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7 Attorneys for Plaintiffs

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8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 THE PEOPLE OF THE STATE OF
CALIFORNIA and CITY OF SAN DIEGO, a
11 municipal corporation,

12 Plaintiffs,

13 v.

14 TETO-ORAN LIMITED PARTNERSHIP, a
Nevada domestic limited partnership;
15 ANNE AGBANAWAG VIVES, an individual;
ORIAL HIGA AGBANAWAG, an individual;
16 and DOES 1 through 50, inclusive.

17 Defendants.

Case No. 37-2021-00025057-CU-MC-CTL

COMPLAINT FOR APPOINTMENT OF A
RECEIVER, ABATEMENT OF A PUBLIC
NUISANCE, INJUNCTION, CIVIL
PENALTIES AND OTHER EQUITABLE
RELIEF

(1) APPOINTMENT OF A RECEIVER
(CALIFORNIA HEALTH & SAFETY
CODE SECTION 17980.7(c));

(2) PUBLIC NUISANCE (CALIFORNIA
CIVIL CODE SECTIONS 3479 &
3480); AND

(3) VIOLATIONS OF THE SAN DIEGO
MUNICIPAL CODE

21 Plaintiffs, the People of the State of California and City of San Diego, a municipal
22 corporation (Plaintiffs), appearing by and through their attorneys, Mara W. Elliott, City Attorney,
23 and Michael J. McGowan, Deputy City Attorney, allege the following based upon information
24 and belief:

25 **JURISDICTION AND VENUE**

26 1. Plaintiffs, by this action and pursuant to California Health and Safety Code (Cal.
27 Health & Safety Code) section 17980.7(c), California Code of Civil Procedure sections 526 and
28 731, and San Diego Municipal Code (SDMC) sections 12.0202 and 121.0311, seek the

1 appointment of a receiver, a temporary restraining order, preliminary injunction and permanent
2 injunction prohibiting Defendants from using or maintaining a substandard property in violation
3 of state and local ordinance provisions and as a public nuisance which is a threat to the health,
4 safety and welfare of the public and its occupants, and also seek to obtain civil penalties, costs,
5 and other equitable relief.

6 2. The omission or commission of acts and violations of law by Defendants as alleged in
7 this Complaint occurred within the City of San Diego, California. Defendants at relevant times
8 mentioned in this Complaint have lived, transacted business, owned property and/or been
9 responsible for the property at issue in the City or County of San Diego, California.

10 3. The property where the acts and practices described in this Complaint were performed
11 is located in the City of San Diego.

12 **THE PARTIES**

13 4. Plaintiff the People of the State of California brings this action by and through Mara
14 W. Elliott, City Attorney for the City of San Diego.

15 5. Plaintiff City of San Diego (City) is a municipal corporation and charter city,
16 organized and existing under the laws of the State of California.

17 6. The owner of record of 1909 Mesa Hills Court, San Diego, California, 92114
18 (Property), where the substandard conditions and nuisance are being maintained, is Defendant
19 Teto-Oran Limited Partnership (TOLP), a permanently revoked Nevada domestic limited
20 partnership that is not registered in California.

21 7. Defendant Anne Agbanawag Vives (Vives) is the General Partner and President of
22 TOLP.

23 8. Defendant Oriol Higa Agbanawag (Agbanawag) is Vives' brother and has lived at the
24 Property since at least April 18, 2007.

25 9. As the owner of the Property, TOLP is a "Responsible Person" within the meaning of
26 SDMC section 11.0210 for allowing and maintaining violations of the SDMC at the Property.
27 TOLP is also strictly liable for all code violations occurring at the Property pursuant to SDMC
28 section 121.0311 and applicable California law.

1 10. As a person with a legal interest in the Property, Vives is a “Responsible Person”
2 within the meaning of SDMC section 11.0210 for allowing and maintaining violations of the
3 SDMC at the Property. She is also strictly liable for all code violations occurring at the Property
4 pursuant to SDMC section 121.0311 and applicable California law.

5 11. As the occupant of the Property, Agbanawag is a “Responsible Person” within the
6 meaning of SDMC section 11.0210 for allowing and maintaining violations of the SDMC at the
7 Property. He is also strictly liable for all code violations occurring at the Property pursuant to
8 SDMC section 121.0311 and applicable California law.

9 12. Defendants DOES 1 through 50, inclusive, are sued as fictitious names, under the
10 provisions of California Code of Civil Procedure section 474, their true names and capacities are
11 unknown to Plaintiffs. Plaintiffs are informed and believe that each Defendants DOES 1 through
12 50, are either responsible, in whole or in part, for the violations and conduct alleged, or have, or
13 claim to have, an interest in the Property, the exact nature of which is unknown to the City. When
14 the true names and capacities are ascertained, Plaintiffs will seek leave of court to amend this
15 Complaint and to insert in lieu of such fictitious names the true names and capacities of the
16 fictitiously named Defendants.

