

1 BRIGGS LAW CORPORATION [FILE: 1434.07]
Cory J. Briggs (State Bar no. 176284)
2 Mekaela M. Gladden (State Bar no. 253673)
99 East "C" Street, Suite 111
3 Upland, CA 91786
Telephone: 909-949-7115
4 Attorneys for Plaintiff San Diego Navy Broadway
5 Complex Coalition

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO--CENTRAL DIVISION
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11 SAN DIEGO NAVY BROADWAY COMPLEX
12 COALITION,
13 Plaintiff,
14 vs.
15 SAN DIEGO UNIFIED PORT DISTRICT and
16 DOES 1 through 1,000,
17 Defendants;
18

CASE NO. 37-2009-00096726-CU-MC-CTL

**COMPLAINT FOR DECLARATORY AND
EQUITABLE RELIEF UNDER THE
CALIFORNIA COASTAL ACT OF 1976
AND OTHER LAWS**

19 Plaintiff SAN DIEGO NAVY BROADWAY COMPLEX COALITION alleges as follows in
20 this Complaint for Declaratory and Equitable Relief under the California Coastal Act of 1976 and Other
21 Laws:

22 **Parties**

23 1. Plaintiff SAN DIEGO NAVY BROADWAY COMPLEX COALITION is a non-profit,
24 public-benefit organization formed and operating under the laws of the State of California. Plaintiff's
25 members reside in or near the City of San Diego, California, and have an interest in protecting the
26 region's air quality, minimizing and ameliorating traffic, ensuring informed and responsible growth,
27 and promoting other environment-related quality-of-life issues, including those issues involving San
28 Diego Bay and its waterfront.

1 8. On or about June 20, 2007, Defendant PORT issued that certain Coastal Development
2 Permit no. CDP-2007-03 (“Permit”) to the Engineering Department of Defendant PORT for the Project.
3 A true and correct copy of the Permit is attached to this pleading as Exhibit “C.”

4 9. The Permit states, under the section titled “Standard Provisions,” that “Permittee shall
5 adhere strictly to the current plans for the project as approved by the District” and that “Permittee shall
6 commence development within two (2) years following the date of the permit issuance by the District.”

7 10. On or about June 9, 2009, Defendant PORT’s Board of Port Commissioners approved
8 that certain Resolution 2009-116 adopting Plans and Specifications for the Project
9 (“Plans/Specifications”) and authorizing the execution of District Contract no. 2008-27. A true and
10 correct copy of the minutes from the Board’s meeting on June 9, 2009, is attached to this pleading as
11 Exhibit “D.”

12 11. The Plans/Specifications were not adopted by Defendant PORT until June 9, 2009.

13 12. The Plans/Specifications did not exist on June 20, 2007.

14 13. The Plans/Specifications were not disclosed to the public or to any member of Defendant
15 PORT’s Board of Port Commissioners on or before June 20, 2007.

16 **Jurisdiction and Exhaustion of Administrative Remedies**

17 14. Plaintiff seeks review by and relief from this Court under the Coastal Act, including but
18 not limited to Public Resources Code Sections 30803-30812, among other provisions of law.

19 15. Plaintiff was not required to exhaust its administrative remedies in this proceeding
20 because Plaintiff is not challenging any formal administrative decision. Instead, Plaintiff is challenging
21 the lack of compliance of the Plans/Specifications (and the construction-related activities being taken
22 thereunder) with the Permit, the Port Master Plan, and ultimately the Coastal Act.

23 16. Before initiating this proceeding, Plaintiff caused a cease-and-desist letter to be served
24 on Defendant PORT. A true and correct copy of the letter is attached to this pleading as Exhibit “E.”

25 17. Defendant PORT did not formally respond to Plaintiff’s cease-and-desist letter.

26 18. On August 21, 2009, Plaintiff was informed for the first time that Defendant PORT
27 caused a notice to proceed to be issued pursuant to District Contract no. 2008-27 and for the first time
28 observed construction-related activities taking place at the Broadway Pier.

1 30. Defendants did not commence development of the Project within two years of the
2 Permit's issuance.

3 31. On or about August 12, 2009, Plaintiff submitted a request to Defendant PORT pursuant
4 to the California Public Records Act. In general terms, Plaintiff requested any and all amendments,
5 modifications, and extensions of the Permit. A true and correct copy of Plaintiff's request is attached
6 to this pleading as Exhibit "F."

7 32. On or about August 18, 2009, Defendant PORT responded to Plaintiff's request and
8 stated that it did not have any of the requested public records. A true and correct copy of the response
9 is attached to this pleading as Exhibit "G."

10 33. Beginning construction of the cruise ship terminal and other improvements more than
11 two years after the Permit's issuance is a violation of the Permit, either because the Permit has expired
12 or because the construction does not comply with the terms and conditions of the Permit, and is
13 therefore a violation of the Coastal Act.

14 **Prayer**

15 FOR ALL THESE REASONS, Plaintiff respectfully prays for the following relief against
16 Defendants (and any and all other parties who may oppose Plaintiff in this proceeding):

17 A. *On Count 1:*

18 1. A judgment determining or declaring (i) that Defendants failed to fully comply
19 with the Permit and with the Port Master Plan and the Coastal Act as they relate to the Project when the
20 Plans/Specifications were adopted and (ii) that the Plans/Specifications and the construction-related
21 activities being taken thereunder violate the Permit, the Port Master Plan, and the Coastal Act;

22 2. Injunctive relief prohibiting Defendants (and any and all persons acting at the
23 request of, in concert with, or for the benefit of one or more of them) from undertaking any
24 construction-related activities pursuant to the Plans/Specifications unless and until the
25 Plans/Specifications and any and all construction-related activities being undertaken pursuant thereto
26 comply with the Permit, the Port Master Plan, and the Coastal Act;

27 3. Civil monetary penalties in the maximum amount permitted by law; and
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