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Development Association, Henry E. Hallmark, Kristine E.
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO – SAN BERNARDINO DISTRICT

The Red Brennan Group; Lucerne Valley
Development Association; Henry E.
Hallmark; Kristine E. Hallmark and Eric H.
Steinmann; Henry E. Hallmark, Kristine E.
Hallmark; and Eric H. Steinmann,

Plaintiffs,

vs.

THE BOARD OF SUPERVISORS OF
SAN BERNARDINO COUNTY; THE
BOARD OF SUPERVISORS OF SAN
BERNARDINO COUNTY FIRE
PROTECTION DISTRICT; and DOES 1-
10,

Defendants.

Case No. CIV DS 1826559

**EX PARTE APPLICATION FOR AN ORDER
TO SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION; A
TEMPORARY RESTRAINING ORDER;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF;
AND DECLARATION OF TOM MURPHY**

Dept.: S30

Judge: Hon. Brian S. McCarville

Hearing Date: October 12, 2018

Time: 8:30 AM

ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that pursuant to Code of Civ. Proc. § 526(a)(2) and California Rules of Court, rules 3.1200 to 3.1207, Plaintiffs The Red Brennan Group, Lucerne Valley Development Association, Henry E. Hallmark, Kristine E. Hallmark and Eric H. Steinmann hereby apply *ex parte* for an order temporarily restraining Defendants from proceeding with a hearing before the Fire District Board, which is scheduled for October 16, 2018, regarding the

1 expansion of service zone FP-5 and the imposition of a proposed tax on affected landowners and
2 for an order showing cause regarding the imposition of a preliminary injunction enjoining
3 Defendants from proceeding with a future hearing regarding the foregoing matters on the
4 grounds that an unconstitutional bar will be placed on Plaintiffs' right to vote if Defendants are
5 not enjoined. Plaintiffs will suffer immediate and irreparable harm if the relief requested herein
6 is not granted as a normally noticed preliminary injunction hearing will not be heard before the
7 FP-5 service zone expansion hearing scheduled for October 16, 2018.

8 The *ex parte* application is based on this application, the attached memorandum of
9 points and authorities, the attached declaration of Tom Murphy, and the papers and pleadings on
10 file here in this action.

11 Defendants THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY and
12 THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY FIRE PROTECTION
13 DISTRICT are represented by:

14
15 Laura L. Crane
16 County Counsel for the County of San Bernardino
17 385 North Arrowhead Ave., Fourth Floor
18 San Bernardino, CA 92415
19 E-mail: laura.crane@cc.sbcounty.gov
20 Telephone: (909) 387-5449
21 Facsimile: (909) 487-4069

22 Dated: October 11, 2018

The Red Brennan Group

23
24 By: Sean K. Wade

25 Sean K. Wade
26 Attorney for Plaintiffs

27 The Red Brennan Group; Lucerne Valley
28 Development Association; Henry E.
Hallmark; Kristine E. Hallmark and Eric H.
Steinmann; Henry E. Hallmark, Kristine E.
Hallmark; and Eric H. Steinmann

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1 Clause of the United States Constitution. Plaintiffs have no plain, adequate, or complete remedy
2 at law other than injunctive relief.

3 As to the second issue, the “levy” on unincorporated land is in reality a special tax being
4 passed on all owners of unincorporated parcels in the affected territory. Accordingly, under
5 Section 2(d) of Article XIII C of the California Constitution, all special taxes must be submitted
6 to the electorate and approved by a two-thirds vote. By passing this special tax without a vote of
7 two-thirds of the electorate, this tax is invalid and unconstitutional on its face.

8 For these reasons, and those explained below, if preliminary review is not granted,
9 Plaintiffs and the electorate will suffer irreparable harm. Accordingly, Plaintiffs respectfully
10 request that the Court issue an order maintaining the status quo until this case is adjudicated on
11 the merits.

