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5 Attorneys for Respondent City of Hayward

7 SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA - OAKLAND

9 RENTAL HOUSING OWNERS  
ASSOCIATION OF SOUTHERN ALAMEDA  
10 COUNTY, INC.

Case No: HG09433908

Petitioner,

11 v.

RESPONDENT'S INTERMEDIATE  
RETURN TO WRIT OF MANDATE

12 CITY OF HAYWARD,

13 Respondent.

14 \_\_\_\_\_ /  
15  
16 Respondent City of Hayward provides the following intermediate return to the writ issued  
17 by the court on or about August 4, 2009:

18 Respondent's below-signed counsel consulted with the Hayward City Council in closed  
19 session, pursuant to Gov. Code sec. 54956.9(a), on July 21, 2009, and September 1, 2009,  
20 regarding the status of the instant litigation. The Hayward City Council is the legislative body  
21 for the City of Hayward, and the city council is responsible for amending the residential rental  
22 inspection ordinance, which is the subject of the instant litigation. Subsequent to the September  
23 1, 2009 closed session, respondent's counsel advised petitioner's counsel of respondent's intent  
24 to amend certain provisions of the residential rental inspection ordinance to comply with the writ.  
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26 On September 29, 2009, below-signed counsel for respondent provided petitioner's

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1 counsel with a proposed ordinance amending Hayward Municipal Code sections 9-5.302, 9-  
2 5.303, 9-5.306 and 9-5.310, along with a proposed report to the Hayward City Council  
3 explaining the purpose of the proposed amending ordinance, scheduled for consideration by the  
4 city council on October 6, 2009. Respondent's counsel requested comments from petitioner's  
5 counsel prior to October 6, 2009. Petitioner's counsel provided no comments.  
6

7 On October 6, 2009, the Hayward City Council introduced said proposed ordinance at a  
8 public hearing, as required by Hayward City Charter, sec. 617. No members of the public,  
9 including petitioner's counsel or petitioner's officers, appeared to comment on or oppose the  
10 ordinance. The city council introduced the ordinance unanimously, 7-0.  
11

12 Pursuant to the city charter, introduction of an ordinance is the first step in adoption of an  
13 ordinance. The ordinance introduced on October 6, 2009, was scheduled for final adoption on  
14 October 20, 2009. The interval between introduction and final adoption allows for publication in  
15 the Hayward Daily Review of the introduced ordinance, which was done in the instant  
16 matter. Between October 6, 2009, and October 20, 2009, petitioner's counsel did not comment  
17 on or communicate in any way with respondent's counsel.  
18

19 At 8 p.m., on October 20, 2009, as the Hayward City Council was scheduled to adopt the  
20 ordinance introduced on October 6, 2009, petitioner's counsel objected to the ordinance in its  
21 entirety. As a consequence of such objection, the Hayward City Council agreed to defer the  
22 matter until November 3, 2009. Subsequent to October 20, 2009, and after further consideration  
23 of the matter, respondent's counsel advised petitioner's counsel that the proposed ordinance  
24 would be considered by the Hayward City Council on November 17, 2009.  
25

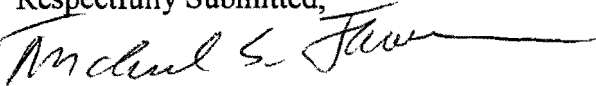
26 Respondent's counsel now advises the court that a public hearing will be conducted by  
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1 the city council on November 17, 2009, at which time petitioner's counsel and any member of  
2 the public will be entitled to comment on the proposed amending ordinance. If the ordinance is  
3 introduced on November 17, 2009, the ordinance will be published in the Hayward Daily Review  
4 thereafter, and the city council will adopt the ordinance on December 1, 2009, after which the  
5 ordinance would be effective 30 days thereafter, i.e., December 31, 2009, as provided for in sec.  
6 920 of the city charter.  
7

8           Although the writ does not provide a specific time within which a return is required,  
9 respondent's counsel has represented to the court the intent to file its return within 90 days. A  
10 further return will be filed after final city council action.  
11

12 November 2, 2009

Respectfully Submitted,  
  
Michael S. Lawson  
Attorney for Respondent

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## PROOF OF SERVICE

### STATE OF CALIFORNIA, COUNTY OF ALAMEDA

I am over the age of 18 and not a party to the within action; my business address is 777 "B" Street, Hayward, CA 94541. I am employed in Alameda County, California.

On November 2, 2009, I served the following document(s) on the interested parties in this action by sending true copies as shown below for service as designated below:

#### 1. RESPONDENT'S INTERMEDIATE RETURN TO WRIT OF MANDATE

James P. McBride, Esq.  
1065 A Street, Suite 224  
Hayward, CA 94541

Verne A. Perry, Esq.  
1065 A Street, Suite 224  
Hayward, CA 94541

Attorneys for Plaintiff

- (BY U.S. MAIL)** I am readily familiar with this business' practice for collection and processing of correspondence for mailing, and that correspondence will be enclosed in a sealed envelope with postage fully prepaid and deposited with the U.S. Postal Service on the date herein above in the ordinary course of business at Hayward, California.
- (BY FACSIMILE TRANSMISSION)** Based on an agreement of the parties to accept service by fax transmission, I faxed the document(s) to the person(s) listed above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- (BY MESSENGER SERVICE)** I served the document(s) by placing them in an envelope or package addressed to the person(s) at the address(es) listed above and providing them to a professional messenger service for service.
- (BY E-MAIL)** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the person(s) at the e-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (BY FEDERAL EXPRESS)** I enclosed the document(s) in an envelope or package by an

- (BY FEDERAL EXPRESS)** I enclosed the document(s) in an envelope or package by an overnight delivery carrier and addressed to the person(s) at the address(es) above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- (STATE)** Under the laws of the State of California.
- (FEDERAL)** I declare that I am employed in the office of a member of the bars of this Court at whose direction the service was made.

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

Executed on November 2, 2009, at Hayward, California.

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Araceli Alejandre