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9 **Attorneys for Plaintiff and Respondent/Cross-Defendant**
10 **COUNTY OF SANTA CRUZ**

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CRUZ

COUNTY OF SANTA CRUZ, a
political subdivision of the State of
California,

Plaintiff and Respondent/Cross-
Defendant,

v.

PAUL M. CARRICK, And DOES 1
through 10 inclusive,

Defendant and Petitioner/Cross-
Complainant.

Case No. CV158731

**CROSS-DEFENDANT'S ANSWER TO
AMENDED CROSS-ACTION**

Plaintiff and Respondent/Cross-Defendant County of Santa Cruz a (hereinafter
"Cross-Defendant") answers the cross-action (hereinafter "cross-complaint") of Defendant
and Petitioner/Cross-Complainant Paul M. Carrick (hereinafter "Cross-Complainant") as
follows:

1. Answering the allegations in the eighth, , twelfth, thirteenth, fifteenth,
eighteenth, twenty-eighth, twenty-ninth, thirty-sixth, thirty-eighth, , forty-sixth, fifty-first
(but denies that Rodriguez sent the letter), fifty-second, fifty-fourth, fifty-fifth, fifty-sixth,

1 fifty-seventh (but deny that the May 1, 2006 letter was a Notice of Violation – it was an
2 Intent to Record letter), fifty-eighth (but deny that the May 1, 2006 letter was a Notice of
3 Violation – it was an Intent to Record letter), fifty-ninth (but deny that there was an absence
4 of development activity), sixty-second, sixty-sixth (in that County admits Carrick made these
5 arguments which County maintains have no merit), sixty-seventh, sixty-ninth, seventieth,
6 seventy-second, seventy-third (except it was not an “appeal hearing”, but a protest meeting
7 and there was no Notice of Violation issued on May 1, 2006), seventy-fifth, seventy-sixth,
8 seventy-seventh (as to first sentence), eighty-third, eighty-seventh (insofar that the County
9 filed a Complaint against Carrick on November 28, 2007), eighty-eighth, eighty-ninth,
10 ninetieth, ninety-first, ninety-third paragraphs of the cross-complaint, Cross-Defendant
11 admits them.

12 2. Answering the allegations in the first, second, third, forth, seventh, ninth,
13 thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, fortieth, forty-fifth, forty-
14 sixth, seventy-first paragraphs of the cross-complaint, cross-Defendant neither admits nor
15 denies them as there are no charging allegations against Cross Defendant in those
16 paragraphs. As to any material facts stated therein, Cross-Defendant denies them.

17 3. Answering the allegations in the fifth, seventh, fourteenth, twentieth, twenty-
18 first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, thirty-seventh, thirty-ninth,
19 fifty-third (but admits that a Notice of Violation was posted on April 13, 2006), fifty-fourth,
20 sixtieth, sixty-first, sixty-three, sixty-fifth, sixty-eighth, seventy-fourth, seventy-sixth,
21 seventy-seven (as to remaining sentence), eighty-second, ninety-second, ninety-fourth,
22 ninety-fifth, one-hundredth, one-hundred second, one-hundred third, one-hundred fourth,
23 one-hundred fifth, one-hundred sixth, one-hundred ninth, one-hundred eleventh, one-hundred
24 twelfth, one-hundred thirteenth, one-hundred fourteenth, one-hundred fifteenth, one-hundred
25 sixteenth, one-hundred seventeenth, one-hundred eighteenth, one-hundred nineteenth, one
26 hundred-twenty, one hundred-twenty one, one-hundred twenty-second, one-hundred twenty-
27 third, one-hundred twenty-seventh, one-hundred twenty-eighth, one-hundred twenty-ninth,
28 one-hundred thirty first, one-hundred thirty-fifth, one-hundred thirty-seventh, one-hundred