12 **II. STANDARD FOR RELIEF**

13 The provisional injunctive relief sought by Plaintiffs is appropriate at this time to prevent
14 “great or irreparable injury.” Code of Civ. Proc. § 526(a)(2). The purpose of a temporary
15 restraining order, as with a preliminary injunction, is “to preserve the status quo pending the
16 evidentiary hearing to determine whether to issue a permanent injunction.” *Scripps Health v.*
17 *Marin*, 72 Cal. App. 4th 324, 334 (1999). A temporary restraining order is particularly
18 appropriate when there is imminent threat of “great or irreparable injury.” Code of Civ. Proc. §
19 527(c)(1). To obtain a preliminary injunction, Plaintiffs must show (i) that there is a reasonable
20 likelihood of prevailing on the merits and (ii) that the harm they will suffer if there is no
21 preliminary injunction is greater than the harm that the County, the Board of Supervisors and
22 the Fire Protection District will experience if the Court issues the injunction; the Court must
23 weigh these two considerations against one another – the greater the showing on one, the lesser
24 the required showing on the other. *Butt v. State of Calif.*, 4 Cal. 4th 668, 677-678 (1992).

25 **III. ARGUMENT**

26 **A. Plaintiffs are Entitled to a Temporary Restraining Order and Preliminary** 27 **Injunction because Both Considerations Weigh in Their Favor** 28

1 Plaintiffs are entitled to a temporary restraining order and preliminary injunction because
2 both considerations – the likelihood of success on the merits and the relative burdens on the
3 parties – weight **heavily** in their favor. *See Butt, supra*, 4 Cal. 4th at 677-678 (setting forth two
4 considerations to be balanced for preliminary injunction).

5 1. **Plaintiffs are likely to Prevail on the Merits**

6 In order to obtain a temporary restraining order, just as with a preliminary injunction,
7 Plaintiffs need not show that they will necessarily prevail on the merits; all that is required is a
8 showing of a reasonable probability of success. *See, Baypoint Mortgage Corp v. Credit*
9 *Premium Real Estate Investments Retirement Trust*, 168 Cal. App. 3d 818, 824 (1985)
10 (specifying standard for preliminary injunction). Plaintiffs' success here is not only reasonably
11 probable, it is all but certain.

12 At all times relevant to this action, Section 2(d) of Article XIIC of the California
13 Constitution has unequivocally provided as follows (with emphasis): "No local government may
14 impose, extend, or increase any special tax unless and until that tax is ***submitted to the***
15 ***electorate and approved by a two-thirds vote.***" "A tax constitutes a special tax whenever the
16 expenditure of its revenue is limited to specific purposes." *Howard Jarvis Taxpayers*
17 *Association v. City of Roseville*, 106 Cal.App.4th 1178. "Because any revenue collected here
18 would be specifically to fund the expansion of service zone FP-5, this new proposed levy meets
19 the definition of a special tax. Therefore, it cannot be enacted without a two-thirds vote of the
20 electorate.

21 Instead of providing an election so the electorate could vote on this special tax,
22 Defendants are requiring the affected territories of San Bernardino County to ***first*** overcome the
23 following procedural hurdle before the electorate will be allowed to exercise its constitutional
24 right to vote on this special tax: written protests must be submitted by at least 25% of the
25 number of landowners within the affected territory who own at least 25% of the assessed value
26 of land within the territory affected of unincorporated land in San Bernardino County. Murphy
27 Decl., Ex. 1 (Complaint, Ex. B, pp. 2).

1 Nothing in the California Constitution permits agencies to impose a protest threshold as
2 a prerequisite to securing the electorate's right to vote on a special tax. Thus, Defendants'
3 attempt to impose a protest threshold to circumvent the required election process is
4 unconstitutional.

