

Request for Admissions Attachment 1

Request for Admission Number 1: “Where a conflict exists between state and local law on a matter of statewide concern, the local law is void and cannot be enforced.” (Big Creek Lumber Co. V. County of Santa Cruz, 115 Cal. App.4th 952)

Request for Admission Number 2: “Under the principles of express preemption, local legislation is invalid if it enters an area that is ‘fully occupied’ by general law when the Legislature has expressly manifested its intent to ‘fully occupy’ the area.” (Sherwin-Williams Co. v. City of Los Angeles(1993), supra, 4 Cal.4th at p.898, and Big Creek Lumber Co. v. County of Santa Cruz, 115 Cal.App.4th 952.).

Request for Admission Number 3: Implied preemption occurs when the Legislature has implicitly demonstrated its intent to fully occupy an area of law. “In determining whether the Legislature has preempted by implication to the exclusion of local regulation we must look to the whole purpose and scope of the legislative scheme. There are three tests: ‘(1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the municipality.’” (People ex rel Deukmejian v. County of Mendocino(1984)36Cal.3d476,485[204 Cal.Rptr.897]).

Request for Admission Number 4: There has been no determination that Defendant’s Santa Cruz Parcels 106-011-25 and 106-011-58 contain any ‘Substandard’ structures per Health and Safety Code 17920.3.

Request for Admission Number 5: The County of Santa Cruz and the Planning Department acted fraudulently and abused its discretion and authority by denying the Defendant any right(s) of appeal as provided for under 2001 California Building Standards Codes, CCR Title 24, Part 2, Vol.1, Section 105 and may not proceed with Code Enforcement actions under Santa Cruz Code 1.12.070 – Code Violations—Civil Penalties—Illegal rents—Enforcement costs—Hearing officers—Administrative hearing procedures. (the state laws and regulations presently in force are Health and Safety Code sections 17920.5 or 17920.6 or 17925 or 19957 or the 2007 California Building Standards Codes, CCR Title 24, Part 2, Vol.1, Section 108.8).

Request for Admissions Number 6: Santa Cruz “Notice of Violation” conflicts and pre-empted by state-mandated Housing Appeals Board since the “building standards published in the State Building Standards Code, relating to the erection or construction of buildings or structures, shall not apply to existing buildings or structures” (Health and Safety Code section 17912).

Request for Admissions Number 7: Health and Safety 17922(g):

(g) A local ordinance may not permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

conflicts with Santa Cruz County Code: 19.01.030
Enforcement alternatives.

(a) Any violation of a land use regulations shall be enforced through one or more of the following remedies:

(1) Abatement as a public nuisance pursuant to County Code Chapter 1.14.

Where County’s definition of nuisance (Santa Cruz County Code 1.12.050) is “any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance”.

Request for Admissions Number 8: Santa Cruz County Planning Department Code Compliance Division “as-built” permits which it attempts to require for existing housing is not approved by Santa Cruz County Board of Supervisors.

Request for Admissions Number 9: Santa Cruz County Planning Department Code Compliance Division’s requirement of “as-built” plans, (see Planning Department brochure “Inspection Procedures for As-Built Structures”) is pre-empted by existing structure provisions of Title 24 of the California Code of Regulations, Health and Safety 17910-17913 and 17922-17923..

Request for Admissions Number 10: Application of “as-built” plans to an existing structure is unclear from the wording of the policy, (see Planning Department brochure “Inspection Procedures for As-Built Structures”) and by U.S. v. Broussard(1991)767 F. Supp.1536, and leads to arbitrary and discriminatory enforcement, (see also U.S.v.Jackson(1991)768 F.Supp.97).

Request for Admissions Number 11: Appeal from decisions of an inspector of any structure as specified by Santa Cruz County Code 1.1.2.010

Any property owner or other person aggrieved, or any person whose interests are adversely affected by any of the following acts or determinations of the Building Official or of any other employee charged with the administration and enforcement of the provisions of Chapter 12.10 may appeal the act or determination as hereunder provided to the

Building and Fire Code Appeals Board created by Chapter 2.100 of this Code:

(a) Determinations of the suitability of alternate building materials and methods of construction for use in this County.

(b) Interpretations of the provisions of the Uniform Codes adopted by Chapter 12.10 of the Santa Cruz County Code.

is in conflict with and superceded by Health and Safety 17920.5.

17920.5. As used in this part "local appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the building requirements of the city or county. In any area in which there is no such board or agency, "local appeals board" means the governing body of the city or county having jurisdiction over such area.

