

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

**NOV 30 2007**

1 BRIGGS LAW CORPORATION [FILE: 1366.07]  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF RIVERSIDE--WESTERN DIVISION  
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11  
12 MURRIETANS FOR SMART GROWTH,

13 Petitioner,

14 vs.

15 CITY OF MURRIETA and DOES 1 through 100,

16 Respondents;

17 REGENCY CENTERS CORPORATION,  
18 REGENCY CENTERS, INC., WESTMAR  
COMMERCIAL BROKERAGE, INC.,  
19 MARQUIS PROPERTY COMPANY, LLC, and  
DOES 101 through 1,000,

20 Real Parties in Interest.  
21

CASE NO. RIC463320

**STIPULATION FOR: ADOPTION OF  
STATEMENT OF DECISION ON  
PETITION FOR WRIT OF MANDATE**

Action Filed: January 3, 2007  
Trial Date: November 9, 2007  
Department: 1 (Cunnison)

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23 Petitioner Murrietans for Smart Growth, Respondent City of Murrieta, and Real Parties in  
24 Interest Regency Centers Corporation, Regency Centers, Inc., and Marquis Property Company, LLC,  
25 by and through their respective attorneys of record, now stipulate as follows to the adoption of a  
26 Statement of Decision on Petition for Writ of Mandate:

27 1. WHEREAS Petitioner commenced this proceeding by filing a petition for writ of  
28 mandate on January 3, 2007;

1           2.     WHEREAS a hearing on the merits of the petition for writ of mandate has been  
2 scheduled for November 9, 2007;

3           3.     WHEREAS Petitioner filed and served its statement of issues on August 13, 2007, and  
4 its opening brief (including supporting evidence) on the petition for writ of mandate on August 17,  
5 2007;

6           4.     WHEREAS Real Parties in Interest Regency Centers Corporation, Regency Centers, Inc.,  
7 and Marquis Property Company, LLC, filed and served their opening brief (including supporting  
8 evidence) on the petition for writ of mandate on September 14, 2007, and Respondent did not file or  
9 serve an opposition brief;

10          5.     WHEREAS the parties agree on the appropriate adjudication of this proceeding and now  
11 waive their respective rights to further brief any of the issues raised in this proceeding and to a hearing  
12 on the merits of the petition for writ of mandate;

13          6.     WHEREAS the parties desire to obtain entry of a statement of decision under Rule  
14 3.1590 of the California Rules of Court on which the judgment in this proceeding shall be based; and

15          7.     WHEREAS Petitioner has submitted with this stipulation a Request for Dismissal of  
16 Real Party in Interest Westmar Commercial Brokerage, Inc., which shall be filed and become effective  
17 only if this Court grants the relief requested in this stipulation;

18          THE PARTIES STIPULATE that the proposed statement of decision attached to this stipulation  
19 as Exhibit "A" should be adopted as the Court's Statement of Decision in this proceeding.

20          Date: <sup>November 8</sup> ~~October~~ \_\_, 2007.     BRIGGS LAW CORPORATION

21  
22                   By:   
                          Cory J. Briggs

23                   Attorneys for Petitioner Murrietans for Smart Growth

24          Date: October \_\_, 2007.     STUTZ, ARTIANO, SHINOFF & HOLTZ

25  
26                   By: \_\_\_\_\_  
                          Jeffrey A. Morris

27                   Attorneys for Respondent City of Murrieta



*November 8*  
Date: ~~October~~ \_\_\_\_\_, 2007.

LAW OFFICES OF DAVID P. HUBBARD

By:

  
David P. Hubbard

Attorneys for All Real Parties in Interest except Westmar  
Commercial Brokerage

FOR GOOD CAUSE SHOWING, the proposed statement of decision attached to this stipulation  
as Exhibit "A" is adopted and shall now be entered as the Court's Statement of Decision in this  
proceeding.

Date: 11/21 \_\_\_\_\_, 2007.