5 Not only is the protest process unconstitutional because it avoids the two-thirds vote
6 requirement for special taxes, but it is also materially defective. The notice states that all
7 affected landowners must submit their protest forms by the hearing on October 16, 2018.
8 Murphy Decl., Ex. 1 (Complaint, Ex. C.) However, the Notice of Hearing that was mailed to
9 affected landowners was not accompanied by a copy of the protest forms to protest the special
10 tax the notice informs affected landowners about. Murphy Decl., ¶ 18 . As such, landowners are
11 not able to immediately protest the special tax, even though the County is already sending notice
12 through postal mail to some or all individuals entitled to protest it. In order to obtain a protest
13 form, a landowner must either download it from the internet or contact "211". To obtain a form
14 online, a landowner must have a computer, internet access, the proper internet browser, the
15 appropriate computer programs to view the protest form file, and a printer with paper to make a
16 copy of the protest form. Not all affected landowners may be able to meet these conditions.

17 The second method, which is listed only as "Contact 211" on the notice of hearing
18 provides no further details as to what this means and actually refers to dialing the number "211"
19 on a telephone. To begin obtaining a protest form through this method, every affected
20 landowner must have a telephone. Additionally, "211" services seem to exist on a contract basis
21 for each County. This means that affected landowners, who have the right to file a protest form,
22 might not even be able to reach the appropriate "211" service from their phone number if their
23 phone number is attached to a non-San Bernardino County area code.

24 An affected landowner needs to call the San Bernardino County "211" service
25 specifically, which has a number that is different from simply dialing "211," and then ask for an
26 FP-5 protest form. That protest form must then be mailed by the San Bernardino County 211
27 service to the affected landowner before they can fill it out and return it to the Fire District. With
28 protest forms only being available 30 days before the hearing on this proposed special tax, it is

1 also unclear how early in the process an affected landowner would need to submit a request for
2 a protest form from the 211 service before it actually was received by the landowner and
3 whether it would then be received in time by the Fire District before the hearing date. Once a
4 protest form has been obtained using one of these two methods, only then can a protest form be
5 submitted.

6 Unless an affected landowner is able to meet all of these cumbersome requirements, they
7 cannot file a written protest with the Fire District Board before the October 16, 2018 hearing
8 deadline. The procedure for obtaining protest forms is invalid in its execution and creates
9 disparate treatment between affected landowners, all of whom have the same right to protest this
10 new proposed special tax. This disparate treatment violates the Equal Protection Clause of the
11 Fourteenth Amendment of the United States Constitution by depriving Plaintiffs of their
12 fundamental right to vote on this issue. Plaintiffs have no plain, adequate, or complete remedy at
13 law other than the injunctive relief requested in this application. A monetary award would not
14 offer relief in this instance because landowners without internet access or the ability to obtain a
15 protest form from the San Bernardino County 211 service lack the ability to protest this real
16 property assessment being levied on their parcels. Unless the Defendants' proposed conduct is
17 enjoined by this Court, Plaintiffs and other similarly affected landowner voters will be
18 irreparably harmed.

19 For each of the foregoing reasons, supported by the evidence attached to this application,
20 Plaintiffs' success in this case is more than reasonably possible.

21 **2. Plaintiffs and the Public Will Suffer More Harm from Denial of Provisional**
22 **Relief than Defendants Will Suffer from Granting Such Relief**

23 The harm suffered by Plaintiffs if preliminary relief is not granted is that an
24 unconstitutional procedural bar will be imposed on the electorate's unequivocal constitutional
25 right to vote on a special tax. Furthermore, because the protest process being provided by the
26 County is invalid in its execution and creates disparate treatment between affected landowners,
27 those who would have a fundamental right to vote in any election where a special tax was
28 presented to the electorate will not have the same opportunity to do so here. If Plaintiffs prevails

1 without a temporary restraining order and preliminary injunction in place, any money collected
2 through the assessment of this new special tax is likely to be spent on vague aggregate
3 indicators such as “staffing expenses” and “other operating expenses” according to the Fire
4 District. Murphy Decl., ¶ 13. Once this proposed tax is collected and the funds spent, it is
5 unclear that taxpayers such as Plaintiffs who may become wrongly assessed for unconstitutional
6 taxes would ever be able to recover. The potential for great harm absent a temporary restraining
7 order and preliminary injunction is undeniable.