Request for Admissions Number 12: Existing Building structures are subject to California State Housing Law which is appealable through the Housing Appeals Board, Health and Safety

17920.6. As used in this part, "housing appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the requirements of the city or county relating to the use, maintenance, and change of occupancy of hotels, motels, lodginghouses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, including requirements governing alteration, additions, repair, demolition, and moving of such buildings if also authorized to hear such appeals. In any area in which there is not such a board or agency, "housing appeals board" means the local appeals board having jurisdiction over such area.

are subject to Santa Cruz County Land Use Regulations only to the extent of zoning and not Santa Cruz County Code 19.01.010.

Request for Admissions Number 13: The County not met its required burden of proof to substantiate charges made of violations in either Notice of Violation on Parcels 106-011-25 and 106-011-58 dated April 13, 2006, nor the Notice of Violation dated September 20, 2006.

Request for Admissions Number 14: Code Compliance Investigator Alex Rodriguez entered and photographed Premises on 106-011-25 on April 13, 2006, in violation of Criminal Trespass laws (see Right of Entry, Chapter 1, Administration, Section 104.2.3, 1997 UBC Handbook).

Request for Admissions Number 15: Alex Rodriguez wrongfully assumed all structures cited in his April 13, 2006, were on 106-011-25 when, in fact, several structures were on 106-011-58.

Request for Admissions Number 16: The Red Tag written for grading when Code Compliance Officers Kevin Fitzpatrick, Alex Rodriguez, and Matthew Johnson entered parcels 106-011-25 and 106-011-58 on September 20, 2006, contained Santa Cruz County codes which had not been registered with the California State

Building Standards Commission per Health and Safety 17958.5 and 17958.7 and were therefore void..

Request for Admissions Number 17: County failed to make available to Petitioner an administrative hearing on his appeal of the April 13, 2006 Notice of Violation as required by State Law.

Request for Admissions Number 18: County illegally recorded on November 30, 2006, Notice of Violation on written April 13, 2006, 106-011-25 and 106-011-58 without judicial hearing.

Request for Admissions Number 19: Health and Safety 17922(g):

(g) A local ordinance may not permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

conflicts with Santa Cruz County Code 1.12.070 Code violations—Civil penalties—Illegal rents—Enforcement costs—Hearing officers—Administrative hearing procedures (A)

Request for Admissions Number 20: Santa Cruz County Code 1.12.070(A) is pre-empted by California State Health and Safety Code 17980 and administrative costs of enforcing code violations such as fines, costs, and attorney's fees cannot be assessed, (People v. Minor(2002)96 Cal.App.4th 29)

Request for Admissions Number 21: Santa Cruz County Code 1.12.070(C) is pre-empted by California State Health and Safety Code 17980 and administrative costs of enforcing code violations such as fines, costs, and attorney's fees cannot be assessed, (City of Monte Sereno v. Padgett(2007) 149 Cal. App.4th 1530).

Request for Admissions Number 22: Santa Cruz County Code 1.12.070(D) through 1.12.070(I) were not followed by the County for its May 11, 2006 Protest Meeting, (notice of violation incorrect, hearing officer not qualified and procedures not followed (Taking Testimony, administering oaths, keeping record, reading records of similar cases) and therefore its Determination Letter issued November 6, 2006, is void.

Request for Admissions Number 23. The November 6, 2006 Letter of Determination was not written by the Hearing Officer Glenda Hill but by an anonymous party.

Request for Admissions Number 24: The County did not use the statutorily required definition of Nuisance, (Civ.Code Proc. 3479,3480) which restricts nuisance to the commonly understood meanings, but rather one which included violation of County codes as cause (Santa Cruz County Code 1.12.050)..

Request for Admissions Number 25: The County issued permits for well in 1973 and septic tank in 1986 for parcel 106-011-25 and never suggested getting any other permit.

Request for Admissions Number 26: The County withdrew Notice of Violation on parcels 106-011-58 and 106-011-25 in 1996.

Request for Admissions Number 27: The County cannot meet its 2006 General Plan Housing Element targets for affordable housing, (state mandated), yet still refuses to properly use the laws mandated by 1979 California State Legislature in its initiative to help affordable housing be available, (Health and Safety 17922(g), restricted definitions of “nuisance”,(Health and Safety 17920

(k) "**Nuisance**" means any **nuisance** defined pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil **Code**, or any other form of **nuisance** recognized at common law or in equity) and “substandard”, (Health and Safety 17920.3), and more).

