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10 BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE;
ORANGE COUNTY HEALTH CARE AGENCY;
11 CEO REAL ESTATE; FRANK KIM; and NICHOLE QUICK

12 ***Exempt From Filing Fees Pursuant to Gov. Code, § 6103***

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

16 CITY OF LAGUNA HILLS, a municipal entity;)
BFE ASSET PARTNERS, LLC, a limited)
17 liability company; GJC PROPERTIES 8 LP, a)
limited partnership; SUKIN & ROSENFELD)
18 LLC, a limited liability company; and ERIK M.)
BLOCK, an individual,)

19 Plaintiffs,

20 v.

21 ELITE HOSPITALITY, INC.; COUNTY OF)
ORANGE; BOARD OF SUPERVISORS OF)
22 THE COUNTY OF ORANGE; ORANGE)
COUNTY HEALTH CARE AGENCY; CEO)
23 REAL ESTATE; FRANK KIM; NICHOLE)
QUICK; and DOES 1 - 50, inclusive,)

24 Defendants,

25 ILLUMINATION FOUNDATION, a nonprofit)
26 organization,)

27 Real Parties in Interest.)
28)

Case No. 30-2020-01139345-CU-MC-CJC

Assigned for all purposes to:
Honorable Deborah Servino
Department C-21

**COUNTY DEFENDANTS'
DECLARATION OF KEVIN AKASH IN
SUPPORT OF SUPPLEMENTAL
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
PLAINTIFFS' EX PARTE
APPLICATION FOR ORDER TO
SHOW CAUSE AND TEMPORARY
RESTRAINING ORDER**

[Supplemental Memorandum of Points and
Authorities In Opposition filed concurrently
herewith]

DATE: April 20, 2020
TIME: 10:00 a.m.
DEPT.: C-25

Action Filed: April 14, 2020
Trial: TBD

DECLARATION OF KEVIN AKASH

I, Kevin Akash, declare as follows:

1. I am the president of Elite Hospitality, Inc. (“Elite”), which owns the Laguna Hills Inn (“LHI”). Elite has owned the LHI for 22 years and I have been president of Elite for that entire period of time.

2. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would testify competently to such facts under oath. Where statements are made on information and belief, I believe these statements to be true.

3. Elite is proud to work with the County of Orange (the “County”) to implement the State’s Project Roomkey and opposes Plaintiffs’ *ex parte* application for an order enjoining Elite from using the LHI to temporarily house COVID-19 positive members of the homeless population during the current State of Emergency.

4. I was first contacted by the County regarding Project Roomkey in early April. I learned that the County was trying to comply with State directives and address the COVID-19 pandemic by temporarily housing portions of the homeless population in hotels. However, it was struggling to find cooperative locations, particularly in south county.

5. Elite agreed to participate in Project Roomkey because it was the right thing to do. We want to do everything we can to help our community during this time of crisis. By providing temporary lodging to those in need, we will allow them to isolate, stem the spread of the COVID-19 and lessen the impact on local hospitals and on our community as a whole.

6. The LHI is uniquely well-situated to serve as a location for Project Roomkey. While most hotels in south county are located in or near residential neighborhoods, the LHI is adjacent to the freeway, on a major arterial road, and in an industrial and commercial area with no adjacent residential areas. Many of the businesses in the area are closed due to the “safer at home” orders. In addition, the LHI is in close proximity to four different hospitals.

7. Elite entered into an occupancy agreement with the County on April 7, 2020.

8. I am informed and believe that the LHI will be primarily occupied by people experiencing homelessness who have tested positive for COVID-19 but do not require hospitalization. While Elite is

1 very pleased to be able to help during this State of Emergency, the use of the LHI property will not change.
2 Prior to entering into the occupancy agreement, the LHI did not discriminate against patrons based upon
3 their socio-economic status or health condition and nothing stopped COVID-positive individuals from
4 renting rooms at hotels. The hotel has always been used to provide people with temporary lodging and,
5 under the occupancy agreement, it will continue to provide people with temporary lodging.

6 9. During the COVID-19 pandemic, it has been common for COVID-positive individuals and
7 health care workers (who are at high risk of contracting COVID-19) to rent and occupy hotel rooms to
8 reduce the risk of infecting their families. In fact, many of my colleagues in the hospitality industry have
9 participated in programs to donate hotel rooms to health care workers during this time of crisis. A similar
10 use is anticipated here. However, here, I am informed and believe based on my discussions with County
11 staff and their operator, that added measures are being taken by the County in order to enforce isolation and
12 further protect the public. These measures include affirmatively requiring the occupants to self-isolate as a
13 condition of their occupancy, adding temporary fencing and security measures, and enlisting Illumination
14 Foundation to assist with personal protective measures, meals, and transportation, etc.

