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8 Responsible Equitable Environmental Development

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN DIEGO--CENTRAL DIVISION

11 CITIZENS FOR RESPONSIBLE EQUITABLE  
12 ENVIRONMENTAL DEVELOPMENT,

13 Plaintiff and Petitioner,

14 vs.

15 CITY OF SAN DIEGO; SOUTHEASTERN  
16 ECONOMIC DEVELOPMENT CORPORATION;  
17 and DOES 1 through 100,

18 Defendants and Respondents.

CASE NO. 37-2007-00072075-CU-CO-CTL

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF AND PETITION FOR WRIT OF  
MANDATE UNDER THE CALIFORNIA  
PUBLIC RECORDS ACT**

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21  
22 Plaintiff and Petitioner CITIZENS FOR RESPONSIBLE EQUITABLE ENVIRONMENTAL  
23 DEVELOPMENT ("CREED") alleges as follows in this Verified Complaint for Declaratory and  
24 Injunctive Relief and Petition for Writ of Mandate under the California Public Records Act:

25 **Introductory Statement**

26 1 CREED brings this action under the California Public Records Act ("Act"). CREED  
27 submitted two separate written requests to inspect and obtain copies of certain public records in the  
28 possession of Defendants/Respondents, but they have failed even to respond to the requests.

1 **Parties**

2 2 CREED is a non-profit corporation formed and operating under the laws of the State of  
3 California. Its purpose is, among other things, to advocate for responsible and equitable environmental  
4 development for members of the public. Its members include citizens and taxpayers residing in or doing  
5 business in the City of San Diego.

6 3. Defendants and Respondents CITY OF SAN DIEGO (“CITY”) and SOUTHEASTERN  
7 ECONOMIC DEVELOPMENT CORPORATION (“SEDC”) are local agencies under Section 6252(a)  
8 of the Act.

9 4. The true names and capacities of the Defendants/Respondents identified as DOES 1  
10 through 100 are unknown to CREED, who will seek the Court’s permission to amend this pleading in  
11 order to allege the true names and capacities as soon as they are ascertained. CREED is informed and  
12 believes and on that basis alleges that each of the fictitiously named Defendants/Respondents 1 through  
13 100 has jurisdiction by law over one or more of the acts and omissions that are the subject of this  
14 proceeding or has some other cognizable interest in the outcome of this proceeding.

15 5. CREED is informed and believes and on that basis alleges that, at all times stated in this  
16 pleading, each Defendant/Respondent was the agent, servant, or employee of each other  
17 Defendant/Respondent and was, in doing the things alleged in this pleading, acting within the scope of  
18 said agency, servitude, or employment and with the full knowledge or subsequent ratification of his  
19 principals, masters, and employers. Alternatively, in doing the things alleged in this pleading, each  
20 Defendant/Respondent was acting alone and solely to further his own interests.

21 **Jurisdiction and Venue**

22 6. The Court has jurisdiction over this action pursuant to Government Code Sections 6258  
23 and 6259, Code of Civil Procedure Section 1060 *et seq.*, and Code of Civil Procedure Section 1084 *et*  
24 *seq.*

25 7. Venue in this Court is proper because the obligations, liabilities, and violations of law  
26 alleged in this pleading occurred in the City of San Diego.

1 **FIRST CAUSE OF ACTION:**  
2 **Violation of the California Public Records Act**  
(Against All Defendants/Respondents except CITY for Request on July 17, 2007)

3 8. Paragraphs 1 through 7 are fully incorporated into this paragraph.

4 9. On or about July 17, 2007, CREED submitted a letter to Defendants/Respondents asking  
5 for the following items pursuant to the CPRA:

6 "1a. The 'Purchase and Sale Agreement' to which reference was  
7 made in the 'April 2000' section of that certain Southeastern  
8 Economic Development Corporation memorandum from  
9 Carolyn Y. Smith to James T. Waring and Janice Weinrick on  
10 July 11, 2007 (Subject: 'Summary of Activity for Agency-  
11 Owned Property at 5335 and 5415 Market Street').

12 "1b. All public records pertaining in any way to the public record  
13 described in the preceding request.

14 "2a. The 'offer made by the San Diego Rescue Mission' to which  
15 reference was made in the 'April 2000' section of that certain  
16 Southeastern Economic Development Corporation memorandum  
17 from Carolyn Y. Smith to James T. Waring and Janice Weinrick  
18 on July 11, 2007 (Subject: 'Summary of Activity for Agency-  
19 Owned Property at 5335 and 5415 Market Street').

