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Sep 13 2011

ALAN CARLSON, Clerk of the Court

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

SEP 15 2011

ALAN CARLSON, Clerk of the Court

*ppj*  
BY P RIEF

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

PAUL WITTENBERG, an individual,  
WILLIAM GALLEGOS, an individual, and  
RAYMOND DUKELLIS, an individual,

Plaintiffs,

vs.

BEACHWALK HOMEOWNERS  
ASSOCIATION, a California corporation; and  
DOES 1 through 100, inclusive,

Defendants.

) Case No. 30-2010-00416477  
)  
) Assigned to Hon. Thierry Colaw  
) Dept. C25

) *TM*  
) **[AMENDED PROPOSED] ORDER**  
) **SETTING HEARING AND NOTICE RE:**  
) **PETITION FOR ORDER REDUCING**  
) **REQUIRED VOTING PERCENTAGE TO**  
) **AMEND BEACHWALK HOMEOWNERS**  
) **ASSOCIATION'S CC&RS AND**  
) **AMENDING CC&RS**

) Date: September 8, 2011

) Time: 1:30 p.m.

) Dept: C-25

The above-mentioned matter came on for ex parte hearing on September 8, 2011 at 1:30 p.m. in Department C-25 of the above-captioned court on BEACHWALK HOMEOWNERS ASSOCIATION ("Beachwalk")'s Ex Parte Application to set a hearing and notice on the Petition for an order reducing the required voting percentage to amend Beachwalk's CC&Rs and amending CC&Rs ("Petition") filed by Beachwalk. Said Petition was filed with the Court on September 7, 2011. Aide Ontiveros, Esq. and John Wallace, Esq. appeared on behalf of

1 Beachwalk. Tom Walling, Esq. appeared on behalf of Plaintiffs Paul Wittenberg and Raymond  
2 Dukellis.

3 Having considered the papers filed by the parties, and the argument of counsel, and good  
4 cause appearing, IT IS ORDERED that:  
5

6 1. Beachwalk's Ex Parte Application is granted pursuant to Civil Code Section 1356(b).

7 A hearing is to be held on Beachwalk's Petition for an Order Reducing Required  
8 Voting Percentage to Amend Beachwalk's CC&Rs and Amending CC&Rs on  
9 **October 28, 2011** at 1:30 p.m. in Department C-25 of the Orange County Superior  
10 Court, Central Justice Center, located at 700 Civic Center Drive West, Santa Ana,  
11 92701.  
12

13 2. A briefing schedule on the Petition was set by the Court as follows: Opposition  
14 papers are to be served and filed by **October 5, 2011** by the close of business day.  
15 Reply papers are due to be served and filed by **October 19, 2011** by the close of  
16 business day.  
17

18 3. On or before **October 7, 2011**, Beachwalk shall (a) post the Petition and supporting  
19 documents on file in this matter as well as a copy of this Order at one or more  
20 locations in the Association's common area where the documents are likely to come  
21 to the attention of the Association's membership as well as on Beachwalk's website  
22 address at [www.beachwalkhoa.org](http://www.beachwalkhoa.org) and (b) send a copy of this Order by U.S. first  
23 class mail to each member at their address as shown in the corporate records  
24 maintained by Beachwalk.  
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4. On request, Beachwalk shall provide copies of all documents on file with the Court related to the Petition to any member who requests such copies.

DATED: September 15<sup>th</sup>, 2011

  
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE

I, Carolyn Houtz, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18, and am not a party to the within action; my business address is 2566 Overland Avenue, Suite 730, Los Angeles, CA 90064.

On September 13, 2011, I served the foregoing document described as:

**[AMENDED PROPOSED] ORDER SETTING HEARING AND NOTICE RE: PETITION FOR ORDER REDUCING REQUIRED VOTING PERCENTAGE TO AMEND BEACHWALK HOMEOWNERS ASSOCIATION'S CC&RS AND AMENDING CC&RS**

on the interested parties:

William L. Buus, Esq.  
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Newport Beach, CA 92660  
Email: wbuus@schifferbuus.com  
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John C. Wallace, Esq.  
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Email: john.wallace@21st.com  
Fax #: 714-558-0967

**BY MAIL:** [C.C.P. § 1013a] -- I deposited such envelopes in the U.S. Mail with postage prepaid.

**BY ELECTRONIC MAIL:** I caused such document to be served on this date by electronic transmission in accordance with standard procedures and to the e-mail addresses listed above.

Executed on September 13, 2011, at Los Angeles, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_\_  
CAROLYN HOUTZ 

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00007812; 1

