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CITY OF TEMPLE CITY and CITY OF
ROSEMEAD
14

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
17

18 CITY OF TEMPLE CITY and CITY OF
ROSEMEAD
19

Petitioners/Plaintiffs
20

21 v.

22 CITY OF EL MONTE, CITY COUNCIL
OF THE CITY OF EL MONTE, and
DOES 1-20
23

Respondents/Defendants
24

25 GSC HOLDING GROUP, LLC, OAKS
BY THE LAKE, LLC, and DOES 21-40
26

Real Parties in Interest
27

Case No.
PETITION FOR WRIT OF MANDATE
(Code Civ. Proc. §§ 1085, 1094.5; Public
Resources Code §§ 21000 et seq. (“CEQA”))

1 Petitioners City of Temple City and City of Rosemead (collectively, “Petitioners”) allege
2 through this Petition for Writ of Mandate (“Petition”)¹ as follows:

3 **INTRODUCTION**

4 1. This Petition challenges the December 18, 2018 and January 8, 2019 decisions
5 of Respondent City Council of the City of El Monte to approve Development Agreement No.
6 02-18, Medicinal Cannabis Conditional Use Permit No. 07-18, Medicinal Cannabis
7 Conditional Use Permit No. 08-18, and Medicinal Cannabis Conditional Use Permit No. 09-
8 18 (collectively, the “Entitlements”), which would allow medicinal cannabis cultivation,
9 manufacturing, and distribution activities on a 4.4 acre site in the City of El Monte
10 (“Project”). Specifically, this Petition challenges Respondent City of El Monte’s and
11 Respondent City Council of the City of El Monte’s (collectively, “Respondents”) reliance on
12 the Initial Study/Mitigated Negative Declaration (“MND”) prepared/approved for the Project.
13 Respondents committed a number of errors and thus failed to ensure that the MND disclosed,
14 analyzed, and mitigated the Project’s many foreseeable public health and environmental
15 impacts as required by the California Environmental Quality Act (“CEQA”), Public
16 Resources Code Sections 21000 *et seq.*, and the CEQA Guidelines, Title 14, California Code
17 of Regulations Sections 15000 *et seq.*

18 2. For all these reasons, and as set forth in detail in this Petition, Respondents
19 failed to proceed in the manner required by law and committed a prejudicial abuse of
20 discretion in relying on/adopting the MND and approving the Project and its Entitlements
21 based thereon. Petitioners accordingly seek a preemptory writ of mandate under Code of
22 Civil Procedure section 1085 and/or section 1094.5 and Public Resources Code section 21168
23 and/or section 21168.5 commanding Respondents to vacate and set aside the Entitlements and
24 the MND and refrain from taking any action in furtherance of the Project until Respondents
25 demonstrate and this court determines that Respondents fully complied with CEQA.
26 Petitioners further seek a stay of the effect of the Entitlements and a temporary restraining
27

28 ¹ Pursuant to Code of Civil Procedure § 446, this Petition need not be verified.

1 order and a preliminary injunction against any/all Project activities during the pendency of
2 these proceedings. Finally, Petitioners seek an award of costs and attorneys' fees under Code
3 of Civil Procedure section 1021.5, together with any other relief the Court deems just and
4 proper.

5 **PARTIES**

6 3. Petitioner City of Temple City is a charter city in the State of California located
7 immediately north of Respondent City of El Monte. The City of Temple City is dedicated to
8 preventing environmental degradation, and to improving the quality of life within the City of
9 Temple City and the region, and ensuring that residents of the City of Temple City enjoy a good
10 quality of life. The City of Temple City participated in the administrative process leading up to
11 the City of El Monte's approval of the Entitlements, and lodged objections to the Project and the
12 MND prior to Respondents' final approval thereof. The maintenance and prosecution of this
13 action will confer a substantial benefit on the public by protecting the public from the
14 environmental and other harms alleged herein and by ensuring that Respondents abide by the
15 procedures required under law in approving development projects like the one at issue here. The
16 City of Temple City is beneficially interested in this matter because it has a direct interest in
17 ensuring that Respondents fulfill their duty to comply with CEQA and the City of El Monte
18 municipal code and ordinances. Given its close proximity to the City of El Monte, Petitioner City
19 of Temple City has an interest in preserving and protecting the environment for the general public
20 and its own residents. Indeed, although the land on which the Project will be located lies within
21 the City of El Monte, all roadway access to/from the Project site is within the jurisdiction of the
22 City of Temple City.

23 4. Petitioner City of Rosemead is a general law city in the State of California located
24 immediately west of Respondent City of El Monte. The City of Rosemead is dedicated to
25 preventing environmental degradation, and to improving the quality of life within the City of
26 Rosemead, and the region, and ensuring that residents of the City of Rosemead enjoy a good
27 quality of life. The City of Rosemead participated in the administrative process leading up to the
28 City of El Monte's approval of the Entitlements, and lodged objections to the Project and the

1 MND prior to Respondents' final approval thereof. The maintenance and prosecution of this
2 action will confer a substantial benefit on the public by protecting the public from the
3 environmental and other harms alleged herein and by ensuring that the City of El Monte abides
4 by the procedures required under law in approving development projects like the one at issue
5 here. The City of Rosemead is beneficially interested in this matter because it has a direct interest
6 in ensuring that Respondents fulfill their duty to comply with CEQA and the City of El Monte
7 municipal code and ordinances. Given its close proximity to the City of El Monte, Petitioner City
8 of Rosemead has an interest in preserving and protecting the environment for the general public
9 and its own residents.