20 "2b. All public records pertaining in any way to the public record  
21 described in the preceding request.

22 "3a. The 'joint proposal between SEDC and CCDC' to which  
23 reference was made in the 'April 2000' section of that certain  
24 Southeastern Economic Development Corporation memorandum  
25 from Carolyn Y. Smith to James T. Waring and Janice Weinrick  
26 on July 11, 2007 (Subject: 'Summary of Activity for Agency-  
27 Owned Property at 5335 and 5415 Market Street').

28 "3b. All public records pertaining in any way to the public record  
described in the preceding request.

"4a. The 'Request for Qualifications/Proposals' to which reference  
was made in the 'September 18, 2000' section of that certain  
Southeastern Economic Development Corporation memorandum  
from Carolyn Y. Smith to James T. Waring and Janice Weinrick  
on July 11, 2007 (Subject: 'Summary of Activity for Agency-  
Owned Property at 5335 and 5415 Market Street').

"4b. All public records pertaining in any way to the public record  
described in the preceding request.

"5a. The 'four responses including a proposals from Taylor  
Construction (TayRad, LLC)' to which reference was made in  
the 'September 18, 2000' section of that certain Southeastern  
Economic Development Corporation memorandum from  
Carolyn Y. Smith to James T. Waring and Janice Weinrick on  
July 11, 2007 (Subject: 'Summary of Activity for Agency-  
Owned Property at 5335 and 5415 Market Street').

- 1 “5b. All public records pertaining in any way to the public record  
2 described in the preceding request.
- 3 “6a. The ‘Taylor Construction offer [of] \$2.4 million for the 4.4  
4 acres’ to which reference was made in the ‘September 18, 2000’  
5 section of that certain Southeastern Economic Development  
6 Corporation memorandum from Carolyn Y. Smith to James T.  
7 Waring and Janice Weinrick on July 11, 2007 (Subject:  
8 ‘Summary of Activity for Agency-Owned Property at 5335 and  
9 5415 Market Street’).
- 10 “6b. All public records pertaining in any way to the public record  
11 described in the preceding request.
- 12 “7a. The ‘Exclusive Negotiating Agreement (ENA) with TayRad,  
13 LLC’ to which reference was made in the ‘December 12, 2000’  
14 section of that certain Southeastern Economic Development  
15 Corporation memorandum from Carolyn Y. Smith to James T.  
16 Waring and Janice Weinrick on July 11, 2007 (Subject:  
17 ‘Summary of Activity for Agency-Owned Property at 5335 and  
18 5415 Market Street’).
- 19 “7b. All public records pertaining in any way to the public record  
20 described in the preceding request.
- 21 “8a. The ‘Disposition and Development Agreement (DDA)’ to which  
22 reference was made in the ‘February 20, 2001’ section of that  
23 certain Southeastern Economic Development Corporation  
24 memorandum from Carolyn Y. Smith to James T. Waring and  
25 Janice Weinrick on July 11, 2007 (Subject: ‘Summary of  
26 Activity for Agency-Owned Property at 5335 and 5415 Market  
27 Street’).
- 28 “8b. All public records pertaining in any way to the public record  
described in the preceding request (including but not limited to  
all notices of public hearing for the joint public hearing to  
approve the aforementioned Disposition and Development  
Agreement).
- “9a. The ‘First Implementation Agreement’ to which reference was  
made in the ‘October 15, 2002’ section of that certain  
Southeastern Economic Development Corporation memorandum  
from Carolyn Y. Smith to James T. Waring and Janice Weinrick  
on July 11, 2007 (Subject: ‘Summary of Activity for Agency-  
Owned Property at 5335 and 5415 Market Street’).
- “9b. All public records pertaining in any way to the public record  
described in the preceding request.
- “10a. The ‘Settlement and Release Agreement with TayRad, LLC and  
Edge Flood Response, Inc.’ to which reference was made in the  
‘October 2002’ section of that certain Southeastern Economic  
Development Corporation memorandum from Carolyn Y. Smith  
to James T. Waring and Janice Weinrick on July 11, 2007  
(Subject: ‘Summary of Activity for Agency-Owned Property at  
5335 and 5415 Market Street’).