17 **PROPERTY**

18 13. The legal address of the property where the substandard building is located and the
19 nuisance is occurring is 1909 Mesa Hills Court, San Diego, California, 92114, also identified as
20 Assessor’s Parcel Number 582-322-08, according to the San Diego County Recorder’s Quitclaim
21 Deed document number 2005-0867533, recorded on October 6, 2005.

22 14. The legal description of the Property is:

23 Lot 8 of Paradise Gardens West Unit 5, in the City of San Diego,
24 County of San Diego, State of California according to Map thereof
25 No. 10284, filed in the Office of the County Recorder of said San
26 Diego County.

26 15. Defendant TOLP acquired the Property by Quitclaim Deed on June 28, 2005. The
27 Quitclaim Deed was recorded with the San Diego County Recorder’s Office on October 6, 2005.
28 Since that time, Defendant TOLP has remained the sole owner of the Property.

1 arranging a full inspection. Vives agreed that a full inspection of the Property would occur on or
2 about November 15, 2018.

3 23. On or about November 15, 2018, Norman, Finney, Johnson, and officers from the San
4 Diego Police Department arrived at the Property for the inspection.

5 24. The November 15, 2018 inspection revealed the following:

6 a. The interior of the Property was filled from floor to ceiling with bags of plastic
7 bottles, buckets, appliances, bicycles, clothing, junk and trash;

8 b. The excessive amount of interior storage made living spaces virtually
9 unidentifiable, with no clear path of travel between rooms or required emergency egress from
10 bedrooms;

11 c. Windows were blocked by the excessive storage;

12 d. The kitchen and all bathrooms were blocked and rendered unusable as a result of
13 the excessive junk, trash and storage;

14 e. A bathroom ceiling had collapsed due to water damage;

15 f. The rear yard was full of bagged plastic bottles, wrecked strollers, buckets,
16 appliances, auto parts, bicycles, construction materials, canopy frames, non-operational vehicles,
17 clothing, paint cans, unidentified metal cans, doors, windows, screens, wood pallets, junk and
18 trash;

19 g. An attached, non-permitted partially enclosed patio structure at the rear of the
20 property was filled with non-incident storage and contained non-permitted electrical
21 connections;

22 h. Fencing at the east side of the Property was in disrepair and leaning;

23 i. Non-incident storage in front of the garage door blocked access to required off-
24 street parking spaces; and

25 j. Although the garage was not accessible, it appeared to be full of storage, thus
26 removing required off-street parking.

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1 25. On or about November 15, 2018, City determined that the conditions at the Property
2 enumerated above violated section 17920.3 of the Cal. Health & Safety Code, as well as the
3 SDMC. The conditions and violations on the Property included:

4 a. Public Nuisance: an excessive accumulation of inoperable vehicles, waste, junk,
5 trash, and debris throughout the exterior of the Property, in violation of Cal. Health & Safety
6 Code section 17920.3(c) and SDMC section 142.1110;

7 b. Inadequate sanitation: the bathrooms were inaccessible due to the large amounts of
8 junk, trash and debris throughout the Property's interior, the kitchen was unusable for the
9 preparation of food, the dwelling reeked of urine and feces, and the windows were blocked by
10 storage items compromising required ventilation and natural lighting, in violation of Cal. Health
11 & Safety Code section 17920.3(a)(1);

12 c. Parking spaces to be kept clear: the excessive junk, trash and storage in front of the
13 garage door and within the garage reduced required off-street parking, in violation of SDMC
14 section 142.0510;

15 d. Fence in disrepair: the fencing at the east side of the Property's rear yard was
16 dilapidated and falling over, in violation of SDMC section 142.0380;

17 e. Building violations: a non-permitted, partially enclosed patio structure at the rear
18 of the residence had non-permitted electrical connections for lighting, and the walls were
19 constructed of plywood framing which was insufficient for structural integrity, in violation of Cal.
20 Health & Safety Code sections 17920.3(a)(14), 17920.3(c), and 17920.3(l) and SDMC sections
21 129.0202 and 129.0302;

22 f. Lack of Egress: emergency egress was compromised throughout the Property's
23 interior due to the extreme amount of non-incident storage, in violation of Cal. Health & Safety
24 Code section 17920.3(l); and

25 g. Public Nuisance: the substandard housing conditions existing at the Property
26 created a public nuisance, in violation of Cal. Health & Safety Code section 17920.3(c) and
27 SDMC section 121.0302(b)(4).

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1 26. On or about February 11, 2019, Norman and Finney inspected the Property from the
2 public right-of-way, and the Property appeared to be in the same condition as it was on
3 November 15, 2018.

4 27. On or about February 27, 2019, Johnson contacted Defendant Vives and requested
5 that the County of San Diego's Vector Control be allowed to inspect the Property's interior.
6 Defendant Vives agreed. Johnson and Vector Control went to the Property the next day, but no
7 one was at the Property to allow them access.

8 28. On or about March 8, 2019, the City mailed a Notice and Order to Vacate and Repair
9 Substandard Building, and Abate Public Nuisance (NAO) to Defendants, and also posted the
10 NAO at multiple locations on the Property that same day. The NAO listed the substandard
11 conditions the City observed at the Property during its inspections on November 15, 2018 and
12 February 11, 2019.

