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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

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

Plaintiff,

v.

CITY OF SAN DIEGO, a California
municipality;
and DOES 1-100, inclusive,

Defendants.

Case No. GIC 821191

**DECLARATION OF FRANK E
NEWELL, APPRAISER FOR THE
OFFICE OF THE COUNTY OF SAN
DIEGO ASSESSOR**

I, FRANK E. NEWELL, declare that:

1. I make this declaration based upon personal knowledge and would and could competently testify hereto in court if so requested.

2. I am an appraiser in the Realty Division of the San Diego County Assessor/Recorder/County Clerk's office. I am personally familiar with the process by which the County of San Diego appraised and assessed the possessory interests for the possessor's (tenants) of the individual mobile home sites in the mobile home park at 2727 De Anza Road, San Diego, California ("De Anza Cove mobilehome park").

3. The land was previously leased from the City of San Diego by De Anza Resort and Golf LLC under a land lease with a term of 5/18/1951 to 11/23/2003. The Improvements were

1 constructed and owned by the lessee. The Assessor since 1952 had calculated a Possessory interest
2 assessment on the total property, land and improvements as an operating mobile home park. The
3 last assessment was for the 2003 Assessment roll as of January 1 2003. Upon the termination of the
4 lease on November 23, 2003 the possessory interest of De Anza Resort and Golf LLC terminated.
5 The individual tenants now had possession and the possessory interest in the individual sites

6 4. In September and October 2004, The Assessor issued Supplemental Assessments for the
7 2003-2004 fiscal year and Escape Assessments for the 2004 fiscal year to the individual De Anza
8 Cove residents.

9 5. The City of San Diego upon request by the Assessor submitted the names of the tenants,
10 the space rent and the anticipated terms of possession for the individual tenants. Attached, as
11 Exhibit 1 to my declaration is a true and correct copy of the spreadsheet my office created showing
12 the information the City of San Diego provided us (first seven columns) and our individual
13 possessory interest assessments (the two columns farthest to the right).

14 6. To calculate the possessory interest tax owed for each space, I used this methodology based
15 on the applicable tax laws:

- 16 a. Annual rent for the space, minus estimated operating expenses of the City of 35%;
- 17 b. Multiplied by a Present Worth Factor (column 5 Compound Interest Tables) for a 10%
18 discount rate, at the number of months of the anticipated term of possession.

19 This results in the taxable value of the possessory interest. Then, that annual assessed value is
20 forwarded to the County Auditor and then the Tax Collector for calculations and preparation of tax
21 bills. Taxes are approximately 1.1% of the net taxable value

22 7. For equal anticipated terms of possession; the greater the rent paid for a space, the greater
23 the assessed value and tax.

24 8. Similarly, for equal rent; the longer the lease term, the greater the assessed value and tax.
25 The shorter the lease term, the lesser the value and tax.

26 9. Using the above formula, if a space paid \$1,000 per month with a move-out date in
27 12 months, the calculation would be:

- 28 a. \$1000 per month minus \$ 350 (expenses of 35%) = \$650

1 b. $\$650 \times 11.374508$ Present Worth Factor (column 5 Compound interest tables) @10%
2 (discount rate) for 12 months = \$7393

3 c. $\$7393 \times$ estimated tax rate 1.1% = \$81.33tax

4 10. If the assumption was changed to a lease term of 48 months—rather than only 12 months—
5 the assessed value would be approximately \$25,628, the estimated tax for the first year would be
6 approximately \$282.

7 11. The Assessments for the tenants who did not sign the City's settlement agreement with an
8 actual date of termination of possession were assessed based on the anticipated term of possession
9 until November 2008. In making our estimate of the term we used the latest date of possession for
10 the sites as indicated by the City of San Diego.

11 ///

12 ///

13 ///

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

16 Executed on December 6, 2004 at San Diego, California.
17 [month & day] [city]

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19 Frank E. Newell
20 Frank E. Newell

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