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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
7/29/2025 4:46 PM
By: Sarah Sisto , Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

ANACAPA DIVISION

ISLA VISTA RENTAL PROPERTY OWNERS' ASSOCIATION, a California nonprofit mutual benefit corporation, Plaintiff, vs. COUNTY OF SANTA BARBARA, and DOES 1 through 20, inclusive, Defendants.	Case No.: 25CV03985 **DEFENDANTS OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION** Complaint Filed: June 26, 2025 Assigned Judge: Hon. Donna D Geck Dept: SB4

I. INTRODUCTION

Defendant County of Santa Barbara ("County") opposes Plaintiff's *Ex Parte* Application for Temporary Restraining Order seeking to enjoin the County from effectuating the terms of the recently enacted Isla Vista Rental Housing Inspection Pilot Program Ordinance ("Ordinance"). Plaintiff's request for a preliminary injunction has no basis in law or fact and should be denied as they have failed to make the showing required to obtain such relief.

II. BACKGROUND

The County entered into an agreement with the Regents of the University of California on March 14, 2024 to resolve a lawsuit regarding the University's failure to comply with their student

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housing obligations ("2024 Agreement"). The 2024 Agreement included a payment to the County to be used for mutually beneficial projects to be agreed upon by the parties. Extensive community outreach was conducted to receive input on the most pressing needs in Isla Vista. Based on this community input, the County and UC Santa Barbara collaborated to develop a list of mutually beneficial projects. A list of these recommended projects, including an Isla Vista Rental Housing Inspection Pilot Program, was presented to the Board of Supervisors at their July 9, 2024 public meeting.

At the July 9, 2024 meeting, the Board of Supervisors approved designating $600,000 in settlement funds under the 2024 Agreement to create the Isla Vista Rental Housing Pilot Program. The Board of Supervisors directed County staff to prepare an ordinance to create and implement such a project. An update regarding the creation of the project was provided by County staff at a public meeting held on January 14, 2025. (Request for Judicial Notice, Exh. 3; hereinafter "RJN".) On May 6, 2025, County staff presented to the Board of Supervisors a proposed Ordinance for the Isla Vista Rental Housing Pilot Program, requesting that the Board set a hearing on the Administrative Agenda of May 13, 2025 to adopt the proposed Ordinance. (*Id.*) At the May 13, 2025 Board of Supervisor meeting, the Ordinance was adopted. (*Id.*) Neither Plaintiff nor any potentially impacted landowners provided public comment objecting to the proposed Ordinance at any of the public Board of Supervisors meetings.

III. ARGUMENT

A. The Court Lacks Jurisdiction to Decide a Request for a Preliminary Injunction Ex Parte

A preliminary injunction may not be granted without a noticed motion. (Code of Civil Procedure § 527, subd. (a); The Rutter Group, Cal. Prac. Guide Civ. Pro. Before Trial Ch. 9(I)-F, Ex Parte Applications ["Statutes affording relief upon "notice" or a "noticed motion" are not the proper subject of an *ex parte* application and cannot be satisfied by compliance with CRC 3.1200's notice requirements for *ex parte* relief…. No matter how dire the emergency, the court cannot grant *ex parte* relief where a statute requires a noticed motion."].

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Various court rules govern *ex parte* proceedings, which are designed to afford relief on an essentially emergency basis. "A court will not grant *ex parte* relief 'in any but the plainest and most certain of cases.' " (*People ex rel. Allstate Ins. Co. v. Suh* (2019) 37 Cal.App.5th 253, 257, 249 Cal.Rptr.3d 500 (*People ex rel. Allstate Ins. Co.*).) Substantively, "[a]n applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief *ex parte*." (Cal. Rules of Court, rule 3.1202(c) [further undesignated rule references are to the California Rules of Court]; see also Code Civ. Proc., § 527.) "A trial court should deny an *ex parte* application absent the requisite showing." (*People ex rel. Allstate Ins. Co., supra,* at p. 257, 249 Cal.Rptr.3d 500.) Further, entry of any type of injunctive relief has been described as a delicate judicial power, to be exercised with great caution. (*Ancora-Citronelle Corp. v. Green* (1974) 41 Cal.App.3d 146, 148, 115 Cal.Rptr. 879.) This is doubly true when granting relief on an expedited basis using an *ex parte* request for a temporary restraining order rather than a properly noticed preliminary injunction." (*Newsom v. Superior Court* (2020) 51 Cal.App.5th 1093, 1097.)