- 1 “10b. All public records pertaining in any way to the public record  
2 described in the preceding request.
- 3 “11a. The ‘Second Implementation Agreement to the DDA’ to which  
4 reference was made in the ‘September 14, 2004’ section of that  
5 certain Southeastern Economic Development Corporation  
6 memorandum from Carolyn Y. Smith to James T. Waring and  
7 Janice Weinrick on July 11, 2007 (Subject: ‘Summary of  
8 Activity for Agency-Owned Property at 5335 and 5415 Market  
9 Street’).
- 10 “11b. All public records pertaining in any way to the public record  
11 described in the preceding request.
- 12 “12a. The ‘Site Development Permit No. 10481’ to which reference  
13 was made in the ‘April 5, 2007’ section of that certain  
14 Southeastern Economic Development Corporation memorandum  
15 from Carolyn Y. Smith to James T. Waring and Janice Weinrick  
16 on July 11, 2007 (Subject: ‘Summary of Activity for Agency-  
17 Owned Property at 5335 and 5415 Market Street’).
- 18 “12b. All public records pertaining in any way to the public record  
19 described in the preceding request.
- 20 “13a. The ‘Third Implementation Agreement’ to which reference was  
21 made in the ‘July 11, 2006’ section of that certain Southeastern  
22 Economic Development Corporation memorandum from Carolyn Y. Smith  
23 to James T. Waring and Janice Weinrick on July 11, 2007  
24 (Subject: ‘Summary of Activity for Agency-Owned Property at  
25 5335 and 5415 Market Street’).
- 26 “13b. All public records pertaining in any way to the public record  
27 described in the preceding request.
- 28 “14a. The ‘Schedule of Performance’ to which reference was made in  
the ‘July 2007’ section of that certain Southeastern Economic  
Development Corporation memorandum from Carolyn Y. Smith  
to James T. Waring and Janice Weinrick on July 11, 2007  
(Subject: ‘Summary of Activity for Agency-Owned Property at  
5335 and 5415 Market Street’).
- “14b. All public records pertaining in any way to the public record  
described in the preceding request.
- “15a. The ‘Third Implementation Agreement’ to which reference was  
made in the ‘July 11, 2006’ section of that certain Southeastern  
Economic Development Corporation memorandum from Carolyn Y. Smith  
to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: ‘Summary of Activity for Agency-  
Owned Property at 5335 and 5415 Market Street’).
- “15b. All public records pertaining in any way to the public record  
described in the preceding request.
- “16. The ‘Redevelopment Agency Report Dated September 20, 1999’  
attached to that certain Southeastern Economic Development  
Corporation memorandum from Carolyn Y. Smith to James T.

1                   Waring and Janice Weinrick on July 11, 2007 (Subject:  
2                   ‘Summary of Activity for Agency-Owned Property at 5335 and  
3                   5415 Market Street’).”

3 (A true and correct copy of CREED’s request on July 17, 2007, is attached to this pleading as Exhibit  
4 “A” and incorporated by reference; and of the Smith memorandum is attached to this pleading as  
5 Exhibit “B.”)

6           10.     Government Code Section 6253(c) provides as follows: “Each agency, upon a request  
7 for a copy of records, shall, within 10 days from receipt of the request, determine whether the request,  
8 in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall  
9 promptly notify the person making the request of the determination and the reasons therefor. \* \* \*”

10           11.     Defendants/Respondents have not responded to CREED’s July 17, 2007 request.

11           12.     The items requested by CREED are public records under the Act.

12           13.     The failure of Defendants/Respondents to respond to CREED’s request and allow  
13 CREED to inspect and obtain copies of the requested public records is unlawful under the Act.

14           14.     CREED has been injured as a result of the unlawful failure of Defendants/Respondents  
15 to respond to CREED’s request and allow CREED to inspect and obtain copies of the requested public  
16 records, but money damages are an insufficient legal remedy.

17                                   **SECOND CAUSE OF ACTION:**

18                   **Writ of Mandate under Code of Civil Procedure Section 1084 et seq.**  
19                   (Against All Defendants/Respondents except CITY for Request on July 17, 2007)

20           15.     Paragraphs 1 through 14 are fully incorporated into this paragraph.

21           17.     The Act requires Defendants/Respondents to permit CREED to inspect and obtain copies  
22 of all public records that are not exempt from disclosure, per CREED’s request on July 17, 2007.