1 thirty-eighth, one-hundred thirty-ninth, one-hundred fortieth, one-hundred forty-first, one-
2 hundred forty-second, one-hundred forty-third, one-hundred forty-sixth, one-hundred fifty-
3 second, one-hundred fifty-third, one-hundred fifty-fourth, one hundred fifty-fifth, one-
4 hundred fifty-seventh, one-hundred fifty-eighth, one-hundred fifty-ninth, one-hundred
5 sixtieth, one-hundred sixty-first, one-hundred sixty-second, one-hundred sixty-third, one-
6 hundred sixty-fourth, one-hundred sixty-fifth, one-hundred sixty-sixth, one-hundred sixty-
7 seventh, one-hundred seventy-first, one-hundred seventy-second, one-hundred seventy-third,
8 one-hundred seventy-fourth, one-hundred seventy-fifth, one-hundred seventy-sixth, one-
9 hundred seventy-seventh, one-hundred seventy-eighth, one-hundred eightieth, one-hundred
10 eighty-first, one-hundred eighty-second, one-hundred eighty-third, one-hundred eighty-
11 fourth, one-hundred eighty-fifth paragraphs of the cross-complaint, Cross-Defendant denies
12 them.

13 4. Answering the allegations in the sixty-fourth paragraph of the cross-complaint,
14 Cross-Defendant admits the allegations in the first sentence and denies the remaining
15 allegations.

16 5. Answering the allegations in the sixth, twenty-sixth paragraphs of the cross-
17 complaint, Cross-Defendant objects to the allegations on the grounds that they are
18 argumentative. Notwithstanding this objection and without waiving them, Cross-Defendant
19 admits them.

20 6. Answering the allegations in the eighth, twenty-seventh, eighty-fourth, eighty-
21 fifth paragraphs of the cross-complaint, Cross-Defendant admits the allegations in the first
22 sentence and has insufficient knowledge to admit or deny the allegations contained in the
23 second sentence.

24 7. Answering the allegations in the tenth, eleventh, ninety-seventh, ninety-eighth,
25 ninety-ninth, one-hundred seventh, one-hundred tenth, one-hundred twenty-fifth, one-
26 hundred twenty-sixth, one-hundred thirty-second, one-hundred thirty-third, one-hundred
27 thirty-fourth, one-hundred thirty-sixth, one-hundred forty-fifth, one-hundred forty-seventh,
28 one-hundred forty-eighth, one-hundred forty-ninth, one-hundred fiftieth, one-hundred fifty-

1 first, one-hundred sixty-ninth, one-hundred seventieth paragraphs of the cross-complaint,
2 Cross-Defendant objects to the allegations on the grounds that they constitute legal
3 conclusions and are argumentative. Notwithstanding this objection and without waiving
4 them, Cross-Defendant admits that Civil Code Section 3479, 3480, Government Code
5 Section 25845, Code of Civil Procedure sections 1032,1085, 1087, 1094.5, 187, 526, 393,
6 394 and 395, article VI, section 10 of the California Constitution, Section 3401, 3402, 3403.2
7 of the 2001 Uniform Building Code, and the 1997 UBC Handbook and County Code
8 sections 1.12.070, 13.10265, 13.10.260, 1.12.050, speak for themselves.

9 8. Answering the allegations in the fourteenth, fifteenth, sixteenth, seventeenth,
10 fifty-third, eighty-first, one-hundred twenty-second, one-hundred twenty-sixth paragraphs of
11 the cross complaint, Cross-Defendant objects to the allegations on the grounds that they
12 constitute legal conclusions and are argumentative. Notwithstanding this objection and
13 without waiving them, Cross-Defendant denies them.

14 9. Answering the allegations in the nineteenth, twenty-third paragraphs of the
15 cross-complaint, Cross-Defendant objects to the allegations on the grounds that they are
16 argumentative. Notwithstanding this objection and without waiving them, Cross-Defendants
17 denies them.

18 10. Answering the allegations in the forty-seventh, fortieth, forty-first, forty-
19 second, forty-third, forty-fourth, fifty-second, forty-ninth paragraphs, Cross-Defendant has
20 insufficient knowledge to admit or deny the allegations.

21 **SEPARATE DEFENSES**

22 **SEPARATE DEFENSE NO. 1:** The cross-complaint and each cause of action therein fails
23 to allege facts sufficient to constitute a cause of action.

24 **SEPARATE DEFENSE NO. 2:** There is no liability for an injury or damages, any there
25 were, resulting from an exercise of discretion vested in a public employee, whether or not
26 such discretion is abused. (Gov. Code, §§ 815.2, 820.2.)

27 **SEPARATE DEFENSE NO. 3:** Based on the facts and the law, Cross-Defendant has not
28 abused its discretion.

