| **SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**<br>Civil Complex Center<br>751 W. Santa Ana Blvd<br>Santa Ana, CA 92701 | |
|---|---|
| **SHORT TITLE:** Olen Properties Corp. vs. City of Newport Beach | |
| **CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE** | CASE NUMBER:<br>**30-2021-01185991-CU-WM-CXC** |

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 08/06/21, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on August 9, 2021, at 8:43:03 AM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by:  , Deputy

**SUPERIOR COURT OF CALIFORNIA,**
**COUNTY OF ORANGE**
**CIVIL COMPLEX CENTER**

**MINUTE ORDER**

DATE: 08/06/2021 TIME: 03:54:00 PM DEPT: CX103

JUDICIAL OFFICER PRESIDING: Kirk H. Nakamura
CLERK: Javier Espino
REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: None

CASE NO: **30-2021-01185991-CU-WM-CXC** CASE INIT.DATE: 02/25/2021
CASE TITLE: **Olen Properties Corp. vs. City of Newport Beach**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

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EVENT ID/DOCUMENT ID: 73583821

**EVENT TYPE:** Under Submission Ruling

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**APPEARANCES**

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There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 8/5/2021 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Intervenors YIMBY Law, People for Housing Orange County (A Chapter of Yimby Action), and Californians For Homeownership, Inc. ("Californians") request for order for leave to intervene as real parties in interest is GRANTED.

RELEVANT AUTHORITY

Intervenors seek to intervene based on Code of Civil Procedure section 387, which allows for both mandatory and, as Intervenors seek here, permissive intervention.

Under the permissive provision, upon timely application, the court may permit a nonparty to intervene in an action if the person has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both. (Code Civ. Proc. § 387(d)(2).) More specifically, "the trial court has discretion to permit a nonparty to intervene when the following factors are met: (1) the proper procedures have been followed; (2) the nonparty has a direct and immediate interest in the litigation; (3) intervention will not enlarge the issues in the litigation; and (4) the reasons for intervention outweigh any opposition by the parties presently in the action. [Citation.]" (Reliance Ins. Co. v. Superior Court (2000) 84 Cal.App.4th 383, 386.)

MERITS

Proper Procedures

The Court finds the procedures have been followed—the proposed Answer in Intervention has been filed.

(Code Civ. Proc. § 387(c); ROA 71.)

Direct and Immediate Interest

The Court finds that Intervenors and its members have a direct and immediate interest in ensuring that the approved 312 residential unit development at-issue, The Residences at 4400 Von Karman, be built without delay. Petitioner's argument that Intervenor's interests are adequately represented is not relevant to the Court's examination of the factors permitting permissive intervention. (Code Civ. Proc. § 387(d)(2).)

Expansion of the Issues

Petitioner asserts "the specter" of attorneys' fees impermissibly enlarges the issues, but no authority is cited and the Court is aware of none that so interprets "issues." Based on the Answer in Intervention, it does not appear the disputed issues in the case will be enlarge.

Weighing Intervention Against Opposition

The Court finds the reasons for intervention outweigh the reasons to deny it. Petitioner asserts it is burdensome to respond to dual briefing and requests Intervenors and Respondents be permitted 30 pages collectively. Respondents request that the 30 pages allocated to them not be shared with Intervenors.

The Court permitted 30 pages before intervention and would not have done so at this stage. However, the Court believes there is a fair degree of overlap in the positions of Intervenors and Respondents and the parties can figure out how to avoid duplication such that Intervenors are limited to 15 pages.

The Petitioner is also granted an additional 15 pages to respond to Intervenors brief.

Objections to Evidence (Nos 1-[37])

Petitioner's objections are OVERRULED.

Request for Judicial Notice (Exhibits A–G)

Intervenor's request is GRANTED.

Intervenors are instructed to comply with C.C.P. § 387(e) by separately filing the Complaint in Intervention within 10 days and serving a copy of the Court's Minute Order granting this motion, as directed in the statute.

Court orders Clerk to give notice.