23           18.     Defendants/Respondents had and continue to have a mandatory public duty to permit  
24 CREED to inspect and obtain copies of the requested items because they are public records that are not  
25 exempt from disclosure. The persistence of Defendants/Respondents in refusing to permit CREED to  
26 inspect and obtain copies of the requested items violates the Act and denies CREED of public  
27 information to which it is entitled under the Act.  
28

1 **THIRD CAUSE OF ACTION:**  
2 **Violation of the California Public Records Act**  
(Against All Defendants/Respondents for Request on July 20, 2007)

3 19. Paragraphs 1 through 18 are fully incorporated into this paragraph.

4 20 On or about July 20, 2007, CREED submitted another letter to Defendants/Respondents  
5 asking for the following items pursuant to the CPRA:

6 “1a. Each and every public record that in any way tends to  
7 IDENTIFY THE ORIGIN OF FUNDS used by the  
8 Redevelopment Agency of the City of San Diego to purchase  
9 certain real property located at 5335 Market Street in San  
10 Diego, California, as discussed in that certain Southeastern  
11 Economic Development Corporation memorandum from  
12 Carolyn Y. Smith to James T. Waring and Janice Weinrick on  
13 July 11, 2007 (Subject: “Summary of Activity for Agency-  
14 Owned Property at 5335 and 5415 Market Street”). (As used  
15 in this request, to “IDENTIFY THE ORIGIN OF FUNDS”  
16 means to identify, for each and every portion of the funds, how  
17 the Redevelopment Agency came to have the funds available in  
18 the first place, such as directly or indirectly from any property-  
19 tax increment, redevelopment revolving fund, or other source.)

20 “1b. Each and every public record that in any way tends to  
21 IDENTIFY THE ORIGIN OF FUNDS used by the  
22 Redevelopment Agency of the City of San Diego to purchase  
23 certain real property located at 5415 Market Street in San  
24 Diego, California, as discussed in that certain Southeastern  
25 Economic Development Corporation memorandum from  
26 Carolyn Y. Smith to James T. Waring and Janice Weinrick on  
27 July 11, 2007 (Subject: “Summary of Activity for Agency-  
28 Owned Property at 5335 and 5415 Market Street”). (As used  
in this request, to “IDENTIFY THE ORIGIN OF FUNDS”  
means to identify, for each and every portion of the funds, how  
the Redevelopment Agency came to have the funds available in  
the first place, such as directly or indirectly from any property-  
tax increment, redevelopment revolving fund, or other source.)

“2a. Each and every public record that in any way tends to  
IDENTIFY THE ORIGIN OF FUNDS used by the  
Southeastern Economic Development Corporation to purchase  
certain real property located at 5335 Market Street in San  
Diego, California, as discussed in that certain Southeastern  
Economic Development Corporation memorandum from  
Carolyn Y. Smith to James T. Waring and Janice Weinrick on  
July 11, 2007 (Subject: “Summary of Activity for Agency-  
Owned Property at 5335 and 5415 Market Street”). (As used  
in this request, to “IDENTIFY THE ORIGIN OF FUNDS”  
means to identify, for each and every portion of the funds, how  
the Southeastern Economic Development Corporation came to  
have the funds available in the first place, such as directly or  
indirectly from any property-tax increment, redevelopment  
revolving fund, or other source.)





1 inspect and obtain copies of the requested items violates the Act and denies CREED of public  
2 information to which it is entitled under the Act.

3

4

**Prayer**

5 For all these reasons, CREED respectfully prays for the following relief against  
6 Defendants/Respondents jointly and severally:

7

1. On the First and Third Causes of Action:

8

A. Preliminary and permanent injunctive relief directing them to permit CREED to  
9 inspect and obtain copies of the requested public records; and

10

B. An order determining and declaring that their failure to permit CREED to  
11 inspect and obtain copies of the requested public records does not comply with  
12 the Act.

13

2. On the Second and Fourth Causes of Action:

14

A. An order determining and declaring that their failure to permit CREED to  
15 inspect and obtain copies of the requested public records does not comply with  
16 the Act; and

17

B. A writ of mandate (*i*) ordering them to comply with the Act and (*ii*) prohibiting  
18 each of them from refusing to permit CREED to inspect and obtain copies of the  
19 requested public records.