8 Conversely, if preliminary relief does issue here, the status quo will simply be
9 maintained. The affected landowners will not be deprived of an election to which they are
10 entitled under the Constitution. The Fire District would continue providing services to those
11 areas currently paying taxes for fire service. According to the information given in presentations
12 by Fire Chief Mark Hartwig, the Fire District is not dependent on service zone FP-5 being
13 expanded to continue operation. In fact, the Fire Chief stated in a recorded video presentation
14 that if the FP-5 expansion is not approved, the Fire District has other avenues to pursue to meet
15 its revenue needs such as general taxes and sales taxes. Murphy Decl., ¶ 11. Clearly, the Fire
16 District will not be harmed if this unconstitutional process is halted by this Court.

17 In light of the foregoing, there can be no question that the harm to Plaintiffs absent a
18 temporary restraining order and preliminary injunction is far greater than the harm to
19 Defendants if such relief is granted.

20 **B. Plaintiffs are Entitled to a Temporary Restraining Order and Preliminary**
21 **Injunction because of the Imminent Threat of Great or Irreparable Harm**

22 An injunction is rightly denied when damages would be an adequate remedy. *See, e.g.,*
23 *Pellisier v. Whittier Water Co.*, 59 Cal. App. 1, 7 (1922). Conversely, an injunction is
24 appropriate when injury is *irreparable and damages are of such a character that they cannot*
25 *be ascertained*. *See, e.g., Zierath v. McCann*, 20 Cal. App. 561, 563 (1912) (upholding trial
26 court’s issuance of injunction) (emphasis added). This is not a lawsuit for damages. For the
27 reasons described above, Plaintiffs submit that the deprivation of an election, and the disparate
28 treatment of affected landowners giving rise to an unequal burden on Plaintiffs’ fundamental

1 right to vote, constitutes the type of irreparable injury that qualifies for the provisional relief
2 requested here.

3 **IV. CONCLUSION**

4 For all the foregoing reasons, the Court should grant the requested provisional relief in
5 its entirety.

6 Date: October 11, 2018

Respectfully submitted,

7 The Red Brennan Group

8
9 By: Sean K. Wade

10 Sean K. Wade

11 Attorney for Plaintiffs

12 The Red Brennan Group; Lucerne Valley
13 Development Association; Henry E.
14 Hallmark; Kristine E. Hallmark and Eric H.
15 Steinmann; Henry E. Hallmark, Kristine E.
16 Hallmark; and Eric H. Steinmann
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5 Development Association; Henry E. Hallmark; Kristine E.
Hallmark and Eric H. Steinmann; Henry E. Hallmark,
6 Kristine E. Hallmark; and Eric H. Steinmann
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO - SAN BERNARDINO DISTRICT
10

11 The Red Brennan Group; Lucerne Valley
Development Association; Henry E.
12 Hallmark; Kristine E. Hallmark; and Eric
H. Steinmann
13

14 Plaintiffs,
15

16 vs.
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18 THE BOARD OF SUPERVISORS OF
SAN BERNARDINO COUNTY; THE
19 BOARD OF SUPERVISORS OF SAN
BERNARDINO COUNTY FIRE
20 PROTECTION DISTRICT; and DOES 1-
10,
21

Defendants.
22

Case No. CIV DS 1826559

**DECLARATION OF TOM MURPHY IN
SUPPORT OF *EX PARTE* APPLICATION
FOR A TEMPORARY RESTRAINING
ORDER AND AN ORDER TO SHOW CAUSE
REGARDING PRELIMINARY INJUNCTION**

Dept.: S30

Judge: Hon. Brian S. McCarville

Hearing Date: October 12, 2018
Time: 8:30 AM

DECLARATION OF TOM MURPHY

24 I, TOM MURPHY, declare:

25 1. I, TOM MURPHY, am President of The Red Brennan Group. The Red Brennan
26 Group is a 501(c)(4) organization dedicated to promoting more efficient governance in
27 California cities and counties.
28

1 2. I have personal knowledge of the facts stated herein and, if called to testify could
2 and would competently testify thereto.