10 5. Respondent City of El Monte is a general law city in the State of California
11 responsible for administering and carrying out its laws and applicable state laws. The City of El
12 Monte is the "lead agency" for the purposes of Public Resources Code Section 21067, with
13 principal responsibility for conducting environmental review of the proposed Project. The City of
14 El Monte has a duty to comply with CEQA, state law, and its own ordinances.

15 6. Respondent City Council of the City of El Monte is, and at all times herein
16 mentioned was, the duly elected decision making body of Respondent City of El Monte. As the
17 decision making body, the City Council was charged with responsibilities under CEQA for
18 conducting a proper review of the proposed Project's environmental impacts and granting the
19 Entitlements necessary for the Project.

20 7. Petitioners are unaware of the true names and capacities of respondents fictitiously
21 named Does 1 through 20 and sue such respondents by fictitious names. Petitioners are informed
22 and believed, and on that basis allege, that the fictitiously named respondents are also responsible
23 for the actions described in this Petition. When the true identities and capacities of these
24 respondents have been determined, Petitioners will amend this Petition, with leave of the court if
25 necessary, to insert such identities and capacities.

26 8. Petitioners are informed and believe, and thereon allege, that Real Party in Interest
27 GSC Holding Group, LLC ("GSC") is, and at all times herein mentioned was, the sole applicant
28 for the Entitlements granted by Respondents for the Project.

1 9. Petitioners are informed and believe, and thereon allege, that Real Party in Interest
2 Oaks by the Lake, LLC is, and at all times herein mentioned was, the owner of the property
3 known as Assessor Parcel Number 8577-001-043 and/or 4400 Temple City Boulevard, El Monte,
4 CA where the Project is to be located. While Respondents' Notice of Intent to Adopt the MND
5 identified the "property owner" as "Oaks by the Lakes, LLC," the California Secretary of State's
6 business search website/database has no records for any such LLC but does have records showing
7 "Oaks by the Lake, LLC" is a registered/active LLC in California, and the Los Angeles County
8 Assessor confirmed that "Oaks by the Lake, LLC" is the owner of the Project site.

9 10. Petitioners are unaware of the true names and capacities of Real Parties in Interest
10 Does 21 through 40 and sue such real parties in interest by fictitious names. Petitioners are
11 informed and believe, and on that basis allege, that the fictitiously named real parties in interest
12 are directly and materially affected by the actions described in this Petition. When the true
13 identities and capacities of these real parties in interest have been determined, Petitioners will
14 amend this Petition, with leave of the court if necessary, to insert such identities and capacities.

15 **JURISDICTION AND VENUE**

16 11. This Court has jurisdiction of the matters alleged herein pursuant to Code of Civil
17 Procedure sections 526, 527, 1085, 1087, and 1094.5, and Public Resources Code sections 21168
18 and 21168.5.

19 12. Venue for this action properly lies in the Superior Court for the State of California
20 in and for the County of Los Angeles pursuant to Code of Civil Procedure section 394 as
21 Respondents are located in and the activities authorized by the approved Entitlements will occur
22 in the City of El Monte, which is located in Los Angeles County. Consistent with Local Rule
23 3.232, this Petition will be filed in LA County Superior Court's Central District.

24 13. Respondents have taken final agency actions with respect to adopting/approving
25 the MND, the Project and its Entitlements. Respondents have a duty to comply with applicable
26 state laws, including but not limited to CEQA, prior to undertaking the discretionary approvals at
27 issue in this lawsuit. Respondents failed to comply with that duty and Petitioners possess no
28 effective remedy to challenge the approvals at issue in this action other than by means of this

1 lawsuit.

2 14. On January 17, 2019, Petitioners complied with Public Resources Code section
3 21167.5 by mailing to Respondents a letter stating that Petitioners planned to file a Petition for
4 Writ of Mandate challenging the adequacy of the MND approved by Respondents and seeking to
5 invalidate the Project approvals/Entitlements. Attached hereto as Exhibit A is a true and correct
6 copy of and proof of service for this “Notice of Commencement” letter.

7 15. On January 18, 2019, Petitioners complied with Public Resources Code Section
8 21167.7 and Code of Civil Procedure section 388 by furnishing the Attorney General of the State
9 of California with a copy of the Petition. Attached hereto as Exhibit B is a true and correct copy
10 of and proof of service for the letter transmitting the Petition to the Attorney General.

11 16. Pursuant to Public Resources Code section 21167.6(a), Petitioners request that
12 Respondents prepare the record of proceedings in this action pursuant to the record content
13 requirements of section 21167.6(e) and Local Rule 3.232. Concurrently with this Petition,
14 Petitioners are filing a Request to Prepare the Record of Proceedings and will serve that Request
15 on Respondents together with a copy of this Petition.