20

3. On All Causes of Action:

21

A. An order providing for the Court’s continuing jurisdiction over this action in  
22 order to ensure that they comply with the Act and all other applicable laws;

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B. All attorney fees and other legal expenses incurred by CREED in connection  
24 with this proceeding; and

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C. Any further relief that this Court may deem appropriate.

Date: July 31, 2007.

Respectfully submitted,

BRIGGS LAW CORPORATION  
Cory J. Briggs  
Karen L. Skaret

By:

\_\_\_\_\_  
Cory J. Briggs

Attorneys for Plaintiff and Petitioner Citizens for  
Responsible Equitable Environmental Development

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND  
PETITION FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC  
RECORDS ACT**

Exhibit "A"

# **BRIGGS LAW CORPORATION**

*San Diego Office:  
5663 Balboa Avenue, No. 376  
San Diego, CA 92111-2705*

*Telephone: 858-495-9082  
Facsimile: 858-495-9138*

*Please respond to: Inland Empire Office*

*Inland Empire Office:  
99 East "C" Street, Suite 111  
Upland, CA 91786*

*Telephone: 909-949-7115  
Facsimile: 909-949-7121*

*BLC File(s): 1007.99*

17 July 2007

Public Records Officer  
Southeastern Economic Development Corporation  
c/o Carolyn Y. Smith, Agent for Service of Process  
4393 Imperial Avenue  
San Diego, CA 92113

**Via Facsimile and U.S. Mail**

Re: Request to Inspect and Obtain Copies of Public Records

Dear Public Records Officer:

On behalf of Citizens for Responsible Equitable Environmental Development and pursuant to the California Public Records Act (GOV'T CODE § 6250 *et seq.*), I am writing to request an opportunity to inspect and obtain copies of the "public records" (as that term is defined under the Act) listed on *Attachment 1: Categories of Requested Public Records* to this request.

I ask that you make a determination on this request within 10 days of your receiving it, or even sooner if you can do so without having to review the responsive records. If you believe that any of these records is exempt from disclosure, I urge you to note in your reply whether the exemption is discretionary and, if so, whether you are required to exercise your discretion to withhold the record in this particular case. If you determine that any portion of the responsive records is exempt from disclosure and that you intend to withhold that portion, I ask that you redact that portion for the time being and make the other portion available as requested. In any event, please respond with a signed notification citing the legal authorities on which you rely if you determine that any portion of the responsive records, if not all of them, is exempt and will not be disclosed.

If public records responsive to this request are available in one or more non-paper formats (including but not limited to electronic, magnetic, or digital formats), make sure that your response to this request includes production of all responsive records in non-paper formats even if the records are also available in paper format. If there are no records responsive to a particular category listed on *Attachment 1*, please confirm in writing that such records do not exist; and if responsive records used to exist but have been lost, stolen, or destroyed, please (i) identify the date of loss, theft, or destruction and (ii) provide a copy of all available evidence of the loss, theft, or destruction.

All responsive records must be produced for inspection before my client will pay for copies, unless I agree otherwise in writing after receiving your estimate of copying costs.



Furthermore, my client reserves the right to make its own reproduction of the responsive records, at its own expense.

Thank you for your time and attention to this matter. If I can provide any clarification that will help you to expedite this request, please do not hesitate to contact me.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs



## **Attachment 1: Categories of Requested Public Records**

- 1a. The “Purchase and Sale Agreement” to which reference was made in the “April 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 1b. All public records pertaining in any way to the public record described in the preceding request.
- 2a. The “offer made by the San Diego Rescue Mission” to which reference was made in the “April 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 2b. All public records pertaining in any way to the public record described in the preceding request.
- 3a. The “joint proposal between SEDC and CCDC” to which reference was made in the “April 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 3b. All public records pertaining in any way to the public record described in the preceding request.
- 4a. The “Request for Qualifications/Proposals” to which reference was made in the “September 18, 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 4b. All public records pertaining in any way to the public record described in the preceding request.
- 5a. The “four responses including a proposals from Taylor Construction (TayRad, LLC)” to which reference was made in the “September 18, 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 5b. All public records pertaining in any way to the public record described in the preceding request.

[Attachment 1 continues on next page.]