**STEPHEN D. CUNNISON**

Judge of the Superior Court

1 Date: October \_\_, 2007. LAW OFFICES OF DAVID P. HUBBARD

2  
3 By: \_\_\_\_\_  
David P. Hubbard

4 Attorneys for All Real Parties in Interest except Westmar  
5 Commercial Brokerage

6  
7 FOR GOOD CAUSE SHOWING, the proposed statement of decision attached to this stipulation  
8 as Exhibit "A" is adopted and shall now be entered as the Court's Statement of Decision in this  
9 proceeding.

10  
11 Date: \_\_\_\_\_, 2007.

12 \_\_\_\_\_  
Judge of the Superior Court



**Exhibit "A": Statement of Decision**

Murrietans for Smart Growth v. City of Murrieta *et al.*  
Riverside County Superior Court Case no. RIC463320

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Based on the petition for writ of mandate, the responses to the petition, the administrative record, all briefs and supporting evidence submitted in support of and in opposition to the petition, and all other contents of the Court's files for this proceeding, the Court now orders, adjudges, and decrees as follows:

1. Petitioner Murrietans for Smart Growth ("Petitioner") meets all applicable standing and exhaustion-of-remedies requirements for maintaining this proceeding against Respondent City of Murrieta ("Respondent") and Real Parties in Interest Regency Centers Corporation, Regency Centers, Inc., and Marquis Property Company, LLC ("Real Parties in Interest").

2. The Environmental Impact Report ("EIR") for the project challenged in this proceeding, which project is commonly known as the Marquis Commercial Project ("the Project"), complies with the California Environmental Quality Act ("CEQA") except as follows: [i] the EIR did not comply with Water Code Section 10910 *et seq.*; [ii] the EIR did not analyze the Project's potential impacts on urban decay; [iii] the EIR did not analyze the Project's potential to emit greenhouse gases and contribute to climate change; and [iv] the EIR did not analyze the Project's potential air-quality impacts on nearby sensitive receptors. Based on these four grounds, Respondent's certification of the EIR and approval of the Project are invalid under CEQA and shall be voided by Respondent.

3. Petitioner has also challenged the Project on the grounds that [i] Respondent's findings with respect to the Project's lower-intensity, environmentally superior alternative identified in the EIR (*i.e.*, the lower-density neighborhood commercial center) and [ii] Respondent's findings

with respect to the Project under the Planning and Zoning Law and the Subdivision Map Act were both legally insufficient. The parties agree that all such findings are to be voided by Respondent as part of its compliance with the judgment to be entered and writ of mandate to be issued in this proceeding. The Court's judgment and writ of mandate shall require that the findings be voided by Respondent.

4. Petitioner has agreed to withdraw all grounds asserted in this proceeding against the Project other than those described in the preceding paragraphs. The Court deems those grounds to be withdrawn with prejudice.

5. The nature of the Project precludes the Court from making any of the findings for a limited order under Public Resources Code Section 21168.9(b). Accordingly, the judgment and writ of mandate shall require Respondent and Real Parties in Interest to suspend, and shall permanently enjoin each of them (including their respective officers, employees, agents, and privies) from undertaking, any and all Project-related activities that result or could result in an adverse change or alteration to the physical environment, as provided by Public Resources Code Section 21168.9(a)(2), unless and until this Court determines that Respondent has complied with CEQA, the Planning and Zoning Law, and the Subdivision Map Act.

6. Petitioner is the prevailing party in this proceeding and satisfies all requirements for the recovery of attorney fees under Code of Civil Procedure Section 1021.5. The only remaining issue to be adjudicated concerning fees is the reasonableness of the amount of fees that Petitioner is entitled to recover. The parties may agree on the amount of fees and identify that amount in the judgment that they submit for entry in this proceeding, and their approval of the form of a judgment identifying the amount of fees shall be deemed to constitute their agreement as to the reasonableness of the fees.



7. Petitioner may serve the writ of mandate upon Respondent and Real Parties in Interest pursuant to Code of Civil Procedure Section 1011, 1012, or 1013.

[End of Statement of Decision]