

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement and Release Agreement (the "Agreement") is made this 14th day of April, 1996 (the "Effective Date"), by and between the City of Redlands, a municipal corporation, ("Redlands"), and The Redlands Association, a California non-profit corporation, Rufus A. Moore, an individual, Sally B. Beck, an individual, and Michael E. Haverty, an individual (collectively referred to herein as the "Association").

RECITALS

Whereas, the Association has filed with the San Bernardino County Superior Court a Petition for Writ of Mandamus and Complaint for Declaratory Relief challenging certain alleged actions taken by the City Council of the City of Redlands (the "City Council") relating to Redlands' General Plan and land development standards (the "Petition"); and

Whereas, Redlands has filed with the San Bernardino County Superior Court a Cross-Complaint for Declaratory Relief against the Association seeking a judicial declaration that Redlands' voter-approved initiative ordinance Proposition "R," as amended by Measure "N," is a zoning ordinance which has no legal effect upon Redlands' General Plan (the "Cross-Complaint"); and

Whereas, the Petition and Cross-Complaint (together referred to herein as "San Bernardino Superior Court Case No. SCV 17133") were heard by the Honorable Bob N. Krug on September 21, 1995; and

Whereas, on September 28, 1995 the Honorable Bob N. Krug verbally ruled in the matter of San Bernardino Superior Court Case No. SCV 17133 and held that:

1. The Writ of Mandamus is denied as to setting aside the City Council's action of July 19, 1994.
2. The Writ of Mandamus is granted as to setting aside the City Council's action of September 6, 1994.
3. The Writ of Mandamus is granted as to setting aside the City Council's action of February 7, 1995.
4. Judgment is granted for Cross-Defendants on the Cross-Complaint. Proposition "R," as amended by Measure "N," is declared to be a zoning ordinance of the City of Redlands having no effect upon the City's General Plan, and not an amendment to the General Plan of the City of

Redlands. The words "General Plan" are stricken from Sections 14 and 15 of Proposition "R," as amended by Measure "N."

5. All parties shall bear their own costs.

Whereas, Redlands and the Association have agreed to the filing of a written judgment for San Bernardino Superior Court Case No. SCV 17133 in the form attached hereto as Exhibit "A;" and

Whereas, Redlands and the Association now desire to resolve and settle all present and past controversies, claims, causes of action or purported causes of action, both real and potential, arising between the parties in connection with San Bernardino Superior Court Case No. SCV 17133; and

Whereas, this Agreement is a compromise of the claims and liabilities alleged by Redlands and the Association and shall never be treated as an admission of liability by any of the parties hereto for any purpose;

Now, therefore, in consideration of the mutual promises contained herein, and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Redlands and the Association agree as follows:

AGREEMENT

Section 1. Recitals. The foregoing recitals are true and correct.

Section 2. Association's Legal Costs. Upon execution of this Agreement by the Association, Redlands shall pay to the Association the total sum of \$6,660.00 as attorney's fees which the Association has incurred in connection with the resolution of San Bernardino Superior Court Case No. SCV 17133. Such sum shall be distributed among the members of the Redlands Association and the individual Petitioners in San Bernardino Superior Court Case No. SCV 17133 as they so choose. Such payment shall be made by check upon the Association's execution of this Agreement.

Section 3. Association's Waiver and Release. In consideration of the actions to be taken by Redlands pursuant to this Agreement, the Association does hereby waive any rights of appeal it may

have in connection with the judgment issued by the Honorable Bob N. Krug for San Bernardino Superior Court Case No. SCV 17133. The Association further hereby releases, holds harmless and forever discharges the City of Redlands and its respective City Councilmembers, employees, attorneys, agents and assigns of and from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions and causes of action, of every nature, character and description, known or unknown, which the Association owns or holds or has at any time heretofore owned or held, or may at any time own or hold, by reason of any manner, cause or thing whatsoever that occurred or was done, omitted or suffered to be done prior to the Effective Date of this Agreement with respect to any rights the Association may have to appeal the specific matters that are the subject of San Bernardino Superior Court Case No. SCV 17133.