1 **SEPARATE DEFENSE NO. 4:** Public entities are immune from suit where their
2 employees are immune from suit. (Gov. Code, § 815.2.)

3 **SEPARATE DEFENSE NO. 5:** Cross-Defendant is immune from the cross-complaint
4 under any applicable immunity set forth within the California Tort Claims Act, Government
5 Code sections 810, *et seq.*

6 **SEPARATE DEFENSE NO. 6:** The cross-complaint, in whole or in part, is barred to the
7 extent cross-complainant has not complied with applicable statutes of limitation.

8 **SEPARATE DEFENSE NO. 7:** The cross-complaint is barred because the issues it is
9 based on, or a necessary portion of them, are moot.

10 **SEPARATE DEFENSE NO. 8:** The cross-complaint is barred because the issue it is based
11 on, or a necessary portion of them, are not ripe for adjudication.

12 **SEPARATE DEFENSE NO. 9:** Cross-complainant's claims are barred by the doctrines of
13 equitable estoppel, laches and unclean hands.

14 **SEPARATE DEFENSE NO. 10:** At no time did Cross-Defendant breach a mandatory
15 legal duty owed to cross-complainant the proximate cause of which was his alleged injury
16 and/or damages.

17 **SEPARATE DEFENSE NO. 11:** Cross-Complainant's claims should be barred since he
18 failed to exhaust their administrative remedies.

19 **SEPARATE DEFENSE NO. 12:** Because the cross-complaint is couched in conclusory
20 terms, Cross-Defendant cannot fully anticipate all affirmative defenses that may be
21 applicable to this matter. Accordingly, the right to assert separate affirmative defenses, if
22 and to the extent such affirmative defenses are applicable, is hereby reserved.

23 **SEPARATE DEFENSE NO. 13:** The cross-complaint is barred since Cross-Complainant
24 failed to comply with the Tort Claims Act (Gov. Code § section 911 *et seq.*)

25 WHEREFORE, Cross-Defendant prays as follows:

26 1. That judgment be entered in favor of Cross-Defendant and against Cross-
27 Complainant on the cross-complaint as a whole, and each causes of action therein, and that
28 he take nothing by way of the cross-complaint;

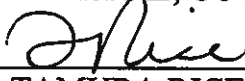
1 2. That the cross-complaint, and each causes of action therein, be dismissed with
2 prejudice;

3 3. That Cross-Defendant be awarded the costs, expenses and attorney fees
4 incurred in this action; and

5 4. That the court grant such additional relief as it deems proper.
6

7 Dated: October 17, 2008

DANA McRAE, COUNTY COUNSEL

8 By 
9 TAMYRA RICE
10 Assistant County Counsel
11 Attorney for Plaintiff and Respondent/
12 Cross-Defendant County of Santa Cruz
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1 **PROOF OF SERVICE BY MAIL**

2 I, the undersigned, state that I am a citizen of the United States and employed in the County
3 of Santa Cruz, State of California; that I am over the age of eighteen years and not a party to
4 the within action; that my business address is 701 Ocean Street, Santa Cruz, California
5 95060; that on the date set out below, I served a true copy of the following documents:

6 **CROSS-DEFENDANT'S ANSWER TO AMENDED CROSS-ACTION**
7 **(Copy)**

8 by enclosing it in an envelope and

- 9 a. Depositing the sealed envelope with the United States Post Office with the
10 postage fully prepaid.
- 11 b. Placing the envelope for collection and mailing on the date and at the place
12 shown below following our ordinary business practices. I am readily familiar
13 with this business' practice for collecting and processing correspondence for
14 mailing. On the same day that the correspondence is placed for collection and
15 mailing, it is deposited in the ordinary course of business with the United
16 States Postal Service in a sealed envelope with postage fully prepaid.

17 addressed as follows:

18 Andrea K. Leisy, Esq.
19 Howard F. Wilkins, III, Esq.
20 Attorneys at Law
21 455 Capitol Mall, Suite 210
22 Sacramento, CA 95814
23 (Attorneys for Paul M. Carrick)

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed October 17, 2008 at Santa Cruz, California.

26 
27 JULIANA PANICK

28 **DANA McRAE, COUNTY COUNSEL**
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