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6 Attorneys for Petitioner
FOOTHILL COMMUNITIES COALITION

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ORANGE – COMPLEX CIVIL COURTROOM

11 FOOTHILL COMMUNITIES COALITION,)
12 an unincorporated association)

13 Petitioner,)

14 v.)

15 COUNTY OF ORANGE, ORANGE)
16 COUNTY BOARD OF SUPERVISORS,)
DOES 1 through 10, inclusive,)

17 Respondents,)

18 _____)
19 ROMAN CATHOLIC DIOCESE OF)
ORANGE, KISCO SENIOR LIVING, LLC,)
20 and DOES 11 through 25, inclusive,)

21 Real Parties in Interest.)
22 _____)

Case No. 30-2011-00467132-CU-WM-CXC

Reassigned to the Honorable
Judge Gail A. Andler

Department CX 101

**[PROPOSED] JUDGMENT GRANTING
PEREMPTORY WRIT OF MANDATE**

[Action Filed: April 14, 2011]

23
24 This matter was tried in Department CX101 of this Court before the Honorable Judge
25 Judge Gail A. Andler on January 27, 2012. John G. McClendon of Leibold McClendon & Mann
26 appeared for petitioner Foothill Communities Coalition; Deputy County Counsel Nicole M.
27 Walsh [and _____ ? _____] appeared for respondents County of Orange and Orange
28 County Board of Supervisors; and Jack S. Yeh, Keli N. Osaki, and Susan K. Hori of Manatt Phelps

1 &Phillips, LLP, appeared for real parties in interest Roman Catholic Diocese of Orange and Kisco
2 Senior Living, LLC.

3 After considering the pleadings, certified *Administrative Record*, and file in this matter,
4 including post-trial supplemental briefs from all parties and a sur-reply from respondents and
5 real parties in interest, IT IS HEREBY ORDERED THAT:

6 1. Petitioner shall have judgment against respondents County of Orange and Orange
7 County Board of Supervisors, and real parties in interest Roman Catholic Diocese of Orange and
8 Kisco Senior Living, LLC, as set forth below, setting aside and vacating all approvals related to
9 Planning Application PA 090004 (“The Springs at Bethsaida” project).

10 2. A peremptory writ of mandate shall issue under seal of this Court in the form
11 attached hereto as Exhibit A.

12 3. In accordance with Code of Civil Procedure section 1033, and Rule 3.1700 of the
13 California Rules of Court, petitioner may claim its trial court costs, and respondents County of
14 Orange and Orange County Board of Supervisors, and real parties in interest Roman Catholic
15 Diocese of Orange and Kisco Senior Living, LLC, may contest such costs.

16 4. Petitioner may seek, pursuant to appropriate noticed motion, an award of its
17 attorneys’ fees, and this Court reserves and retains jurisdiction to determine the amount of such
18 fees, if any.

19 5. This Court shall reserve and retain jurisdiction over this action until such time as
20 respondent the Orange County Board of Supervisors files a return evidencing that it has complied
21 with the attached *Peremptory Writ of Mandate*.

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23 DATED: _____
24 _____
25 Judge of the Superior Court
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EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – COMPLEX CIVIL COURTROOM

FOOTHILL COMMUNITIES COALITION,)
an unincorporated association)
)
Petitioner,)
)
)
v.)
)
)
COUNTY OF ORANGE, ORANGE)
COUNTY BOARD OF SUPERVISORS,)
DOES 1 through 10, inclusive,)
)
Respondents,)
_____)
)
)
ROMAN CATHOLIC DIOCESE OF)
ORANGE, KISCO SENIOR LIVING, LLC,)
and DOES 11 through 25, inclusive,)
)
Real Parties in Interest.)
_____)

Case No. 30-2011-00467132-CU-WM-CXC
Reassigned to the Honorable
Judge Gail A. Andler
Department CX 101

PEREMPTORY WRIT OF MANDATE

To:
RESPONDENTS COUNTY OF ORANGE AND ORANGE COUNTY and
BOARD OF SUPERVISORS AND TO THEIR ATTORNEYS OF RECORD:
After a determination by this Court that your approval, on March 15, 2011, of real parties
in interest’s “The Springs at Bethsaida” project (the “Project”) was arbitrary and/or capricious,
and judgment having been entered in this proceeding in favor of petitioner Foothill Communities
Coalition ordering that a peremptory writ of mandate issue under seal of this Court,

1 IT IS SO ORDERED that, immediately upon service of this writ respondents County of
2 Orange and Orange County Board of Supervisors (collectively, "Respondent") shall:

3 1. Set aside and vacate its adoption of Ordinance No. 11-008, amending the *North*
4 *Tustin Specific Plan* to add a new senior residential housing (SRH) land use district and to
5 change the land use district for 11901 Newport Avenue from residential single family (100-RSF)
6 to SRH.

7 2. Set aside and vacate all related Project approvals, including (without limitation)
8 Resolution No. 11-038, pertaining to CEQA, and Resolution No. 11-039 approving a Use Permit
9 and Site Development Permit for the Project.

10 4. This Court will retain jurisdiction over Respondent proceedings by way of a return
11 to this peremptory writ of mandate until the Court has determined that Respondent has complied
12 with the foregoing order.

13 Respondent shall file a return to this writ no later than ninety (90) days from the date this
14 writ is issued setting forth what Respondent has done to comply with the writ set forth herein.

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16 LET THE WRIT OF MANDATE ISSUE.

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18 DATED: _____ JUDGE OF THE SUPERIOR COURT
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PROOF OF SERVICE

[Code Civ. Pro. § 1013a; revised. 5/1/88]

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STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 23422 Mill Creek Drive, Suite 105, Laguna Hills, California 92653.

On March 20, 2012, I served, in the manner indicated below, the foregoing document described as "**[PROPOSED] JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE**" on interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows (or otherwise delivered in the manner acknowledged below):

Attorneys for Respondents:
Nicole M. Walsh, Deputy County Counsel
Nicholas S. Chrisos, County Counsel
333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92702-1379
Telephone: (714) 834-6257
Facsimile: (714) 834-2359
E-mail: nicole.walsh@coco.ocgov.com

Attorneys for Real Parties in Interest:
Keli N. Osaki / Jack Shi-Jei Yeh
Manatt, Phelps & Phillips, LLP
695 Town Center Drive, 14th Floor
Costa Mesa, California 92626
Direct Dial: (714) 371-2539
Facsimile: (714) 338-2769
E-mail: kosaki@manatt.com

(By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Laguna Hills, California. I am "readily familiar" with the firm's practice of processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Laguna Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(By Overnight Express) I caused such envelope(s) to be placed in the OVERNITE EXPRESS drop box located in Laguna Hills, California, for overnight delivery to the above addressee.

(By E-Mail Transmission) By electronic mail transmission in "*.pdf" format a copy of such document(s) to each such person at the e-mail addresses listed below their addresses. I personally sent the document(s) using my email program, and within a reasonable time thereafter I did not receive any indication or message that the email bounced back or did not go through.

(By Fax) I caused such document to be transmitted to _____. A transmission report was properly issued by the fax machine and the transmission was reported as complete and without error to the number listed herein.

By *OneLegal* e-service

Executed on March 20, 2012, in Laguna Hills, California.

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

Carmen Ortiz