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10 **CITIZENS FOR ENFORCEMENT OF**
11 **PARKLAND COVENANTS and JOHN**
12 **HARBISON**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

15 **CITIZENS FOR ENFORCEMENT OF**
16 **PARKLAND COVENANTS, an**
17 **unincorporated association and JOHN**
18 **HARBISON,**

19 Plaintiffs and Petitioners,

20 vs.

21 **CITY OF PALOS VERDES ESTATES, a**
22 **municipal corporation; PALOS VERDES**
23 **HOMES ASSOCIATION, a California**
24 **corporation; PALOS VERDES**
25 **PENINSULA UNIFIED SCHOOL**
26 **DISTRICT, a political subdivision of the**
27 **State of California,**

28 Defendants and Respondents,

Case No.: BS142768

(Assigned for all purposes to
Hon. Joanne O'Donnell, Dept. 86)

MEMORANDUM OF POINTS AND
AUTHORITIES BY CITIZENS FOR
ENFORCEMENT OF PARKLAND
COVENANTS IN OPPOSITION TO
MOTION TO STRIKE BY ROBERT
LUGLIANI, DOLORES LUGLIANI AND
THOMAS LIEB

Hearing Date: January 3, 2014
Hearing Time: 1:30 p.m.
Department: 86

Action Filed: May 13, 2013
Trial Date: June 20, 2014

ROBERT LUGLIANI and DELORES A.
LUGLIANI, as co-trustees of THE
LUGLIANI TRUST; THOMAS J. LIEB,
TRUSTEE, THE VIA PANORAMA
TRUST U/DO MAY 2, 2012 and DOES 1
through 20,

Defendants and Real Parties in
Interest.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. THE MOTION TO STRIKE SHOULD BE DENIED BECAUSE CEPC WAS ENTITLED TO FILE AN AMENDED PETITION AT ANY TIME PRIOR TO THE HEARING ON THE LUGLIANIS' DEMURRER


Robert Lugliani, Dolores Lugliani and Thomas Lieb (the “Luglianis”) previously filed a demurrer to the original petition by Citizens for Enforcement of Parkland Covenants (“CEPC”). Specifically, the Luglianis demurred to CEPC’s first cause of action for declaratory relief. Although fully briefed, the Luglianis’ demurrer has never been heard, argued or ruled on by any judge. (Motion, p. 1, fn. 1). When the parties appeared on October 25, 2012, this Court indicated that it would only hear and rule on the Association and City’s demurrer to the petition for writ of mandate. (Motion, p. 1, fn. 1). Given that the Luglianis’ demurrer was not heard on October 25, 2012 and they did not reschedule the demurrer for hearing on another date, CEPC was entitled to amend. (Code Civ. Proc., § 472; *People ex rel. Strathmann v. Acacia Research Corp.* (2012) 210 Cal.App.4th 487, 505)

II. CONCLUSION

For the foregoing reasons, CEPC respectfully requests that the Court overrule the motion to strike in its entirety. Alternatively, CEPC requests leave to file the first amended petition in light of the absence of any prejudice to any party.

DATED: December 19, 2013

BROEDLOW LEWIS LLP

By:  _____
Jeffrey Lewis

Attorneys for Plaintiffs and Petitioners
CITIZENS FOR ENFORCEMENT OF
PARKLAND COVENANTS and JOHN
HARBISON