Plaintiff's improperly seeks to enjoin the County's enforcement of the Ordinance through the decision on the merits on an *ex parte* basis. Plaintiff's moving papers reference "many Plaintiff members have already been directed by the County of Santa Barbara to notice and be present during inspections of rental properties." (Declaration of Lacy L. Taylor, p. 2, para. 3). However, no date for such inspections is provided, nor does Plaintiff address whether these Plaintiff members have requested rescheduling of inspections as authorized under the Ordinance, in order to allow for a properly noticed motion to be heard. Moreover, there is no basis for the preliminary injunction to be heard on an emergency basis because even if Plaintiff could make a showing of imminent and irreparable harm, it cannot show that it cannot seek a temporary restraining order and set a motion on the preliminary injunction through a properly noticed motion.

B. Standard for Issuance of Preliminary Injunction

In deciding whether to issue a preliminary injunction the Court must weigh two interrelated factors: 1) the likelihood that the moving party will prevail on the merits at trial and

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2) the relative interim harm to the parties from issuance of the injunction. (*Butt v. State of California* (1992) 4 Cal.4th 668, 677-678.) The Court should balance "the respective equities of the parties." (*Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 286.) A party moving for injunctive relief bears the burden of showing the harm that would result if a preliminary injunction were not granted. (*Casmalia Resources, Ltd. V. County of Santa Barbara* (1987) 195 Cal.App. 827, 838.)

An *ex parte* preliminary injunction is unwarranted here. Plaintiff is not likely to succeed in its efforts to challenge the Ordinance and has not demonstrated any irreparable harm that may result if their request for emergency injunctive relief is not granted. In contrast, the County and the public will suffer significant irreparable harm.

1. Plaintiff Has No Likelihood of Success on the Merits

The Court "must deny a motion for a preliminary injunction if there is no reasonable likelihood the moving party will prevail on the merits." (*SB Liberty, LLC v. Isla Verde Assn., Inc.* (2013) 217 Cal.App.4th 272, 280 [citing *Common Cause v. Bd. of Supervisors* (1989) 49 Cal.3d 432, 447].) Plaintiff fails to show they are reasonably likely to prevail on the merits here.

Rental inspection and maintenance programs like the Ordinance are not unique or untested. Both the First and Sixth Appellate Districts have had the opportunity to review challenges to similar proactive rental inspection programs and have upheld the programs after considering each of the concerns raised in Plaintiff's Complaint. (*Rental Housing Owners Assn. of Southern Alameda County, Inc. v. City of Hayward* (2011) 200 Cal.App.4th 81 (hereafter *Rental Housing*); *Griffith v. City of Santa Cruz* (2012) 207 Cal.App.4th 982 (hereafter *Griffith*).) Furthermore, the California State Housing Law contemplates and authorizes proactive inspections such as the Ordinance, specifying that "enforcement may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed." (Health & Saf. Code § 17920, subd. (e).)

The Ordinance speaks for itself. (RJN, Exh. 1.) Plaintiff's allegations regarding the Ordinance appear to be due to a partial reading of the sections, a misinterpretation of the plain

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language of the Ordinance and are in contrast with established case law.

The main dispute between the parties appears to be whether the Ordinance allows inspections to occur without a tenant's consent. Plaintiff alleges that "if a tenant does not expressly refuse or is not present at the scheduled inspection time, the landlord is required to facilitate access of the rental units by the County inspectors," or be in violation of the Ordinance (Ex Parte Application at p. 3-4, lines 28-2; referencing SBC Code § 10-18.6(c).) Plaintiff is relying on the language of that section stating, "the owner shall provide proof, under penalty that a request to inspect the Residential Rental Housing Unit was served by the Owner and inspection was not permitted by the tenant," in order to avoid being found in violation of the Ordinance should a tenant refuse to allow the inspection (SBC Code § 10-18.6 (C)(7).) However, the Ordinance explicitly lays out both the "Authority to Enter and Inspect" [SBC Code § 10-18.6 (E)] and the process to follow in case of "Failure or Refusal to Allow Inspections" [SBC Code § 10-18.6 (D)] both sections requiring a tenant's consent and allowing an inspector to contact a tenant directly to obtain such consent. There is no language in the Ordinance that *requires* entry and inspection without the inspector obtaining the tenant's consent.