15 10. I understand that Plaintiffs have argued that Elite is in violation of 1978 Plaza Pointe
16 Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“CC&Rs”) attached as
17 Exhibit 1 to their Request for Judicial Notice. While there has not been and will not be a change of use
18 implicating the provisions of this document, even assuming a change of use, Elite is still in compliance
19 with the CC&Rs.

20 11. Article II, Section 2.02 of the CC&Rs states:

21 Operations and uses that are neither specifically prohibited nor specifically authorized by
22 this Declaration, including the Planned Community Regulations as incorporated herein, may
23 be permitted in a specific case if (i) such operations or uses are first approved by the County
24 of Orange or such other governmental entity then having jurisdiction and (ii) written
25 operational plans and specifications for such operations or uses, containing such information
26 ***as may be requested by the Development Committee***, which approval shall be based upon
27 analysis of the anticipated effect of such operations or uses upon other Lots, upon other real
28 property in the vicinity of the Properties, and upon the occupants thereof, but shall be in the
sole discretion of the Development Committee, as further provided in Article III of the
Declaration. (TRO RJN No. 6.) (*Emphasis added.*)

12. Here, Elite has the approval of the County to participate in Project Roomkey. In addition,

1 no Development Committee for Plaza Pointe has ever requested that Elite provide information for approval
2 via written operational plans or specifications. I do not believe that such a committee even exists or has
3 been operating per the CC&Rs during the considerable period that Elite has owned the LHI.

4 13. Over the past 27 years, I have owned and operated approximately a dozen hotels. I have
5 also invested in and renovated multiple commercial and residential properties. I own properties that are
6 part of property owner associations, I have on boards for these association, and I am diligent about
7 complying with the protocols of property owner associations. Typically, upon purchase of such a property,
8 I have been presented with contact information for the property owners association (including relevant
9 committees), along with booklets of bylaws and rules, and I have been required to sign an
10 acknowledgement of receipt.

11 14. In the 22 years that Elite has owned the LHI, I have never heard of a Development
12 Committee for Plaza Pointe or any property owners association relating thereto, nor have I received any
13 communications from such a committee, including the most basic notices relating to bylaws, rules,
14 committee meetings, elections of members, meeting minutes, budgets, changes in neighborhood planning,
15 or CC&R violations. Like many of the LHI's neighbors, the LHI has made many changes to the exterior of
16 its property over the years. Yet, as far as I understood, there was no committee from which to receive
17 approval for these changes and I never received any communications to the contrary. In addition, even if I,
18 or the County, desired to submit to the committee for approval, we have no current address nor contact
19 information to which to make that submittal, so we would be unable to do so.

20 15. Although the County has put up a fence around the property to ensure additional protections
21 to the surrounding community, the fence is temporary and not a permanent improvement to the property.

22 16. While I understand that Plaintiffs have claimed that the temporary fence requires approval of
23 the Development Committee, again, it is not clear that a committee exists from which to receive this
24 approval. Moreover, section 3.02(b) of the CC&Rs allows the Development Committee to take up to 30
25 days to provide approval. I believe that requiring a 30-day waiting period for approval of a temporary

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3 safety measure during a State of Emergency and fast moving global pandemic would be unreasonable. It is
4 imperative that our community act quickly to save lives and prevent the spread of COVID-19.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
6 and correct to the best of my knowledge.

7 EXECUTED this 17th day of April, 2020 in Santa Ana, California.

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Kevin Akash

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PROOF OF SERVICE

I do hereby declare that I am a citizen of the United States employed in the County of Orange, over 18 years old and that my business address is 10 Civic Center Plaza, 4th Floor, Santa Ana, California 92701; and, my email address is simon.perng@coco.ocgov.com. I am not a party to the within action.

On **April 17, 2020**, I served the foregoing **COUNTY DEFENDANTS’ DECLARATION OF KEVIN AKASH IN SUPPORT OF SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFFS’ EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER** on all other parties to this action in the following manner:

BY ELECTRONIC SERVICE: Pursuant to California Rules of Court, rule 2.251(c)(2), (3), I caused an electronic version of the document(s) to be sent to the person(s) listed below.

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

DATED: **April 17, 2020**



Simon Perng

NAME(S) AND ADDRESS(ES) TO WHOM SERVICE WAS MADE

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