

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - July 16, 2009**

EVENT DATE: 07/17/2009 EVENT TIME: 10:00:00 AM DEPT.: C-71

JUDICIAL OFFICER: Ronald S. Prager

CASE NO.: GIC880444

CASE TITLE: SAN DIEGO NAVY BROADWAY COMPLEX COALITION VS CITY OF SAN DIEGO

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Toxic Tort/Environmental

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT/DATE FILED:

The Court rules on petitioner San Diego Navy Broadway Complex Coalition's ("Petitioner") motion for new trial as follows:

Respondent City of San Diego's ("City") Evidentiary Objections. The Court rule as follows: (1) the objections to the Briggs Declaration are sustained on the grounds of materiality and (2) the objections to the Gladden Declaration are overruled.

Petitioner brings this motion pursuant to Code of Civil Procedure section 657 (1), (3), (4), (6), and (7). The motion is denied for the reasons stated below.

Petitioner presented four principle arguments: (1) the approval of the Project was discretionary, (2) Petitioner exhausted its administrative remedies, (3) there is new information and changed circumstances related to the Project's GHG and climate change impacts, and (4) Petitioner fairly portrayed the evidence favorable to the City.

As to the first argument, the Court finds that substantial evidence in the record supported its prior ruling as to this issue. Petitioner reargued the same points and cited the same authorities and excerpts from the administrative record it presented in its moving papers for its petition for writ of mandate. (Moving Papers, pp. 3-8.) The Court carefully considered the arguments and evidence presented for the hearing on the Petition and finds no basis for adopting Petitioner's arguments here.

As to the second argument, Petitioner reargued points made in its briefs and at oral argument. Given the evidence before it, the Court concludes that it correctly ruled that Petitioner did not exhaust its administrative remedies for the reasons stated in its ruling on the Petition.

As to the third argument, Petitioner presented no evidence to cause this Court to reconsider its ruling regarding GHGs and climate change.

As to the fourth argument, the Court concludes that Petitioner did not fairly portray the evidence favorable to the City for the reasons stated in its ruling on the Petition.

IT IS SO ORDERED.