13 29. Defendants TOLP and Vives received their copy of the NAO on or about March 11,
14 2019. Defendant Agbanawag received his copy of the NAO on or about March 13, 2019.

15 30. On or about July 23, 2019, Johnson and Vector Control returned to check on the
16 Property's status. Defendant Agbanawag provided Johnson and Vector Control access only to the
17 Property's exterior and garage.

18 31. While at the Property on or about July 23, 2019, Johnson saw that the yard was filled
19 with bags of plastic bottles, wrecked strollers, buckets, appliances, auto parts, bicycles,
20 construction materials, canopy frames, non-operational vehicles, clothing, paint cans, wood
21 pallets, junk and trash, just as it had been on or about November 15, 2018. When Defendant
22 Agbanawag opened the garage door to allow access to his garage, the garage was overflowing
23 with excess storage. Vector Control noted that rat and mouse droppings were present in the
24 Property's garage, and that a full inspection of the garage was not possible due to the density of
25 items being stored there.

26 32. On or about November 7, 2019, Norman, Finney and Johnson went back to the
27 Property. Upon arrival, it was obvious that no improvements had been started. The plastic
28 drinking bottles were a foot deep leading to the front door. There was a strong odor of rotting

1 food, urine and feces at the Property. Johnson knocked on the locked metal screen door, but there
2 was no answer.

3 33. On October 1, 2020, Finney returned to the Property and inspected it from the public
4 right-of-way. There was no discernible change in the Property's condition.

5 34. On or about May 26, 2021, Johnson, City Zoning Investigator Christopher Penman
6 (Penman) and City Combination Building Inspector Domingo Vallejo Jr. (Vallejo) inspected the
7 Property. The conditions had not improved; inspecting the Property's interior was not possible
8 because the excessive amounts of trash and debris blocked the pathway to the front door. Johnson
9 attempted to contact anyone who might have been inside the Property, but was unsuccessful. The
10 excessive amounts of trash and non-incident storage surrounding the Property's exterior had
11 increased.

12 35. Defendant Agbanawag lives full-time at the Property. City records show there has
13 been no water usage at the Property since at least January 2019. Defendant Agbanawag does not
14 have a working shower or toilet at the Property.

15 36. According to neighbors, Defendant Agbanawag fills one-gallon size containers of
16 Arizona Iced Tea full of urine and then places these containers around his house and yard.
17 Neighbors have complained to the City that on a hot day, the smell of urine stored around the
18 Property is unbearable.

19 37. On or about June 3, 2021, in accordance with Cal. Health & Safety Code section
20 17980.7(c), notice of the Plaintiffs' intent to petition this Court for the appointment of a receiver
21 was posted on the Property in a prominent place and mailed that same day by first-class mail to
22 Defendant TOLP, Defendant Vives and Defendant Agbanawag. *See* Declaration of Manny
23 Gamboa attached as Exhibit A; Proof of Service by First-Class Mail-Civil of Michele Coleman
24 attached as Exhibit B; and the true and correct copy of the Notice of Petition Letter dated June 3,
25 2021, addressed to Defendants TOLP, Vives and Agbanawag posted at the Property attached as
26 Exhibit C.

27 38. The extreme hoarding that exists at the Property endangers the health and welfare of
28 the occupants and the community and creates a fire hazard. City has inspected the Property and

1 attempted to conduct follow-up inspections of the Property for over two years for the current
2 violations, but Defendants have not brought the Property into compliance.

3 39. To this day, the City continues to receive complaints from community members
4 regarding the negative effects Defendant Agbanawag's extreme hoarding has on the surrounding
5 residences. Neighbors must regularly treat their properties for rodents because of the Property's
6 condition.

7 40. Defendants are blatantly and willfully in violation of the SDMC and the Cal. Health &
8 Safety Code and will continue to maintain the unlawful code violations at the Property in the
9 future, unless the Court intervenes. Absent injunctive relief, the City will be irreparably harmed,
10 and the ongoing violations will continue to harm the health, safety, and welfare of the citizens of
11 San Diego.

12 41. Plaintiffs have no adequate remedy at law and seek the immediate appointment of a
13 Health and Safety Receiver pursuant to Cal. Health & Safety Code section 17980.7(c) and a
14 temporary restraining order to prohibit Defendants from continuing to violate the law.

15 **I**

16 **FIRST CAUSE OF ACTION**

17 **APPOINTMENT OF A RECEIVER PURSUANT TO**
18 **CALIFORNIA HEALTH & SAFETY CODE SECTION**
19 **17980.7(C) ALLEGED BY PLAINTIFF CITY OF SAN**
20 **DIEGO AGAINST DEFENDANT TOLP**

21 42. Plaintiff City of San Diego incorporates by reference all allegations in paragraphs 1
22 through 41 of this Complaint as though fully set forth here in their entirety.

23 43. Plaintiff City of San Diego, by and through Mara W. Elliott, City Attorney for the
24 City of San Diego, brings this cause of action for appointment of a receiver pursuant to Cal.
25 Health & Safety Code section 17980.7(c).