3 3. Plaintiffs Henry E. Hallmark and Kristine E. Hallmark are residents of San
4 Bernardino County and affected landowners entitled to vote on any special tax imposed on
5 residents of the County.

6 4. In response to a social media post by The Red Brennan Group, the Plaintiffs
7 contacted The Red Brennan Group seeking information on how they could help in efforts to
8 protest this new unconstitutional special tax. This declaration is submitted in support of
9 Plaintiffs' *Ex Parte* Application for an Order to Show Cause regarding Preliminary Injunction
10 and Temporary Restraining Order.

11 5. During the June 12, 2018 budget presentation to the San Bernardino County
12 Board of Supervisors ("Board"), the San Bernardino County Fire District ("Fire District")
13 proposed expanding the boundaries of the fifth FP service zone ("FP-5") to include all
14 unincorporated areas of San Bernardino County, an area of 19,073 square miles.

15 6. The Board controls the Fire District and the same individuals comprise both
16 boards. The Fire District is a legally distinct entity from the Board, however, the Board acts as
17 the board of directors for the Fire District. As such, the same individuals comprise both entities
18 and both entities are controlled by the same individuals.

19 7. I watched the video listed on the Fire District's website entitled "FP-5
20 Presentation by Fire Chief Mark Hartwig" ("Hartwig Video"). This Hartwig Video is available
21 at the following URL: <https://www.sbcfire.org/ServiceZoneFP-5.aspx>. This video is also hosted
22 on YouTube at the following URL: <https://www.youtube.com/watch?v=2X7jXJWQvuA>. This
23 video's professed purpose is to inform affected landowners about the proposed expansion of
24 service zone FP-5.

25 8. In Hartwig Video, Hartwig makes multiple statements about why funding is
26 needed for the expansion of boundaries for service zone FP-5. The key point of the video is that
27 costs for the Fire District are going up, but there is not enough revenue being generated to meet
28 these rising costs.

1 9. At time mark 4:44 in the Hartwig Video, Hartwig makes the following statement:
2 “The County of San Bernardino, even though they have no legal requirement to provide funding
3 to the District, they actually provide additional funding to the district on top of the property
4 taxes that we receive in the grey area and the assessment revenue we receive in the mauve areas
5 on the map.”

6 10. One of the slides used in the Hartwig Video, visible at 9:29 in the video states
7 that: “The services currently provided by the County Fire District are primarily funded through:
8 property taxes and contract revenue; 10 separate service zones (FP 1—6 and PM 1-4); MOU
9 with the County of San Bernardino for service “enhancements.”” The Fire Chief states at 9:55 in
10 the video that: “We call that an MOU with the County. A memorandum of understanding. Some
11 people call it a contract.” At 11:15 in the video, the Fire Chief states that the MOU for service
12 enhancements is a “major part” of their funding.

13 11. At 20:00 in the Hartwig Video, Hartwig states that if the service zone expansion
14 is not approved then the Fire District will pursue other avenues to meet the revenue deficit such
15 as special taxes, general taxes and sales taxes.

16 12. The Fire District is seeking to cover its budget deficit by imposing a parcel tax of
17 \$157.26 per year, per parcel, on all unincorporated land in specifically outlined areas within the
18 County of San Bernardino.

19 13. The Fire District does not state how the additional revenue to be obtained from
20 taxpayers will be spent and has instead used vague aggregate indicators such as “staffing
21 expenses” and “other operating expenses” to justify why new funding is needed.

22 14. Affected landowners are being told this proposed expansion and new tax levy are
23 needed, but have not been given specifics as to where their money is being spent or why the
24 budget seems to continuously increase at such a high rate.

25 15. It appears not all relevant information is being provided in the campaigning
26 efforts being put forth by the County such as Hartwig Video. Because of this, affected
27 landowners have no way of discerning what the relevant facts are and, instead, must defer to
28 officials in uniform acting under color of authority telling the landowners only what the public

1 officials believe those landowners need to know at various local presentations campaigning for
2 the service zone expansion.