a) The Ordinance Does Not Require an Owner to Violate State Law

The plain language of the Ordinance does not "flagrantly violate California Civil Code section 1954 by compelling private rental property owners to enter tenant-occupied dwelling and facilitate inspections, sometimes without tenant consent." (Ex Parte Application at p. 7, lines 8-10.) Nor does it hold that "when a tenant is not present, and has not consented to entry for an inspection, the Ordinance requires the owner to facilitate entry into the unit in violation of the law" (Complaint, page 6, paragraph 32). Rather, the Ordinance explicitly lays out the "Authority to Enter and Inspect" and the process to be followed in the event of a "Failure or Refusal to Allow Inspections." (SBC Code § 10-18.6 (D-E).) In both those sections, it is clearly stated that consent to enter for either the inspector or owner must be obtained from the tenant. Should no consent be obtained or available, the inspector may only enter after securing an inspection warrant or if

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exigent circumstances are observed (SBC Code § 10-18.6 (D).) In no part does the Ordinance require the entry of a landlord into a rented unit without a tenant's consent, nor does it expand an inspector's ability to access a property without the consent of the tenant or pursuant to an inspection warrant or exigent circumstances.

Courts have had an opportunity to consider challenges to proactive inspection programs on the basis of preemption or violation of state law, including section 1954, and have found that such programs do not alter or conflict with state law (See *Rental Housing, supra,* 200 Cal.App.4th at pp. 92-93 [denying Plaintiff/Respondent's claim that the program's requirement of owner's making good faith efforts to obtain tenant's consent for the inspection, coupled with the requirement that owners be present at the inspection, violated section 1954, holding "we see no conflict between the amended ordinance, which governs inspections conducted by City officials, and section 1954, which limits the circumstances under which landlords can enter tenant residences"]; *Griffith, supra,* 207 Cal.App.4th at pp. 992-993).

b) The Ordinance is Not a Violation of the Fourth Amendment of the United States Constitution

First, as Plaintiff concedes in their moving papers, Plaintiff lacks standing to assert a Fourth Amendment claim on behalf of tenants, as Plaintiff has no privacy interest in tenant occupied units. (See *Rental Housing, supra,* 200 Cal.App.4th at pp. 91-92 citing *U.S. v. Taketa* (9th Cir. 1991) 923 F.2d 665, 669-670 [a party lacks Fourth Amendment standing if that party's reasonable expectation of privacy has not been infringed].) The language of the Ordinance does not infringe on Plaintiff's right to privacy in a tenant occupied unit as Plaintiff does not maintain any privacy rights to rented, occupied units.

Second, Plaintiff has as the First and Sixth Appellate Districts have held, even if landlords had standing to challenge on the basis of tenant's privacy rights, such a challenge would fail. (*Rental Housing, supra,* 200 Cal.App.4th at p. 92 [rejecting the Fourth Amendment challenge to proactive inspection program which allowed for inspection absent consent only by way of an inspection warrant]; *Griffith, supra,* 207 Cal.App.4th at pp. 902-903.) As discussed above, the

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plain language of the Ordinance requires a tenant's consent for an inspector's entry and does not require landlords to enter the occupied unit.