## **Attachment 1: Categories of Requested Public Records**

- 6a. The “Taylor Construction offer [of] \$2.4 million for the 4.4 acres” to which reference was made in the “September 18, 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 6b. All public records pertaining in any way to the public record described in the preceding request.
- 7a. The “Exclusive Negotiating Agreement (ENA) with TayRad, LLC” to which reference was made in the “December 12, 2000” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 7b. All public records pertaining in any way to the public record described in the preceding request.
- 8a. The “Disposition and Development Agreement (DDA)” to which reference was made in the “February 20, 2001” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 8b. All public records pertaining in any way to the public record described in the preceding request (including but not limited to all notices of public hearing for the joint public hearing to approve the aforementioned Disposition and Development Agreement).
- 9a. The “First Implementation Agreement” to which reference was made in the “October 15, 2002” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 9b. All public records pertaining in any way to the public record described in the preceding request.
- 10a. The “Settlement and Release Agreement with TayRad, LLC and Edge Flood Response, Inc.” to which reference was made in the “October 2002” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 10b. All public records pertaining in any way to the public record described in the preceding request.

[Attachment 1 continues on next page.]



## **Attachment 1: Categories of Requested Public Records**

- 11a. The “Second Implementation Agreement to the DDA” to which reference was made in the “September 14, 2004” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 11b. All public records pertaining in any way to the public record described in the preceding request.
- 12a. The “Site Development Permit No. 10481” to which reference was made in the “April 5, 2007” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 12b. All public records pertaining in any way to the public record described in the preceding request.
- 13a. The “Third Implementation Agreement” to which reference was made in the “July 11, 2006” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 13b. All public records pertaining in any way to the public record described in the preceding request.
- 14a. The “Schedule of Performance” to which reference was made in the “July 2007” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 14b. All public records pertaining in any way to the public record described in the preceding request.
- 15a. The “Third Implementation Agreement” to which reference was made in the “July 11, 2006” section of that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).
- 15b. All public records pertaining in any way to the public record described in the preceding request.
- 16. The “Redevelopment Agency Report Dated September 20, 1999” attached to that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: “Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street”).

[Attachment 1 ends here.]

*Be Good to the Earth: Reduce, Reuse, Recycle*





**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND  
PETITION FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC  
RECORDS ACT**

Exhibit "B"



Southeastern  
Economic  
Development  
Corporation


T 619.527.7345  
F 619.262.9845  
www.sedcinc.com

**Via E-Mail and Inter-Office Mail**

**M e m o r a n d u m**

**Date:** July 11, 2007

**To:** James T. Waring, Assistant Executive Director  
Janice Weinrick, Deputy Executive Director

**From:** Carolyn Y. Smith, President 

**Subject: Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street**

On July 3, 2007, Pat Flannery wrote an article on the Flannery Blog regarding the redevelopment of property located at 5335 and 5415 Market Street in the Central Imperial Redevelopment Project Area. The site is zoned for light-industrial development and includes an existing building of 42,730 square feet and two vacant acres. The following is a brief summary of the site activity.

- **April 2000**, the Redevelopment Agency approved a Purchase and Sale Agreement with Mr. Artie Owen (Caravan Properties, LLC) for the purchase of 4.4 acres at 5335 and 5415 Market Street for \$2.6 million. The Agency offer was behind an offer made by the San Diego Rescue Mission. They (The Rescue Mission) were attempting to relocate their thrift shop from downtown San Diego due to the construction of Petco Park.

The acquisition was originally a joint proposal between SEDC and CCDC as a way to facilitate the relocation of the wholesale produce industry out of the East Village (See Attachment No. 1 – September 20, 1999 Agency Report).

- **September 18, 2000**, SEDC distributed a Request for Qualifications/Proposals for the site and received four responses including a proposal from Taylor Construction (TayRad, LLC). The Agency set a minimum purchase price of \$2 million due to the fact that a portion of the site would need to be elevated out of the 100-year flood plain. Taylor Construction offered \$2.4 million for the 4.4 acres.
- **December 12, 2000**, the Redevelopment Agency approved an Exclusive Negotiating Agreement (ENA) with TayRad, LLC. The ENA contemplated the substantial rehabilitation of the existing building for two tenants Pacifica Services and AMSEC (a subsidiary of SAIC) and the future purchase of the additional 2 acres.

- **February 20, 2001**, the City Council and Redevelopment Agency held a joint public hearing to approve a Disposition and Development Agreement (DDA). The DDA included what is now a standard requirement in SEDC's agreements an "Additional Purchase Price" that is calculated over the life of the redevelopment plan and is activated if, at any time the property is removed from the tax rolls.

