

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

F I L E D
Clerk of the Superior Court

JAN 06 2004

By: D. LIM, Deputy

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

**DE ANZA COVE HOMEOWNERS
ASSOCIATION, INC., a California non-
profit corporation,**

Plaintiff,

vs.

**CITY OF SAN DIEGO; DE ANZA
HARBOR RESORT AND GOLF, LLC, a
California limited liability company, and
DOES 1-100 Inclusive,**

Defendants.

Case No.: GIC 821191-1

**ORDER ON MATTER UNDER
SUBMISSION**

The Court having read and considered Plaintiff's Order to Show Cause Re:
Issuance of a Preliminary Injunction; the Opposition filed thereto; the documents lodged
by the Parties; Counsels' oral arguments presented to the Court on December 19, 2003;
and the letter briefs subsequently filed by the Parties, hereby rules as follows:

1. The evidentiary objections submitted by the Plaintiff were considered by
the Court. The Court disregards all those portions of the evidence it
considers to be inadmissible, and therefore declines to give a written
ruling on the evidentiary objections. [See Biljac Associates v. First

1 Interstate Bank (1990) 218 Cal. App.3d 1410]

- 2 2. The Court after considering the evidence and balancing the Parties'
3 equities hereby grants Plaintiff De Anza Cove Homeowners Association,
4 Inc.'s Order to Show Cause Re: Issuance of a Preliminary Injunction
5 conditioned upon the posting of a \$30,000.00 undertaking within five (5)
6 Court days of this Ruling. Plaintiff has established a reasonable
7 probability of success on the merits. Defendant City of San Diego is
8 hereby enjoined from commencing or enforcing unlawful detainer
9 proceedings, or any other legal action seeking either damages or
10 equitable relief without leave of Court, against the current residents of the
11 De Anza Resort Mobile Home Park, formerly known as De Anza Harbor
12 Resort, resulting from their continued possession of their homes and lots
13 at De Anza Resort, on and after November 23, 2003, during the pendency
14 of this action. Moreover, Defendant City shall not discontinue services to
15 De Anza Harbor Resort residents or close down any of the common areas
16 during the pendency of this action.
- 17
- 18
- 19
- 20 3. Plaintiff's requests that the Order be modified to enjoin the City from
21 diminishing Park services; to appoint a Trustee and establish a trust
22 account; and to consider the deposit of the current residents' rent
23 payments into a trust account as the undertaking required for the issuance
24 of a Preliminary Injunction, are denied.
- 25
- 26 4. Plaintiff shall lodge the proposed Preliminary Injunction together with the
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

undertaking within five (5) Court days of this Ruling. The Temporary Restraining Order shall remain in effect pending submission of the proposed Preliminary Injunction.

- 5. The Court declines to issue a mandatory injunction at this time. Should the Defendant City seek a mandatory injunction regarding the issues presented in the City's Opposition, the City may seek leave of Court without waiving any rights otherwise possessed by the City.

IT IS SO ORDERED.

Date: JAN 06 2004

CHARLES R. HAYES

HONORABLE CHARLES R. HAYES,
Judge of the Superior Court