26 44. Cal. Health & Safety Code section 17980.6 authorizes an enforcement agency, such
27 as the City's Code Enforcement Division, to issue an order or notice to property owners to repair
28 or abate a building if: 1) the building is maintained in a manner that violates any provisions of
Cal. Health & Safety Code section 17920.3 or similar local ordinance provisions; and 2) the

1 violations are so extensive and of such a nature that the health and safety of residents or the
2 public is substantially endangered.

3 45. Cal. Health & Safety Code section 17980 authorizes an enforcement agency to
4 “institute appropriate action or proceeding to prevent, restrain, correct, or abate the violation or
5 nuisance” if the property owner fails to repair or demolish the property in a reasonable time as
6 required by a notice and order issued by the enforcement agency.

7 46. Cal. Health & Safety Code section 17980.7(c) states: “If the owner fails to comply
8 within a reasonable time with the terms of the order or notice issued pursuant to Section 17980.6
9 . . . [t]he enforcement agency . . . may seek and the court may order, the appointment of a
10 receiver for the substandard building pursuant to this subdivision.”

11 47. Beginning on an exact date unknown to the City, but since at least November 15,
12 2018, and continuing to the present, Defendants have used or maintained the Property in
13 violation of Cal. Health & Safety Code section 17920.3 and similar local ordinances.

14 48. On or about March 8, 2019, the City issued Defendant TOLP, Defendant Vives and
15 Defendant Agbanawag a Notice and Order to Vacate and Repair Substandard Building, and Abate
16 Public Nuisance (NAO) pursuant to Cal. Health & Safety Code section 17980.6, based on its
17 inspections of November 15, 2018, and February 11, 2019. The NAO also advised Defendants of
18 the unlawful and dangerous conditions existing at the Property and declared that the conditions at
19 the Property violate Cal. Health & Safety Code section 17920.3. The NAO also declared that the
20 conditions at the Property are substandard and create a public nuisance.

21 49. On or about March 8, 2019, the City posted the NAO in a conspicuous place at the
22 Property and mailed it to all three Defendants. The NAO advised Defendants that if they failed to
23 comply as directed, then the City could seek the appointment of a receiver pursuant to Cal.
24 Health & Safety Code section 17980.7(c).

25 50. The substandard violations existing at the Property and referenced in the NAO
26 include, but are not limited to:

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1 a. Public Nuisance: an excessive accumulation of inoperable vehicles, waste, junk,
2 trash, and debris throughout the exterior of the Property, in violation of Cal. Health & Safety
3 Code section 17920.3(c) and SDMC section 142.1110;

4 b. Inadequate sanitation: the bathrooms were inaccessible due to the large amounts of
5 junk, trash and debris throughout the Property's interior, the kitchen was unusable for the
6 preparation of food, the dwelling reeked of urine and feces, and the windows were blocked by
7 storage items compromising required ventilation and natural lighting, in violation of Cal. Health
8 & Safety Code section 17920.3(a)(1);

9 c. Parking spaces to be kept clear: the excessive junk, trash and storage in front of the
10 garage door and within the garage reduced required off-street parking, in violation of SDMC
11 section 142.0510;

12 d. Fence in disrepair: the fencing at the east side of the Property's rear yard was
13 dilapidated and falling over, in violation of SDMC section 142.0380;

14 e. Building violations: a non-permitted, partially enclosed patio structure at the rear
15 of the residence had non-permitted electrical connections for lighting, and the walls were
16 constructed of plywood framing which was insufficient for structural integrity, in violation of Cal.
17 Health & Safety Code sections 17920.3(a)(14), 17920.3(c), and 17920.3(l) and SDMC sections
18 129.0202 and 129.0302; and

19 f. Lack of Egress: emergency egress was compromised throughout the Property's
20 interior due to the extreme amount of non-incident storage, in violation of Cal. Health & Safety
21 Code section 17920.3(l).

22 51. Defendants have had ample time to comply with the City's NAO and have failed to
23 do so within a reasonable time. Defendants continue to maintain the Property in violation of the
24 Cal. Health & Safety Code in the same manner as described above.

25 52. Due to the long-term cumulative effect of substandard conditions at the Property,
26 these violations are so extensive and of such a nature that they substantially endanger the health
27 and safety of the occupant of the Property and the public.

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1 53. The City posted in a prominent place at the Property and mailed via first-class mail to
2 each person with a recorded interest in the Property notice of the City's intent to seek the
3 appointment of a receiver at least three days before filing this Complaint, as required by Cal.
4 Health & Safety Code section 17980.7(c).

5 54. Unless this Court appoints a receiver pursuant to Cal. Health & Safety Code section
6 17980.7(c), Defendants will continue to maintain the Property in a manner that constitutes a
7 violation of the Cal. Health & Safety Code and local ordinance provisions.