Plaintiff's moving papers erroneously allege that the Ordinance compels an agency relationship between landlord and the government. Plaintiff argues that the language of the Ordinance forces "an owner to conduct warrantless inspections based merely on tenant non-refusal, and mandates that landlords act as government's agents in facilitating those inspections – even when tenants are absent or silent." (Ex Parte Application at p. 8, lines 12-15; referencing Complaint paragraph 34). The First Appellate District has had the opportunity to consider and has rejected the claim that proactive inspection programs like the Ordinance that include language requiring landlords to attempt to obtain tenant's consent to inspections, forces landlords to act as "agents" of the government. (*Rental Housing, supra,* 200 Cal.App.4th at p. 90-92, "An agency relationship is a bilateral matter created through mutual consent. (See *van't Rood v. County of Santa Clara* (2003) 113 Cal.App.4th 549, 571) "Absent mutual consent…there can be no agency.) Here, it is clear from Plaintiff's moving papers, their members are not consenting to acting as a government agent and thus there can be no agency relationship.

c) The Ordinance Does Not Violate the Owner's Equal Protection

It is well established that the rational basis test is applicable to proactive inspection programs such as the Ordinance. (*Griffith, supra,* at p. 994; see also *FCC v. Beach Communications* (1993) 508 U.S. 307.) A court may not strike down a law under rational basis review because the court simply disagrees with the wisdom of the law or believes that there is a better way to deal with the problem addressed by the law. (See *Warden v. State Bar* (1999) 21 Cal.4th 628, 645.) The burden is on the Plaintiff to show that the differential treatment was "so unrelated to the achievement of any combination of legitimate purposes that we can only conclude that the [government's] actions were irrational." (*Griffith, supra,* at p. 994, quoting *Gregory v. Ashcroft* (1991) 501 U.S. 452, 471.)

Here, the Ordinance requires only landlords in Isla Vista to register their rental property and take part themselves, or through a designated agent, in the scheduling of inspections, should

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that landlord's rental property be noticed for an inspection at some point during the one year pilot program. The differential treatment alleged is between Isla Vista rental property owners versus rental property owners in other unincorporated areas of the County. Plaintiff alleges that "the County has no rational basis for singling out Isla Vista rental properties for regulatory inspection while excluding other similarly situated areas within the County, particularly in light of the absence of evidence that Isla Vista suffers from heightened health or safety complaints" (Ex Parte Application at p. 9, lines 19-22, referencing Complaint paragraphs 23-25, 35.)

The rational basis for the Ordinance is detailed both within the language of the Ordinance and in the Resolution for the Ordinance. (RJN, Exh. 1 and 2.) The Ordinance states its purpose as to "protect the public health, safety, and welfare through the identification, prevention, and correction of substandard housing conditions that adversely affect the quality of life for residents living in the community and around the rental properties" (SBC § 10-18.1(A).) and "to proactively identify such substandard and unsafe residential rental buildings and units and ensure the rehabilitation or elimination of those buildings and dwelling units that do not meet minimum housing and building codes." (SBC § 10-18.1(B).) The Ordinance further states a finding that "there exists, within the unincorporated area of the Community of Isla Vista, substandard, overcrowded, and/or unsanitary residential rental buildings and units where the physical and habitable conditions violate state and local housing and building codes and standards which results in making them unfit or unsafe for human occupancy or habitation." (SBC § 10-18.1(A).)

The Resolution further details the unique nature of Isla Vista. The Resolution notes that Isla Vista is a densely populated community with 87% of residents as renters and 96% of the residents as college-aged (RJN, Exh. 2). The Resolution further identifies that "based on extensive community outreach, it has been reported by tenants and residents that substandard and unsafe housing conditions exist in rental units in the community including rodents, lack of heat, unsafe balconies, decks, and similar conditions, a lack of smoke detectors, and illegal conversions of non-habitable space (illegal lofts) which disproportionately affect vulnerable renters." (RJN, Exh. 2). The Resolution provides an additional rational basis for the Ordinance by stating, "based on

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code enforcement activities and community outreach, the Board of Supervisors finds that tenants within the unincoporated community of Isla Vista are reluctant to report Building Code violations or other dangerous conditions to the County in fear of retaliation by their landlord." (RJN, Exh. 2.)