16 17. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary
17 law unless this Court grants the requested writ of mandate and issues a peremptory writ requiring
18 Respondents to set aside their adoption of the MND and approvals for the Project. In the absence
19 of such remedies, Respondents’ approvals will remain in effect in violation of state law, and the
20 environment, Petitioners, and residents and property owners of the City of El Monte, City of
21 Rosemead, City of Temple City, and nearby communities will be irreparably harmed. No money
22 damages or legal remedy could adequately compensate Petitioners or the general public (on
23 whose behalf this action is brought) for that harm.

24 18. Petitioners are entitled to recover attorneys’ fees under Code of Civil Procedure
25 section 1021.5 if they prevail in this action and the Court finds that a significant benefit has been
26 conferred on the general public or a large class of persons, and that the necessity and burden of
27 private enforcement is such as to make an award of fees appropriate.

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1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 19. This Petition is brought consistent with the requirements of Public Resources Code
3 section 21177 and Code of Civil Procedure section 1094.5. Petitioners objected to Respondents’
4 approval of the MND and the Project orally or in writing during the public comment period
5 provided by CEQA and/or prior to the close of the public hearings on the Project before the
6 issuance of the Notice of Determination. Indeed, Petitioners submitted comment letters to
7 Respondents on or about November 21, 2018, November 26, 2018, December 6, 2018, and
8 December 12, 2018 detailing numerous inadequacies of the MND and objecting to the Project’s
9 approval. Petitioners and/or other members of the public raised each of the legal deficiencies
10 asserted in this Petition orally or in writing during the public comment period provided by CEQA,
11 or prior to the close of the public hearings on the Project before the issuance of the Notice of
12 Determination.

13 20. Petitioners have performed any and all conditions precedent to filing the instant
14 action and have exhausted any and all available administrative remedies to the extent possible and
15 required by law.

16 **FACUAL ALLEGATIONS**

17 **Description of the Project Area and Project**

18 21. The Project will be located within an existing 71,658 square foot industrial
19 building on a 4.4 acre site located at 4400 Temple City Boulevard, El Monte, California 91731
20 (APN 8577-002-054) (“Subject Property”). The Subject Property is located in the M-2 General
21 Manufacturing zone, and has frontage along the east side of Ellis Lane/Temple City Boulevard.
22 Access to the Subject Property is provided via two existing driveways located on the east side of
23 Ellis Lane/Temple City Boulevard. The Subject Property is surrounded on three sides by land
24 uses currently devoted to Regional Commercial and Industrial/Business Park. However,
25 residential development occupies the frontage along the west side of Ellis Lane, opposite the
26 Subject Property, and residents of Respondent City of Temple City, including families with small
27 children, live, work, shop, and attend school in the neighborhood and immediate vicinity of the
28 Subject Property.

1 22. Petitioners are informed and believe that the Project site is contaminated and
2 undergoing active remediation. In addition to being in the vicinity of extensive groundwater
3 contamination associated with the City of El Monte’s San Gabriel Groundwater Basin Superfund
4 site that is subject to ongoing, long term remediation under the U.S. Environmental Protection
5 Agency’s jurisdiction, the Subject Property itself and/or its groundwater was also contaminated
6 by volatile organic compounds by a prior business (Miller Dial Corporation) that was required to
7 install vapor extraction/remediation wells which remain and operate on the Project site under the
8 State of California’s Department of Toxic Substances Control’s continuing jurisdiction.

9 23. On September 25, 2018, Real Party in Interest GSC filed an application for
10 Development Agreement No. 02-18 and Medicinal Cannabis Conditional Use Permit Nos. 07-18,
11 08-18, and 09-19, consisting of: (1) a Conditional Use Permit to allow medicinal cannabis
12 cultivation; (2) a Conditional Use Permit for medicinal cannabis manufacturing, and (3) a
13 Conditional Use Permit for medicinal cannabis distribution; and (4) adoption of a MND and
14 Mitigation Monitoring and Reporting Program to conduct commercial medicinal cannabis
15 activities on the Subject Property.

16 24. Real Party in Interest GSC proposes to establish medicinal cannabis cultivation,
17 manufacturing, and distribution operations on the Subject Property. To establish such operations,
18 GSC proposes to remodel the existing 71,658 square foot building, and to upgrade the utilities to
19 accommodate the proposed use.

20 **Respondents’ Review and Approval of the Project**

21 25. On or about November 8, 2018, Respondents released a Notice of Intent to Adopt
22 the MND as well as the Initial Study and Mitigated Negative Declaration for the Project for
23 public review and comment. The MND asserted that despite the Project’s significant size and
24 industrial scope – which includes a 43,882 square foot cultivation area capable of producing
25 8,850 marijuana plants per harvest cycle for five (5) harvest cycles per year for a total of 44,250
26 plants per year, a 8,674 square foot manufacturing/extraction area, and a 8,338 square foot
27 distribution area – located directly across the street from a residential area, the Project will have
28 no significant, unmitigated environmental impacts.