The DDA provided for the conveyance to occur in two phases with the majority of the purchase price required in Phase I. Phase I required the rehabilitation of the existing building to the specifications of the two tenants. The purchase price for Phase I (the building) located at 5335 Market Street was \$2.1 million and Phase II required a payment of \$300,000 upon the close of escrow on the vacant property. We retained the vacant parcels in the event the developer did not perform.

- **October 15, 2002**, the Redevelopment Agency approved a First Implementation Agreement which amended the Method of Financing (wherein the Agency would reimburse the developer \$210,000 for remedial site work), the Schedule of Performance and the Scope of Development.
- **October 2002**, the Redevelopment Agency entered into a Settlement and Release Agreement with TayRad, LLC and Edge Flood Response, Inc. for certain water damage that occurred in the existing building prior to the close of escrow. The total cost of repairs was initially reported by Edge Flood Response to be \$34,712, the Agency and TayRad questioned certain cost and ultimately settled for \$22,500.00 of which the Agency paid \$15,000 and TayRad paid \$7,500.
- **September 14, 2004**, the Redevelopment Agency approved the Second Implementation Agreement to the DDA which revised the additional purchase price to reflect the increased land value and it also removed the Agency from any responsibility for the remedial work covered (thus eliminating the \$210,000 Agency cost) by the First Implementation Agreement. The Developer was slow in obtaining permits necessary to build the 30,000 square foot building. Yet at the same time the value of the property had increased. We were made aware by the potential end users (Har-Bro Construction and Closet Works) of the price per square foot they were being charged. Following additional negotiations, we entered into the Second Implementation Agreement.
- **April 5, 2007**, Site Development Permit No. 10481 was issued for the development of 30,000 square feet on the remaining 2 acre site.
- **July 11, 2006**, the Redevelopment Agency approved a Third Implementation Agreement which provided for an Assignment and Assumption Agreement among the Agency, TayRad, LLC and Har-Bro Construction and Consulting, Inc.

Jim Waring  
Janice Weinrick  
July 11, 2007  
Page 3 of 3

- **July 2007**, Har-Bro Construction is currently constructing the two 15,000 square foot buildings for a total of 30,000 square feet (Please see attached Photos) as required under the Schedule of Performance. Har-Bro Construction will occupy one building and are actively seeking a tenant for the second building.
- **July 2007**, The Old Globe has recently purchased the existing building located at 5335 Market Street. This will accommodate the scene and paint shop function that was formally housed in leased space located on Commercial Avenue within the Dells/Imperial Study Area. SEDC has a meeting scheduled with the executive director of The Old Globe to determine their plans for the building.

**Mr. Artie "Chip" Owen**

Mr. Artie "Chip" Owen was appointed to the SEDC Board of Directors in 2003. He was elected chairman of the Board February 28, 2007. He is a partner with Pacific Development Partners, LLC on certain real estate transactions occurring outside of SEDC's area of influence. In each instance where the SEDC Board of Directors has taken formal actions or decisions on the subject properties, Mr. Owen has recused himself from the record and abstained from voting. All SEDC Board minutes reflect these actions. The following are the properties where Mr. Owen has abstained from voting:

- Any activity involving Pacific Development Partners, LLC - *Mark Burger, General Partner, MTB Family Limited Partnership (Managing Member) and Rcn Recht, General Partner, RAR Family Limited Partnership (Managing Member)*
  - Imperial Marketplace Retail Center
  - Valencia Business Park
- Any activity involving Roseau Development, LLC No. 2 - *James Smith, Managing Member*
  - Valencia Business Park
  - Commercial Rehabilitation Loan from the Agency to Roseau Development for Property located at 6381 Imperial Avenue
- Any activity involving TayRad, LLC or Har-Bro Construction
  - Property located at 54<sup>th</sup> and Market Streets

I hope this summary is useful. If you require additional information please feel free to contact me.