Request for Admissions Number 28: Santa Cruz County’s attempts to meet its 2006 General Plan Housing Element targets for affordable housing by financially undermining existing private affordable housing such the Defendant’s residences on parcels 106-011-25 and 106-011-58 by means of Red-tags and then replacing it working with such organizations as the “ Action Paharo Valley, the Mid-Peninsula Housing Coalition , the California Community Reinvestment Corporation, the Santa Cruz Redevelopment Agency, California Coalition for Rural Housing and the National Rural Housing Coalition to produce rent-controlled apartment blocks.

Request for Admissions Number 29: Santa Cruz County has still not identified any co-defendants to the Petitioner, (DOES 1—10, inclusive) because none exist.

Request for Admissions Number 30: Santa Cruz County policies produce many possible co-defendants, (ROES I-XX,inclusive) through its possible collusion with Mid-Peninsula Housing Coalition, Action Paharo Valley, and other non-profit organizations while it dodges Legislative mandated remedies for Affordable Housing and as a means to replacing lost revenue due to Proposition 13 in 1976.

Request for Admissions Number 31: Santa Cruz County is responsible for maintaining “Summit Road” which provides access to parcels 106-011-25 and

106-011-58 and to every parcel 10 miles both in the direction of Highway 17 and in the direction of Highway 152 and which yet meets neither Santa Cruz County's own minimum public road requirements nor the State of California minimum public road requirements nor minimum requirements for fire accessibility.

Request for Admissions Number 32: The April 13 Notice of Violation on parcels 106-011-25 and 106-011-58 did not check that 1) the notice of violation would be recorded; 2) the matter would be subject to a civil action; 3) the matter would be referred to the District Attorney for prosecution as a criminal matter; or that 4) the matter would be abated as a public nuisance.

Request for Admissions Number 33: The April 13 Notice of Violation stated that the Petitioner was required to stop all construction and get permits despite that no construction was going on..

Request for Admissions Number 34: The April 13 Notice of Violation ordered to cease all illegal uses(s), vacate illegal structures constructed or converted for human habitation and take immediate corrective action(s) to legalize habitable and non-habitable structures without providing any evidence or explanation that any structures were in fact illegal.

Request for Admissions Number 35: On November 30, 2006, the County sent Petitioner notice of Recordation of Violation on APN 106-011-25 and 106-011-58 as alleged in the April 13 Notice of Violation and upheld the Protest Meeting Letter of Determination without providing the Petitioner a hearing to appeal the Determination before recording in violation of Government Code 27201, (see also Attorney General Opinion No. 80-607, December 23, 1980).

Request for Admissions Number 36: The County has refused all offers by the Petitioner for Mediation choosing instead to litigate.

Request for Admissions Number 37: The Trailer House on APN 106-011-25 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 38. The Studio on APN 106-011-25 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 39: The Hillside House on APN 106-011-25 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 40: The A-Frame on APN 106-011-25 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 41: The Garage on APN 106-011-25 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 42: The Silverline House on APN 106-011-58 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 43: The Cloud House on APN 106-011-58 is legal, non-conforming, (Sect 3401 of the 2001 Uniform Building Code).

Request for Admissions Number 44: The changes the Planning Department proposed and the Board of Supervisors approved to the 2007 California Building Standards Code per Health and Safety Code Section 17958.5 did not all fall within the restraints imposed by Health and Safety Code Section 17958.7.

Request for Admissions Number 45: Enforcement has nothing to do with the variations of local climactic, geological or topographical conditions allowed by H&S 17958.7?

Request for Admissions Number 46: Due process Code provided by Section 108.8 have nothing to do with the variations of local climactic, geological or topographical conditions allowed by H&S 17958.7 and yet Santa Cruz County replaced them with Santa Cruz County Code 12.12.010 thru 12.12.080 and others..

Request for Admissions Number 47: Santa Cruz County Code 13.10.279(b) which provides for abating public nuisances, (is on April 13, 2006, Notice of Violation), is pre-empted by California State Civil Code 3479, 3480; (Marin County v. Superior Court of Marin County(1960), 53 Cal.2d at pp.638-639).

Request for Admissions Number 48: The April 13 Notice of Violation failed to specify which structures were habitable and which were not nor which structures were on which parcel.

Request for Admission Number 49: The California Tax and Revenue Code contains no law authorizing a tax on new construction.

Request for Admission Number 50: If the Planning Department fails to respond to complaint about new construction then the next recourse to appeal is the BAFCAB which costs much money and may not stop the offending construction before it is completed.

Request for Admissions Number 51: If the Health and Human Services Department doesn't respond to a complaint about substandard or dangerous housing then the complaint is heard by the Housing Appeals Board.