3 16. I believe that the fact that the County did not make any effort to take live
4 questions, but only took written questions at their campaign presentations where Fire Chief
5 Mark Hartwig was speaking, does a great disservice to the voters and leaves them wanting for
6 more information that only his organization and other County entities could provide.

7 17. It appears this new proposed levy is actually a special tax which must be
8 approved by a two-thirds vote of the electorate which would make the adoption and
9 implementation of this parcel tax contrary to the provisions in the California Constitution.

10 18. Even though some or all of the affected landowners were sent notice through
11 mail of the public hearing regarding the proposed FP-5 service zone expansion, those affected
12 landowners did not receive a copy of the protest forms. Instead, affected landowners must either
13 download the forms online or contact "211" to obtain the required protest forms.

14 19. The protest process adopted by the County is materially defective and does not
15 give proper representation to all affected landowners who want to protest the imposition of this
16 new special tax.

17 20. The protest process implemented by the County violates affected landowners'
18 rights to vote on issues that affect them within their local communities.

19
20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 October 11, 2018

23 
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25 Tom Murphy
26
27
28

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Attorneys for The Red Brennan Group, Lucerne Valley Economic Development Association, Henry E. Hallmark, Kristine E. Hallmark and Eric H. Steinmann

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO - SAN BERNARDINO DISTRICT

The Red Brennan Group; Lucerne Valley
Economic Development Association;
Henry E. Hallmark; Kristine E. Hallmark;
and Eric H. Steinmann,

Plaintiffs,

vs.

THE BOARD OF SUPERVISORS OF
SAN BERNARDINO COUNTY; THE
BOARD OF SUPERVISORS OF SAN
BERNARDINO COUNTY FIRE
PROTECTION DISTRICT; and DOES 1-
10,

Defendants.

No. CIV DS 1826559

**[PROPOSED] ORDER TO SHOW CAUSE
FOR PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

Dept.: S30

Judge: Hon. Brian S. McCarville

Hearing Date: October 12, 2018

Time: 8:30 AM

ORDER TO SHOW CAUSE

Based upon the (i) Application Plaintiffs for an Order to Show Cause for Preliminary Injunction and Temporary Restraining Order, (ii) Declaration of Tom Murphy in Support of the Application for an Order to Show Cause for Preliminary Injunction and Temporary Restraining Order, (iii) Plaintiffs' Memorandum of Points and Authorities in Support of the Application for an Order to Show Cause for Preliminary Injunction and Temporary Restraining Order, (iv) the accompanying exhibits, and upon sufficient cause being shown,

1
2 It is hereby ORDERED, that the above-named defendants appear before this Court on
3 _____ at _____ in Department _____ to show cause
4 why a preliminary injunction should not be ordered restraining and enjoining defendants from
5 promulgating an unconstitutional special tax without a two-thirds vote of the electorate as required by
6 the California Constitution, pending trial in this action and enjoining defendants from utilizing protest
7 procedures which create disparate treatment, and thus is a violation of Plaintiffs' right to equal
8 protection under the law secured to them by the Fourteenth Amendment to the United States
9 Constitution.

10 **TEMPORARY RESTRAINING ORDER**

11 Sufficient cause having been shown that plaintiffs will suffer immediate and continuing harm unless
12 defendants are immediately restrained,

13 It is hereby ORDERED, that pending the hearing on plaintiffs' Application for a Preliminary
14 Injunction, defendants are restrained and enjoined from promulgating an unconstitutional special tax
15 without a two-thirds vote of the electorate as required by the California Constitution

16 **IT IS FURTHER ORDERED THAT:**

- 17 • This Order to Show Cause and Temporary Restraining Order and all supporting documents
18 shall be served on defendant's counsel no later than _____ by
19 _____.
- 20 • Proof of such service shall be filed with the Court no later than _____ days before
21 the hearing on plaintiff's Order to Show Cause.
- 22 • Any opposing papers shall be filed with the Court and served upon plaintiff's counsel by
23 _____ no later than _____ days before such hearing date.
- 24 • Any reply papers shall be filed with the Court and served on defendant's counsel by
25 _____ no later than _____ days before such hearing date.
- 26 • This Temporary Restraining Order shall expire on _____ unless extended
27 by the Court.
- 28