8 **II**

9 **SECOND CAUSE OF ACTION**

10 **MAINTENANCE OF A PUBLIC NUISANCE IN VIOLATION**
11 **OF CALIFORNIA CIVIL CODE SECTIONS 3479 AND 3480**
12 **ALLEGED BY PLAINTIFF THE PEOPLE OF THE STATE**
13 **OF CALIFORNIA AGAINST ALL DEFENDANTS**

14 55. Plaintiff the People of the State of California incorporates by reference all allegations
15 in paragraphs 1 through 54 of this Complaint as though fully set forth here in their entirety.

16 56. California Civil Code sections 3479 and 3480 provide that:

17 Anything which is injurious to health, including, but not limited to,
18 the illegal sale of controlled substances, or is indecent or offensive
19 to the senses, or an obstruction to the free use of property, so as to
interfere with the comfortable enjoyment of life or property . . . is a
nuisance. . . . A public nuisance is one which affects . . . an entire
community or neighborhood.

20 57. California Civil Code section 3491 specifies the remedies against a public nuisance,
21 including indictment or information, a civil action or abatement. California Civil Code section
22 3494 states that “[a] public nuisance may be abated by any public body or officer authorized
23 thereto by law.”

24 58. California Code of Civil Procedure section 731 authorizes a city attorney to bring an
25 action to enjoin or abate a public nuisance. It provides in relevant part, “A civil action may be
26 brought in the name of people of the State of California to abate a public nuisance . . . by the city
27 attorney of any town or city in which such nuisance exists.”

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1 59. On March 8, 2019, the City issued Defendants an NAO at the Property pursuant to
2 Cal. Health & Safety Code section 17980.6, based on its inspections of November 15, 2018, and
3 February 11, 2019. The NAO advised Defendants of the unlawful and dangerous conditions
4 found to exist at the Property, and declared that the conditions there violate the Cal. Health &
5 Safety Code and the SDMC. Additionally, the Vector Control issues enumerated in the NAO
6 create a public nuisance and pose a threat to the health and safety of the Property’s occupants
7 and the public.

8 60. Defendants have had ample time to comply with the City’s NAO and have failed to
9 do so within a reasonable time.

10 61. Beginning on an exact date unknown to Plaintiff, but since at least November 15,
11 2018, and continuing to the present, Defendants have used or maintained the Property in a
12 manner that violates the Cal. Health & Safety Code and the SDMC. Due to the long-term
13 cumulative effect of the substandard conditions at the Property, these violations are so extensive
14 and of such a nature that the health and safety of Defendant Agbanawag and the public have
15 been substantially endangered.

16 62. Defendants’ maintenance of the Property in the condition described above constitutes
17 a continuing public nuisance as defined by California Civil Code sections 3479 and 3480. The
18 Property adversely affects the entire community and neighborhood; the Property as it currently
19 exists is injurious to the health, safety, and welfare of the residents and families who live in the
20 community, and interferes with the comfortable use and enjoyment of life and property. Such
21 conditions are objectionable to the neighborhood and community as a whole, and constitute a
22 public nuisance. The extreme hoarding conditions existing at the Property also pose a significant
23 fire hazard to the occupants and the community.

24 63. Plaintiff has no plain, speedy, or adequate remedy at law. Therefore, unless
25 Defendants are restrained by this Court, Plaintiff is informed and believes that they will continue
26 to maintain this nuisance and thereby cause irreparable injury and harm to the public’s health,
27 safety, and welfare.

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1 III

2 THIRD CAUSE OF ACTION

3 VIOLATIONS OF THE SAN DIEGO MUNICIPAL CODE
4 ALLEGED BY PLAINTIFF CITY OF SAN DIEGO AGAINST
5 ALL DEFENDANTS

6 64. Plaintiff City of San Diego incorporates by reference all allegations in paragraphs 1
7 through 63 of this Complaint as though fully set forth here in their entirety.

8 65. SDMC section 121.0302(a) states: “It is unlawful for any person to maintain or use
9 any premises in violation of any of the provisions of the Land Development Code¹, without a
10 required permit, contrary to permit conditions . . . or without a required variance.”

11 66. SDMC section 11.0210 defines a public nuisance as “any condition caused,
12 maintained or permitted to exist which constitutes a threat to the public’s health, safety and
13 welfare or which significantly obstructs, injures or interferes with the reasonable or free use of
14 property in a neighborhood, community or to any considerable number of persons. A public
15 nuisance also has the same meaning as set forth in California Civil Code Section 3479.”

16 67. SDMC section 121.0302(b)(4) states, as does SDMC section 12.0204(a), that it is
17 unlawful to “maintain or allow the existence of any condition that creates a public nuisance.”
18 Beginning on an exact date unknown to Plaintiff, but since at least November 15, 2018, and
19 continuing to the present, Defendants have maintained a public nuisance at the Property in
20 violation of SDMC sections 121.0302(b)(4) and 12.0204(a).

21 68. SDMC section 54.0208(a) makes it unlawful for any Responsible Person to fail to
22 maintain real property free from waste as defined by SDMC section 54.0202. Beginning on an
23 exact date unknown to Plaintiff, but since at least November 15, 2018, and continuing to the
24 present, Defendants have maintained an accumulation of junk, trash and debris throughout the
25 Property, in violation of SDMC section 54.0208(a).

