MAIL) by transmitting a true copy of the foregoing document(s) to the e-mail  
addresses set forth above.

Executed on August 24, 2017, at Palo Alto, California.

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

\_\_\_\_\_  
Ruth St. Amant  
(Type or print name)

\_\_\_\_\_  
*Ruth St. Amant*  
(Signature)