1 IT IS SO ORDERED.
2
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5

6 DATED: _____
7

8 Judge of the Superior Court
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4 Attorney for The Red Brennan Group, Lucerne Valley
5 Economic Development Association, Henry E. Hallmark,
6 Kristine E. Hallmark and Eric H. Steinmann
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO - SAN BERNARDINO DISTRICT
10

11 THE RED BRENNAN GROUP;
12 LUCERNE VALLEY ECONOMIC
DEVELOPMENT ASSOCIATION;
13 HENRY E. HALLMARK; KRISTINE E.
HALLMARK; AND ERIC H.
STEINMANN

14 Plaintiffs,
15

16 vs.
17

18 THE BOARD OF SUPERVISORS OF
19 SAN BERNARDINO COUNTY; THE
BOARD OF SUPERVISORS OF SAN
20 BERNARDINO COUNTY FIRE
PROTECTION DISTRICT; and DOES 1-
21 10,

22 Defendants.
23
24

Case No. CIV DS 1826559

**DECLARATION OF SEAN K. WADE IN
SUPPORT OF EX PARTE APPLICATION
FOR AN ORDER TO SHOW CAUSE
REGARDING PRELIMINARY INJUNCTION
AND TEMPORARY RESTRAINING ORDER**

Dept.: S30

Judge: Hon. Brian S. McCarville

Hearing Date: October 12, 2018

Time: 8:30 AM

25
26 **DECLARATION OF SEAN K. WADE**

27 I, SEAN K. WADE, declare the following:

- 28 1. I, SEAN K. WADE, am an attorney duly licensed to practice law before all

1 courts of the State of California. My organization, THE RED BRENNAN GROUP, is counsel
2 for Plaintiffs in the above titled action. The following facts are within my personal knowledge
3 and, if called as a witness herein, I can and will competently testify thereto.

4 2. The name, address, and telephone number of Counsel for THE BOARD OF
5 SUPERVISORS OF SAN BERNARDINO COUNTY and THE BOARD OF SUPERVISORS
6 OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT is:

7
8 Laura L. Crane
9 County Counsel for the County of San Bernardino
10 385 North Arrowhead Ave., Fourth Floor
11 San Bernardino, CA 92415
12 E-mail: laura.crane@cc.sbcounty.gov
13 Telephone: (909) 387-5449
14 Facsimile: (909) 487-4069

15 3. On October 11, 2018 at 9:16 AM, I notified counsel for by telephone and email
16 that this *Ex Parte* Application for an Order to Show Cause regarding Preliminary Injunction
17 and Temporary Restraining Order would be presented to this Court on October 12, 2018 at
18 8:30 AM.

19 4. I am informed and believe that defendants intend to oppose this Application.

20 5. Attached as Exhibit A is a true and correct copy of emails sent to counsel
21 giving notice of this hearing.

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

24 DATE

25 10/11/2018

26 Sean K. Wade

27 Sean K. Wade

EXHIBIT A

Subject **Ex Parte Notice**
From seanwade <seanwade@cleartalk.net>
To Crane, Laura <Laura.Crane@cc.sbcounty.gov>
Date 2018-10-11 9:16 am



Dear Ms. Crane,

I am writing to notify you that we are filing an action to contest the protest procedures and levy being imposed by the proposed expansion of service zone FP-5. As previously agreed on the telephone, you are the point of contact for this notice. This action is being filed before the public hearing on October 16, 2018. As such, we will be seeking an ex parte hearing for a temporary restraining order tomorrow in San Bernardino Superior Court's Civil Division.

As of currently, we do not have the details on the location and time of the hearing. We will update you immediately when we have these details. I will also be sending notice of this ex parte hearing by fax.

Finally, when we have the supporting papers finalized we will both email and fax them to you. Thank you.

Regards,

--

Sean K. Wade, Esq.
In-House Counsel
Cell: (951) 551-5761