26 69. SDMC section 142.1110(a) provides that only outdoor storage that is incidental to a
27 residential use is permitted. Beginning on an exact date unknown to Plaintiff, but since at least

28 ¹ The Land Development Code is comprised of Chapters 11 through 15 of the San Diego
Municipal Code. SDMC § 111.0101(a).

1 November 15, 2018, and continuing to the present, Defendants have maintained and used the
2 Property in violation of the SDMC by maintaining junk, trash, and debris that is not incidental to
3 a residential use throughout the front, rear, and side yards of the Property, in violation of SDMC
4 sections 142.1110(a) and 121.0302(a).

5 70. SDMC sections 142.0510(a) and (b) provide that it is unlawful to block required off-
6 street parking either temporarily or permanently or use it for anything other than parking operable
7 vehicles. Beginning on an exact date unknown to Plaintiff, but since at least November 15, 2018,
8 and continuing to the present, Defendants have maintained and used the Property in violation of
9 the SDMC by blocking the driveway and garage with excess non-incidental storage, in violation
10 of SDMC sections 142.0510(a), 142.0510(b), and 121.0302(a).

11 71. SDMC section 142.0380(a) provides that a property's fences must be maintained free
12 from dilapidated or dangerous conditions. Beginning on an exact date unknown to Plaintiff, but
13 since at least November 15, 2018, and continuing to the present, Defendants have failed to
14 maintain the fencing on the east side of the rear yard, in violation of SDMC sections 142.0380(a)
15 and 121.0302(a).

16 72. SDMC section 129.0202(a) provides that a structure may not be built unless a
17 Building Permit has first been obtained. SDMC section 129.0302 provides that no electrical
18 wiring shall be installed on a structure unless an Electrical Permit has first been obtained.
19 Beginning on an exact date unknown to Plaintiff, but since at least November 15, 2018, and
20 continuing to the present, Defendants have maintained a non-permitted enclosed patio structure
21 containing non-permitted electrical connections at the rear of the residence, in violation of SDMC
22 sections 129.0202(a), 129.0302, and 121.0302(a).

23 73. Plaintiff City of San Diego has no adequate remedy at law, and unless Defendants are
24 enjoined and restrained by an order of this Court, Defendants will continue to violate the SDMC,
25 thereby causing irreparable injury and harm to the public's health, safety, and general welfare.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

AS TO THE FIRST CAUSE OF ACTION

Appointment of a Receiver

1. That pursuant to Cal. Health & Safety Code section 17980.7(c)(4) and the Court’s inherent equitable powers, the Court authorize the appointment of a receiver with instructions to take full and complete possession and control of the Property and to take such actions as necessary to abate the public nuisance and to remedy all State and local housing code violations.

2. Before entering upon the duties of a receiver, the receiver must be sworn to perform the duties faithfully and must file a bond with a surety approved by this Court to secure the faithful performance of his duties pursuant to California Code of Civil Procedure section 567.

3. Plaintiff City of San Diego requests that the Court, pursuant to Cal. Health & Safety Code section 17980.7(c)(4), authorize the receiver:

- a. To take full and complete control of the Property;
- b. To manage the Property and pay expenses of the operation of the Property, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the Property;
- c. To secure a cost estimate and construction plan from a licensed contractor for the repairs necessary to correct the conditions cited in the City’s Notice;
- d. To enter into contracts and employ a licensed contractor as necessary to correct the conditions cited in the City’s Notice;
- e. To collect all rents and income, if any, from the Property;
- f. To use all rents and income from the Property to pay for the costs of rehabilitation and repairs determined by the Court as necessary to correct the conditions cited in the City’s Notice;
- g. To borrow funds to pay for repairs necessary to correct the conditions cited in the City’s Notice, and secure that debt, with Court approval, with a recorded priority lien on the

.

1 Property. The lien shall take priority over all existing encumbrances on the Property except tax
2 liens; and

3 h. To exercise the powers granted to receivers under section 568 of the California
4 Code of Civil Procedure, including the power to sell the Property, if necessary.

5 4. The City further requests, pursuant to Cal. Health & Safety Code section
6 17980.7(c)(3), that Defendants and their agents be enjoined from:

7 a. Collecting any rents from the Property;

8 b. Interfering with the receiver in the operation of the Property; and

9 c. Encumbering or transferring the Property, or any portion of the Property, during
10 the receivership period.

11 5. The City has incurred, and will continue to incur attorney fees, expenses and costs.
12 The City is entitled to recover those fees and costs from Defendant TOLP pursuant to Cal. Health
13 & Safety Code sections 17980.7(c)(11) and 17980.7(d)(1) and requests payment be made through
14 the receiver.

15 6. The receiver shall be entitled to receive compensation for his services with respect to
16 repairing the Property as necessary as well as reimbursement for expenses as receivers in actions
17 to foreclose mortgages per Cal. Health & Safety Code section 17980.7(c)(5).

18 7. An order requiring the receiver to prepare monthly reports to the City in accordance
19 with Cal. Health & Safety Code section 17980.7(c)(8).