Section 4. Redlands' Waiver and Release. In consideration of the actions to be taken by the Association pursuant to this Agreement, Redlands does hereby waive any rights of appeal it may have in connection with the judgment issued by the Honorable Bob N. Krug for San Bernardino Superior Court Case No. SCV 17133. Redlands further hereby releases, holds harmless and forever discharges the Association and its respective employees, attorneys, agents, spouses, heirs, executors and assigns of and from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions and causes of action of every nature, character and description, known or unknown, which Redlands owns or holds or has at any time heretofore owned or held or may at any time own or hold, by reason of any manner, cause or thing whatsoever that occurred or was done, omitted or suffered to be done prior to the Effective Date of this Agreement with respect to any rights Redlands may have to appeal the specific matters that are the subject of San Bernardino Superior Court Case No. SCV 17133.

Section 5. Civil Code § 1542 Waiver. Except as otherwise provided for in this Agreement, it is the intention of Redlands and the Association that the releases entered into by them shall be effective as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind, known or unknown, and suspected or unsuspected with respect to Redlands' and the Association's rights to appeal any issue of San Bernardino Superior Court Case No. SCV 17133. In furtherance of such intention Redlands and the Association, individually and collectively, hereby expressly waive any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of execution of the release, which if known by him must have materially affected his settlement with the debtor."

Redlands and the Association hereby acknowledge that the foregoing waiver of the provisions of Section 1542 of the California Civil Code was bargained for separately. The parties hereto expressly agree that the release provisions herein contained shall be given full force and effect in accordance with each and all of their express terms and provisions, including but not limited to those terms and provisions relating to unknown or unsuspected claims, demands and causes of action hereinabove specified. The parties individually and collectively, assume the risk of the subsequent discovery or understanding of any matter, fact or law which if now known or understood would in any respect have affected this Agreement.

Section 6. No Admission of Liability. The parties to this Agreement acknowledge that they have relied wholly upon their own individual judgment, belief and knowledge of the existence, nature and extent of each claim, demand or cause of action that they may have against the other party hereto which is hereby released and that they have not been influenced to any extent in entering into this Agreement by any representations or statements regarding any such claim, demand or cause of action made by any other party hereto. The parties acknowledge that this Agreement is intended to settle certain disputes between the parties and to avoid the expense and time of further litigation. Neither the execution of this Agreement nor the performance of the terms hereof shall be deemed or construed to be an admission by any party or establish any fault or liability in connection with any matter or thing by any party.

Section 7. Costs and Fees. Except as otherwise expressly provided for herein, all parties hereto shall bear their own attorneys' fees, expenses and costs incurred in connection with the disputes arising out of, relating to or connected with the matters which are the subject of this Agreement and/or the preparation of this Agreement. In the event any party to this Agreement files an action to enforce or interpret the terms hereof, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees, including expert witness fees and costs.

Section 8. Entire Agreement. This Agreement comprises the entire understanding between the parties concerning the subject matter hereof, and supersedes and replaces all prior negotiations and agreements, written and oral. There are no other contracts, understandings, representations or warranties made by any party to this Agreement except as expressly contained in this Agreement.

Section 9. Interpretation. This Agreement is to be construed fairly and not in favor of, or against, any party regardless of which party drafted or participated in the drafting of its terms. It is acknowledged that all parties have had an opportunity to consult with their lawyers concerning the terms and conditions of this Agreement. As a result, this Agreement shall be deemed to have been drafted by all parties hereto and no party shall urge otherwise.

Section 10. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, agents, representatives, successors and assigns.

Section 11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same document.

Section 12. Governing Law. This Agreement shall in all respects be enforced and governed by, and construed in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the date first above written.

CITY OF REDLANDS


Swen Larson, Mayor

Attest:

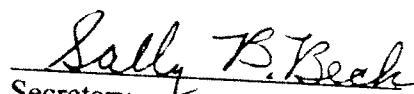

Lorrie Poyzer, City Clerk

THE REDLANDS ASSOCIATION

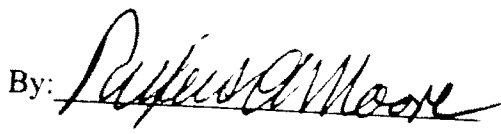
By: 
President

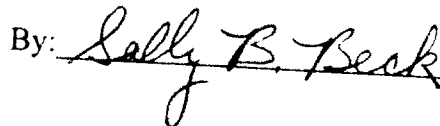
Rufus A. Moore

Attest:


Secretary

Sally B. Beck

By: 
Michael E. Haverty

By: 

By: 