CYS:kk

Attachments: 1 Redevelopment Agency Report Dated September 20, 1999  
2 Har-Bro Construction Photos

c: Chair and Members of the SEDC Board of Directors wo/attachments

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND  
PETITION FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC  
RECORDS ACT**

Exhibit "C"

# **BRIGGS LAW CORPORATION**

*San Diego Office:  
5663 Balboa Avenue, No. 376  
San Diego, CA 92111-2705*

*Telephone: 858-495-9082  
Facsimile: 858-495-9138*

*Please respond to: Inland Empire Office*

*Inland Empire Office:  
99 East "C" Street, Suite 111  
Upland, CA 91786*

*Telephone: 909-949-7115  
Facsimile: 909-949-7121*

*BLC File(s): 1007.99*

20 July 2007

Public Records Officer  
Southeastern Economic Development Corporation  
c/o Carolyn Y. Smith, Agent for Service of Process  
4393 Imperial Avenue  
San Diego, CA 92113

**Via Facsimile and U.S. Mail**

Re: Request to Inspect and Obtain Copies of Public Records

Dear Public Records Officer:

On behalf of Citizens for Responsible Equitable Environmental Development and pursuant to the California Public Records Act (GOV'T CODE § 6250 *et seq.*), I am writing to request an opportunity to inspect and obtain copies of the "public records" (as that term is defined under the Act) listed on *Attachment 1: Categories of Requested Public Records* to this request.

I ask that you make a determination on this request within 10 days of your receiving it, or even sooner if you can do so without having to review the responsive records. If you believe that any of these records is exempt from disclosure, I urge you to note in your reply whether the exemption is discretionary and, if so, whether you are required to exercise your discretion to withhold the record in this particular case. If you determine that any portion of the responsive records is exempt from disclosure and that you intend to withhold that portion, I ask that you redact that portion for the time being and make the other portion available as requested. In any event, please respond with a signed notification citing the legal authorities on which you rely if you determine that any portion of the responsive records, if not all of them, is exempt and will not be disclosed.

If public records responsive to this request are available in one or more non-paper formats (including but not limited to electronic, magnetic, or digital formats), make sure that your response to this request includes production of all responsive records in non-paper formats even if the records are also available in paper format. If there are no records responsive to a particular category listed on *Attachment 1*, please confirm in writing that such records do not exist; and if responsive records used to exist but have been lost, stolen, or destroyed, please (i) identify the date of loss, theft, or destruction and (ii) provide a copy of all available evidence of the loss, theft, or destruction.

All responsive records must be produced for inspection before my client will pay for copies, unless I agree otherwise in writing after receiving your estimate of copying costs.



Furthermore, my client reserves the right to make its own reproduction of the responsive records, at its own expense.

Thank you for your time and attention to this matter. If I can provide any clarification that will help you to expedite this request, please do not hesitate to contact me.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs



## Attachment 1: Categories of Requested Public Records

- 1a. Each and every public record that in any way tends to IDENTIFY THE ORIGIN OF FUNDS used by the Redevelopment Agency of the City of San Diego to purchase certain real property located at 5335 Market Street in San Diego, California, as discussed in that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: "Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street"). (As used in this request, to "IDENTIFY THE ORIGIN OF FUNDS" means to identify, for each and every portion of the funds, how the Redevelopment Agency came to have the funds available in the first place, such as directly or indirectly from any property-tax increment, redevelopment revolving fund, or other source.)
- 1b. Each and every public record that in any way tends to IDENTIFY THE ORIGIN OF FUNDS used by the Redevelopment Agency of the City of San Diego to purchase certain real property located at 5415 Market Street in San Diego, California, as discussed in that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: "Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street"). (As used in this request, to "IDENTIFY THE ORIGIN OF FUNDS" means to identify, for each and every portion of the funds, how the Redevelopment Agency came to have the funds available in the first place, such as directly or indirectly from any property-tax increment, redevelopment revolving fund, or other source.)
- 2a. Each and every public record that in any way tends to IDENTIFY THE ORIGIN OF FUNDS used by the Southeastern Economic Development Corporation to purchase certain real property located at 5335 Market Street in San Diego, California, as discussed in that certain Southeastern Economic Development Corporation memorandum from Carolyn Y. Smith to James T. Waring and Janice Weinrick on July 11, 2007 (Subject: "Summary of Activity for Agency-Owned Property at 5335 and 5415 Market Street"). (As used in this request, to "IDENTIFY THE ORIGIN OF FUNDS" means to identify, for each and every portion of the funds, how the Southeastern Economic Development Corporation came to have the funds available in the first place, such as directly or indirectly from any property-tax increment, redevelopment revolving fund, or other source.)
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[Attachment 1 ends here.]





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20 July 2007

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San Diego, CA 92101

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