20 8. An order that the receiver shall not be discharged until the conditions cited in the
21 City's Notice have been remedied in accordance with the court order or judgment and a complete
22 accounting of all costs and repairs has been delivered to the Court as required per Cal. Health &
23 Safety Code section 17980.7(c)(9).

24 9. An order that the receivership shall be in full force and effect until the court terminates
25 the receivership.

26 10. An order that, after discharging the receiver, the court shall retain jurisdiction for up to
27 18 months and require Defendants and the City to report to the court in accordance with a
28 schedule determined by the court.

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AS TO THE SECOND CAUSE OF ACTION

Public Nuisance

11. That the Property, together with the fixtures and moveable property, be declared a continuing public nuisance as defined by California Civil Code sections 3479 and 3480.

12. That pursuant to California Code of Civil Procedure sections 526 and 731, the Court grant a preliminary injunction and permanent injunction, enjoining and restraining Defendants, their agents, heirs, successors, officers, employees and anyone acting on their behalf from maintaining the Property as a public nuisance as defined per California Civil Code sections 3479 and 3480.

13. If, after the receiver is discharged, Defendants fail to comply with paragraph 12 of the Prayer above, then within 48 hours after posting written notice of its intention, the City or its contractor is authorized pursuant to California Civil Code sections 3491 and 3494 to accomplish the work and recover all costs of abating the nuisance at the Property. The expense of the abatement is recoverable by the City according to the provisions of California Government Code sections 38773.1 and 38773.5.

14. That Defendants, their agents, heirs, successors, officers, employees and anyone acting on their behalf be required to stay 100 feet away from the Property while the receiver is in control of the Property.

AS TO THE THIRD CAUSE OF ACTION

Violations of the San Diego Municipal Code

15. That the Court declare the Property to be in violation of:

San Diego Municipal Code sections

12.0204(a), 54.0208(a), 121.0302(a), 121.0302(b)(4), 142.1110(a), 142.0510(a), 142.0510(b), 142.0380(a), 129.0202(a), and 129.0302

16. That, pursuant to SDMC sections 12.0202(a) and 121.0311, the Court grant a preliminary injunction and permanent injunction, enjoining and restraining Defendants, their agents, officers, employees and anyone acting on their behalf, from keeping, allowing, or maintaining violations of the SDMC at the Property.

1 17. That upon discharge of the receiver, Defendants, their agents, heirs, successors,
2 officers, employees and anyone acting on their behalf, are required to maintain the Property in
3 full compliance with the SDMC.

4 18. If after the receiver is discharged, Defendants fail to comply with paragraph 17 of the
5 Prayer above, then within 48 hours after posting written notice of its intention, the City or its
6 contractor is authorized to accomplish the work and recover all costs of bringing the Property into
7 compliance. The expense of the abatement is recoverable by the City according to the provisions
8 of California Government Code sections 38773.1 and 38773.5 and SDMC section 12.0204(b).

9 19. That Defendants allow personnel from the City of San Diego access to the Property to
10 inspect and monitor for compliance upon 24-hour verbal or written notice. Inspections shall occur
11 between the hours of 8:00 a.m. and 5:00 p.m.

12 20. That, pursuant to SDMC section 12.0202(b), Defendants are assessed a civil penalty of
13 \$2,500 per day for each SDMC violation maintained at the Property.

14 **AS TO ALL CAUSES OF ACTION**

15 21. That Plaintiffs recover from Defendants all costs incurred by Plaintiffs, including the
16 costs of investigation and attorney fees authorized by law.

17 22. That Plaintiffs be granted such other and further relief as the nature of the case may
18 require and the Court deems appropriate.

19
20 Dated: June 8, 2021

MARA W. ELLIOTT, City Attorney

21
22 By 

23 Michael J. McGowan
24 Deputy City Attorney

25 Attorneys for Plaintiffs
26
27
28

EXHIBIT A

1 MARA W. ELLIOTT, City Attorney
JOHN C. HEMMERLING, Assistant City Attorney
2 MICHAEL J. MCGOWAN, Deputy City Attorney
California State Bar No. 211092
3 Office of the City Attorney
Community Justice Division/Nuisance Abatement Unit
4 1200 Third Avenue, Suite 700
San Diego, California 92101-4103
5 Telephone: (619) 533-5500
Fax: (619) 533-5696
6 MMcGowan@sandiego.gov

7 Attorneys for Plaintiffs

No Fee GC §6103

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 THE PEOPLE OF THE STATE OF
CALIFORNIA and CITY OF SAN DIEGO, a
11 municipal corporation,

12 Plaintiffs,

13 v.

14 TETO-ORAN LIMITED PARTNERSHIP, a
Nevada domestic limited partnership;
15 ANNE AGBANAWAG VIVES, an individual;
ORIAL HIGA AGBANAWAG, an individual;
16 and DOES 1 through 50, inclusive,

17 Defendants.

Case No.