Given the record in passing this Ordinance, Plaintiff cannot meet their burden to show that the differential treatment was "so unrelated to the achievement of any combination of legitimate purposes that we can only conclude that the [government's] actions were irrational." (*Griffith, supra,* at p. 994, quoting *Gregory v. Ashcroft* (1991) 501 U.S. 452, 471.)

d) The Ordinance Does Not Violate the Substantive Due Process Rights of the Owner

Plaintiff claims that the Ordinance violates the substantive due process of owners because it "criminally and civilly penalizes the owner for failing to facilitate an illegal inspection of tenant's property." (Complaint, page 7, paragraph 36.) As described above, the Ordinance does not establish an "illegal inspection" program. Nor does the Ordinance state that an owner will be found in violation of its terms should an owner not facilitate entry into the occupied unit without the tenant's consent, as alleged by the Plaintiff. (Complaint, page 7, paragraph 36.) Instead, the Ordinance repeatedly addresses the need for inspectors to obtain a tenant's consent to gain entry into their rental unit, or obtain an inspection warrant.

2. Plaintiff Fails to Demonstrate That They Will Suffer Irreparable Harm Absent Preliminary Relief

When an injunction is sought against a public agency or officer, a plaintiff must show **"significant"** irreparable injury because there is a "general rule against enjoining public officers or agencies from performing their duties." (*Tahoe Keys Prop. Owners Ass'n v. State Water Restources Control Bd.* (1994) 23 Cal.App.4th 1459, 1471 [bold added].) By enacting this Ordinance, the Board of Supervisors was well within their duties. And as discussed above, without established imminent harm, an *ex parte* request for a preliminary injunction is inappropriate.

Plaintiff's moving papers allege they will suffer irreparable harm as the Ordinance requires

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"forced participation in a regulatory inspection regime that compels them to violate both state and federal law," and "requires property owners to enter tenants' living space" exposing landlords to "civil liability and multiple tenant claims for unlawful entry" (Ex Parte Application pp. 5-6, lines 25-28, 2-3.) As previously discussed, these claims misinterpret the plain language of the Ordinance.

In contrast the County and public will suffer substantial harm if a preliminary injunction was issued. The inspections under the Ordinance were intended to be conducted prior to the start of the University of California, Santa Barbara academic school year, so as to lessen the disruption to the majority of Isla Vista occupants in rental properties (RJN Exh. 3). Any delay to this process will irreparably impact the "least disruption" timeline contemplated by the Board of Supervisors in enacting this Ordinance.

IV. CONCLUSION

For the foregoing reasons, the Court should deny Plaintiff's application.

DATED: July 29, 2025

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

By: Sara Brucker
_____
Sara Brucker
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Signature: Sara Brucker
Sara Brucker (Jul 29, 2025 16:28:48 PDT)

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PROOF OF SERVICE
(Cal. Civ. Proc. Code §§ 1010.6, 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California 93101.

On July 29, 2025 served a true copy of the **DEFENDANTS OPPOSITON TO PLAINTIFF'S EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION AND REQUEST FOR JUDICIAL NOTICE WITH EXHIBIT 1-3** on the Interested Parties in said action by:

☒ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from thernandez@countyofsb.org to the below electronic mail addresses:

Lacy L.Taylor, ltaylor@ttfhlaw.com

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service, after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

Lacy L. Taylor
THYNE TAYLOR FOX HOWARD, LLP
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☐ by personally delivering it to the person(s) indicated below:

☐ by Federal Express to the person(s) indicated below. I am readily familiar with the County's practice of collection and processing correspondence on the same day with this courier service, for overnight delivery. The delivery fees are provided for in accordance with this County's ordinary business practices.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on at Santa Barbara, California on July 29, 2025.

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Opposition to Ex Parte Application 07.29.2025 FINAL

Final Audit Report 2025-07-29

Created:	2025-07-29
By:	Thomas Hernandez (thernandez@countyofsb.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-1CB9iILCItt1ZJkxjIb97fAiwyd5-ay

"Opposition to Ex Parte Application 07.29.2025 FINAL" History

Document created by Thomas Hernandez (thernandez@countyofsb.org)
2025-07-29 - 11:27:16 PM GMT

Document emailed to Sara Brucker (sbrucker@countyofsb.org) for signature
2025-07-29 - 11:27:52 PM GMT

Email viewed by Sara Brucker (sbrucker@countyofsb.org)
2025-07-29 - 11:28:14 PM GMT

Document e-signed by Sara Brucker (sbrucker@countyofsb.org)
Signature Date: 2025-07-29 - 11:28:48 PM GMT - Time Source: server

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