DECLARATION OF MANNY GAMBOA
IN SUPPORT OF PLAINTIFFS'
COMPLAINT FOR APPOINTMENT OF
A RECEIVER, ABATEMENT OF A
PUBLIC NUISANCE, INJUNCTION,
CIVIL PENALTIES, AND OTHER
EQUITABLE RELIEF

IMAGED FILE

18 I, Manny Gamboa, declare:

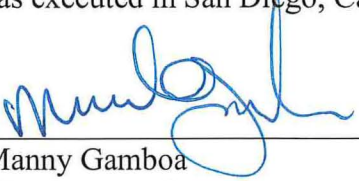
- 19 1. I have personal knowledge of the following facts and am competent to testify as to
20 these facts if called as a witness.
- 21 2. I am a City Attorney Investigator with the Nuisance Abatement Unit of the San Diego
22 City Attorney's Office. I have held this position for approximately one year. My responsibilities
23 include locating and interviewing witnesses using various law enforcement computer systems;
24 gathering and obtaining statements, documents, photographs, and other evidence; writing
25 inspection warrants; serving summonses and subpoenas; testifying in court; and conducting other
26 special investigations as required. I have attended training seminars regarding the enforcement of
27 housing, zoning, building and fire codes.

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3. On June 3, 2021, I went to 1909 Mesa Hills Court, San Diego, and posted a letter of notice to the following people: property owner Teto-Oran Limited Partnership; Anne Vives; and Oriol Agbanawag. The letter of notice notified the aforementioned parties of the City of San Diego's intention to file a petition for the appointment of a receivership. The letter of notice was posted conspicuously on the property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed in San Diego, California, on June 3, 2021.



Manny Gamboa
City Attorney Investigator

EXHIBIT B

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): MARA W. ELLIOTT, City Attorney JOHN C. HEMMERLING, Assistant City Attorney MICHAEL J. MCGOWAN, Deputy City Attorney State Bar No. 211092 1200 Third Avenue, Suite 700, San Diego, CA 92101 TELEPHONE NO.: 619-533-5655 E-MAIL ADDRESS (Optional): Mmcgowan@sandiego.gov FAX NO. (Optional): 619-533-5696 ATTORNEY FOR (Name): Plaintiffs People of the State of CA and City of San Diego</p>	<p>FOR COURT USE ONLY</p> CASE NUMBER: IMAGED FILE
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Divison</p>	
<p>PETITIONER/PLAINTIFF: People of the State of California and City of San Diego, a municipal corporation RESPONDENT/DEFENDANT: Teto-Oran Limited Partnership, et al.</p>	
<p>PROOF OF SERVICE BY FIRST-CLASS MAIL— CIVIL</p>	

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
1200 Third Avenue, Suite 700, San Diego, CA 92101 (business)
3. On (date): June 3, 2021 I mailed from (city and state): San Diego, California the following documents (specify):
Notice of Petition Letter dated June 3, 2021 addressed to Teto-Oran Limited Partnership, Anne A. Vives, and Oriol Agbanawag
 - The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).
4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. Name of person served: See Attachment
 - b. Address of person served:

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 3, 2021

Michele Coleman
 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


 (SIGNATURE OF PERSON COMPLETING THIS FORM)

American LegalNet, Inc.
 www.USCourtForms.com

SHORT TITLE: People of the State of California and City of San Diego v. Teto-Oran Limited Partnership, et al.	CASE NUMBER:
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ATTACHMENT TO PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL (PERSONS SERVED)

(This Attachment Is for use with form POS-030)

NAME AND ADDRESS OF EACH PERSON SERVED BY MAIL:

<u>Name of Person Served</u>	<u>Address (number, street, city, and zip code)</u>
Teto-Oran Limited Partnership	921 William Drive San Lorenzo, CA 94580
Anne A. Vines	921 William Drive San Lorenzo, CA 94580
Oriah Agbanawag	1909 Mesa Hills Court San Diego, CA 92139

EXHIBIT C

JOHN C. HEMMERLING
ASSISTANT CITY ATTORNEY

MICHAEL J. MCGOWAN
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

Mara W. Elliott
CITY ATTORNEY

COMMUNITY JUSTICE DIVISION
NUISANCE ABATEMENT UNIT
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CALIFORNIA 92101-4103
TELEPHONE (619) 533-5655
FAX (619) 533-5696

June 3, 2021

Via U.S. Mail (Return Receipt Requested) & Posting at Property

Teto-Oran Limited Partnership
921 William Drive
San Lorenzo, CA 94580

Anne A. Vives
921 William Drive
San Lorenzo, CA 94580

Orial Agbanawag
1909 Mesa Hills Court
San Diego, CA 92139

Re: 1909 Mesa Hills Court, San Diego, CA 92114

Dear Ms. Vives, Mr. Agbanawag and Teto-Oran Limited Partnership:

This letter serves to notify you, pursuant to California Health and Safety Code section 17980.7(c), of the City of San Diego's intent to petition the court to appoint a receiver for the substandard residential building(s) referenced above.

Please contact me at (619) 533-5500 if you have any questions.

Sincerely yours,

MARA W. ELLIOTT, City Attorney

By



Michael J. McGowan
Deputy City Attorney

MJM:mac

EXHIBIT C